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A Socio-Economic Study on India as an Emerging Hub for International Commercial Arbitration: Opportunities and Challenges

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ABSTRACT

*It was the intention of the amendments to the Arbitration and Conciliation Act, 1996 to bring about the much-needed improvements designed to overhaul the arbitration system in India. In addition to sending a favourable signal for India's status as a centre for international commercial arbitration (ICA), a number of significant developments will have a considerable impact on the manner in which arbitrations are carried out in India. Despite the fact that significant changes have been made, there are still certain aspects of Indian arbitration that are questionable and need explanation. The primary focus of this article is to investigate a number of significant areas of concern, including the perspectives of various stakeholders in the field of international commercial arbitration and the initiatives taken by the Indian government to establish India as a centre for international arbitration in the context of policies pertaining to foreign direct investment (FDI). The application of the law and principles of *lex arbitri* in international commercial arbitration, as well as remedies against international awards in India, has also been examined with the assistance of prominent instances. In addition, the paper draws attention to the shortcomings of international commercial arbitration in India and offers a number of noteworthy recommendations for enhancing India's position as a centre for international commercial arbitration.*

Keywords: *international commercial arbitration, socio-economic development, India as arbitration hub, legal reforms, institutional arbitration*

I. INTRODUCTION

India is becoming an important world power due to its maturation and rapidly expanding economy. It has solidified its position and emerged as a major participant in global trade and business. The provisions of the Arbitration and Conciliation Act, 1996 were based on the UNCITRAL Model Law, which embodies arbitration procedures that are universally recognised and respected. Every nation has its own unique arbitration process. The reason for this is that arbitration is becoming more international and multijurisdictional as a result of the increased

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number of cross-border economic transactions. The arbitration processes in the United Kingdom and Singapore are well established. As a result, arbitration hearings are now mostly held there. As a result of their progress, not only do Indian consumers seek them out, but so do users from other countries that need arbitration with Indian parties.

Arbitration of business disputes that take place across international borders has emerged as the technique of choice for deciding international commercial disputes. Because of globalisation and the increasing development in international commerce and investment, there has been a rising desire for a process that is impartial, efficient and enforceable for the purpose of settling conflicts. Arbitration is a flexible and discreet alternative to litigation, especially for foreign parties concerned with ensuring that their agreements are enforceable in accordance with international conventions such as the New York Convention.¹

Considering India's rapidly expanding economy and growing participation in international commerce, the country has recognised the need to bring its arbitration system up to the same level as that of other countries across the world. Over the course of the last twenty years, India has made significant strides towards becoming a jurisdiction that is more amenable to arbitration by implementing legislative reforms and institutional enhancements. There are still institutional impediments that prevent the country from becoming an international centre for international arbitration, despite the fact that such attempts are promising. The purpose of this research paper is to investigate India's journey towards becoming such a centre by analysing the opportunities it has as well as the challenges it must overcome.

Over the last few years, several government officials have voiced their aim to elevate India's standing in the World Bank's Ease of Doing Business rankings and establish the country as a centre for international arbitration. Such objectives were seen as a driving force behind the latest reforms to the Arbitration and Conciliation Act, 1996. Good ease-of-doing-business ratings and India's designation as a seat of international arbitration are signs of a sound legal framework. These alone are not, however, indicators of a successful process for dispute settlement.

II. LEGISLATIVE REFORMS: PROGRESS AND IMPACT

The road that led to the establishment of an arbitration-friendly India was further bolstered by a series of legislative changes, the most significant of which were the revisions to the Arbitration and Conciliation Act, 1996 that were implemented in 2015, 2019 and 2021. These modifications

¹ Parth Upadhyay, Rajiv Kumar Bhartiya & Monica Kharola, *Analysis of the Evolving Trends in International Arbitration from the Perspective of India as an Emerging Economy and Hub of International Commercial Arbitration*, 15 EUR. ECON. LETTERS 80 (2025).

were implemented in order to resolve the conventional issues that have hindered the establishment of a resilient arbitration environment.

One such watershed reform was the Arbitration and Conciliation (Amendment) Act, 2015. It endeavoured to reduce delays, limit judicial intervention and promote institutional arbitration. It is crucial to note that Section 29A established strict deadlines, requiring that arbitral proceedings be completed within 12 months, with the option to extend the timeframe by an additional six months. It also strengthened Section 17, which granted arbitral tribunals the authority to issue interim orders on the same terms as a court. The amendment further clarified the definition of "court" by restricting jurisdiction to High Courts in international commercial arbitration to prevent subordinate court intervention.²

The 2019 Amendment Act established the Arbitration Council of India (ACI) to promote uniform standards and evaluate arbitral institutions, capitalising on this momentum.³ It also prioritised party autonomy by allowing arbitrators to be appointed through arbitral institutions rather than through court intervention. The Act aimed to improve the credibility and quality of arbitral proceedings by ensuring that only institutions with the necessary infrastructure and expertise could appoint arbitrators.

In addition, the 2021 Amendment Act made further improvements to the system by including protections against prejudice and corruption. In order to protect the legitimacy of the arbitration process, it included measures allowing for a stay on the enforcement of arbitral awards in cases where charges of fraud or corruption are raised.⁴ Despite the fact that this was deemed essential in order to safeguard against tainted awards, critics warned that it may be used to hamper enforcement.

These changes, when taken as a whole, are evidence that India is committed to developing an arbitration system that is modern, open to scrutiny and effective. The legislative revisions have been met with positive feedback from practitioners as well as investors from other countries. In spite of this, consistent enforcement and judicial interpretation are required in order for them to realise their full potential.

² The Arbitration and Conciliation Act, 1996, No. 26, Acts of Parliament, 1996 (India), §§ 2(1)(e), 17 & 29A, as amended by the Arbitration and Conciliation (Amendment) Act, 2015, No. 3, Acts of Parliament, 2016 (India).

³ The Arbitration and Conciliation (Amendment) Act, 2019, No. 33, Acts of Parliament, 2019 (India).

⁴ The Arbitration and Conciliation (Amendment) Act, 2021, No. 3, Acts of Parliament, 2021 (India) (inserting the proviso to Section 36(3)).

III. SOCIO-ECONOMIC AND INSTITUTIONAL FRAMEWORK SUPPORTING ARBITRATION IN INDIA

Institutional arbitration refers to arbitrations administered through arbitral institutions under rules and procedures formulated by them. The increased burden on courts, credibility, cost-specific resolution, transparency in fee structure and the need for speedier and more efficient mechanisms for dispute resolution are its attractive features. Institutional arbitration is popular at the international level, and parties to disputes prefer institutional arbitration for their resolution. However, in India, this type of arbitration is still not preferred by parties due to a lack of proper structure and organisation. To redress the issue, the 246th Report of the Law Commission of India⁵ recommended the promotion of institutional arbitration in India and provided for qualified arbitrators to be empanelled with institutions. Subsequently, it was promoted through the Arbitration Council of India (ACI) in the 2019 Amendment. The amendment brought forth Section 2(1)(ca), where an 'arbitral institution' is defined as one designated by the Supreme Court or a High Court, thus bringing ad hoc as well as institutional arbitrations within its fold.

A. The 2019 Amendment Act

In 2016, under the leadership of Justice (Retd.) B.N. Srikrishna, a High-Level Committee was constituted by the Government of India, and the 2019 Amendment Act subsequently came into force on its recommendations.⁶ The Committee submitted a report which can be divided into three parts. Part I provided the recommendations and suggestions necessary for the performance of arbitral institutions and for promoting India as a preferred seat of arbitration. The Committee examined the operations of the International Centre for Alternative Dispute Resolution (ICADR) in Part II of the report. Finally, the Committee suggested adding the position of an International Law Adviser (ILA) in Part III of the report; disputes involving the government's responsibilities under international law are to be addressed by this office. In consideration of the report submitted by the Committee, a new bill, namely the New Delhi International Arbitration Centre Bill, was introduced, which was assented to by the President on 26 July 2019.⁷ The 2019 Amendment Act also brought about significant changes to Section 11 to promote the growth of institutional arbitration in India, including the elimination of the requirement that courts examine the existence of an arbitration agreement, thereby reducing the

⁵ LAW COMMISSION OF INDIA, *Report No. 246: Amendments to the Arbitration and Conciliation Act 1996* (2014).

⁶ GOVERNMENT OF INDIA, *Report of the High Level Committee to Review the Institutionalisation of Arbitration Mechanism in India* (July 30, 2017), <https://legalaffairs.gov.in/sites/default/files/Report-HLC.pdf>.

⁷ The New Delhi International Arbitration Centre Act, 2019, No. 17, Acts of Parliament, 2019 (India).

role of the judiciary in arbitration proceedings. Thus, the Amendment Act divested the power to appoint arbitrators to arbitral institutions and omitted Section 11(6A). The New Delhi International Arbitration Centre was also established under the 2019 Act.

B. Arbitration Council of India

Part IA, Sections 43A–43M, established the Arbitration Council of India as a separate entity to organise institutional arbitration proceedings. Under Section 43C, the Central Government, in consultation with the Chief Justice of India, appoints a person who has been a judge of the Supreme Court, or Chief Justice or judge of a High Court, or an eminent person with expert knowledge and experience in arbitration, to serve as Chairperson of the Arbitration Council of India.⁸ The Council also has other members, such as eminent arbitration practitioners and academicians, one representative of a recognised body of commerce and industry, and officers and employees prescribed by the Central Government. The important provision is Section 43D, which deals with functions such as the framing of policies, the promotion and recognition of arbitral institutions in India, the recognition of professional institutes providing accreditation of arbitrators, and the review of institutions. It is established as a body corporate and, after the 2021 Amendment, it is to frame regulations for the accreditation of arbitrators.

C. Appointment of Arbitrators

The competence to designate arbitral institutions graded by the ACI now rests with the Supreme Court and the High Courts, according to the amendment to Section 11 of the Arbitration and Conciliation Act, 1996. Where no such graded institutions are available, the High Court shall maintain a panel of arbitrators, who shall discharge the functions and other duties of arbitral institutions. However, this present scheme of appointment of arbitrators has been criticised, as the whole idea of separation of the judiciary from arbitration has been defeated. The qualifications of arbitrators were provided under Section 43J read with the Eighth Schedule, but the Schedule was omitted in 2021. The appointment of the arbitrator has moved from a judicial function to an administrative one.⁹

The recommendations of the Law Commission encouraged institutional arbitration as a culture. The major recommendations, so far as institutional arbitration is concerned, are for an application for the appointment of an arbitrator to be disposed of within 60 days of filing before the court. Once the arbitral tribunal is constituted, the court shall not have the power to entertain

⁸ MINISTRY OF LAW AND JUSTICE, *Draft Arbitration Council of India (ACI) Rules Issued for Public Consultation*, Press Information Bureau (Feb. 12, 2020), <https://pib.gov.in/PressReleasePage.aspx?PRID=1602900>.

⁹ *International Arbitration 2025: India (Trends and Developments)*, CHAMBERS GLOBAL PRACTICE GUIDES (Aug. 20, 2025), <https://practiceguides.chambers.com/practice-guides/international-arbitration-2025/india/trends-and-developments/O22037>.

an application under Section 9 of the Arbitration Act; instead, the power to grant interim measures will lie with the arbitral tribunal. The Commission encouraged the establishment of arbitral institutions across the nation, which the government supports in terms of establishment and initial funding.

Institutional arbitration is currently being promoted. For instance, the Supreme Court and High Courts have begun to urge parties to select institutional arbitration, and institutional arbitration clauses are now more frequently included in government contracts. Nevertheless, a cultural transformation and a more robust policy imperative are required to establish institutional arbitration as the new standard. India must ensure that its institutions offer services that are equivalent to those of its international counterparts in order to become a fully fledged international arbitration centre. This includes the provision of technological support, competent staff, firm rules and expedited resolution.

IV. OPPORTUNITIES FOR INDIA AS A GLOBAL ARBITRATION HUB

India's emergence as an international arbitration hub is driven by a series of positive developments that enhance its attractiveness for cross-border dispute resolution. The shift from ad hoc to institutional arbitration is exemplified by the Mumbai Centre for International Arbitration (MCIA), which saw a 48% increase in new cases from 2023 to 2024, reflecting growing confidence in structured arbitration processes with improved efficiency and judicial support. Nearly 91% of MCIA-administered awards were finalised within 18 months, underscoring timely dispute resolution.¹⁰

Recent legislative proposals, particularly the draft Arbitration and Conciliation (Amendment) Bill, 2024, reinforce India's commitment to align with international arbitration standards by promoting institutional arbitration, reducing judicial intervention and introducing digital arbitration processes. The establishment of the Permanent Court of Arbitration's office in New Delhi in September 2024 and the inauguration of the Arbitration Bar of India in May 2024 further bolster India's arbitration infrastructure, signalling increased international confidence and professionalisation.¹¹

India offers competitive advantages, including its strategic geographic location, cost-effectiveness compared to other centres, a large pool of legal and arbitration professionals, and growing institutional capacity through centres like the India International Arbitration Centre

¹⁰ Upadhyay et al., *supra* note 1.

¹¹ Sherina Petit et al., *India's Arbitration Landscape in 2024: A Timeline of Key Judgments and Insights*, STEWARTS (Mar. 5, 2025), <https://www.stewartslaw.com/news/indias-arbitration-landscape-in-2024/>.

(IIAC) and the Delhi International Arbitration Centre (DIAC). Additionally, India benefits from its adherence to the New York Convention, facilitating the enforcement of foreign arbitral awards, which is crucial for international parties.¹²

These developments collectively position India as a dynamic and increasingly viable destination for international arbitration, enhancing its global profile and offering parties a balanced, cost-efficient and reliable forum for dispute resolution.

V. CHALLENGES AND CONSTRAINTS IN ACHIEVING GLOBAL COMPETITIVENESS

Despite significant strides, India faces notable challenges in its quest to become a global arbitration hub. Judicial intervention remains a critical issue despite recent Supreme Court clarifications on the courts' limited power to modify arbitral awards,¹³ as courts still exercise influence that sometimes delays finality and enforcement. The reluctance of government entities to embrace arbitration, especially in public-private partnerships, creates uncertainty and discourages private investment in infrastructure projects, undermining confidence in India's arbitration regime.¹⁴

Judicial Intervention: Judicial intervention in arbitral proceedings is a major barrier to arbitration growth. The Arbitration and Conciliation Act limits court participation but still leaves room for extensive litigation. Indian courts have issued stay orders and made rulings on matters that should be within the tribunal's authority, notwithstanding legislative restrictions. This prolongs arbitration and creates uncertainty.¹⁵

Slow Interim Protection: The parties may apply to the court under Section 9 for interim protection, but in international commercial arbitration such interim protection is restricted and subject to specific conditions. Arbitration parties may need interim protection orders to safeguard assets or avert irreparable damage. The delayed process of obtaining such relief reduces the efficacy of arbitration as a dispute resolution instrument.

Delay in Arbitrator Appointments: The parties may submit a petition for the appointment of an arbitrator if the two nominated arbitrators decline to propose the third, presiding arbitrator or if a party fails to nominate its arbitrator within 30 days of the request. International arbitration

¹² H. Garg, *International Commercial Arbitration: The Opportunities and Challenges Before India to Emerge as Global Hub for Settling Business and Commercial Disputes*, 1 AIADR J. INT'L ADR F. 43 (2020).

¹³ *Gayatri Balasamy v. ISG Novasoft Technologies Ltd.*, 2025 INSC 605 (India).

¹⁴ S. Awasthi, *Legal Issues and Challenges in the International Commercial Arbitration: A Comparative Study*, 3 INDIAN J.L. & LEGAL RSCH. 1 (2021).

¹⁵ Anshul Shah, *International Commercial Arbitration in India: Challenges and Opportunities* (2021) (Ph.D. thesis, The Maharaja Sayajirao University of Baroda), <https://shodhganga.inflibnet.ac.in/handle/10603/331972>.

takes longer than planned. When parties fail to nominate arbitrators on time, the procedure takes longer, and arbitration proceedings may be delayed further.¹⁶

Foreign Lawyer Restrictions: Due to a legislative inconsistency, the Eighth Schedule (prior to its omission in 2021) was read to suggest that foreign lawyers could not act as arbitrators in India. If India aspires to become a global arbitration hub, the government or the courts must resolve these inconsistencies immediately. Indian courts have acknowledged the "fly-in, fly-out" concept, although foreign lawyers' activity remains limited.¹⁷ This limits access to international legal expertise in arbitration cases.

The 2019 amendments were intended to improve arbitration procedures; however, they have prompted apprehensions about the independence and role of arbitrators. The autonomy of arbitration proceedings may be affected by the establishment of the Arbitration Council of India and other changes. It is imperative to confront these obstacles in order to establish India as an attractive location for international arbitration. The growth of international arbitration in India will be facilitated by the implementation of reforms, the clarification of rules and the timely resolution of disputes.

VI. ROLE OF INFRASTRUCTURE, TECHNOLOGY AND INSTITUTIONAL ARBITRATION

Role of Institutional Arbitration: Institutional arbitration refers to arbitration administered by specialised organisations like the ICC, SIAC and LCIA (called arbitral institutions or centres) according to their predefined rules and procedures. These institutions provide administrative support, a panel of arbitrators, procedural guidance and even infrastructure facilities, making the arbitration process more efficient, credible and structured.¹⁸

Strengthening institutional arbitration in India is critical for several reasons:

- Enhancing credibility and trust
- Reducing the judicial burden
- Global competitiveness
- Consistency in procedure
- Promotion of specialised dispute resolution

¹⁶ Divyansh & Ozasvi Amol, *Development of International Commercial Arbitration in the World's Largest Democracy: Are We Heading Towards Making India an Arbitration Hub or Is There Still a Long Way to Go?*, 4 INDIAN J.L. & LEGAL RSCH. 34 (2022).

¹⁷ *Bar Council of India v. A.K. Balaji*, (2018) 5 SCC 379 (India).

¹⁸ GARY B. BORN, INTERNATIONAL COMMERCIAL ARBITRATION (3d ed. 2021).

The future of dispute resolution in India must pivot towards institutional arbitration. Strengthening arbitration centres is not just about setting up buildings and panels; it is about building an ecosystem of trust, efficiency and global best practices. With focused reforms and greater acceptance by businesses, India can truly emerge as a preferred arbitration destination for the world. As India positions itself as a hub for international arbitration, the synergy between academia and industry becomes pivotal.

Role of Technology in Arbitration: Technological advances have always been important in many aspects of life, including legal development. Technology affects the legal industry everywhere, from drafting case files to preserving data on computers, and from announcing causes to posting hearing dates online. Technology is utilised in many areas of arbitration to improve efficiency, effectiveness and convenience. Video calls reduce travel costs and boost efficiency by allowing parties to meet without travelling far. Online document storage may replace vast stacks of paper in case files. Storage in digital form makes arbitration efficient and comfortable by making papers easily accessible.

There are numerous advantages to combining technology and arbitration, but it may also harm the adjudicatory process. The biggest danger of using technology is to security. Hackers may modify evidence using false identities. Another example is someone compromising a computer and changing crucial case information or releasing critical case information. Another concern with attaching technology to the dispute resolution system is internet breakdown or system failure, which might worsen the issue instead of addressing it.

In the fields of law and justice, technology is a wonderful gift. All we need to learn is how to use it in a way that makes sense, so that we can get the most out of it.

Role of Infrastructure in Arbitration: The Economic Survey 2019-20 estimated that India would need to invest about USD 1.4 trillion in infrastructure during 2020–2025, making infrastructure development the backbone of the country's economic growth plan.¹⁹ Complex contractual issues have naturally arisen as a result of this extraordinary growth trajectory, demonstrating the crucial relevance of robust dispute resolution systems in preserving investor trust and project timeliness. The benefits of arbitration, which include procedural flexibility, expertise-driven adjudication and better enforcement powers, have made it the favoured method of dispute settlement for infrastructure projects. Scholars should investigate the unique obstacles to arbitration's efficacy in the Indian infrastructure setting.

¹⁹ *India Needs to Spend USD 1.4 Trillion on Infrastructure During FY 2020-2025: Survey*, BUSINESS STANDARD (Jan. 31, 2020), https://www.business-standard.com/article/pti-stories/india-needs-to-spend-usd-1-4-trillion-on-infrastructure-during-fy-2020-2025-survey-120013100805_1.html.

Several Indian institutions handle infrastructure disputes with varying levels of specialisation:

- The Delhi International Arbitration Centre uses sector-specific tribunals to resolve large-scale infrastructure disputes.
- The Mumbai Centre for International Arbitration is built with state-of-the-art infrastructure and follows global standards.
- The Construction Industry Arbitration Council is an organisation that specialises in resolving conflicts within the construction industry.
- The New Delhi International Arbitration Centre (since renamed the India International Arbitration Centre), an organisation formed by the government, succeeded the International Centre for Alternative Dispute Resolution.

VII. CONCLUSION

Indian international arbitration has undergone major legislative changes, judicial activism and the creation of world-class arbitral institutions. The draft 2024 Bill and earlier modifications to the Arbitration and Conciliation Act have sought to improve process efficiency, minimise court involvement and introduce emergency arbitrators and accelerated jurisdictional findings. Professionalisation and international legitimacy have increased with institutions like the India International Arbitration Centre and the Arbitration Bar of India. Infrastructural deficiencies, enforcement concerns and public sector reticence show that the arbitration environment, although enhanced, is still maturing. Recent major judicial rulings upholding party autonomy and minimising court intrusion have strengthened pro-arbitration views. In the coming years, the maturity of India's arbitration landscape will depend on reform implementation and industry acceptance.²⁰

India is poised to become a worldwide arbitration powerhouse due to its economic development, geographical location and abundant legal expertise. The government's consistent reforms and investment in specialised infrastructure demonstrate its desire and capacity to compete globally. India's cost advantages and institutional excellence attract local and international disputants seeking fast and credible conflict resolution. India can join established international arbitration centres and shape innovative practices by maintaining momentum on reforms, improving judicial training, raising arbitration awareness and adopting technological innovations like virtual hearings and AI-assisted case management. Collaboration among

²⁰ *India as an International Arbitration Hub: Aspirations, Progress, and Challenges*, LINKEDIN (June 26, 2025), <https://www.linkedin.com/pulse/india-international-arbitration-hub-aspirationsprogress-mmlrc>.

stakeholders and compliance with global norms make India's goal of becoming a top arbitration seat by the end of the decade feasible.²¹

²¹ *International Arbitration Laws and Regulations 2025: India*, GLOBAL LEGAL INSIGHTS (2025), <https://www.globallegalinsights.com/practice-areas/international-arbitration-laws-and-regulations/india/>.