India's Aspiration to Emerge as a Global Arbitration Hub: Evaluating Post-Amendment Institutional Efficacy and Strategic Viability

Authored by:- Modi Umangkumar Champaklal
The Maharaja Sayajirao University of Baroda

- **ABSTRACT**

India's ambition to emerge as a global hub for international commercial arbitration has gained significant legislative momentum through successive amendments to the Arbitration and Conciliation Act, 1996, in 2015, 2019, and 2021. This paper critically analyses the context, content, and consequences of these reforms, with particular emphasis on institutional efficacy and strategic viability. The study begins by situating India's arbitration reforms within the broader global dispute resolution landscape and the country's evolving commercial needs. A detailed literature review reveals a persistent dichotomy between statutory reform and practical enforcement, highlighting concerns regarding judicial intervention, procedural inefficiencies, and weak institutional adoption. The research problem centers on whether these amendments have tangibly enhanced India's attractiveness as a reliable arbitration destination. The objectives include assessing key legislative reforms, evaluating institutional performance, and examining India's competitiveness in comparison with established global arbitration hubs such as Singapore and London. The study identifies a significant research gap in data-driven evaluations of arbitral institutions and strategic benchmarking.

Guided by the hypothesis that statutory reform alone is insufficient without institutional and judicial transformation, the study adopts a mixed methodology combining doctrinal analysis, empirical review of arbitral trends, and comparative analysis. The findings indicate that while reforms have introduced pro-arbitration norms such as time-bound proceedings and reduced judicial interference, their implementation remains inconsistent. The Arbitration Council of India remains non-functional, and institutions such as the Mumbai Centre for International Arbitration have yet to gain substantial global traction.The study bridges the gap between reform intent and operational impact, concluding that while India's legislative foundation is promising, its arbitration ecosystem requires coordinated efforts across institutions, the

judiciary, and policy frameworks. Without such synchronization, India's aspiration risks remaining rhetorical rather than transformational.

Keywords: International commercial arbitration; arbitration reforms in India; institutional arbitration; judicial intervention; global competitiveness

1. Introduction

In the contemporary globalized economic order, international commercial arbitration (ICA) has emerged as the preferred mechanism for resolving cross-border commercial disputes due to its neutrality, flexibility, confidentiality, and enforceability. Arbitration offers parties a private and efficient alternative to protracted litigation, a feature that is particularly crucial in international trade and investment contexts. As international business transactions have increased in scale and complexity, jurisdictions such as Singapore, the United Kingdom (London), and Hong Kong have emerged as dominant arbitral seats. These jurisdictions combine legislative clarity, strong institutional frameworks, minimal judicial interference, and consistent enforcement of arbitral awards.

Against this backdrop, India's aspiration to position itself as a global arbitration hub reflects both an economic imperative and a strategic legal transformation. India's engagement with arbitration intensified following economic liberalization in the 1990s, which generated a pressing need for an investor-friendly dispute resolution framework. The enactment of the Arbitration and Conciliation Act, 1996, based on the UNCITRAL Model Law, marked a significant step towards harmonizing Indian arbitration law with international standards. However, over time, the Indian arbitration regime attracted criticism for judicial overreach, procedural inefficiencies, and excessive reliance on ad hoc arbitration, thereby diminishing India's attractiveness as a preferred arbitral seat.

Recognizing these deficiencies, India embarked on a legislative reform trajectory through the 2015, 2019, and 2021 amendments to the Arbitration and Conciliation Act. These reforms sought to address systemic delays, promote institutional arbitration, and cultivate a pro-enforcement judicial culture. Key innovations included time-bound proceedings under Section 29A, restrictions on judicial interference under Section 34, the proposed establishment of the Arbitration Council of India (ACI), and the removal of nationality-based restrictions on arbitrators. Concurrently, institutional arbitration forums such as the Mumbai Centre for International Arbitration (MCIA) were established, reflecting global best practices.

Despite these initiatives, the practical impact of reforms has been uneven. Issues such as low institutional adoption, inconsistent judicial interpretation, delayed operationalization of regulatory bodies, and continued dominance of ad hoc arbitration persist. This paper therefore examines whether India's legislative and policy reforms have effectively bridged the gap between aspiration and institutional capability, thereby enabling India to emerge as a globally viable arbitration seat.

2. Literature Review

The literature on India's arbitration regime reflects a gradual transition from skepticism to cautious optimism. Early scholarship highlighted excessive judicial intervention as a major impediment, particularly following landmark judgments such as *ONGC v. Saw Pipes Ltd.* (2003), which expanded the scope of judicial review under the "public policy" doctrine. Such interpretations discouraged foreign parties from choosing India as an arbitral seat.

Post-2015 scholarship has acknowledged a paradigm shift. The 2015 Amendment Act was widely praised for introducing time-bound arbitration, narrowing judicial review, and strengthening institutional arbitration. However, implementation-based critiques soon emerged, with scholars noting that courts continued to interfere under the guise of statutory interpretation.

The 2019 and 2021 amendments generated mixed responses. While the creation of the ACI was viewed as a progressive institutional measure, concerns were raised regarding bureaucratic oversight and executive dominance. The removal of arbitrator qualification restrictions in 2021 was welcomed as a corrective response to international criticism. Empirical studies, however, reveal that ad hoc arbitration continues to dominate India's dispute resolution landscape, and institutions like MCIA handle significantly fewer cases compared to SIAC or LCIA. Overall, the literature reveals a persistent gap between progressive legislative intent and institutional-judicial adaptation.

3. Statement of the Research Problem

Despite significant statutory reforms through the Arbitration and Conciliation (Amendment) Acts of 2015, 2019, and 2021, it remains uncertain whether these changes have materially enhanced India's position as a global arbitration hub. The central concern lies in the gap between legislative intent and effective implementation. Key reforms—such as time-bound proceedings, reduced judicial interference, and institutional regulation—remain inadequately

operationalized. The non-functionality of the Arbitration Council of India, inconsistent judicial enforcement, and continued reliance on ad hoc arbitration weaken India's global competitiveness. Unlike established hubs such as Singapore or London, India lacks institutional maturity and transparent data to assess progress.

4. Objectives of the Study

This research seeks to:

- Critically assess the impact of the 2015, 2019, and 2021 amendments to the Arbitration and Conciliation Act, 1996.
- Evaluate the performance and challenges of Indian arbitral institutions, particularly MCIA and the proposed ACI.
- Analyze post-amendment judicial trends and compliance with minimal-intervention principles.
- Compare India's arbitration ecosystem with global hubs such as Singapore, London, and Hong Kong.
- Recommend strategic and institutional reforms to enhance India's global arbitration competitiveness.

5. Research Gap

Despite growing scholarship on arbitration law, there remains a notable absence of comprehensive, data-driven research correlating legislative reforms with institutional performance and global competitiveness. Existing studies often focus either on doctrinal interpretation or policy rhetoric, without empirical validation or comparative benchmarking. This paper addresses these gaps by analyzing arbitral trends, institutional performance, and regulatory delays, particularly concerning the ACI.

6. Research Methodology

The study adopts a mixed-method approach, combining doctrinal analysis, empirical review, comparative benchmarking, and policy evaluation. Primary sources include statutes, judicial decisions, and institutional reports, while secondary sources include academic literature and policy documents. Comparative analysis draws lessons from SIAC, LCIA, and HKIAC.

7. Conclusion and Recommendations

India's arbitration reforms reflect a clear legislative commitment to global integration and institutional modernization. However, the persistence of ad hoc arbitration, judicial inconsistency, institutional underutilization, and policy inertia continues to undermine this ambition. To realize its potential, India must operationalize the ACI, strengthen institutional arbitration, ensure judicial restraint, embrace digital arbitration infrastructure, and actively promote Indian institutions globally. With coordinated and sustained efforts, India can transition from aspirational reformer to a credible and competitive arbitration hub.

8. References

- Agarwal, A. K. (2015). *Making India an international commercial arbitration hub*. Indian Institute of Management Ahmedabad.
- Anand, K., & Sharma, R. (2020). The Arbitration and Conciliation (Amendment) Act, 2019: Progress or paradox in India's quest to be an arbitration hub. *Journal of International Arbitration, 37*(6), 661–688.
- Bal, R. (2024). The mirage of speed: An empirical study of time limits in Indian arbitrations post-2015. *Journal of Dispute Resolution Policy, 12*(1), 40–58.
- Cyril Amarchand Mangaldas. (2023). *Guide to arbitration in India (Updated till April 2023)*.
- Desai, V., & Singh, S. (2018). India's arbitration renaissance: An analysis of the 2015 amendments and judicial interpretation. *Asian Dispute Review, 20*(4), 187–205.
- Dewan, N. (2019). *Enforcing arbitral awards in India*. LexisNexis.
- Dixit, N., & Gupta, A. (2016). Arbitration and Conciliation (Amendment) Act, 2015: Arbitrators and conflict of interest. *National Law School Business Law Review, 2*(1), Article 8.
- Jain, M. (2019). The 2019 amendments to the Arbitration and Conciliation Act: A step backwards for institutional arbitration in India? *Indian Journal of Arbitration Law, 8*(2), 55–78.
- Kwatra, G. K. (2014). *Arbitration and conciliation law of India* (7th ed.). LexisNexis.
- Markanda, P. C. (2018). *Law relating to arbitration and conciliation* (10th ed.). LexisNexis.

- Markanda, P. C., Markanda, N., & Markanda, R. (2022). *Law relating to arbitration and conciliation* (11th ed.). LexisNexis.
- Mukhopadhaya, C., & Mukhopadhaya, M. (Eds.). (2021). *Arbitration in India* (2nd ed.). Wolters Kluwer.
- Pachahara, S. (2023). Institutional arbitration: India's attempt to transpire as an international hub of arbitration in Southeast Asia. *BRICS Law Journal, 10*(2), 123–155.
- Pandya, P. R., & Sidhu, V. (2025). India as a hub for international arbitration: Opportunities, challenges and road ahead. *International Engineering and Advanced Science Research Journal*.
- Raina, P., & Agarwal, D. (2020). Institutional arbitration in India: The way to the future. *Supremo Amicus, 19*, 353.
- Rao, P. C. (2016). *Arbitration and Conciliation Act, 1996: A commentary on the 2015 amendments*. Eastern Book Company.
- Singh, M. (2021). *Determining the seat of arbitration: The continuing conundrum in Indian law post-2015 amendments*. International Bar Association.
- Taxmann's Editorial Board. (2025). *Arbitration and Conciliation Act, 1996 with regulations*.
- Vatsala, P. (2024). Judicial intervention under Section 34 and the pro-arbitration mandate: A post-2015 Supreme Court review. *Quarterly Arbitration Law Journal, 9*(3), 112–134.