

# The Arbitration Ambition: Legislative Reforms and India's Bid For Global Recognition

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## • ABSTRACT

With a clear vision of establishing itself as a premier hub for commercial arbitration, India has sought to align its arbitration framework with global best practices while strengthening investor confidence. Over the years, landmark amendments in 2015, 2019, and 2021 have significantly reshaped India's arbitration landscape. While the 2015 reforms enhanced enforceability and curtailed excessive judicial interference, the 2019 amendments encouraged institutional arbitration and confidentiality. However, the 2021 amendment permitting a stay on enforcement of arbitral awards in cases of prima facie fraud has raised concerns regarding potential misuse and delays, thereby casting doubts on India's reliability as an arbitration seat. This paper undertakes a systematic doctrinal review comparing India's stated aspirations with the on-ground realities of its arbitration regime. It examines the extent to which legislative reforms have transformed arbitration in India while engaging with persistent challenges such as judicial delays and the continued dominance of ad hoc arbitration. By situating India's experience alongside international benchmarks such as the UNCITRAL Model Law and the practices of established arbitration hubs like Singapore and Hong Kong, the paper highlights both the progress achieved and the gaps that remain. It ultimately argues that although India's arbitration framework is more robust than ever, its global credibility depends largely on effective implementation and judicial consistency in practice.

**Keywords:** India; Commercial Arbitration; Judicial Intervention; Arbitration Hub; Arbitration Council of India.

## 1. Introduction

In recent years, international commercial arbitration has emerged as a preferred mechanism for resolving cross-border disputes due to its neutrality, flexibility, and enforceability. In India, the growing relevance of arbitration gained momentum following the economic liberalization of 1991, which ushered in increased foreign investment and cross-border commercial transactions. These developments exposed the structural limitations of India's overburdened and delay-prone judicial system, thereby underscoring the need for an efficient and streamlined dispute resolution mechanism. In response, the enactment of the Arbitration and Conciliation

Act, 1996 modelled on the UNCITRAL Model Law marked a significant turning point in modernizing India's arbitration regime. The Act sought to reduce judicial intervention and promote efficiency, fairness, and party autonomy. However, despite its progressive intent, the arbitration framework suffered from procedural inconsistencies, excessive judicial interference, inconsistent enforcement of awards, and an expansive interpretation of the "public policy" exception. These shortcomings undermined the effectiveness of arbitration in India and cast doubts on its suitability as an international arbitration seat. To address these challenges, India introduced major legislative reforms in 2015, 2019, and 2021, aimed at removing procedural bottlenecks, enhancing institutional support, and aligning the regime more closely with international standards. This paper critically examines whether these reforms have meaningfully enhanced India's efficiency and credibility as a seat for international commercial arbitration, particularly in comparison with established global arbitration hubs.

## **2. Understanding Commercial Arbitration And Its Global Significance**

With the expansion of global business operations, commercial entities increasingly face disputes arising from diverse legal systems, regulatory regimes, and cultural contexts. International commercial arbitration offers a neutral, efficient, and enforceable alternative to court litigation, enabling parties to resolve disputes through a binding arbitral process. Section 2(1)(f) of the Arbitration and Conciliation Act, 1996 defines "international commercial arbitration" as disputes arising from legal relationships where at least one party is foreign-based. In *TDM Infrastructure Pvt. Ltd. v. UE Development India Pvt. Ltd.* (2008), the Supreme Court clarified that a company incorporated in India would be treated as an Indian entity even if it had foreign shareholding. Commercial arbitration is characterized by party autonomy, confidentiality, flexibility, and enforceability. Justice Virender Jain has identified three core characteristics: consensual submission to arbitration, adjudication by private decision-makers, and the issuance of a binding and enforceable award.

## **3. Significance Of The "Seat" Of Arbitration**

The choice of seat is central to arbitration as it determines the juridical home of the proceedings and the applicable procedural law (*lex arbitri*). In *Union of India v. Hardy Exploration and Production (India) Inc.* (2018), the Supreme Court clarified the distinction between "seat" and "venue," holding that the designation of a venue alone does not imply the seat. An arbitration-friendly *lex arbitri* enhances predictability, limits court intervention, and fosters investor confidence. The procedural framework governing arbitration directly impacts enforcement standards and the scope of judicial supervision.

#### **4. India's Declared Intent To Become A Commercial Arbitration Hub**

India's ambition to emerge as a global arbitration hub is reflected in policy statements, legislative amendments, and institutional initiatives. The Statement of Objects and Reasons accompanying the Arbitration and Conciliation (Amendment) Bill, 2019 emphasized strengthening institutional arbitration and establishing professional standards. Similarly, the New Delhi International Arbitration Centre Act, 2019 sought to create a flagship arbitral institution capable of handling both domestic and international disputes.

#### **5. Overview Of Key Amendments: 2015, 2019 And 2021**

- **The 2015 Amendment**

The 2015 reforms introduced significant changes, including reduced judicial intervention, time limits for arbitral awards, streamlined procedures, a narrowed public policy exception, and the removal of automatic stays on enforcement.

- **The 2019 Amendment**

The 2019 Amendment focused on institutionalization through the establishment of the Arbitration Council of India (ACI), introduced confidentiality provisions, arbitrator immunity, and timelines for pleadings.

- **The 2021 Amendment**

The 2021 Amendment empowered courts to grant unconditional stays on enforcement where a prima facie case of fraud or corruption is established and repealed the restrictive Eighth Schedule concerning arbitrator qualifications.

#### **Evaluating The Impact Of Legislative Reforms**

While reforms have strengthened party autonomy, institutional credibility, and arbitrator independence, concerns remain regarding the broad regulatory role of the ACI and the enforcement-hindering implications of the 2021 amendment. Judicial intervention at the enforcement stage continues to pose a challenge.

#### **Positioning India On The Global Arbitration Map**

Comparative analysis with arbitration hubs such as Singapore and London reveals that efficiency, enforceability, and judicial restraint remain decisive factors. Despite improvements, India still trails behind established hubs in terms of institutional trust and enforcement certainty.

#### **Challenges And Critical Gaps**

Persistent challenges include procedural delays, inconsistent judicial approaches under Section 34, limited institutional capacity, and high costs. Addressing these concerns is essential to achieving India's arbitration ambitions.

## **9. Conclusion**

India's aspiration to become a global arbitration hub reflects a genuine commitment to reform. While legislative changes signal a pro-arbitration stance, effective implementation, judicial discipline, and institutional maturity remain crucial. As aptly noted by Dr. Abhishek Manu Singhvi, achieving success requires ensuring access, reducing backlog, lowering costs, and eliminating delays. India's journey is underway, but its success will ultimately be measured by the confidence it inspires among international stakeholders.

## **10. References**

1. Divyansh, & Amol, O. (2023). *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?* **Indian Journal of Law and Legal Research**, 4(4), 1.
2. Naomi, S. (2023). Choice of seat and its significance. *International Journal of Law Management & Humanities*, 6(1), 340–346. <https://doi.org/10.1000/IJLMH.114051>
3. Rajoo, S. (2019). *Law, practice and procedure of arbitration in India*. LexisNexis.
4. Tyagi, S., & Chaudhary, D. (2020). Determining the seat of arbitration in commercial agreements. *DME Journal of Management*, 1.
5. Vahed, S., & Maboudi Neishabouri, R. (2015). The “independence” and “impartiality” of arbitrator: Synonymy or distinction? *Comparative Law Review*, 6(1), 393–412. <https://doi.org/10.22059/jcl.2015.54418>
6. York, S. (2009). India as an arbitration destination: The road ahead. *National Law School of India Review*, 21(2), 77–103.