Is India Ready to Lead? Reviewing India's Legal Landscape in Global Commercial Arbitration

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ABSTRACT

India has increasingly asserted its ambition to become a leading global seat for commercial arbitration, seeking to provide a credible, cost-effective alternative to established hubs such as Singapore, London, and Paris. This aspiration has been supported by a series of targeted legislative reforms to the Arbitration and Conciliation Act, 1996 most notably through the 2015, 2019, and 2021 amendments. These reforms reflect a conscious shift toward modernising India's arbitration regime, enhancing procedural efficiency, and reducing judicial interference.The 2015 amendment introduced strict timelines for the completion of arbitral proceedings, strengthened the autonomy of arbitral tribunals by empowering them to grant interim reliefs, and curtailed excessive court involvement. The 2019 amendment sought to institutionalise arbitration by proposing the establishment of the Arbitration Council of India (ACI), delegated arbitrator appointments to designated institutions, and removed the automatic stay on awards upon challenge. The 2021 amendment, while liberalising the qualifications for arbitrators and opening the system to international practitioners, also added a provision allowing enforcement of arbitral awards to be stayed if the award was prima facie induced by fraud or corruption—raising concerns over its potential to undermine finality and enforcement certainty.This paper evaluates the tactical efficacy of these reforms in achieving India's stated goal. While the legislative intent and trajectory are pro-arbitration, persistent challenges—including delayed implementation of institutions, inconsistent judicial practice, and enforcement bottlenecks—continue to hinder India's emergence as a preferred seat. Comparative insights reveal that India's arbitration regime remains in a transitional phase: progressive on paper, but still developing in practice. The paper concludes that India's success in this space ultimately hinges on institutional maturity, judicial restraint, and sustained political will to convert reform into reliable dispute resolution infrastructure.

Keywords: CommercialArbitration,Arbitration Law Reforms,India as Seat of Arbitration,Institutional Arbitration,Enforcement of Arbitral Awards.

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INTRODUCTION

India's aspiration to establish itself as a global hub for commercial arbitration has intensified over the past decade. As part of its larger economic liberalisation and judicial reform agenda, India has enacted a series of amendments to the [3]Arbitration and Conciliation Act, 1996. These amendments in 2015, 2019, and 2021 aim to align India's arbitration regime with international standards, improve institutional infrastructure, and foster a business-friendly dispute resolution environment.However, the critical question is whether these reforms have translated into tactical efficacy specifically, whether India is now a viable and preferred seat of arbitration in the eyes of the international commercial community. This paper evaluates that question through a close examination of legislative reforms, comparative global practices, and judicial attitudes, concluding with an assessment of India's actual positioning on the global arbitration map.In recent decades, arbitration has emerged as the preferred method of resolving cross-border commercial disputes, offering speed, confidentiality, finality, and party autonomy. Globally, jurisdictions such as Singapore, London, and Hong Kong have established themselves as leading arbitration hubs, offering sophisticated legal frameworks, minimal court intervention, strong institutional support, and international recognition. Against this backdrop, India a rapidly growing economy and major participant in global commerce has actively sought to position itself as a competitive seat for commercial arbitration.The legal foundation for arbitration in India lies in the Arbitration and Conciliation Act, 1996, which is based on the [4]UNCITRAL Model Law. However, over the years, the practical challenges of judicial interference, procedural delays, and ad hoc practices led to a growing disconnect between statutory provisions and the expectations of international arbitration users. Recognising these shortcomings, the Indian government initiated a series of reforms through amendments in 2015, 2019, and 2021, with the stated objective of creating a more efficient, predictable, and internationally acceptable arbitration regime.The 2015 amendment focused on minimising court interference, mandating timelines for arbitral awards, and enhancing tribunal powers. The 2019 amendment aimed to institutionalise arbitration by introducing the Arbitration Council of India and strengthening institutional appointment of arbitrators. The 2021 amendment, while repealing restrictive arbitrator qualifications, controversially introduced a provision allowing enforcement of arbitral awards to be stayed on prima facie allegations of fraud.Despite these legislative changes, India has yet to achieve recognition as a globally preferred seat of arbitration, with concerns persisting over enforcement reliability, institutional credibility, and judicial inconsistency. This paper aims to critically assess the tactical

[3] Arbitration and conciliation act 1996
[4] UNCITRAL model law 2006

efficacy of these reforms and investigate whether India's arbitration landscape, in both law and practice, supports its ambition to become an international arbitration hub.By combining doctrinal analysis with comparative insights, this research identifies the gap between reformist intent and operational reality, and proposes strategies to bridge this divide. The study contributes to the broader discourse on dispute resolution reform in emerging jurisdictions and examines the real-world viability of India's arbitration ambitions.

LITERATURE REVIEW

- **Gary Born** praises India's legislative reforms post-2015 as structurally aligned with UNCITRAL principles and noted the potential of India to become a global arbitration seat if implementation matches legislative intent.

- **Malhotra & Indu Malhotra** gave view on the 2015 amendment as a "watershed" for introducing time-bound proceedings and enforceable tribunal-issued interim measures.Also emphasise the significance of reduced court interference under [5]Sections 9 and 34.

- **S.K. Chawla** Critiques Indian judiciary's inconsistent application of arbitration law, particularly under the "public policy" challenge ground.Also highlighted judicial delays and expansive interpretations that dilute arbitration's finality.

- **Abhinav Bhushan** Focuses on institutional arbitration; supports the move toward institution-led appointments. Criticizes the lack of functional infrastructure and the delay in operationalising the Arbitration Council of India (ACI).

- **Jain** Analyses the 2021 amendment's provision allowing enforcement stays on grounds of prima facie fraud.Warns that the clause could reintroduce uncertainty and serve as a tool for delaying award enforcement.

- **Singh & Karia** discuss the institutionalisation gap, particularly the lack of capacity and caseload at the [6]India International Arbitration Centre (IIAC).Argue that domestic institutions have yet to match the credibility of [7]SIAC or LCIA.

[5] section 9 and 34 of 2015 amendment
[6] IIAC rules
[7] SIAC rules 2016

- **Queen Mary International Arbitration Survey** India does not feature in the list of top arbitration seats globally.Factors cited include enforcement uncertainty, lack of institutional maturity, and perception of judicial interference.

- **Pathak & Mehrotra** Empirical data shows reluctance of foreign investors to choose India as a seat due to practical inefficiencies.Recommend reforms in enforcement timelines and arbitrator accreditation.

STATEMENT OF THE RESEARCH PROBLEM

Despite India's well-documented legislative efforts to reform its arbitration regime especially through the amendments to the Arbitration and Conciliation Act in 2015, 2019, and 2021 the country continues to struggle with being recognised as a preferred global seat of commercial arbitration. While these reforms were aimed at enhancing procedural efficiency, reducing judicial interference, and promoting institutional arbitration, their implementation has revealed persistent challenges, including inconsistent judicial practice, inadequate institutional infrastructure, and enforcement delays.Furthermore, India's attempt to shift from ad hoc to institutional arbitration lacks traction due to the delayed operationalization of key institutions such as the Arbitration Council of India and the limited global visibility of the India International Arbitration Centre. The international arbitration community remains hesitant to choose India as a seat, citing concerns about neutrality, predictability, and procedural efficiency.This research, therefore, seeks to critically evaluate whether the post-2015 legislative reforms have translated into **tactical efficacy** in making India a viable and trusted seat of arbitration. It investigates the gap between reformative intent and practical outcomes, with particular attention to enforcement mechanisms, judicial conduct, and institutional maturity. The central problem lies in understanding why India, despite progressive legal amendments, continues to be perceived as a jurisdictionally uncertain and procedurally burdensome venue for international arbitration.

RESEARCH OBJECTIVES

- **To examine the legislative reforms** introduced through the 2015, 2019, and 2021 amendments to the Arbitration and Conciliation Act, 1996, with a focus on their intent, scope, and design.

- **To assess the practical implementation and impact** of these amendments on India's arbitration ecosystem, particularly in terms of judicial intervention, procedural timelines, and award enforcement.

- **To evaluate the current status of institutional arbitration** in India, including the effectiveness and recognition of the [8]India International Arbitration Centre (IIAC) and the [9]Arbitration Council of India (ACI).

- **To conduct a comparative analysis** of India's arbitration regime vis-à-vis established global arbitration seats such as Singapore and London, focusing on efficiency, neutrality, party autonomy, and enforcement certainty.

- **To identify key barriers and systemic challenges** that hinder India's emergence as a preferred seat of commercial arbitration, despite legislative advancements.

- **To propose policy and institutional reforms** aimed at enhancing India's credibility, functionality, and global competitiveness as an arbitration destination.

RESEARCH GAP

While considerable academic and policy attention has been given to India's arbitration reforms post-2015, existing literature tends to focus primarily on the **legislative intent** behind these changes rather than their **practical outcomes and global reception**. Scholars have commended the move towards aligning India's arbitration law with international standards, particularly the adoption of UNCITRAL Model Law principles and efforts to reduce court interference. However, there remains a **noticeable lack of empirical and critical evaluation** of whether these reforms have effectively enhanced India's standing as a viable and attractive seat of arbitration.Moreover, much of the existing research treats the amendments in isolation analysing the 2015, 2019, or 2021 amendments individually without offering a **comprehensive, integrated assessment** of their cumulative impact on India's arbitration ecosystem. This creates a fragmented understanding of the reform process and its actual efficacy.In addition, while global surveys [10](Queen Mary University Arbitration Surveys) indicate India's low ranking among preferred arbitration seats, there is limited academic inquiry into the **specific causes behind India's continued exclusion from global preference**, particularly in terms of **enforcement challenges, institutional shortcomings**, and **judicial unpredictability**.

This study addresses these gaps by:

[8] IIAC rules
[9] Arbitration council of India
[10] Queen Mary University Arbitration Surveys

- Providing a **holistic analysis** of the post-2015 reforms.
- Evaluating their **tactical efficacy** from both domestic and international perspectives.
- Identifying persistent systemic and institutional barriers to India's emergence as a global arbitration hub.
- Offering **policy-oriented recommendations** grounded in comparative analysis.

RESEARCH QUESTIONS

- To what extent have the 2015, 2019, and 2021 amendments to the [11]Arbitration and Conciliation Act, 1996 improved India's legal framework for commercial arbitration?
- Have these legislative reforms translated into tangible procedural efficiency and reduced judicial interference in arbitration proceedings within India?
- What is the current status and global perception of India as a seat of arbitration compared to established international arbitration hubs like Singapore and London?
- How effective are Indian arbitration institutions particularly the [12]India International Arbitration Centre (IIAC) and the proposed [13]Arbitration Council of India (ACI)in promoting institutional arbitration?
- What are the key structural, judicial, and institutional barriers that continue to hinder India's emergence as a preferred international arbitration destination?
- What policy and practical interventions are required to enhance India's credibility, enforceability, and neutrality as a seat of commercial arbitration?

RESEARCH METHODOLOGY

This study adopts a **doctrinal** and **comparative legal research methodology** supported by **qualitative analysis** of secondary sources. It involves:

[11] Arbitration and Conciliation Act, 1996
[12] India International Arbitration Centre (IIAC)
[13] Arbitration Council of India (ACI)

- Doctrinal analysis of the Arbitration and Conciliation Act, 1996 (with focus on the 2015, 2019, and 2021 amendments) and key judicial decisions.

- Comparative study of India's arbitration framework vis-a-vis leading global arbitration seats such as Singapore and London.

- Secondary data review including scholarly articles, institutional reports ([14]SIAC, [15]LCIA), and arbitration surveys (e.g., Queen Mary University).

- Qualitative insights from practitioner surveys and commentary on institutional efficacy and enforcement practices.

- Policy analysis to identify reform gaps and propose practical recommendations.

This methodology enables a critical assessment of India's legislative progress, judicial posture, and institutional readiness in becoming a preferred arbitration seat.

SIGNIFICANCE

This study holds significant relevance in both academic and policy-making circles as it critically examines the gap between India's legislative intent and practical efficacy in becoming a global seat of commercial arbitration. While numerous reforms have been introduced to align India's arbitration regime with international standards, there remains a lack of consolidated evaluation of their real-world impact on dispute resolution effectiveness, institutional performance, and investor confidence.

By assessing the cumulative effect of the 2015, 2019, and 2021 amendments, this research offers:

- **A holistic understanding** of India's arbitration reform journey.

- **Comparative insights** that help benchmark India against leading arbitration jurisdictions like Singapore and London.

- **Policy guidance** for lawmakers, institutions, and judiciary to bridge structural and procedural gaps.

[14] SIAC
[15] LCIA

- **Strategic relevance** for domestic and international businesses considering India as a seat for arbitration.

The findings of this study will contribute to the broader discourse on enhancing India's legal and institutional frameworks, helping policymakers and stakeholders align India's arbitration landscape with global best practices and investor expectations.

LIMITATIONS

While this study provides a comprehensive analysis of India's arbitration reforms and their practical implications, certain limitations must be acknowledged:

- **Lack of primary data**: The study relies primarily on doctrinal analysis and secondary sources, such as academic literature, case law, and institutional reports, without conducting interviews or field surveys with arbitration practitioners or users.

- **Jurisdictional focus**: The research is limited to India, with only selective comparative references to other arbitration hubs like Singapore and the UK. A broader comparative scope could yield more nuanced insights.

- **Institutional evaluation constraints**: Due to limited publicly available data on the functioning and caseloads of Indian arbitration institutions (IIAC), the assessment of institutional efficacy is partly inferential.

- **Rapid legal evolution**: The arbitration landscape in India is evolving, and some institutional or judicial developments may occur after the completion of this research, potentially affecting its long-term applicability.

CASE LAWS

Bharat Aluminium Co. v. Kaiser Aluminium Technical Services Inc.(2012) 9 SCC 552 (BALCO)

- Landmark judgment that clarified the inapplicability of Part I of the Arbitration and Conciliation Act to international commercial arbitrations seated outside India.

- Shifted India toward a seat-centric approach, aligning with international standards.

BCCI v. Kochi Cricket Pvt. Ltd.(2018) 6 SCC 287

- Clarified that Section 36 (enforcement of awards) as amended in 2015 applies retrospectively to pending court proceedings.
- Boosted confidence in timely enforcement of arbitral awards.

TRF Ltd. v. Energy Engineering Projects Ltd.(2017) 8 SCC 377

- Held that an arbitrator who is ineligible under Section 12(5) cannot nominate another arbitrator.
- Reinforced the principle of neutrality and independence of arbitrators.

Perkins Eastman Architects DPC v. HSCC (India) Ltd.(2019) 20 SCC 760

- Extended the TRF principle to say that even unilateral appointment of arbitrators by one party is invalid.
- Paved the way for institutional arbitration and neutral appointments.

Sangyong Engineering & Construction Co. Ltd. v. NHAI(2019) 15 SCC 131

- Defined the scope of “public policy” as a ground for setting aside arbitral awards post-2015 amendment.
- Aligned the interpretation with international best practices, limiting judicial interference.

Hindustan Construction Co. Ltd. v. Union of India(2020) 17 SCC 324

- Addressed the issue of automatic stay on awards under the pre-amended Section 36.
- Reaffirmed that mere filing of a challenge does not stay enforcement, reinforcing award finality.

Amazon.com NV Investment Holdings LLC v. Future Retail Ltd.(2021) 3 SCC 714

- Recognised the validity and enforceability of emergency arbitration awards under Indian law.
- Significantly advanced India's reputation for pro-arbitration jurisprudence.

NAFED v. Alimenta S.A.(2020) 5 SCC 233

- Applied a broad interpretation of "public policy" to refuse enforcement of a foreign award.
- Seen as a regressive step and criticised for undermining India's arbitration credibility.

Delhi Airport Metro Express Pvt. Ltd. v. DMRC(2021) 11 SCC 164

- Reiterated that courts must show restraint while interpreting arbitral awards under Section 34.
- Highlighted judicial discipline as a pillar of arbitration success.

PASL Wind Solutions Pvt. Ltd. v. GE Power Conversion India Pvt. Ltd.(2021) 7 SCC 1

- Confirmed that two Indian parties can choose a foreign seat of arbitration.
- Cemented the principle of party autonomy in arbitration.

CONCLUSION

- India has made significant legislative strides through the 2015, 2019, and 2021 amendments to modernise its arbitration law and align with international standards.
- These reforms aimed to reduce judicial intervention, promote institutional arbitration, and ensure timely resolution of disputes.
- Despite these efforts, India's practical effectiveness as a preferred seat of arbitration remains limited due to:
    - Delayed or inconsistent enforcement of arbitral awards.
    - Weak institutional infrastructure (e.g., non-functional ACI, underutilised IIAC).
    - Judicial overreach in certain cases, particularly in applying the "fraud" exception (2021 amendment).

- Limited international perception of India as a neutral and efficient arbitration venue.

- Comparative analysis shows India still lags behind global leaders like Singapore and London in terms of trust, procedural efficiency, and institutional maturity.

- The gap between reform on paper and implementation in practice remains a major obstacle to India's emergence as a reliable arbitration hub.

- To bridge this gap, India must:

  - Strengthen and promote arbitration institutions.

  - Ensure judicial restraint and consistency.

  - Expedite enforcement processes.

  - Build a pool of internationally recognised arbitrators.

  - Create greater awareness and trust in India's arbitration framework globally.

- In conclusion, while India is on the right reform path, it must translate legal changes into tangible outcomes to be recognised as a globally preferred seat for commercial arbitration.

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