

A Roadmap to Establishing India as a Hub for International Arbitration

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Abstract

As India cements its position as a top-five global economy, the demand for a reliable and efficient commercial dispute resolution framework has reached a pivotal point. This paper examines the strategic plan for establishing India as a leading hub for international arbitration, progressing beyond its traditional reliance on ad-hoc procedures towards a more sophisticated institutional model. The legislative scope of the Arbitration and Conciliation Act, 1996, has undergone significant changes through the instrumentalities of amendments to the Act in 2015, 2019, and 2021; however, several challenges remain. These include ongoing perceptions of judicial overreach, infrastructural gaps at emerging institutions such as the New Delhi International Arbitration Centre (NDIAC), and a general lack of awareness among domestic companies about the advantages of institutional mechanisms. By conducting a comparative analysis of established global hubs like Singapore (SIAC) and Hong Kong (HKIAC), this study identifies key factors for success: minimal judicial interference, specialised arbitration panels, and the adoption of technological innovations such as AI-integrated case management. Furthermore, the research indicates that India must embrace emerging sectors including Fintech and ESG-related disputes while streamlining procedures for Small and Medium Enterprises (SMEs) to broaden access to arbitration. Ultimately, the paper argues that transforming India into a leading international arbitration seat requires a symbiotic relationship between a judiciary supportive of enforcement, a strong institutional framework, and proactive government policies that mandate institutional arbitration in public sector contracts.

Keywords: Global dispute resolution hub, global economic, institutional arbitration, judicial minimum intervention, legal reform

INTRODUCTION

The globalization of trade and commerce has underscored the importance of arbitration as a preferred mechanism for resolving commercial disputes. Arbitration offers parties a neutral, efficient, and enforceable framework for dispute resolution, especially in international contexts. As one of the fastest-growing economies across the globe, India endeavours to become a leading hub in the space of international arbitration. This ambition aligns with its strategic geographical position, robust legal framework, and growing prominence in global commerce. However, the realization of this vision involves addressing institutional deficiencies, enhancing awareness, and adopting globally accepted arbitration standards.

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In the past decade, India has emerged as one of the fastest-growing economies in the world, outpacing several major nations and solidifying its status as a global economic powerhouse. It has overtaken the United Kingdom to become the fifth-largest economy and is on track to surpass Japan and Germany, claiming the third spot [1]. Moreover, it

has also succeeded China in terms of population. With a surge in both domestic and foreign investments, the global business community now demands a dependable, efficient, and business-friendly dispute resolution framework in India [2].

Arbitration in India is not a new concept. Its roots can be traced back to ancient texts like the Brihadaranyaka Upanishad, which mentions the Puga, Sreni, and Kula as dispute resolution bodies [3]. Modern arbitration laws in India, however, owe their genesis to the colonial era, when the Indian Arbitration Act of 1899 [4] was introduced.

Over the decades, India has crafted its arbitration framework in tandem with international conventions such as the UNCITRAL Model Law, in the form of significant amendments in 2015, 2019, and 2021 [5]. Notably, Prime Minister Narendra Modi has repeatedly stressed the government's dedication to fostering an arbitration-friendly culture, underlining the importance of resolving disputes swiftly and fairly [6].

For any nation aspiring to become a global arbitration hub, it must address key factors that international investors prioritize. These include the presence of a robust arbitration mechanism, a stable legal and political environment, arbitration-friendly courts, and the ease with which disputes are resolved. Despite India's growing appeal, international businesses often remain hesitant, unsure about the efficiency and reliability of India's arbitration framework in comparison to global benchmarks.

INDIA'S ARBITRATION FRAMEWORK

The roots of India's arbitration regime could be traced back to the UNCITRAL Model Law, which inspired and shaped the Arbitration and Conciliation Act, 1996. Despite its comprehensive provisions, arbitration in India has historically been plagued by issues such as prolonged judicial intervention, a lack of institutional arbitration awareness, and limited infrastructure [7]. These challenges hindered the Act's effectiveness in attracting international arbitration cases.

To address these shortcomings, the Indian government introduced significant amendments in 2015 and 2019. The 2015 Amendment [8] incorporated time-bound arbitration and fast-track procedures, while the 2019 Amendment [9] sought to promote institutional arbitration.

This included in its fold the constitution of the Arbitration Council of India to grade and enhance the credibility of arbitral institutions. The reforms aimed to reduce judicial interference, streamline the appointment of arbitrators, and bolster party autonomy. However, the dominance of ad-hoc arbitration persists due to cost perceptions and a lack of awareness about institutional arbitration mechanisms.

India's efforts to establish institutional arbitration centers have gained momentum with the creation of the New Delhi International Arbitration Centre (NDIAC) [10]. The NDIAC has been conceived as a premier arbitration institution capable of rivalling institutions like the Singapore International Arbitration Centre (SIAC) and the Hong Kong International Arbitration Centre (HKIAC). Despite these initiatives, institutional arbitration in India is still in its nascent stages compared to its regional competitors.

INDIA'S SIGNIFICANT OPPORTUNITIES TO EMERGE AS A LEADING ARBITRATION HUB

India has substantial potential to capitalize on the considerable opportunities to transform into a global arbitration hub. First, India's strategic location between Europe and Southeast Asia provides logistical advantages for cross-border dispute resolution. Coupled with its economic trajectory, projected to become the third-largest economy globally, India presents itself as an attractive destination for arbitration. The Indian economy's growth and integration into global markets make it a crucial player in international trade disputes.

Second, the judiciary has had a pro-arbitration stance, offering a significant advantage. In the landmark case of *BALCO v. Kaiser Aluminium Technical Services* [11], the Supreme Court reinforced the principle of minimal judicial interference. Such pro-arbitration decisions significantly reinforce confidence in arbitration as an effective dispute resolution mechanism in India. Additionally, the judiciary's support for party autonomy and the enforcement of foreign arbitral awards builds confidence among international parties.

Finally, India's burgeoning institutional framework creates a fertile ground for arbitration. The NDIAC, declared an institute of national importance, is tasked with offering state-of-the-art facilities, empanelling skilled arbitrators, and ensuring cost-effective dispute resolution [12]. By providing innovative arbitration rules and aligning with global best practices, the NDIAC could attract international cases and enhance India's standing in the arbitration ecosystem.

CHALLENGES IN BECOMING A GLOBAL ARBITRATION HUB

While the opportunities are promising, India faces significant challenges that could hinder its progress as a global arbitration hub. One of the primary challenges lies in institutional gaps. Despite the establishment of arbitration centers like the NDIAC, Indian institutions lag behind SIAC and HKIAC in terms of infrastructure, administrative efficiency, and global recognition [13]. These shortcomings deter international parties from choosing India as a preferred arbitration destination. Another pressing issue is the perception of judicial overreach. Although recent amendments aim to minimize judicial intervention, courts occasionally interfere in arbitration proceedings, undermining the finality of arbitral awards. Aligning judicial practices with global arbitration norms is essential to foster trust and credibility among international users.

Lastly, there is a lack of awareness and expertise in institutional arbitration among domestic businesses. Many Indian enterprises continue to favour ad-hoc arbitration, viewing institutional arbitration as costly and bureaucratic. Moreover, the limited pool of skilled arbitrators and concerns over adherence to timelines further exacerbate this issue.

Comparative Analysis of Global Arbitration Hubs

India's aspiration to become a global arbitration hub necessitates an understanding of the success factors behind established arbitration centres like Singapore, Hong Kong, and London. These jurisdictions have consistently excelled in three critical areas: a pro-arbitration legal framework, internationally renowned arbitral institutions, and minimal judicial interference.

Singapore

A Benchmark in Institutional Arbitration-Singapore's rise as a leading arbitration hub is closely tied to the Singapore International Arbitration Centre (SIAC) and its robust legal framework under the International Arbitration Act, 1994 (IAA) [14]. The IAA incorporates the UNCITRAL Model Law, with modifications tailored to international standards. Provisions such as expedited procedures, emergency arbitrator mechanisms, and rules for multi-party arbitration make SIAC highly attractive to global users [15].

Judicial support in Singapore is a defining feature, with courts adopting a firm pro-arbitration stance. For instance, in the landmark case of *Insignia Technology v. Alstom Technology* [16], the Singapore Court of Appeal upheld the enforcement of hybrid arbitration clauses, emphasizing party autonomy. Moreover, the judiciary refrains from excessive intervention, respecting the finality of arbitral awards.

Hong Kong

Innovation and Strategic Positioning-Hong Kong owes much of its success to the Hong Kong International Arbitration Centre (HKIAC) and its Arbitration Ordinance. The HKIAC has set itself apart through continuous innovation, including provisions for early dismissal of unmeritorious claims, third-party funding disclosure, and flexible cost structures [17]. Its close alignment with the legal standards

of Mainland China under the “One Country, Two Systems” [18] framework adds a unique appeal for parties involved in cross-border disputes in the Asia-Pacific region.

Lessons for India

India can adopt key practices from these jurisdictions, such as regular updates to institutional arbitration rules, offering flexible procedural options, and maintaining a pro-enforcement judicial environment. Additionally, creating arbitration-specific legislative provisions, like Singapore’s IAA, could provide India with a specialized framework that aligns with international best practices.

Strengthening India’s Legal Framework for Arbitration

India’s legal framework for arbitration, while robust, requires further refinements to match global benchmarks and in still confidence in international parties. A significant step forward would be the introduction of arbitration-specific legislation that balances party autonomy with judicial oversight. This approach would align India with successful models like the Singapore International Arbitration Act (IAA) and Hong Kong’s Arbitration Ordinance.

Reducing Judicial Intervention

Judicial intervention, while necessary to ensure procedural fairness, must be minimized to preserve the finality and efficiency of arbitration. The 2019 Amendment to the Arbitration and Conciliation Act attempted to limit judicial interference, but its implementation has been uneven. Courts must adhere to international best practices, such as applying the Kompetenz–Kompetenz principle [19], which allows arbitral tribunals to determine their own jurisdiction. On February 8, 2024, the Law Ministry issued a press release emphasizing the government’s commitment to promoting Alternative Dispute Resolution (ADR) mechanisms [20]. Over the years, arbitration laws have undergone significant reforms, with amendments introduced in 2015, 2019, and 2021. These reforms included measures like fixed timelines for arbitration, the removal of the automatic stay on award enforcement, and narrowing the scope of “public policy” under Section 34 [21] of the Arbitration and Conciliation Act. Additionally, the Commercial Courts Act, 2015, was amended in 2018 to include a Pre-Institution Mediation and Settlement (PIMS) mechanism, aimed at reducing court burdens by requiring parties to attempt mediation before filing suits, except when seeking urgent relief [22].

However, despite these legislative initiatives, challenges persist. For instance, the PIMS mechanism has not delivered the anticipated results, as noted in the October 2024 Delhi Mediation Centre Report [23]. On the positive side, mediation is gradually gaining traction, with the enactment of the Mediation Act, 2023, which institutionalizes mediation as a recognized dispute resolution mechanism. Section 89 of the Civil Procedure Code, 1908 [24], also provides an enabling framework for ADR methods, including arbitration, mediation, and conciliation.

Judicial developments, however, have sometimes raised questions about India’s pro-arbitration stance. A notable example is the Supreme Court’s ruling on April 10, 2024, in the DMRC v. DAMEPL [25] case, where an ₹8,000 crore arbitral award was quashed on grounds of “patent illegality.” While the judgment addressed procedural concerns, it also highlighted the judiciary’s willingness to scrutinize arbitral awards extensively, potentially discouraging international parties. The case has drawn criticism for undermining India’s arbitration-friendly image, particularly in contrast to earlier pro-arbitration rulings like the White Industries case [26]. Such decisions underscore the need for judicial consistency to bolster confidence in India’s arbitration ecosystem.

Therefore, introducing specialized arbitration benches in High Courts, equipped with judges trained in arbitration law, could ensure consistency in judicial decisions. Additionally, fast-tracking the enforcement of arbitral awards under the New York Convention, 1958, would enhance India’s reputation as an arbitration-friendly jurisdiction.

Quality and Impartiality of Arbitral Awards

The credibility of an arbitration hub depends heavily on the quality of arbitral awards. Indian arbitral institutions must focus on empanelling highly qualified and experienced arbitrators. Training programs and certifications for arbitrators, as envisioned under the Arbitration Council of India, could ensure consistent quality in arbitration proceedings.

Furthermore, ensuring that awards are impartial and enforceable under the New York Convention, 1958, is crucial. Clear rules on confidentiality, evidence submission, and timelines would bolster the confidence of parties engaging in arbitration.

Strengthening Confidentiality Provisions

Confidentiality is a hallmark of international arbitration, yet India's legal framework on this aspect remains underdeveloped. Codifying strict confidentiality obligations, as seen in the rules of the SIAC and HKIAC, would align India with global norms. The introduction of penalties for breaches of confidentiality could further reinforce trust among parties.

Arbitrating Emerging Sectors

As global commerce evolves, arbitration must adapt to address disputes in emerging sectors such as technology, fintech, and climate-related projects. India's legal framework should accommodate innovations like blockchain arbitration, smart contracts, and sustainability-related clauses. Tailoring arbitration laws to meet the demands of these industries would position India as a forward-looking arbitration hub.

Simplifying Procedures for SMEs

Small and medium enterprises (SMEs) often perceive institutional arbitration as costly and complex. Simplified arbitration procedures, modelled after fast-tracking rules in Singapore or Malaysia, could address this concern [27]. Offering SMEs subsidized access to arbitration services, combined with user-friendly procedures, would lower entry barriers and drive adoption.

Public Sector Arbitration Policies

The Indian government, being one of the largest litigants in the country, has an opportunity to set an example by including institutional arbitration clauses in its contracts. This would not only reduce the litigation burden on courts but also establish institutional arbitration as a norm across industries.

Technology-Driven Innovations

Incorporating technology into arbitration proceedings can greatly enhance efficiency and accessibility. Virtual hearings, online filing systems, and AI-driven case management tools are becoming standard features in leading arbitration hubs. The COVID-19 pandemic has accelerated the adoption of such technologies, with institutions like SIAC and HKIAC setting benchmarks for digital transformation [28].

India can take similar steps by digitizing its arbitration processes and providing platforms for virtual hearings. This would make arbitration more accessible, particularly for international parties, and reduce the time and cost involved in resolving disputes.

Sustainability in Arbitration

The rise of environmental, social, and governance (ESG) concerns in global commerce has brought sustainability to the forefront of arbitration [29]. India can take the lead by developing arbitration rules that incorporate sustainability principles such as climate-conscious dispute resolution mechanisms. Offering green arbitration facilities with minimal environmental impact would align with global ESG trends and enhance India's appeal.

Way Forward

India's aspiration to become a global arbitration hub demands a strategic approach that addresses challenges and leverages opportunities. Strengthening institutional arbitration is a crucial step. Institutions like the New Delhi International Arbitration Centre (NDIAC) [30] require world-class infrastructure,

skilled arbitrators, and innovative procedural frameworks. Collaborating with leading arbitration centres, such as the Singapore International Arbitration Centre (SIAC) and Hong Kong International Arbitration Centre (HKIAC), can boost India's global competitiveness and reputation [31].

Creating awareness about institutional arbitration, especially among small and medium enterprises (SMEs), is equally important. Many SMEs perceive arbitration as expensive and complex, discouraging their participation. Simplifying procedures, conducting targeted awareness campaigns, and offering subsidized services for SMEs can make arbitration more accessible. Promoting institutional arbitration as an efficient alternative to litigation can also reduce the judiciary's workload [32].

Judicial consistency and minimal intervention are pivotal to building trust in India's arbitration framework. Establishing specialized arbitration benches in High Courts, with judges trained in arbitration law, can ensure quick and consistent rulings. Courts must respect the finality of arbitral awards and avoid overreach, aligning with global standards to attract international investors.

Technological advancements can further transform India's arbitration landscape. Virtual hearings, AI-driven case management tools, and digital platforms for dispute resolution can enhance efficiency, reduce costs, and increase accessibility for international parties. By embracing these innovations, India can position itself as a modern arbitration hub catering to the needs of global commerce.

CONCLUSION

India stands at a pivotal moment in its journey to becoming a global arbitration hub. Its economic growth, strategic location, and evolving legal ecosystem provide a strong foundation. However, achieving this goal requires addressing challenges such as judicial overreach, limited institutional capabilities, and low awareness of arbitration.

By investing in institutional capacity, fostering judicial consistency, leveraging technology, and focusing on the needs of SMEs, India can establish itself as a trusted arbitration destination. With targeted reforms and innovation, India can enhance its stature in international dispute resolution and strengthen its role as a global economic leader.

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