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# Promoting India as a Hub of Arbitration


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*India faces a staggering backlog of pending cases in its judicial system, with an estimated 31 million cases awaiting resolution across various courts. As of 31.12.2015, the Supreme Court had 59,272 pending cases, while the High Courts and subordinate judiciary had approximately 3.8 million and 27 million pending cases, respectively. Alarmingly, over 8.5 million cases, or 26%, have been languishing for more than five years.[1] This backlog and delay in the dispute resolution process have a significant impact on the Indian economy and the global perception of doing business in the country. According to the World Bank's 2020 Ease of Doing Business report, India ranked a dismal 163rd out of 190 participating countries in terms of the ease of enforcing contracts within its jurisdiction.[2] This ranking highlights the challenges faced in contract enforcement, which can hinder our economic progress. This research examines how arbitration can bridge the widening gap between increasing commercial complexity and slow judicial processes, highlighting the reforms needed to build India into a competitive, investor-friendly arbitration hub. By analysing legislative developments, institutional challenges, systemic bottlenecks, and global best practices, the study reveals that India's future as an arbitration destination hinges on strong institutions, reduced judicial intervention, professionalised arbitral practice, and consistent long-term policy commitment. With strategic reforms and robust implementation, India can shift from being a jurisdiction of delayed justice to a preferred seat for efficient & credible international commercial arbitration.*



**Keywords:** *dispute resolution process, arbitration, ease of doing business, international commercial arbitration.*


[1] Law Commission, *Report No 254: Arrears and Backlog: Creating Additional Judicial (Wo)manpower* (Law Com No 254, 2014)

[2] Ministry of Finance, *Economic Survey 2020-21* (2021)

## RESEARCH OBJECTIVES

1. Examine the current legal framework governing arbitration in India, including the Arbitration and Conciliation Act, 1996.
2. Evaluate the steps that can be employed to make India a major Arbitration hub in the global market.

## RESEARCH QUESTIONS

1. What are the long-term economic and strategic benefits of developing India as a global arbitration hub for the Indian economy and its legal sector?
2. What strategies can be employed to promote India's arbitration capabilities on a global stage?

## INTRODUCTION

The delay in resolving commercial disputes through the Indian court system is a significant concern. As of 2022, it takes an average of 626 days, or nearly 1.7 years, to resolve such disputes.[3] This prolonged process not only results in high costs and complex, inefficient proceedings but also causes immense stress for the litigants involved.

It is widely acknowledged that when a country's adjudication processes are lengthy, complex, and inefficient, businesses must bear the brunt of these factors, leading to higher operational costs. In some cases, the perceived risk and associated expenses are so high that corporations may be deterred from conducting business in that particular country altogether.[4]

Therefore, it is crucial to ensure that adjudication processes, especially those involving low-value disputes, are concluded expeditiously. One potential solution to this issue is Online

[3] 'Reduction in disposal time for commercial cases by 50% to boost India's ease of doing business ranking' *The Economic Times* (22 August 2022) <https://economictimes.indiatimes.com/news/india/india-reduces-disposal-time-for-commercial-cases-by-50/articleshow/93702421.cms> accessed 02 December 2025

[4] 'B-READY 2025 is now released!' (*The World Bank*) <https://www.doingbusiness.org/en/data/exploretopics/enforcing-contracts> accessed 29 November 2025

Dispute Resolution (ODR), which can facilitate the automated resolution of small claims disputes, leading to quicker resolutions.[5]

According to the European Commission, a well-designed Dispute Resolution System (DRS) could potentially save approximately 22.5 billion euros annually, which represented 0.19% of the EU's GDP at the beginning of the previous decade. This figure highlights the immense potential of faster dispute resolution systems like ODR. Ultimately, a speedy resolution of cases can positively impact investment and economic growth within a country.

## QUALITY OF JUDICIAL PROCESSES IN INDIA

The Constitution of India enshrines egalitarian principles and socio-economic goals, placing a responsibility on all state organs to promote the constitutional ethos and objectives. A properly functioning justice system is crucial in fostering citizens' confidence and their willingness to bring disputes to court.

However, the current state of the Indian legal system appears grim. The Indian judicial process is now commonly associated with inordinate delays. The entire court system is overburdened with cases, and the slow disposal rate of cases severely hampers the quality of justice delivered. The reasons for these delays are numerous and stem from every layer of the justice system, reflecting a systemic failure to address the issue of efficiency in the judicial process. The problem lies not only in the lack of institutional facilities but also in the very mindset of the legal community. Given the pervasive nature of the problem, which has now become an accepted corollary of the justice system, a range of reforms, legal, institutional, and technical, is required. The masses are filled with dismay and frustration, as courts are becoming outmoded, and litigative justice has come to a grinding halt. This impatience and anxiety need to be addressed by providing simpler methods of dispute resolution. One potential solution is to evolve Alternative Dispute Resolution (ADR) methods as an adjunct to the judicial system.[6]

[5] Deepika Kinhal et al., 'ODR: The Future of Dispute Resolution in India' (*VIDHI Centre for Legal Policy*, 28 July 2020) <https://vidhilegalpolicy.in/research/the-future-of-dispute-resolution-in-india/> accessed 29 November 2025

[6] NITI Aayog, *DESIGNING THE FUTURE OF DISPUTE RESOLUTION: ODR POLICY PLAN FOR INDIA* (2020)

*"Many cases occur, in which it is clear that by means of a reference to arbitration, the real interests of the parties will be much better satisfied than they could be by any litigation in a Court of justice."*

*- Lord Langdate*

The task at hand is clear - to empower the existing Alternative Dispute Resolution (ADR) systems with more strength, in order to address the needs of the people and provide them with their inherent right of access to justice. For far too long, ADR has been identified as a crucial component in the plan to reduce the mounting burden of pending cases and fresh litigation weighing down our courts. Numerous civil and family matters can be settled to the satisfaction of all parties through mediation, arbitration, and conciliation, thereby greatly reducing the costs associated with litigation. In fact, a significant number of commercial matters are already being resolved through arbitration.[7] However, to truly avoid unnecessary litigation, lawyers and law students must receive comprehensive training in drafting sound arbitration clauses. Several instances of litigation have arisen due to faulty arbitration clauses, unnecessarily encumbering our courts.

To foster a culture of negotiation and settlement, which requires skills substantially different from those required for courtroom advocacy, a separate Bar for mediators, arbitrators, and conciliators could prove to be a valuable asset. This dedicated Bar would help cultivate and hone the specialised skills needed for effective ADR processes, thereby promoting more efficient and amicable resolution of disputes. By strengthening our ADR systems and encouraging their widespread adoption, we can not only alleviate the burden on our courts but also ensure that the fundamental right of access to justice is upheld for all citizens, in a timely and cost-effective manner.[8]

## TYPES OF ARBITRAL PROCEEDINGS

**Ad Hoc Arbitration:** In ad hoc arbitration, the parties themselves determine how the arbitration proceedings will be conducted, without involving an arbitration institution. If the parties cannot agree on an arbitrator, or if one party is unwilling to appoint a particular

[7] IBA, *ADR as a Mechanism to Reduce Court Burden* (2021)
[8] Justice V Gopala Gowda, 'STRENGTHENING THE JUSTICE DELIVERY SYSTEM: TOOLS AND TECHNIQUES' (*Karnataka Judicial Academy*) <https://judiciary.karnataka.gov.in/kjablr/assets/articles/Strengthening_the_Justice_Delivery_System_Tools_and_Techniques.pdf> accessed 02 December 2025

arbitrator, then the other party can invoke Section 11 of the Arbitration and Conciliation Act of 1996.[9]

Under Section 11, the arbitrator for the dispute will be appointed by either the Chief Justice of the Supreme Court or a designee chosen by the Chief Justice, or the Chief Justice of the relevant High Court or their designee.

Specifically, if it is a domestic arbitration within India, the Chief Justice of the High Court or their appointed delegate will select the arbitrator. If it is an international commercial arbitration, then the Chief Justice of India or their designee will appoint the arbitrator.[10] In ad hoc arbitration cases, the fees for the arbitrator are mutually decided between the parties and the arbitrator themselves.

**Institutional Arbitration:** In institutional arbitration, the parties decide upfront in their agreement that an arbitration institution will administer the arbitration proceedings. Two prominent Indian institutions for this purpose are the International Centre for Alternative Dispute Resolution (ICAR) and the Indian Council of Arbitration (ICA). These institutions formulate detailed rules and procedures for how arbitrations will be conducted, drawing from their extensive experience observing and overseeing many past arbitration cases and scenarios. By establishing these rules ahead of time based on their expertise, the institutions are prepared to effectively manage all potential situations that could arise during future arbitration proceedings they administer.

**Mediation:** Mediation involves a neutral third party, known as a mediator, whose role is to facilitate discussions between the disputing parties and assist them in reaching a mutually agreeable settlement. The mediator must effectively communicate with both sides and employ negotiation techniques that foster empathy, dialogue and an understanding of each party's perspective.

A key characteristic of mediation is that the mediator cannot dictate or impose an outcome - the resolution must be developed and agreed upon by the parties themselves. Any agreements from the mediation process are generally non-binding. The parties maintain significant control over the confidential mediation proceedings and can choose to pursue

[9] Arbitration and Conciliation Act 1996, s 11
[10] *Ibid*

litigation if they are unsatisfied with the results of the mediation. Importantly, the primary aim of mediation is to build and preserve relationships between the parties through an amicable resolution of their differences, rather than delivering a final binding decision. Mediation allows for the potential of future business dealings after resolving the disputed issues.[11]

**Negotiation:** Negotiation is another form of alternative dispute resolution. However, unlike mediation or conciliation, there is no neutral third party involved to adjudicate or facilitate the matter. Instead, the parties work together directly to find a mutually acceptable solution or compromise. The parties may choose to be represented by their attorneys during negotiation proceedings if they wish. Negotiation is not formally recognised or governed by any statute in India, and there are no set rules established for how negotiations must be conducted.[12]

**The essential characteristics of negotiation are:**

- It is a process of communication between the parties to help resolve their conflicts.
- Parties enter into negotiation voluntarily, and any outcome is non-binding.
- The parties benefit by maintaining full control over the process, outcome and procedures, which can be shaped according to their interests.

**Conciliation:** Conciliation involves a third-party neutral, called a conciliator, who facilitates discussions between the disputing parties to help them arrive at a mutually acceptable solution. However, unlike a mediator, the conciliator meets with each party separately to have discussions and enable an agreement through these facilitated talks between the parties. Conciliation proceedings in India are governed under the Arbitration and Conciliation Act of 1996. Section 61 of the Act provides for conciliation in disputes arising from any legal relationship, whether contractual or non-contractual in nature.[13]

[11] Niti Aayog (n 6)
[12] R Narayan, 'Negotiation as an ADR Tool in India' (*Lex Forti Journal*) <https://lexforti.com/legal/negotiation-adr-india> accessed 02 December 2025
[13] Arbitration and Conciliation Act 1996, s 61

**Lok Adalats:** In India, where many people are illiterate, the concept of Lok Adalats (people's courts) became a necessity. Lok Adalats were first introduced in 1982 in the state of Gujarat.[14] Their main purpose was to reduce the burden of pending cases on the regular courts, while also incorporating principles of social justice. Lok Adalats are governed under the Legal Services Authorities Act of 1987. Sections 19 to 22 of this Act specifically deal with the regulation of Lok Adalats. These people's courts are organised by State Legal Aid and Advice Boards with assistance from District Legal Aid and Advice Committees.[15] Lok Adalats have helped poor people avoid the inefficiencies and difficulties associated with traditional litigation.

The Legal Services Authorities Act aimed to provide access to justice for all citizens, whether poor or wealthy. However, this promise was not being fulfilled for the poorer masses of society. So, this Act was formed to address that gap. Access to justice through Lok Adalats has been further strengthened by court judgments such as the Delhi High Court case of *Abul Hasan and National Legal Service Authority v Delhi Vidyut Board & Ors.*, the Court ordered the establishment of permanent Lok Adalats.[16]

Notably, the decisions delivered by Lok Adalats are binding and treated as equivalent to orders from a civil court. This has increased access to justice for poor people who may have difficulties navigating formal court processes.

**BENEFITS OF ADR**

ADR is less expensive and time-consuming compared to traditional courtroom litigation. It avoids many of the technical procedural requirements of the court system. In ADR, parties are free to openly disagree and discuss differing opinions without fear that their statements will be used against them in court later. There is no winner/loser dynamic, helping to preserve relationships. Grievances get addressed while allowing parties to potentially continue future business dealings.

ADR is well-suited for multi-party disputes, as all parties can present their perspectives together in one proceeding, rather than repeating arguments across multiple court

[14] 'Lok Adalats' (*Drishti IAS,* 22 October 2022) <https://www.drishtiias.com/daily-updates/daily-news-analysis/lok-adalats> accessed 02 December 2025
[15] Legal Services Authorities Act 1987, ss 19, 20, 21 and 22
[16] *Abul Hasan and National Legal Service Authority v Delhi Vidyut Board & Ors* (1999) Supreme (Del) 51

appearances. This provides a broader view of the dispute. Parties often have a choice in which specific ADR method (arbitration, mediation, etc.) to use and can sometimes select the individuals or bodies who will facilitate the resolution process.[17]

The ADR process is very flexible and can be tailored to what best suits the particular parties involved. Confidentiality is also an option if preferred. ADR enables a focus on practical solutions by considering a wide range of interests and issues beyond just the legal dispute. It protects the shared future interests of the parties.[18] ADR allows for managed risk by avoiding an all-or-nothing verdict and keeping control over the resolution in the parties' hands.

## PROCESS OF ARBITRATION

**Arbitration Clause or Agreement:** When drafting contracts (construction, insurance, partnership, etc.), parties should include an arbitration clause specifying that any future disputes arising from or relating to the contract will be resolved through arbitration.[19] If no such clause exists in the original contract, the parties can still mutually agree to an arbitration agreement to handle disputes from that prior contractual relationship.[20] For an effective arbitration clause/agreement, certain elements are required:

**Number of Arbitrators:** For an arbitration clause or arbitration agreement to be effective, there are certain key elements that must be properly addressed. The Arbitration and Conciliation Act of 1996 provides guidance on these requirements.

Firstly, the number of arbitrators must be specified, and Section 10 states that parties are free to appoint as many arbitrators as they wish, but the number cannot be an even number. If parties do not decide on the number within 30 days of a request being made, then they can approach an arbitration tribunal, which will appoint a sole arbitrator.[21]

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[17] Ishaan Banerjee, 'An Introduction to Alternative Dispute Resolution' (*iPleaders,* 02 March 2020) <https://blog.ipleaders.in/an-introduction-to-alternative-dispute-resolution/> accessed 02 December 2025
[18] *Ibid*
[19] Alan Redfern et al., *LAW AND PRACTICE OF INTERNATIONAL COMMERCIAL ARBITRATION* (Sweet & Maxwell 2004)
[20] UNCITRAL Model Law on International Commercial Arbitration 1985, art 7
[21] Arbitration and Conciliation Act 1996, s 10

**Arbitration Notice:** Section 21 stipulates that arbitration formally commences on the date when one party receives the request from the other party to refer their dispute to arbitration.[22] From the date of receiving this legal notice, the parties have a fixed period of time to provide their reply.

**Appointing Arbitrators:** The appointment process for arbitrators is another critical element. Parties mutually agree and appoint the specific arbitrator(s) who will resolve their dispute, with the arbitrator's name being mentioned in the arbitration agreement or clause.[23] However, if parties fail to mutually decide on and appoint an arbitrator, then Section 11 allows them to request a court to make the appointment instead.

**Statement of Claim & Defence:** Section 23 covers the submission of statements of claim. Within a timeframe agreed by the parties, the claimant must provide a statement presenting the facts supporting their claim, the key issues involved, and the relief or resolution they are seeking. Comprehensive documentation supporting all the relevant facts and issues must be submitted along with the statement of claim.[24] The respondent then files the statement of defence in reply, sometimes even adds a counterclaim of their own. Although claims can potentially be amended during arbitration proceedings if agreed by both parties or permitted by the arbitral tribunal itself.

## HEARING OF PARTIES

**Preliminary hearing and information exchange stage:** After the arbitrator is appointed and confirmed, the preliminary hearing stage of the arbitration begins. The parties call upon the arbitrator to schedule the first meeting, where key issues are identified, information is exchanged between the parties, and dates are set for subsequent hearings.[25] Following this preliminary meeting, the arbitrator will issue a written document called a 'scheduling order' outlining the next steps.

**Evidence & Hearing Stage:** Parties present oral arguments, call witnesses (examination-in-chief) & allow cross-examination. The hearing stage involves the parties presenting their respective cases to the arbitrator. This can occur in-person, over the phone, or by submitting

[22] Arbitration and Conciliation Act 1996, s 21
[23] Gary B Born, *International Arbitration: Law and Practice* (Kluwer Law International 2021)
[24] Arbitration and Conciliation Act 1996, s 23
[25] *Arbitration Rules* 2021, art 24

written documents and arguments, depending on the arbitration agreement and applicable rules. The arbitrator may direct the parties to file additional written submissions after the hearings conclude.

**Award Stage:** Once the arbitrator determines that no further evidence needs to be presented, the hearing is formally closed, and a date is scheduled for rendering the arbitral award. The arbitrator will then provide a written award to the parties, setting forth the outcome and resolution of the case.

**There are Two Main Types of Arbitral Awards –**

**Interim Awards:** These are temporary awards issued by the tribunal during the course of the arbitration proceedings. These can grant interim relief such as ordering payment of money, disposition of property between parties, or requiring interim payment towards the arbitration costs. Only the tribunal with the power to grant a final award can issue interim awards.[26]

**Final Awards:** These represent the conclusive order or judgment from the arbitrator after the full arbitration process is complete. The arbitrator must state the reasons underlying the decisions made in the final award. It must be signed by all arbitrators, and parties have 90 days after the final award is pronounced to potentially challenge it in court.[27]

## CHALLENGE IN COURT

After an arbitrator issues an award in favour of one party (the award holder), the other parties have a 90-day period during which they can challenge or apply to have the award set aside by a court.

**Under Section 34, a court may set aside an arbitral award if:**

1. One of the parties lacked legal capacity or was under some form of incapacity at the time of the arbitration proceedings.
2. The arbitration agreement itself is invalid under the governing law that the parties subjected themselves to.

[26] Arbitration and Conciliation Act 1996, s 31(6)
[27] Arbitration and Conciliation Act 1996, s 34(3)

3. The party seeking arbitration failed to properly notify or request the appointment of an arbitrator from the other party.
4. The award deals with disputes or matters that fall outside the scope of what was actually submitted to arbitration, or it contains decisions on issues beyond the permissible boundaries of the arbitration.[28]

So, in essence, courts can intervene to set aside arbitral awards in cases where there are concerns about a party's legal capacity, the validity of the arbitration agreement, and a lack of proper notice for arbitrator appointment, or if the award strays beyond the matters that were properly under the arbitral jurisdiction.[29] This 90-day window allows parties to raise such challenges before the award becomes binding.

**HOW ARBITRATION WAS ADOPTED?**

Arbitration has a long-standing tradition in India, with tribunals chosen by parties themselves to settle disputes being well-established even in ancient times. During the British era, various regulations like the Bengal Regulations of 1772-1793, the Madras Regulation of 1816, and the Bombay Regulation of 1827 recognised and encouraged the practice of arbitration.[30] However, it was not until 1859 that arbitration provisions were codified within the civil court procedures.[31]

After independence, in anticipation of new British arbitration laws, the government appointed an officer in 1938 to revise India's arbitration legislation. This led to the enactment of the country's first Arbitration Act in 1940. However, this Act did not cover the enforcement of foreign arbitral awards.

To address foreign awards, India enacted the Foreign Awards (Recognition and Enforcement) Act in 1961, implementing the Geneva Convention of 1927 and New York Convention obligations.[32] But court interventions hindered the effective functioning of this Act over time.

[28] Arbitration and Conciliation Act 1996, s 34(2)
[29] *Oil & Natural Gas Corporation Ltd v Saw Pipes Ltd* (2003) 5 SCC 705
[30] Bengal Regulations 1772–1793; Madras Regulation 1816; Bombay Regulation 1827
[31] Code of Civil Procedure 1859, ss 312–327
[32] Foreign Awards (Recognition and Enforcement) Act 1961

In 1977, the Law Commission examined the 1940 Act, citing delays and obstacles in smooth arbitral proceedings. They recommended amending certain provisions rather than overhauling the entire framework. This ultimately led to the Arbitration and Conciliation Act of 1996, based on the UNCITRAL Model Law.[33]

Despite this, the 1996 Act also faced practical challenges in implementation. Various reports like those from the Law Commission in 2001 and 2014, the B.P. Saraf Committee in 2004, and a parliamentary committee in 2005, highlighted these issues.[34]

Finally, in December 2015, the Arbitration and Conciliation (Amendment) Act was passed to introduce crucial changes and overcome the shortcomings identified in the 1996 legislation.[35]


## STEPS TO MAKE INDIA AN ARBITRATION HUB

As international commercial trade and agreements expand, international arbitration is becoming increasingly significant. A primary reason for this growth is the reluctance of parties from different jurisdictions to submit to the legal systems of other countries. To establish India as a global hub for international arbitration, it is crucial to adopt best practices and create world-class institutional and legal procedures. Recently, NITI Aayog, in

[33] UNCITRAL Model Law on International Commercial Arbitration 1985
[34] Law Commission, *Report No 176: On Arbitration* (Law Com No 176, 2001); Law Commission, *Report No 246: On Amendments to the Arbitration and Conciliation Act 1996* (Law Com No 246, 2014)
[35] Arbitration and Conciliation (Amendment) Act 2015

collaboration with other organisations, hosted a three-day Global Conference titled 'National Initiative towards Strengthening Arbitration and Enforcement in India.'[36] The recommendations for making India a global arbitration hub largely stem from the insights gained at this conference.

Given the evolution of arbitration and the current legislative and institutional frameworks in India, interventions are required on three fronts. First, the governance framework for arbitration needs to be streamlined. This entails restructuring legislative, executive, and judicial components. After addressing governance-related aspects, the next step is to establish a conducive infrastructure for arbitration, encompassing both physical facilities and human capital. Once these issues are resolved, the final step involves promoting domestic arbitration and positioning India as a preferred venue for international arbitration. Each of these areas requires specific measures to achieve these goals.[37]

**Full-time Arbitration Lawyers:** A significant issue is the lack of full-time arbitration lawyers. Lawyers often prioritise court cases over arbitration, conducting arbitration sessions only after court hours. This scheduling leads to brief, ineffective sessions as lawyers are already exhausted. Additionally, arbitrators who also practice in courts often cannot dedicate sufficient time to arbitration proceedings. Therefore, it's crucial to have full-time arbitration lawyers and arbitrators to avoid delays and ensure the arbitration process is efficient.

**Sloppy Drafting of the Law:** Before the 2015 amendment, Section 34 of the Arbitration and Conciliation Act, 1996, invited objections that automatically stayed the operation of arbitral awards upon filing a petition. This hindered the execution of awards.[38] The 2015 amendments aimed to address this, but the language used created confusion about whether the amendments applied to pending Section 34 petitions, a matter clarified only after three years in the case of *BCCI v Kochi Cricket Pvt Ltd.*[39] and further complicated by the introduction

[36] 'NATIONAL INITIATIVE TOWARDS STRENGTHENING ARBITRATION AND ENFORCEMENT IN INDIA' (*NITI Aayog*, 2016) <https://cgimelbourne.gov.in/public_files/assets/pdf/Arbitration-v12.pdf> accessed 02 December 2025

[37] Bibek Debroy and Suparna Jain, 'Strengthening Arbitration and its Enforcement in India – Resolve in India' *(Centre for Social Justice and Accountability)* <https://csja.gov.in/images/p1198/session_1_challenges__in_implementation_of_adr.pdf> accessed 02 December 2025

[38] Arbitration and Conciliation Act 1996, s 34

[39] *Board of Control for Cricket in India v Kochi Cricket Pvt Ltd and Etc* (2018) 6 SCC 287

and subsequent invalidation of Section 87. This unclear drafting wasted significant judicial time.

**Lack of Proper Law:** The 2021 Arbitration and Conciliation (Amendment) Bill proposes changes to Section 36 of the 1996 Act, raising concerns due to provisions for an unconditional stay on awards involving fraud or corruption.[40] This could regress to an era of automatic stays, allowing judgment-debtors to evade their obligations easily. The lack of a clear definition of fraud or corruption under the Act means any judgment-debtor could claim these grounds to obtain a stay, complicating award enforcement and negatively impacting business operations. The continuous amendments reflect unresolved issues and inadequate drafting, leaving problems like the seat versus venue confusion unaddressed, which was cleared in cases like *BALCO v Kaiser Aluminium*.[41] Additionally, Section 29-A contradicts the Act's principle of minimal judicial interference and can cause significant delays in deciding on extensions.[42]

**Lack of Institutional Arbitration:** Despite some good arbitration centres like DIAC, NPAC, and MCIA, India lacks institutions comparable to SIAC, ICC, or LCIA. Most arbitrations in India are ad hoc, weakening the arbitration mechanism. A world-class arbitral institution requires a renowned arbitration expert, but the busy schedules of top litigation lawyers in India hinder their full engagement with arbitration centres.

**Judicial Intervention:** Court support for arbitration is inadequate, leading to delays as courts are overburdened. Arbitration matters caught in court can face indefinite delays. For instance, Section 34 petitions challenging arbitral awards often take a long time to decide, with courts treating them as appeals and re-examining evidence despite Supreme Court directions against this in *Fiza Developers and Inter-Trade Pvt Ltd v AMCI (India) Pvt Ltd*.[43] Additionally, inconsistent judgments from different courts, including regressive ones from the Supreme Court, like in *ONGC v Saw Pipes Ltd.*,[44] harm India's arbitration-friendly reputation and discourage investment.

[40] The Arbitration and Conciliation (Amendment) Bill 2021
[41] *Bharat Aluminium Co v Kaiser Aluminium Technical Services Inc* (2012) 9 SCC 552
[42] Arbitration and Conciliation Act 1996, s 29A
[43] *Fiza Developers and Inter-Trade Pvt Ltd v AMCI (India) Pvt Ltd & Anr* (2009) 17 SCC 796
[44] *Oil & Natural Gas Corporation Ltd v Saw Pipes Ltd* (2003) 5 SCC 705

**Practice of Appointing Retired Judges as Arbitrators:** Overburdening the best arbitrators due to limited options resulted from not appointing younger arbitration lawyers. Instead, mostly retired judges are chosen. Appointing young lawyers as arbitrators would strengthen the arbitration system and improve award quality.[45] This aligns with Schedule 6 disclosure requirements, ensuring arbitrators can complete arbitrations within specified timeframes. Specialised arbitrators are also needed for technical matters like maritime arbitration.

**Inadequate Representation of Arbitration Issues: Need for an Arbitration Bar:** Bar Association leaders often overlook arbitration issues, focusing instead on court-related problems. This neglect means arbitration concerns are not highlighted or addressed. Establishing a dedicated Bar for arbitration practitioners is essential to address these issues.[46]

**Rigid Approach of Arbitrators:** A rigid approach by arbitrators undermines arbitration. If an arbitrator adheres strictly to the Civil Procedure Code (CPC) and evidence rules, contrary to Section 19 of the Act, which excludes strict rules of evidence and CPC from arbitration, it defeats the purpose of arbitration by making proceedings resemble a civil suit.[47] Arbitrators also often fail to control cross-examination, allowing unnecessary and repetitive questions that delay proceedings. Arbitrators should actively manage cross-examinations and restrict questions to relevant content.

**Other Issues in Arbitration Proceedings:** Arbitration in India suffers from a lack of professionalism and proper conduct. Arbitrators often have long gaps between hearing dates, causing unnecessary delays. Emphasis is needed on the ethics and duties of both arbitrators and counsel.

**Problems Posed by Public Sector Undertakings (PSUs):** PSUs, responsible for most cases, traditionally avoid settling and contesting disputes to the end. The government should direct relevant ministries to evaluate which cases should be contested. For instance, reasoned awards should not be challenged.

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[45] Tariq Khan, 'Making India a Hub of Arbitration: Bridging the Gap Between Myth and Reality' (*SCC Online,* 17 February 2021) <https://blog.scconline.gen.in/post/2021/02/17/making-india-a-hub-of-arbitration-bridging-the-gap-between-myth-and-reality/> accessed 02 December 2025

[46] Aryaman Setia, 'Arbitration Bar of India: Revolutionizing Institutional Arbitration in India' (*The Arbitration Workshop,* 27 June 2024) <https://www.thearbitrationworkshop.com/post/arbitration-bar-of-india-revolutionizing-institutional-arbitration-in-india - :~:text=One of the more glaring,up proceedings and avoid delays.> accessed 02 December 2025

[47] Arbitration and Conciliation Act 1996, s 19

**Government Interference:** Unlike global institutions like ICC, SIAC, and LCIA, which are independent of government control, Indian institutions like the New Delhi International Arbitration Centre and the Arbitration Council of India include government members.[48] The effectiveness of these bodies will depend on minimising government interference in arbitration matters.

## AUTHOR'S ANALYSIS

Alternate Dispute Resolution (ADR), particularly arbitration, is poised to become the future of dispute resolution globally. Countries like the USA and Singapore have already established themselves as premier arbitration hubs due to their independent and privatised arbitration institutions. India has the resources and potential to also become a leading destination for arbitration, but some issues within the current system need to be addressed.

Currently, both ad-hoc and institutional arbitration exist in India, but institutional arbitration could expedite the process. Reforms in institutional arbitration are necessary because India lacks sufficient arbitral institutions. While organisations like The Delhi High Court International Arbitration Centre, Nani Palkhivala Arbitration Centre, International Centre for Alternative Dispute Resolution, and Indian Council for Arbitration are making significant contributions, more institutions are needed to handle the backlog and increase efficiency.[49]

With the increasing importance of ADR in India, incorporating procedural arbitration into legal education has become essential. Colleges and universities should establish ADR cells to educate students about the process and raise general awareness.[50] Institutions should recognise arbitration as a viable form of dispute resolution and equip students with the necessary skills. Additionally, lawyers should receive training in arbitration procedures. With these reforms in institutional arbitration, one cannot help but be optimistic about the future of arbitration in India.

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[48] New Delhi International Arbitration Centre Act 2019

[49] 'About DIAC' (*Delhi International Arbitration Centre*) <https://dhcdiac.nic.in/about_diac/> accessed 02 December 2025

[50] Legal Education Rules *2020*

## SUGGESTIONS & CONCLUSION

Alternate Dispute Resolution (ADR) in India is still undergoing significant evolution. As globalisation accelerates and economic activity becomes more complex, the demands placed on dispute-resolution systems also grow more dynamic. Although arbitration, mediation, and other ADR mechanisms have begun to move the system away from traditional adversarial litigation, they have not yet fully achieved their broader transformative objectives. Nevertheless, arbitration has demonstrated clear value by addressing contemporary needs and instilling confidence among commercial actors.

India is gradually taking steps to strengthen trust in its legal and arbitral framework, an essential foundation for emerging as an international arbitration hub. While recent legislative reforms mark real progress, the more pressing need lies in improving judicial implementation and expanding institutional capacity. Without effective enforcement and robust institutions, the ambition of 'resolving in India' cannot be realised.

However, the journey toward becoming a global arbitration hub will be a gradual one. Singapore's experience is instructive: although it initiated arbitration-focused reforms in the early 1990s, its global recognition as a premier seat for dispute resolution emerged only decades later. India must adopt a similar long-term approach. The priority must be strengthening the domestic arbitration landscape while simultaneously positioning the country as a regional hub, whether for South Asia generally or for specialised sectors such as information technology, where India has a comparative advantage. India will need to carve out a distinct niche; simply attempting to be 'another hub' is unlikely to succeed.

As the saying goes, there are many a slip between a devout wish and its ultimate fulfilment. Drawing from the Singapore experience, where sustained commitment and consistent effort transformed the jurisdiction into a global leader, it is evident that India will require the same Herculean effort, unwavering political will, and steady institutional reform to translate this aspiration into reality.

Yet, despite the challenges, there is growing optimism within India's arbitration community. The current wave of reform, supported by clear political intent, suggests that India is moving in the right direction. With continued dedication and strategic development, the vision of

India emerging as a leading arbitration destination is not only achievable but increasingly within reach.