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REWIRING COMMERCIAL ARBITRATION IN INDIA: REFORMS AFTER 2015

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Abstract

The research paper will review the key legislative changes to the Indian arbitration system since 2015 and evaluate their effect on the commercial dispute resolution. The main arbitration legislation in India is the Arbitration and Conciliation Act, 1996[2] that is guided by the UNCITRAL Model Law and was last revised in 2015, 2019 and 2021 in support of a pro arbitration regime. The changes that were made are compulsory court referral to arbitration, wider tribunal jurisdiction, definite time limits on pleadings and awards, and limitations on automatic judicial stays[3]. Moreover, new provisions present confidentiality, arbitrator immunity, authorising the appointment of foreign arbitrators[4], and reworking enforcement practices. These reforms have shifted the commercial dispute resolution of India towards arbitration the Indian courts taken an extremely pro arbitration position, frequently allowing parties to agree and restraining intervention by itself[5]. A comparative view indicates that India is closer to the best practices in the world in terms of efficiency and autonomy, and institutional arbitration is in its early stages[6]. Through a doctrinal approach with the help of secondary data, this paper will describe the reforms and evaluate how post 2015 changes have simplified arbitration and what issues still need to be addressed.

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[2] The Arbitration and Conciliation Act, 1996.
[3]Satyajit Bose, *Resolving the Retrospective Application of the 2015 Amendment to the Arbitration Act* (Feb. 19, 2020), IndiaCorpLaw, available at https://indiacorplaw.in/2020/02/19/resolving-the-retrospective-application-of-the-2015-amendment-to-the-arbitration-act/.
[4]Prateek Jain, *Recent Amendments in Indian Arbitration and Conciliation Act: The Winds Have Begun to Blow for the Resolution of Complex Construction Disputes*, Daily Jus (Apr. 28, 2024), available at https://dailyjus.com/world/2024/04/recent-amendments-in-indian-arbitration-and-conciliation-act-the-winds-have-begun-to-blow-for-the-resolution-of-complex-construction-disputes.
[5]Dipen Sabharwal KC & Aditya Singh, *India's Legal Reform in Dispute Resolution Encourages Foreign Investment*, White & Case Insight (Nov. 21, 2023), available at https://www.whitecase.com/insight-our-thinking/investing-india-legal-reform-dispute.
[6]Tanya Prasad, *India's Road to Becoming an Arbitration Hub: A Comparative Analysis with Singapore and London*, Asia Law Portal (Dec. 19, 2024), available at https://asialawportal.com/indias-road-to-becoming-an-arbitration-hub-a-comparative-analysis-with-singapore-and-london/.

Introduction

Arbitration is a popular form of solving business disputes across the globe, which is valued due to its efficiency, neutrality and enforceability. India has introduced its own UNCITRAL based Arbitration and Conciliation Act, 1996 to reform the dispute resolution. But in the early 2010s, Indian arbitrations were characterized by huge delays, court interference, and uncertainty by stakeholders[7]. Parliament responded by undertaking a program of legislative reforms to establish arbitration as the favoured method of resolution of commercial disputes[8]. The initial omnibus changes became effective on 23 October 2015 and amendments were made in 2019 and 2021. All these post 2015 reforms have aimed to curtail judicial overreach, create tight deadlines, and encourage institutional arbitration. The paper is a critical evaluation of those reforms and their impacts on Indian commercial arbitration. It takes into account also effects on investor state cases and provides comparative knowledge of international arbitration centres. The research is theoretical based on statutes, case law and legal commentary and secondary empirical evidence to put trends into perspective.

Pre-2015 Arbitration Framework in India

The Act of 1996 was meant to bring India into line with the UNCITRAL Model Law on International Commercial Arbitration[9]. It is applicable to Domestic and International Arbitrations and was a way to balance the autonomy of parties and minimal court intervention. Among the most significant original characteristics were a one stage award process subject to some court power to compel arbitration and the forcible recognition of foreign awards under the New York Convention[10] (via the 1961 Recognition Act). As time went by, courts construed some of the provisions in a manner that weakened the goals of arbitration. For example, in NALCO v. Pressteel[11] the Supreme Court decided that an appeal to an award stayed execution as of course, and left parties with two bites at the cherry. Similarly, the courts were occasionally reluctant to send issues to arbitration due to

[7] Satyajit Bose, *Resolving the Retrospective Application of the 2015 Amendment to the Arbitration Act* (Feb. 19, 2020), IndiaCorpLaw, available at https://indiacorplaw.in/2020/02/19/resolving-the-retrospective-application-of-the-2015-amendment-to-the-arbitration-act/.

[8] Prateek Jain, *Recent Amendments in Indian Arbitration and Conciliation Act: The Winds Have Begun to Blow for the Resolution of Complex Construction Disputes*, Daily Jus (Apr. 2024), available at https://dailyjus.com/world/2024/04/recent-amendments-in-indian-arbitration-and-conciliation-act-the-winds-have-begun-to-blow-for-the-resolution-of-complex-construction-disputes.

[9] Satyajit Bose, *Resolving the Retrospective Application of the 2015 Amendment to the Arbitration Act* (Feb. 19, 2020), IndiaCorpLaw, available at https://indiacorplaw.in/2020/02/19/resolving-the-retrospective-application-of-the-2015-amendment-to-the-arbitration-act/.

[10] Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York, 10 June 1958).

[11] National Aluminium Co. Ltd. v. Pressteel & Fabrications (P) Ltd., (2004) 1 SCC 540 (India).

jurisdictional or technical reasons, and the arbitrators did not have any definite interim relief powers. With the growth in the economy and the increase in foreign investment, commercial disputes became more and more common hence the necessity of quicker resolution mechanisms. A 2015 high law commission report and recommendations by Srikrishna committee thus led to significant legislative transformation. These changes are explained on a year-by-year basis in the following sections.

The 2015 Amendments

Arbitration and Conciliation (Amendment) Act, 2015 (in force since October 2015) brought radical changes to enhance arbitration. The reforms are characterized by a powerful pro arbitration shift, which can be summarized as follows:

- **Obligatory Judicial Referral:** Section 8 and 9 were changed to require courts to refer disputes to arbitration when there is prima facie valid agreement between them[12]. There is no substantive inquiry to be conducted and referral is made prior to any merit adjudication. This imposes the principle of "competence-competence" and avoids early interference by the court.
- **Interim Powers of Tribunal:** Section 17 was amended in such a way that an arbitral tribunal can give interim measures under the same powers provided in Section 9 and orders made by an arbitral tribunal can be enforced as court orders. This implies that parties do not have to go to courts to seek relief when the tribunal is formed which expedites protection of rights.[13]
- **Arbitrator Appointment (Section 11):** Section 11 was also introduced which states that courts must deal with appointment applications within 60 days. This in practice forces hasty constitutions of tribunals. It was also left at the discretion of the courts to place a limit on fees.
- **Dates of Pleadings and Awards:** The amendments impose strict schedules. All pleadings need to be filed within six months of tribunal constitution (Sections 23-26)[14]. More importantly, the new 29A 29B (since 2015) state that an award must be made within 12 months of the start of the tribunal, but may be postponed by up to six months with party

[12] Ibid
[13] Ibid
[14] Ibid

agreement (or only by court on exceptional grounds) [15]. Section 24, which was added in 2015, mandates day-to-day hearings, and prohibits adjournments without adequate cause[16]. Such amendments are aimed at reducing the unending delays and making arbitration relatively fast.

- **Limitation on Automatic Stays:** Probably the most notable change was made to Section 36, which now provides that an arbitral award may not be stayed simply by submitting a challenge under Section 34[17]. This essentially removes the automatic injunction against enforcement that used to exist, except in the fraud exception to Section 36(3). This reform therefore guaranteed that parties will not be able to block enforcement by protracting challenges. The Supreme Court had noted in NALCO that the former rule had subverted the purpose of arbitration and that the amendment had corrected this as suggested by the 246th Law Commission [18].
- **Arbitration Agreement Relief:** Section 8 was entirely referral in character.Notably, Section 8 applications were to be ruled in 30 days (only with consent). Once a referral order has been ordered, arbitration should start within 90 days of any order of interim relief (Section 9A).

Other changes of 2015 comprise: (a) permitting tribunals to make decisions on their competence, including on the question of arbitrability, (b) making clear that arbitrators can determine the existence of the contract/agreement (competence competence) under Section 16, and (c) specifying that any claims not within the bracket of the arbitration agreement cannot be addressed. Reforms in 2015 had the net effect of reaffirming the independence of the tribunal and limiting judicial obstruction[19].

Retrospective Effect of the 2015 Amendments

One of the controversial questions was whether the 2015 amendments applied to arbitrations or other court proceedings that were initiated prior to 23 October 2015. The 2015 Act tried to make a prospective cut off under section 26, and the courts disagreed on the interpretation. In

[15] Ibid
[16] Ibid
[17] Ibid
[18] Satyajit Bose, *Resolving the Retrospective Application of the 2015 Amendment to the Arbitration Act*, IndiaCorpLaw (Feb. 19, 2020), available at https://indiacorplaw.in/2020/02/19/resolving-the-retrospective-application-of-the-2015-amendment-to-the-arbitration-act/.
[19] Ibid

BCCI v. Kochi Cricket (2018)[20], the Supreme Court held that the amendments apply to any court proceedings that have been initiated after 23 Oct 2015, even if the arbitration began earlier. In practical terms, *BCCI* affirmed that the no stay rule of amended Section 36 applied to applications submitted subsequently to that date. A motion to set aside the award would not result in an automatic stay of enforcement[21]his way, in the majority of current awards, Section 36 avoids delays in enforcement. In 2019, Parliament attempted (Section 87) to limit the effect, but the attempt was ruled invalid by the Court because of the retrospective reading (preferring arbitration finality) it had adopted.

The 2019 Amendments

The second big revision was the Arbitration and Conciliation (Amendment) Act, 2019 (since August 2019). This puts most of the recommendations of the 2017 Srikrishna Committee Report into practice. Key additions include:

- **Extension of Arbitrator Appointment through Institutions:** Section 11(6A) and section 11(3A) give authority to courts of assigning known arbitral institutions to appoint arbitrators in case of failure of agreement by parties. This replaces the slower system of court self-appointment. The amendment also helped to create institutional arbitration through development of body accreditation.
- **Tribunal Deadlines:** The scope of Section 29A was optimised to ensure that 12-month award period now begins at the end of pleadings, not at tribunal constitution. Furthermore, Section 29A (3) expressly waives the 12-month rule in international arbitration cases, citing the fact that it is impractical in complicated cases involving cross-border matters. This modification, which is explained by Norton Rose Fulbright, can be regarded as a response to the criticism that the initial deadline was excessive in terms of international business.[22].
- **Confidentiality (Section 42A) and Arbitrator Immunity (Section 42B):** New Section 42A-42B impose a default confidentiality requirement on parties, arbitrators and

[20]Board of Control for Cricket in India v. Kochi Cricket Pvt. Ltd., Civil Appeal Nos. 2879–2892 of 2018, Supreme Court of India.
[21]Satyajit Bose, *Resolving the Retrospective Application of the 2015 Amendment to the Arbitration Act*, IndiaCorpLaw (Feb. 19, 2020), available at https://indiacorplaw.in/2020/02/19/resolving-the-retrospective-application-of-the-2015-amendment-to-the-arbitration-act/.
[22]Norton Rose Fulbright, *Changes in the Indian Arbitration Landscape: Another Step in the Right Direction*, Norton Rose Fulbright (Apr. 2018), available at https://www.nortonrosefulbright.com/en/knowledge/publications/2f02de3a/changes-in-the-indian-arbitration-landscape-another-step-in-the-right-direction.

institutions concerning proceedings (other than the enforcement of awards), and protects arbitrators against suit based on good faith actions[23]. These brought India close to the world standards and were directly referenced to the Srikrishna Report. The confidentiality rule bridges a gap under the original Act, and immunity has the effect of increasing the participation of arbitrators.

- **Improved Disclosure (Schedules VI-VII):**The 2019 changes provided more detailed disclosure forms of the independence and impartiality of arbitrators (Sixth and Seventh Schedules), which is more burdensome to declare[24]. This is an effort to instil confidence between parties, particularly foreign investors by institutionalizing arbitrator vetted practices.
- **Other Procedural Changes:**
    - Sections 23–25: Amendments gave the respondent the right to bring counterclaims or set-offs and stated that failure to bring a defence may forfeit such a right (Section 25). This increases process discipline[25].
    - Section 24: Day-to-day hearings came into force and arbitrators are not allowed to award adjournments unless they can demonstrate adequate cause[26].
    - Section 31: The arbitrating party will only incur either entire or part costs now when the arbitration agreement is entered into after the dispute arises. In case the award is silent on interest, interest should be awarded on the award at 2% higher than the base rate of the RBI[27].
- **Restraint of Court Intervention:**The revised version of Section 36 made it clear that it was not possible to stay awards unless there were allegations of fraud/corruption (Section 36(3) was subsequently revised in 2021). The mix of 2015 and 2019 amendments (and judicial interpretation) still reflect the spirit of a minimal intervention. As an example, a

[23] Ibid
[24] Ibid
[25] Prateek Jain, *Recent Amendments in Indian Arbitration and Conciliation Act: The Winds Have Begun to Blow for the Resolution of Complex Construction Disputes*, Daily Jus (Apr. 28, 2024), available at https://dailyjus.com/world/2024/04/recent-amendments-in-indian-arbitration-and-conciliation-act-the-winds-have-begun-to-blow-for-the-resolution-of-complex-construction-disputes.
[26] Ibid
[27] Ibid

2020 survey of legal experts indicated a trend of increased respect of arbitrations agreements and enforcement of the results of arbitration by Indian courts[28].

Collectively, the 2019 reforms attempted to institutionalize arbitration, make procedures faster, and make parties more confidant in it by making it transparent and neutral. This has led to the expansion of arbitral institutions (e.g. Delhi, Mumbai, Hyderabad ADR centres) and parties are increasingly incorporating institutional rules within contracts.It is noteworthy that such institutions as the Singapore International Arbitration Centre (SIAC) and London Court of International Arbitration (LCIA) are still popular due to their experience and neutrality although Indian institutions are currently developing capacity[29].

The 2021 Amendments

Three specific changes were introduced by the Arbitration and Conciliation (Amendment) Act, 2021(effective March 2021) namely:

- **Exception to No-Stay based on Fraud/Corruption (Section 36(3):** Before 2021, the challenge in court was not automatically a stay in enforcement. In the 2021 Act, a proviso was addedwhere one party alleges that the award had been induced or influenced by fraud or corruption, the court may (on the satisfaction of a prima facie case) stay the award until the time of challenge. This is the sole situation that one can stay without conditions. It is meant to trade-off between arbitral finality and public policy. The proviso is only applicable when an express pleading of fraud/corruption is brought forward in all other situations awards remain enforceable despite the challenges.
- **Foreign Arbitrators (Section 43J and Eighth Schedule):**The old Act had limited arbitrators to the citizens of India or those residing in India (Eighth Schedule). In 2021 the Eighth Schedule was repealed and Section 43J expressly allowed any individual (including foreign nationals) to serve as arbitrator was inserted[30]. This reform is in line

[28]Dipen Sabharwal KC, Aditya Singh, and Subhiksh Vasudev, *Investing in India: Legal Reform in Dispute Resolution Encourages Foreign Investment*, White & Case LLP (Nov. 21, 2023), available at https://www.whitecase.com/insight-our-thinking/investing-india-legal-reform-dispute#:~:text=Additionally%2C%20arbitral%20tribunals%20can%20now,a%20tribunal%20is%20in%20place.

[29]Tanya Prasad, *India's Road to Becoming an Arbitration Hub: A Comparative Analysis with Singapore and London*, Asia Law Portal (Dec. 19, 2024), available at https://asialawportal.com/indias-road-to-becoming-an-arbitration-hub-a-comparative-analysis-with-singapore-and-london/#:~:text=Both%20cities%20are%20home%20to,neutrality%20of%20their%20arbitration%20systems.

[30] Ibid

with international arbitration standards and is essential in cases that need international experience, and this makes India more attractive as a seat.

- **Retrospective Effect (Section 87):**Section 87 was an effort by parliament to quash BCCI (Kochi Cricket) by rendering the 2015 amendments (particularly Section 36) inapplicable to arbitrations commenced prior to Oct 2015. However, in *Hindustan Construction Co. v. Union of India* (2020)[31]Section 87 was declared unconstitutional by the Supreme Court on the basis of Article 14 because it was manifestly arbitral [32]. Thus, the jurisprudence still stands that the no-stay rule is applicable regardless of the time of arbitration initiation, to ensure the law is certain.

Impact on Commercial Arbitration in India

Together, these reforms have markedly shaped India's commercial arbitration landscape:

- **Judicial Pro-Arbitration Stance:**Indian courts have been responsive to the legislative requirement of minimal intervention. They have in recent years reiterated the soundness of arbitration agreements and curtailed the judicial functions. To illustrate, where there is a valid arbitration clause, now the courts will refer the case without probing on the merits. Procedural ambiguities have also been sorted out by the courts with Indian courts permitting parties to use foreign seats (PASL Wind Solutions v. GE Power)[33]and to enforce foreign (usually English) law on their contracts. The judiciary is harmonising domestic practice with international standards by implementing party autonomy.
- **Efficiency and Timeliness:**The timelines required have provided theory faster resolutions. Discipline has been inculcated by the need to file pleadings within 6 months and award within 12-18 months (without special extensions). Practically, most tribunals and parties have become strictly timetabled and courts are now passing extensions only in very limited circumstances. According to a recent industry report the arbitration proceedings are being finalized at an accelerated time scale as compared to the litigation

[31]Hindustan Construction Co. Ltd. v. Union of India, (2020) 17 SCC 324 (India).
[32]Satyajit Bose, *Resolving the Retrospective Application of the 2015 Amendment to the Arbitration Act*, IndiaCorpLaw (Feb. 19, 2020), available at https://indiacorplaw.in/2020/02/19/resolving-the-retrospective-application-of-the-2015-amendment-to-the-arbitration-act/.
[33]Gitanjali Bajaj & Sanjna Pramod, *The Supreme Court of India Upholds Party Autonomy on Choice of Foreign Seat*, DLA Piper (June 3, 2021), available at https://www.dlapiper.com/en/insights/publications/2021/06/the-supreme-court-of-india-upholds-party-autonomy-on-choice-of-foreign-seat.

process[34]. Besides, the capability of imposing interim measures through tribunals (Section 17) has minimized the necessity of having parallel court proceedings, which saves time and cost.

- **Fewer Court Delays:** The amendments help to enforce awards in a short time by eliminating automatic stays. It is this change, alone, which has materially limited one of the principal means of procrastination. The fact that the Supreme Court supports the no-stay rule implies that only bona fide fraud/corruption claims (which are unlikely) may stay enforcement. In this way, contractual certainty and finality has been enhanced.
- **More Party Autonomy:** There is increased freedom on how parties frame their arbitration agreements. In 2021, the reforms were made open to the world arbitrators. The new PASL Wind ruling now confirms that parties are at liberty to obtain any seat (against the law of enforcement) and that they may seek interim relief in Indian courts. This will boost foreign investor confidence during any dispute with appealing counterparties in India[35]. Courts have implicitly supported the use of third-party funding since the Indian law, which doubts its application, has been used to determine that this is essential to accessing justice, which is similar to what is being practiced worldwide.
- **Institutional Growth:** A strategic change can be seen by legislative encouragement of institutions (NDIAC, MCIA, SIAC/ICCA offices). There is also a rise in new centres in India even though it lacks a long-established dominant arbitration institution. A survey of 2021 showed that Singapore and London are still the leading seat choices on India-related arbitrations, although Indian organizations are becoming recognized. The legal changes that the ACI is based on and the encouragement of established institutions implies a long-term goal of becoming a hub. Interestingly, as compared to some comparators, India does not yet have a binding provision to refer to domestic arbitrators or forums and instead retains their discretion.
- **Arbitration Commercial Courts:** The independent yet closely related is the introduction of Commercial Courts (2015 Act) to deal with high value commercial disputes. These are

[34]Dipen Sabharwal KC & Aditya Singh, *Investing in India: Legal Reform in Dispute Resolution Encourages Foreign Investment*, White & Case LLP (Nov. 21, 2023), available at https://www.whitecase.com/insight-our-thinking/investing-india-legal-reform-dispute#:~:text=The%20reformed%201996%20Arbitraton%20Act,owned%20entities.

[35]Gitanjali Bajaj & Sanjna Pramod, *The Supreme Court of India Upholds Party Autonomy on Choice of Foreign Seat*, DLA Piper (June 3, 2021), available at https://www.dlapiper.com/en/insights/publications/2021/06/the-supreme-court-of-india-upholds-party-autonomy-on-choice-of-foreign-seat.

courts of exclusive jurisdiction with respect to the Section 34 challenges exceeding a fiscal amount, which supplements the arbitration regime with regard to the official forums of enforcement and annulment. The outcome is an expedited arbitral award to final resolution process.

In spite of these developments, there are still challenges. It may remain hard to set hearings in India, and enforcement of award money (at least on domestic awards) may be strained by procedures on execution. The institutional structure (ACI, NDIAC) is not fully institutionalised yet, thus practically a lot of arbitrations are ad hoc or under ad hoc administered by ICC/LCIA/SIAC. Nevertheless, overall, legislative changes which have occurred since 2015 have resulted in a more transparent, efficient and globally aligned commercial arbitration regime in India.

Comparative Perspective

The arbitration practice of India after the year 2015 is more comprehensible in a global sense. Similar to most jurisdictions, the Indian Arbitration Act is inspired by the UNCITRAL Model Law, and recent amendments in 2015 have further simplified it to the international best practices. As an illustration, the Arbitration Act (with an integrated Model Law) of Singapore and the UK Arbitration Act 1996 focus on party autonomy, minimum court intervention and tribunal power. The structure of Singapore combined with well-developed institutions (SIAC) means the median arbitration periods of about 11.7 months. The equally smooth processes in London have median times of approximately 16 months[36]. Indian reforms are supposed to be accomplished by a comparable efficiency since it requires quick awards and less litigation.

Efficiency and Institutional Support: Singapore and London have efficient procedural guidelines, professional arbitration authorities and special courts that honour arbitration judgments. The new initiatives (NDIAC, Commercial Courts) of India mimic these features. In a survey conducted by White and Case and Queen Mary in 2021, in India related disputes, Singapore and London are the most commonly used seat an indication of partying preferences towards neutrality and certainty. But nowadays, Indian legal reforms and common law tradition make it more accessible to the Asian investors. It is worth mentioning that India is establishing international-level arbitration centresMumbai Centre of International

[36]Tanya Prasad, *India's Road to Becoming an Arbitration Hub: A Comparative Analysis with Singapore and London*, Asia Law Portal (Dec. 19, 2024), available at https://asialawportal.com/indias-road-to-becoming-an-arbitration-hub-a-comparative-analysis-with-singapore-and-london/.

Arbitration and Hyderabad International Arbitration Centre are some cases. However, larger global entities such as SIAC, ICC and LCIA still have experience and global reputation benefits. The Indian attempt to be more pro-institutional arbitration by reforms in legislation resonates with the trends in most major hubs but will take time to mature[37].

Judicial Attitude: The common law jurisdictions are characterized by pro arbitration judicial culture. Arbitration agreements are highly enforced by the UK courts and rarely are challenges raised on substantive grounds. The judiciary in India is heading in this direction. The Indian cases have introduced landmark cases that restrict the public policy on which the annulment can be done to very thin tests and confirm obligation to undo. The PASL Wind judgment clearly put India into international practice by imposing awards on foreign seated arbitrations, and permitting interim court relief irrespective of the seat[38]. This acknowledgment of parties' autonomy is equivalent to the Western jurisprudence. Furthermore, the current use of third-party funding in India places it in the same position as those of Singapore and Hong Kong which are permissive.

Investor-State Context: India, unlike other countries in the West, is not a signatory of the ICSID Convention (the World Bank system of resolving investment disputes) regarding investor state arbitration[39]. As a result, claims by most foreign investors against India are made under the UNCITRAL provisions (usually under the Permanent Court of Arbitration in The Hague) or under the now obsolete BIT provisions. This recurring use of UNCITRAL/PCA can be explained by the fact that India attempts to retain the right to review (India has no ICSID status, this is why the Indian courts can review awards based on the policy considerations)[40]. (An investor who wishes to arbitrate through ICSID must do so under the foreign law of India; in fact, an ICSID award may only be enforced under a national implementing legislation) The recent policy of India on BIT (repealing 76 of 86 treaties, leaving only 8 in effect), is also indicative of an abandonment of the traditional ISDS

[37]Tanya Prasad, *India's Road to Becoming an Arbitration Hub: A Comparative Analysis with Singapore and London*, Asia Law Portal (Dec. 19, 2024), available at https://asialawportal.com/indias-road-to-becoming-an-arbitration-hub-a-comparative-analysis-with-singapore-and-london/.
[38]Gitanjali Bajaj & Sanjna Pramod, *The Supreme Court of India Upholds Party Autonomy on Choice of Foreign Seat*, DLA Piper (June 3, 2021), available at https://www.dlapiper.com/en/insights/publications/2021/06/the-supreme-court-of-india-upholds-party-autonomy-on-choice-of-foreign-seat.
[39]Dipen Sabharwal KC & Aditya Singh, *India's Legal Reform in Dispute Resolution Encourages Foreign Investment*, White & Case (Nov. 21, 2023), available at https://www.whitecase.com/insight-our-thinking/investing-india-legal-reform-dispute#:~:text=The%20previous%20decade%20has%20also,related%20investment%20disputes.
[40]Areness Law, *Should India Consider Becoming a Member of ICSID?*, Areness Law (Oct. 1, 2025), available at https://www.arenesslaw.com/should-india-consider-becoming-a-member-of-icsid/.

approach and a shift to mediation-style dispute resolution. This is unlike the practice of, say, EU jurisdictions, where intra-EU BITs were being revoked as well. The example of India therefore represents a shift towards a trade-off between investor protection and sovereign flexibility.

To conclude, India has made a substantial improvement in its post- 2015 arbitration regime and is heading towards the international best practice. The differences are still present particularly in terms of institutional maturity and enforcement efficiencies yet what is evident in the legislative process is that India wants to get on the level playing field with the developed arbitration centres in the world[41].

Conclusion

The 2015 amendments have brought a radical change in the arbitration regime of India in the decade after it was made. Lawmakers and judicial bodies have worked together to direct policy to respect contracts between parties, fast-track cases and limit judicial discretion. The Arbitration Act of today is reactive to the experience of international practice: it requires short time frames, permits tribunals with strong authority, provides the mandatory secrecy, and even reflects on the institutionalized arbitration process. Case law has strengthened such developments by supporting foreign seat decisions, refusing excessive judicial intervention, and imposing awards with a firm hand. In the case of commercial arbitration, the cumulative impact is a more predictable and business-friendly system compared to that of the predecessor of the pre-2015 system.

However, the further development goes on. The amendments of 2024 are suggested to give institutions even more strength, to set deadlines within courts, and other elements, such as emergency arbitrators. These reforms will require cautious implementation such as making the ACI and new arbitration centres autonomous rather than too bureaucratic. There are still obstacles, though, including the need to encourage the use of domestic arbitration and inform the parties of the new regime. However, as the positive changes keep on, India is moving closer to its dream of becoming an international arbitration hub. The process of transforming India into an international arbitration hub, as one of the commentators puts it, is a continuing process. The course taken by the reforms of 2015 is irreversible: arbitration is now supported

[41]Tanya Prasad, *India's Road to Becoming an Arbitration Hub: A Comparative Analysis with Singapore and London*, Asia Law Portal (Dec. 19, 2024), available at https://asialawportal.com/indias-road-to-becoming-an-arbitration-hub-a-comparative-analysis-with-singapore-and-london/.

by both the law and the jurisprudence of India, and India has indicated a desire to resolve disputes quickly and fairly[42].

[42]Prateek Jain, *Recent Amendments in Indian Arbitration and Conciliation Act: The Winds Have Begun to Blow for the Resolution of Complex Construction Disputes*, Daily Jus (Apr. 28, 2024), available at https://dailyjus.com/world/2024/04/recent-amendments-in-indian-arbitration-and-conciliation-act-the-winds-have-begun-to-blow-for-the-resolution-of-complex-construction-disputes.