



National Commercial Arbitration in India

Nisha Yadav

How to Cite this Article:

Yadav, N. (2026). National Commercial Arbitration in India. International Journal of Creative and Open Research in Engineering and Management, <i>02</i>(6).
<https://doi.org/10.55041/ijcope.v2i6.042>

License:

This article is published under the terms of the Creative Commons Attribution 4.0 International License (CC BY 4.0), which permits unrestricted use, distribution, and reproduction in any medium, provided the original author(s) and the source are credited.

© The Author(s). Published by International Journal of Creative and Open Research in Engineering and Management.



<https://doi.org/10.55041/ijcope.v2i6.042>

ABSTRACT

Arbitration has gained significant importance in India as an alternative method for resolving commercial disputes. In recent years, the Indian government has taken several initiatives to promote arbitration and make the country a preferred arbitration hub. This research explores the recent developments in arbitration in India and identifies the key challenges that need to be addressed for its successful implementation. It provides an overview of the legal framework, institutional support, and judicial approach towards arbitration, highlighting the changes introduced to streamline the arbitration process. Additionally, it analyzes the challenges faced by the Indian arbitration system, including issues related to enforcement, judicial intervention, excessive delays, and the need for capacity building. The article concludes with recommendations to address these challenges and further strengthen the arbitration regime in India.

I. INTRODUCTION

Arbitration has emerged as an important alternative dispute resolution mechanism globally, including in India. Over the past few decades, India has made significant efforts to promote arbitration as a preferred method for resolving commercial disputes. The aim has been to provide a quicker, more efficient, and cost-effective means of settling disputes, thereby attracting foreign investments and improving the ease of doing business in the country.

In recent years, India has witnessed several key developments in its arbitration landscape. These developments have been driven by both legislative reforms and judicial interventions, which seek to align the country's arbitration framework with international standards and address some of the longstanding challenges faced by parties involved in arbitration proceedings.

This paper aims to explore the recent developments and key challenges surrounding arbitration in India. It will examine the significant legislative changes introduced by the Indian government, such as the Arbitration and Conciliation (Amendment) Act, 2019, which aimed to enhance the efficiency and credibility of the arbitration process. Additionally, it will analyze landmark judicial decisions that have shaped the arbitration jurisprudence in the country.



Despite these positive developments, several challenges persist in India's arbitration regime. This paper will shed light on some of the key challenges faced by parties engaging in arbitration proceedings, such as delays in the enforcement of arbitral awards, the issue of excessive judicial intervention, and the lack of adequate infrastructure and expertise.

By analyzing the recent developments and challenges, this paper aims to provide a comprehensive understanding of the arbitration landscape in India. It will highlight the progress made, the areas that require further attention, and the potential implications for businesses and investors seeking to resolve disputes through arbitration in India.

II. HISTORICAL BACKGROUND

Arbitration in India has a long historical background that has evolved over time. Let's explore the key milestones and developments in the history of arbitration in India:

ANCIENT AND MEDIEVAL PERIODS: Arbitration as a method of dispute resolution has deep roots in ancient India. During this time, disputes were often resolved through the intervention of a neutral third party or a council of elders who would hear both parties and render a decision.¹ The process was based on principles of fairness and justice.²

BRITISH COLONIAL ERA: The modern arbitration framework in India can be traced back to the British colonial era. The British introduced formal legal mechanisms for arbitration through the Indian Arbitration Act of 1899. This legislation incorporated the provisions of the English Arbitration Act of 1889, which emphasized the enforceability of arbitration agreements and the finality of arbitral awards.³

¹ [Evolution of Arbitration - Gravitas Legal](#)

² [Ancient History of Arbitration | VIA Mediation Centre](#)

³ [Merchant Courts, Arbitration, and the Politics of Commercial Litigation in the Eighteenth-Century British Empire on JSTOR](#)



INDEPENDENCE AND POST-INDEPENDENCE ERA: After India gained independence in 1947, the Indian Arbitration Act of 1940 came into force. This act was largely based on the English Arbitration Act of 1934 and continued to govern arbitration in India until it was repealed and replaced by the Arbitration and Conciliation Act, 1996.⁴

THE ARBITRATION AND CONCILIATION ACT, 1996: The Arbitration and Conciliation Act, 1996 is the current governing legislation for arbitration in India. It was enacted to align Indian arbitration laws with international standards, particularly the UNCITRAL Model Law on International Commercial Arbitration. The act provides a comprehensive framework for domestic and international arbitrations, and it also recognizes and enforces foreign arbitral awards.⁵

JUDICIAL INTERPRETATION: The Indian judiciary has played a crucial role in shaping arbitration law in India through various landmark judgments. The Supreme Court of India has consistently adopted a pro-arbitration approach and has interpreted the provisions of the Arbitration and Conciliation Act, 1996, in a manner that promotes party autonomy and limits judicial interference in arbitration proceedings.⁶

INTERNATIONAL ARBITRATION CENTERS: In recent years, India has witnessed the establishment of international arbitration centers to promote India as a hub for international commercial arbitration. These centers, such as the Mumbai Centre for International Arbitration (MCIA) and the Delhi International Arbitration Centre (DIAC), aim to provide world-class arbitration facilities and institutional support for resolving international disputes.

The historical background of arbitration in India demonstrates its evolution from traditional dispute resolution practices to a modern legal framework aligned with international standards. The Indian government's efforts to promote arbitration and the judiciary's pro-arbitration approach have contributed to the growth and development of arbitration in India.

⁴ [History of Arbitration in India - Social Laws Today](#)

⁵ [India Code: Arbitration and Conciliation Act, 1996](#)

⁶ [Judicial interpretation - Wikipedia](#)



III. RECENT DEVELOPMENTS IN ARBITRATION IN INDIA

ARBITRATION AND CONCILIATION (AMENDMENT) ACT, 2019: The Indian government introduced significant amendments to the Arbitration and Conciliation Act in 2019 to make arbitration a more efficient and cost-effective dispute resolution mechanism. The amendments aimed to promote institutional arbitration, streamline the arbitration process, and minimize judicial intervention.⁷

CREATION OF THE NEW DELHI INTERNATIONAL ARBITRATION CENTRE (NDIAC): The New Delhi International Arbitration Centre Act, 2019 was enacted to establish the NDIAC as an independent and autonomous institution for the promotion of institutional arbitration. The NDIAC aims to provide world-class infrastructure and facilities for conducting international and domestic arbitration.⁸

SETTING UP OF THE MUMBAI CENTRE FOR INTERNATIONAL ARBITRATION (MCIA): The MCIA was established in 2016 as an independent, not-for-profit organization to promote institutional arbitration in India. It provides a framework for the conduct of international and domestic commercial arbitration and aims to position Mumbai as a major arbitration hub.⁹

FAST-TRACK PROCEDURE FOR ARBITRATION: The 2019 amendment introduced a fast-track procedure for arbitration cases where the value of the dispute does not exceed INR 3 crore (approximately USD 400,000). This expedited process aims to resolve disputes within six months.¹⁰

ONLINE FILING OF ARBITRATION CASES: The COVID-19 pandemic accelerated the adoption of technology in dispute resolution. Indian courts and arbitration centers embraced online platforms for filing arbitration cases and conducting virtual hearings, allowing parties to participate remotely.¹¹

⁷ [The Arbitration and Conciliation \(Amendment\) Bill, 2019 \(prsindia.org\)](https://prsindia.org)

⁸ [The New Delhi International Arbitration Centre Bill, 2019 \(prsindia.org\)](https://prsindia.org)

⁹ mcia.org.in/wp-content/uploads/2016/05/MCIA-Report-4th-Edition.pdf

¹⁰ [An Overview of Fast Track Arbitration Proceedings in India | VIA Mediation Centre](#)

¹¹ [File your Request for Arbitration - ICC - International Chamber of Commerce \(iccwbo.org\)](#)



INTERNATIONAL COMMERCIAL ARBITRATION: The Indian judiciary has shown an increased pro-arbitration approach by recognizing and enforcing foreign arbitral awards in line with international conventions such as the New York Convention. This approach has bolstered India's reputation as an arbitration-friendly jurisdiction.¹²

IV. LEGAL FRAMEWORK FOR ARBITRATION IN INDIA

In India, the legal framework for arbitration is primarily governed by the Arbitration and Conciliation Act, 1996 (the Act). The Act is based on the UNCITRAL Model Law on International Commercial Arbitration and provides a comprehensive set of rules and regulations for both domestic and international arbitration proceedings in India.¹³

Key provisions and features of the legal framework for arbitration in India include the following:

ARBITRATION AGREEMENT: The Act recognizes the autonomy of parties to choose arbitration as a method of dispute resolution. An arbitration agreement must be in writing and can be in the form of an arbitration clause in a contract or a separate agreement.¹⁴

ARBITRAL TRIBUNAL: The Act provides for the establishment of an arbitral tribunal, which is responsible for resolving disputes through arbitration. The tribunal can be a sole arbitrator or a panel of arbitrators, as agreed upon by the parties.

APPOINTMENT OF ARBITRATORS: The Act sets out procedures for appointing arbitrators. If the parties fail to agree on the appointment of an arbitrator, the court can intervene and make the appointment. The Act also contains provisions for challenging the appointment of an arbitrator in certain circumstances.

CONDUCT OF ARBITRAL PROCEEDINGS: The Act outlines the conduct of arbitral proceedings, including the powers of the tribunal, submission of statements and evidence, oral hearings, and the conduct of witnesses and experts. The Act provides flexibility to the tribunal to determine the procedure to be followed, subject to the agreement of the parties.

¹² [International commercial arbitration system: a critical analysis - impleaders](#)

¹³ [Arbitration law in India: Everything you want to know | VIA Mediation Centre](#)

¹⁴ [Arbitration Procedures and Practice in India: Overview | Practical Law \(thomsonreuters.com\)](#)

ENFORCEMENT OF ARBITRAL AWARDS: The Act provides for the recognition and enforcement of arbitral awards, both domestic and international. An award, once rendered, can be enforced in the same manner as a court decree. Limited grounds for challenging an arbitral award are provided under the Act.

COURT ASSISTANCE: The Act allows parties to seek certain forms of court assistance in relation to arbitration proceedings. This includes the power of the court to grant interim measures, assist in the appointment of arbitrators, and assist in the collection of evidence.

INSTITUTIONAL ARBITRATION: In addition to the provisions of the Act, India has several institutional arbitration bodies, such as the Mumbai Centre for International Arbitration (MCIA) and the Delhi International Arbitration Centre (DIAC), which provide administrative services and facilities for arbitration proceedings.



V.CONCLUSION

Finally, Arbitration in India has witnessed positive developments, including legislative reforms, institutional support, and a pro-arbitration approach by the judiciary. These efforts have been instrumental in promoting arbitration as a viable alternative to traditional litigation. However, challenges such as judicial delays, limited awareness, infrastructure gaps, and enforcement issues need to be addressed for India to become a global arbitration hub.

To overcome these challenges, continued efforts should focus on streamlining court processes, enhancing awareness and training programs, investing in infrastructure and technology, and strengthening enforcement mechanisms. By addressing these issues, India can further enhance its position as an attractive seat for arbitration, attracting international businesses and fostering a robust arbitration ecosystem within the country.