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ABSTRACT

The arbitration ecosystem in India has gradually shifted from a supplementary dispute resolution method to the anchorage of its ADR machinery, mainly by the Arbitration and Conciliation Act, 1996, and subsequent amendments. This paper critically discusses the legislative development- the Amendments of 2015, 2019, and 2021-and landmark court judgments, such as BALCO, which prohibited the judicial system from intervening in foreign-seated arbitration matters. Doctrinal in approach, the paper analyses legislation, case law decisions pronounced by the Supreme Court and the High Courts, Law Commission Reports-246th and 275th reports-and institutional data as of January 2026. Key findings highlight strengths: time-bound awards under Section 29A, competence-competence under Section 16; and recurring problems: prolonged challenges under Section 34, broad interpretations regarding public policy, and dominance of ad hoc arbitration, with over 90% of cases. The aim is to assess India's pro-arbitration movement against global standards-UNCITRAL Model Law-and identify the deficiencies that hamstring its emergence as an arbitration hub. Conclusions argue for judicial minimalism, designated arbitration courts, and mandatory institutional mechanisms. The present study fills empirical gaps regarding the effectiveness of enforcement in the post-2021 period and offers a way forward for the policymakers.

KEYWORDS

Arbitration, ADR, Judicial Intervention, Party Autonomy, Enforcement, BALCO.

INTRODUCTION

1. Background

Arbitration in India has deep roots, going back to ancient panchayats, well before the British introduced the Arbitration Act of 1940. That earlier law drew everything into the courts, which only made things slower and undermined the effectiveness of arbitration. Things took a turn in 1996, when the new Act, modelled closely on the UNCITRAL Model Law, unified domestic and international arbitration. It aimed to curb court interference and gave more autonomy to the parties. Liberalization in 1991 led to a surge in business disputes, exposing flaws in the 1940 Act—cases would drag on for over three years on average. Then came landmark cases like Bhatia International v. Bulk Trading S.A., where the Supreme Court extended Indian jurisdiction to foreign-seated arbitrations. This move unsettled investors and eroded trust in the system.[1]

2. Research Gap

Since the 2019 Amendments, most academic work has focused on legislative intent but overlooked how courts have kept shifting the ground. Decisions like ***Vidya Drolia v. Durga Trading Corporation,***[2] which introduced a new "arbitrability matrix," and Amazon.com ***NV Investment Holdings v. Future Retail Limited,***[3] which dealt with emergency arbitrators, have largely escaped close scrutiny. There is also a lack of empirical data on whether institutions like the Mumbai Centre for International Arbitration are overtaking traditional ad hoc mechanisms, or how India's regime compares with institutions like the Singapore International Arbitration Centre. This study addresses these gaps through a critical, thematic analysis.[4]

3. Objectives

- Trace the evolution of arbitration law, both in the statutes and as applied in practice.
- Examine judicial decisions on what can be arbitrated, enforcement of awards, and the scope of judicial intervention.

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[1] The Legal School. (2025, November 19). *Landmark case laws on ADR in India: A detailed overview*. https://thelegalschool.in/blog/landmark-cases-on-adr.
[2] Vidya Drolia v. Durga Trading Corporation, (2021) 2 *Supreme Court Cases 1* (India).
[3] Amazon.com NV Investment Holdings LLC v. Future Retail Ltd., (2022) 1 *Supreme Court Cases* 209 (India).
[4] International Journal of Creative Research Thoughts. (2023). *Arbitration in India: Recent developments*. https://ijcrt.org/papers/IJCRT2307247.pdf.

- Recommend reforms to help India compete more effectively in the global arbitration arena.

4. Methods

The research adopts a doctrinal, black-letter approach: it thoroughly reviews the statutes (mainly the 1996 Act and its amendments) and analyses over 50 Supreme Court judgments from 1996 to 2026, Reports from the Law Commission, NITI Aayog, and scholarly journals are also examined. The methodology includes mapping significant legal developments, extracting key principles from case law, conducting SWOT analyses, and benchmarking India's framework against UNCITRAL standards. Sources include the official India Code, SCC Online, and academic repositories. All references are current up to January 2026. The focus is on qualitative, interpretive analysis, aiming for depth rather than breadth, without relying on quantitative methods.[5]

METHOD

This article takes a doctrinal approach, diving deep into black-letter law to track how India's arbitration system has evolved and how it performs today—starting from the **Arbitration and Conciliation Act, 1996**,[6] through its latest amendments up to 2021. Doctrinal research fits legal studies because it goes straight to the heart of primary sources—statutes, court judgments, reports—digging out principles, spotting inconsistencies, and flagging gaps in arbitration law. The focus here isn't on crunching numbers or piling up statistics. Instead, it's about depth—carefully weighing how recent, pro-arbitration reforms stack up against the UNCITRAL Model Law.[7]

Design of the Research

The research follows a thematic path: it traces history, legislative shifts, court interpretations, the institutional setting, and the practical challenges of reform. Historical mapping shows how things moved from the 1940 Arbitration Act, through the big shake-up in 1996, right up to watershed moments like BALCO rejecting the Bhatia International line. The legislative review zooms in on key sections—9, 11, 16, 20, 29A, 34, 36, 42A, and 48—and major amendment waves in 2015, 2019, and 2021. Tables help make sense of the most significant changes. Judicial review sorts more than 50 Supreme Court and High Court judgments (1996–

[5] The Legal School. (2025, November 19). *Landmark case laws on ADR in India: A detailed overview*.

[6] Arbitration and Conciliation (Amendment) Act, 2016, No. 3, Acts of Parliament (India).

[7] Arbitration and Conciliation (Amendment) Act, 2019, No. 33, Acts of Parliament (India).

2026) into groups: territoriality (BALCO), arbitrability (Vidya Drolia), public policy (Shri Lal Mahal, Associate Builders), and enforcement (***Vijay Karia, Amazon v. Future).***[8]

Thematic extraction relies on content analysis to pull out ratios decidendi and obiter dicta, tracing how Indian courts have leaned toward arbitration. SWOT analysis gets into the weeds: strengths (like time-limited awards under Section 29A), weaknesses (ad hoc arbitration still dominates), opportunities (the rise of institutional arbitration), and threats (judicial overreach). Benchmarking draws on standards from NITI Aayog and Law Commission Reports 246 and 275 to stack up India's framework against others—think SIAC or HKIAC.[9]

Data Sources and Collection

Primary sources included the 1996 Act (from India Code online), key amending Acts (3/2016, 33/2019, and 33/2021), a nd a curated set of more than 50 cases. The case list covers landmarks (BALCO, 2012 9 SCC 552; ***Vidya Drolia, 2021***), newer cases (***Union of India v. Vinitex, 2024***), and those focused on enforcement ***(Ssangyong Engg. v. NHAI, 2019 15 SCC 131).*** For secondary sources, the research draws on Law Commission Reports (246th for amendments, 275th for institutional arbitration), NITI Aayog reports (2025 data: MCIA/DIAC/ICA handled over 300 cases), NJDG backlog statistics (4.7 crore pending in 2025), and journals

Data collection used targeted keyword searches—"arbitration amendments India," "Section 34 set-aside rates," "ad hoc vs institutional arbitration statistics." Official repositories stay updated through January 2026. No fieldwork, no surveys—the doctrinal method sticks to text and authority. Institutional data (for example, MCIA reporting 25% international arbitrators by 2025) handled empirical questions like enforcement trends after 2021.

Framework for Analysis

The analysis blends interpretive and comparative methods. On the interpretive side, it unpacks core principles: kompetenz-kompetenz (Section 16), seat-centricity (Section 20), and the narrower view of public policy after Shri Lal Mahal. On the comparative side, it weighs India's framework against the UNCITRAL Model Law (party autonomy, limited court intervention), the New York Convention (Article V enforcement grounds), and other systems—like SIAC's nine-month average for

[8] Amazon.com NV Investment Holdings LLC v. Future Retail Ltd., (2022) 1 *Supreme Court Cases* 209 (India).

[9] NITI Aayog. (2024). *Strengthening arbitration in India*. Government of India.

resolution, compared to India's 3.5 years.[10]

Result

India's arbitration system, which is based on the Arbitration and Conciliation Act of 1996 and its 2021 amendments, has made a lot of progress in following the principles of the UNCITRAL Model Law. However, it still faces problems that make it less competitive on the global stage. Under Section 29A, legislative changes have set time-limited awards, which have cut the average time from four years before 2015 to about two years. Under Section 16, competence-competence gives tribunals the power to decide their own jurisdiction, which limits judicial interference before the award. Section 42A's privacy rules from 2019 protect private business information. The removal of the Eighth Schedule in 2021 has made it easier for more people to become arbitrators. For example, the Mumbai Centre for International Arbitration expects that 25% of appointments will be international by 2025.

Progress in Legislation

The 2015 Amendment got rid of automatic stays on awards under Section 36, making them like court orders that can be enforced under the Code of Civil Procedure. This made it easier to carry out the orders. The changes made in 2019 made arbitrability and openness even more important. The rules in Part II for foreign awards under Sections 44–52 are in line with New York Convention standards, and they don't include patent illegality for international cases to make enforcement easier. The public policy reason for throwing out awards, as made clearer by ***Shri Lal Mahal Ltd. v. Proyecto Grin Ltd.,***[11] now focuses on basic policy, morality, or fairness. This limits broad interpretations from earlier cases like ***ONGC v. Saw Pipes Ltd.*** The 2021 change to Section 36(3) that requires automatic stays for prima facie fraud or corruption could cause delays again. If taken advantage of, these delays could last from one year to three to five years.

Changes in the law

After BALCO (2012), the Supreme Court's decisions set up territoriality, which limited Part I's use to arbitrations held in India and made investors more confident by keeping foreign-seated arbitrations from being interfered with on a regular basis. The ***Vidya Drolia v. Durga Trading Corporation (2021)*** framework set up four rules for whether a dispute can be settled by arbitration. Most business disputes can be settled by

[10] United Nations Commission on International Trade Law. (1985). *UNCITRAL model law on international commercial arbitration* (G.A. Res. 40/72).

[11] Shri Lal Mahal Ltd. v. Proyecto Grin Ltd., (2014) 2 *Supreme Court Cases* 433 (India).

arbitration, but sovereign duties like criminal prosecution or eviction cannot. The non-signatory theories set up in ***Chloro Controls India Pvt. Ltd. v. Severn Trent Water Purification Inc. (2013)*** made agreements more flexible by allowing group corporations to sign them and assuming consent. Rulings that support enforcement, like ***Vijay Karia v. Prysmian Cavi e Sistemi SRL (2020***), say that Section 34 interventions can only happen in cases of gross perversity or violations of natural justice. On the other hand, ***Amazon.com NV Investment Holdings LLC v. Future Retail Ltd. (2022)*** said that emergency arbitrator awards are binding. Despite this, the success rate for set-asides remains around 40%, often due to long-lasting effects on public policy and the fact that domestic awards are not valid.

Institutional and Empirical Points of View

According to NITI Aayog data, groups like MCIA, DIAC, and ICA handled more than 400 cases by 2025, which shows growth. However, around 90% of cases are ad hoc arbitrations, which means that the quality and procedures are not always the same. In India, enforcement times are an average of 3.5 years, which is very different from the nine-month resolutions of the Singapore International Arbitration Centre. The situation is made worse by the fact that the 2025 National Judicial Data Grid figures show a backlog of 4.7 crore cases. Virtual hearings, which became the norm during COVID-19, and faster processes under Section 29B for disputes under INR 3 crore have made it easier for people to access the courts, especially for MSMEs, which make up most of the commercial caseloads. The Arbitration Council of India, which was set up in 2019 under Section 43B, is still not fully developed, making it hard to consistently evaluate arbitrators and follow institutional directives.

Strong Points and Achievements

The main strengths are in Section 20, which sets up procedural law and limits judicial authority outside of the country, in line with best practices around the world. Changes have made it easier for parties to choose their own arbitrators and made it harder for one party to appoint an arbitrator on their own under the 2019 Section 11 rules. After the reforms, real-world data shows that delays in awards have gone down by fifty percent and that foreign investment is more appealing, especially since President Trump's 2025 goals for US-India trade changes aim for $200 billion in foreign direct investment through Production Linked Incentive schemes.

Weaknesses and Problems

Judicial congestion under Sections 11 and 34 makes it easier to do evaluations that are like de novo, which makes awards less final, as

shown in ***Ssangyong Engineering & Construction Co. Ltd. v. NHAI (2019).*** Ad hoc dominance leads to views of arbitrator nationalism, which keeps international parties who prefer places like Singapore away, even though they are more expensive. The 2021 fraud-stay system, which is based on cases like India Household and Healthcare Ltd. v. LG Household and Health Care Ltd., protects honesty while allowing planned delays. Wider systemic issues, like not having enough specialised arbitration panels and not enough digitisation outside of platforms like ARBITRO, keep the gap in access between cities and rural areas.

Positioning in Comparison

India is not as enforceable or efficient as hubs like SIAC and HKIAC, but it is moving in the right direction with pro-arbitration reforms, such as non-interference directives that show how little UNCITRAL is involved in the legal process.[12] The 275th Law Commission Report talks about how tiered arbitrator panels and mandatory institutional pathways could help the world get 20% of its cases by 2030. After 2021, there were problems with empirical data, such as undisclosed ad hoc results. This shows how important it is to have annual audits like the ones Queen Mary University does for set-aside rates and deadlines. [13]

To sum up, reforms mean a move away from Bhatia-era interventionism and toward pro-arbitration. For India to become Asia's arbitration centre, however, it needs to keep being minimalistic, engage with institutions, and follow established public policy rules.

DISCUSSION

History and Development in Arbitration Questions

The 1996 Act replaced the splitting provisions, incorporating conciliation provisions (Part III) and equality provisions (Section 18), under the 1940 Act. Bhatia's "groups of companies" concept called for Part I applicability abroad, prospectively held unlawful by BALCO (2012) 9 SCC 552, motivating territorialization and evolution. The 2015 Amendment (Act 3 of 2016) introduced 12-month limitations (Section 29A), struck automatic stays (Section 36), and limited Section 9 relief post-commencement. 2019 (Act 33 of 2019) limited public policy (Section 48), abolished unilateral appointments (Section 11 proviso), and confirmed competence-competence.2021 (Act 33 of 2021) struck Eighth Schedule provisions, simplifying eligibility for foreign arbitrators, and revived fraud as

[12] United Nations Commission on International Trade Law. (1985). *UNCITRAL model law on international commercial arbitration* (G.A. Res. 40/72).
[13] Law Commission of India. (2014). *246th report on amendments to the Arbitration and Conciliation Act, 1996*. Government of India.

grounds for auto stays.[14]

Amendment	Pivotal Provisions	Jurisprudential Shift
2015	§§ 29A, 11(3A), 87 repeal	Timeline discipline; Institutional tilt
2019	§ 16(2) amendment; Disclosure mandate	Arbitrability primacy; Transparency
2021	Eighth Schedule deletion; § 36(3) caveat	Expert inclusivity; Integrity checks

LEGISLATIVE FRAMEWORK: CORE PROVISIONS

Part I of the Arbitration and Conciliation Act, 1996 ("the 1996 Act") governs domestic arbitration in India. Section 20 establishes the centrality of the arbitral seat, setting the legal parameters and sharply restricting court intervention outside that jurisdiction. After the Supreme Court's BALCO decision in 2012, it became widely accepted: the seat determines procedural law. This aligns with the UNCITRAL Model Law's focus on party autonomy and territoriality.[15]

Section 16 brings in the kompetenz-kompetenz doctrine—arbitral tribunals have the authority to decide their own jurisdiction, including whether a valid arbitration agreement exists. Courts only intervene if absolutely necessary. The 2019 Amendment clarified this further, making disputes over the existence of an agreement matters for arbitrators rather than judges, thereby streamlining proceedings and reducing early-stage litigation.

Confidentiality is significant as well. Section 42A, introduced in 2019, prohibits parties from disclosing arbitration details, except when enforcing or challenging the award. This safeguards sensitive business information and strengthens confidence in the process. For enforcement, Section 36 (amended in 2015) treats arbitral awards like court judgments—automatic stays are eliminated. Now, enforcement can only be paused if a party requests it, and awards are executed using the Code of Civil Procedure just like any court judgment. However, the 2021 Amendment added a proviso to Section 36(3): if clear evidence of fraud

[14] iPleaders. (2024, August 8). *Evolution of arbitration in India*. https://blog.ipleaders.in/evolution-arbitration-india-lack-of-professionalism/.

[15] United Nations Commission on International Trade Law. (1985). *UNCITRAL model law on international commercial arbitration* (G.A. Res. 40/72).

or corruption is presented, courts must automatically stay enforcement until the challenge is resolved. This change—applied retroactively from 2015—aims to balance integrity and finality, but it's controversial because it potentially undermines recent progress toward quicker enforcement.

Section 34 outlines the grounds for setting aside an award, mirroring Article V(1) of the New York Convention. Awards can be challenged for incapacity, invalid agreements, improper notice, decisions beyond the scope of arbitration, procedural defects, or if the award violates India's public policy. The Supreme Court in Shri Lal Mahal narrowed "public policy" to fundamental policy, morality, or justice, and in Associate Builders added a perversity test. However, courts sometimes interpret the term broadly, especially "patent illegality"—which, since 2015, applies only to domestic awards. Part II of the Act addresses foreign awards under the Geneva and New York Conventions. Section 48 mirrors Section 34 but omits patent illegality, maintaining reciprocity but still subjecting foreign awards to a public policy review.

2021 Amendment: Eighth Schedule Deletion and Section 36(3) Proviso

The 2021 Amendment to the Arbitration Act brought two major changes: it deleted the Eighth Schedule and amended Section 36(3). The Eighth Schedule, introduced in 2015, imposed strict qualifications for arbitrators—primarily senior advocates, chartered accountants, or engineers. While intended to ensure competence, it excluded foreign experts and unconventional professionals, conflicting with India's international arbitration ambitions. By repealing the Schedule and allowing the Arbitration Council of India (ACI) to set standards, the Act became more flexible. Now, parties can select specialists, tech-savvy arbitrators, or foreign professionals without the previous constraints. Lawmakers welcomed this change, claiming it would attract foreign investment and reflects recent Supreme Court reasoning in ***Union of India v. Vinitex (2024).***

This shift is already evident. The Mumbai Centre for International Arbitration reports that by 2025, a quarter of its arbitrator appointments are international, demonstrating that "expert inclusivity" is becoming reality. Still, some worry that the relaxed framework may allow unqualified arbitrators, especially as the ACI's comprehensive regulations are not yet operational—leaving most India-seated arbitrations (about 90% of all cases) with inconsistent standards.

The change to Section 36(3) is a double-edged sword. Now, if a party alleges fraud or corruption and shows a prima facie case, courts must automatically stay enforcement until the challenge is resolved. This reverses the 2015 reform that abolished automatic stays and may prolong

proceedings—what should conclude in a year might now extend to three to five years if parties misuse the rule with weak claims. The Supreme Court's decision in India Household and Healthcare Ltd. v. LG Household and Health Care Ltd. sought to protect against corrupt awards, but the risk is clear: the new rule could encourage delays, undermining the finality that cases like Vijay Karia v. Prysmian worked hard to achieve.

JUDICIAL INTERPRETATIONS: PRO-ARBITRATION TRAJECTORY

Supreme Court jurisprudence pivoted post-BALCO. ONGC v. Saw Pipes Ltd. (2003) 5 SCC 705 expansively read public policy; cabined by Shri Lal Mahal Ltd. v. Proyecto Grin Ltd. (2014) 2 SCC 433 to patent illegality/natural justice. ***Associate Builders v. Delhi Development Authority***[16] categorized errors. ***Vijay Karia v. Prysmian Cavi E Sistemi SRL***[17] underscored non-interference absent egregious flaws. Arbitrability evolved: ***Chloro Controls India (P) Ltd. v. Severn Trent Water Purification Inc.***[18] extended to non-signatories; Vidya Drolia classified sovereign functions (e.g., eviction) as in arbitrable

Case	Decisional Ratio	Impact on ADR
***BALCO* (2012)**	Part I territoriality	Investor influx
***Vidya Drolia* (2021)**	Arbitrability factors	Dispute triage
***Amazon v. Future* (2022)**	Interim awards binding	Institutional legitimacy

INSTITUTIONAL LANDSCAPE

NITI Aayog's data shows that by 2025, MCIA, DIAC, and ICA collectively handled over 300 cases. Yet, ad hoc arbitrations still make up about 90% of the total. That figure speaks volumes. There's no solid foundation: no standing courts, no uniform rules. The Arbitration Council of India, established under Section 43B in 2019, is still in its early stages.

CHALLENGES: PERSISTENT HURDLES

Enforcement remains slow—averaging 3.5 years, while SIAC completes

[16] (2015) 3 SCC 49.
[17] (2020) 11 SCC 1.
[18] (2013) 1 SCC 641.

cases in just 9 months. That's more than a number. It's a result of a 4.7 crore case backlog, as per 2025 NJDG statistics. Section 34 permits a "de novo" review, prolonging proceedings and diluting finality. The public policy exception is broad enough to be exploited, as demonstrated in ***Ssangyong Engg. & Construction Co. Ltd. v. NHAI*** [19]Furthermore, concerns about arbitrator nationalism deter foreign investors. Virtual hearings became common during COVID-19 in 2020, but a standardized system is still lacking.

Challenge	**Manifestation**	**Reform Need**
Delays	§ 11/34 overload	Specialized benches [ijcrt]
Ad Hoc Dominance	90% prevalence	Mandatory institutions
Public Policy	Elastic scope	Statutory codification

The Arbitration and Conciliation Act of 1996 and its modifications up to 2021 outline the rules for arbitration in India. These guidelines mark a significant transition from judicial overreach to a pro-arbitration mentality that closely aligns with the UNCITRAL Model Law's concepts of party autonomy, competence-competence, and limited court intrusion. This doctrinal research employs over 50 Supreme Court rulings from 1996 to 2026, Law Commission Reports 246 and 275, NITI Aayog data, and institutional information as of January 2026. It illustrates that India has come a long way in terms of laws and court cases, but there are still structural obstacles that make it challenging for India to become a global arbitration hub. One of the most important things that happened was that Section 29A created legal deadlines. The rewards must be paid out within a year, but both parties might agree to grant them an extra six months. Before 2015, it took almost four years to grant the honours. Now, it just takes two years. This made arbitration more likely in critical areas including infrastructure, technology, and MSME disputes, which are the most prevalent types of arbitration proceedings. [20]

The 2015 Amendment sped up this procedure by getting rid of automatic stays under Section 36. It also rendered arbitral decisions the same as court decrees that may be executed under Order XXI of the Code of Civil Procedure, 1908. This made things go faster and brought India up to the standards of the New York Convention. Section 16 of the 2019 Amendment and Section 16(2) describe what competence-competence

[19] (2019) 15 SCC 131.

[20] Arbitration and Conciliation (Amendment) Act, 2019, No. 33, Acts of Parliament (India).

means. This means that tribunals can choose whether or not they have the power to judge if arbitration agreements are legal. This means that fewer persons will ask for temporary relief under Section 9 or appointments under Section 11 once the litigation has commenced. The new Section 42A stops private business information from being made public, but only when someone is trying to enforce it or put it aside. This makes individuals more willing to believe in negotiations that happen across borders. The 2021 Amendment got rid of the Eighth Schedule, which stipulated that only senior attorneys, chartered accountants, or engineers may be arbitrators. This made it simpler for the Arbitration Council of India (ACI) to engage a larger spectrum of experts. According to the Mumbai Centre for International Arbitration (MCIA), 25% of international arbitrators would be appointed by 2025.

After BALCO[21], the way courts interpreted the law altered a lot. Part I only applicable to arbitrations that took place in India in this instance. This put a stop to the extraterritorial reach that was established up in Bhatia International v. Bulk Trading S.A. and gave foreign investors back their faith by shielding cases that happened outside of India. Section 20's strong focus on seat now tells us how to conduct things. For example, ***Eicher Goodearth Ltd. v. Universal Construction*** restricted how much supervision may go too far. The case ***Vidya Drolia v. Durga Trading Corporation (2021)*** modified the rules of when arbitration is possible. It now includes a more precise four-part test: disputes regarding sovereign activities (including criminal prosecutions and evictions from rental properties), rights in rem, public entitlements, or particularly severe fraud are not arbitrable. On the other hand, most business concerns are, which makes the regime greater. ***Chloro Controls India Pvt. Ltd. v. Severn Trent Water Purification Inc. (2013 1 SCC 641)*** has persons who didn't sign, which is crucial for conglomerate difficulties since it leverages group business concepts and implied permission.

The law of enforcement puts a lot of stress on being clear. ***Shri Lal Mahal Ltd. v. Proyecto Grin Ltd. (2014 2 SCC 433)*** refined public policy under Sections 34 and 48 to encompass fundamental policy, morality, or justice, thereby overruling the broad interpretation established in ***ONGC v. Saw Pipes Ltd. (2003 5 SCC 705); Associate Builders v. Delhi Development Authority (2015 3 SCC 49)*** introduced grounds of perversity and natural justice, while excluding patent illegality for foreign awards; ***Vijay Karia v. Prysmian Cavi e Sistemi SRL*** (2020 11 SCC 1) limited Section 34 to manifestly egregious flaws; ***Ssangyong Engineering & Construction Co. Ltd. v. NHAI (2019 15 SCC 131)*** prohibited de novo reviews; and Amazon.com NV Investment Holdings LLC v. Future Retail Ltd. (2022)

[21] Bharat Aluminium Co. v. Kaiser Aluminium Technical Services, Inc., (2012) 9 *Supreme Court Cases* 552 (India).

upheld emergency arbitrator orders, thereby enhancing institutional legitimacy. The Eighth Schedule was taken down, however subsequent instances like ***Union of India v. Vinitex (2024)*** prove that foreign arbitrators are still fair.

Development is still in its early phases at the institutional level, but things seem bright. NITI Aayog estimates that the MCIA, Delhi International Arbitration Centre (DIAC), and Indian Council of Arbitration (ICA) will have processed more than 400 cases by 2025, up from 300. Section 29B (disputes worth less than INR 3 crore) speeds up the procedure, and virtual hearings are becoming more prevalent due to COVID-19. This makes it simpler for MSMEs to come to court. Ad hoc arbitrations, which make up 90% of all cases, keep problems with rules, quality, and perceived nationalism going. This makes it less likely that international parties would utilize the Singapore foreign Arbitration Centre (SIAC), even if it costs more. According to the National Judicial Data Grid (NJDG, 2025), there are still 4.7 crore cases that need to be heard. This means that issues with Section 34 can endure up to 3.5 years, yet issues with SIAC only last nine months. According to the Law Commission Report 275, ACI (Section 43B, 2019) is still not functional since there are no grading panels that work.

The data isn't consistent: revisions cut award delays in half and made them simpler to enforce, but the success rates for set-asides continue at 40% since domestic patents are unlawful and public policy is malleable. The 2021 Section 36(3) proviso, which stipulates that prima facie fraud or corruption can lead to automatic stays, makes delays conceivable again. This might stretch one-year challenges into three to five years, which goes against the finality reached in 2015 and opens the door to strategic exploitation, as India Household and ***Healthcare Ltd. v. LG Household and Health Care Ltd.*** pointed out. There were holes in the data after 2021, especially when it came to ad hoc findings that weren't published. This illustrates how crucial it is to have Queen Mary-style inspections on costs and timelines.

Section 11 of the 2019 Constitution allows parties pick their own candidates, defends the independence of seats, keeps information private, and brings in foreign direct investment. This is true even if Trump's pro-business tariffs in 2025 will target $200 billion in production-linked incentive inflows. This offers India an excellent opportunity to win. Some of the challenges are a backlog of cases in the courts (Sections 11/34), ad hoc domination, and issues with digitization outside of ARBITRO platforms, which make the difference between urban and rural regions even wider. When it comes to benchmarking, India is in accordance with SIAC/HKIAC. It costs less and has a larger range of talents, but it is slower and harder to enforce. India can be a

leader in Asia if it takes sensible choices.

These results indicate how crucial the doctrinal approach is for understanding the move from maximalism in the Bhatia period to minimalism in the BALCO era, which happened after 2019/2021. Some things that need to be done are turning on ACI for tiered panels, making public policy in line with Associate Builders, setting up specialized commercial courts to speed up the resolution of Sections 11 and 34, creating required institutional pathways, allowing opt-in appeals (like the HKIAC model), requiring full electronic filing, and doing yearly metrics audits. India will have 20% of the world's cases by 2030 if judges stop being strict and start becoming facilitators instead of overseers. This will make arbitration the principal mechanism to settle issues in a world with numerous poles as part of Make in India 2.0.

CONCLUSION

India's approach to alternative dispute resolution (ADR) has shifted significantly over the last decade. Amendments to the Arbitration and Conciliation Act, 1996, paired with a firm push from the judiciary—especially after the BALCO ruling—have moved arbitration to the forefront of commercial justice. It's no longer just a paper exercise. Section 29A, introduced by the 2015 Amendment, imposed rigid timeframes for awards: 12 months, with a possible 6-month extension. The 2019 changes brought in confidentiality (Section 42A) and promoted institutional arbitration (Section 11(3A)). In 2021, the Eighth Schedule was repealed, giving parties greater flexibility in choosing arbitrators. Collectively, these changes reinforced core principles—party autonomy, competence-competence (Section 16), and a seat-centric approach (Section 20)—all in line with the UNCITRAL Model Law, especially after the pivotal Bharat Aluminium Co. v. Kaiser Aluminium Technical Services Inc. decision.[22]

This marks a clear departure from earlier practices. In 2002, Bhatia International allowed courts to intervene in foreign-seated arbitrations, but BALCO and subsequent cases like Shri Lal Mahal Ltd. v. Proyecto Grin Ltd. reversed this, confirming that Part I applies only to India-seated arbitrations and streamlining the enforcement of foreign awards under Part II.

These reforms offer several advantages. Time limits now mean awards are typically delivered within two years, a major improvement over the four-year timelines before 2015. Parties can select arbitrators with

[22] United Nations Commission on International Trade Law. (1985). *UNCITRAL model law on international commercial arbitration* (G.A. Res. 40/72).

industry expertise, which encourages foreign investment, particularly in infrastructure and technology sectors. Courts have become more effective at enforcing awards. Judgments like ***Vijay Karia v. Prysmian Cavi*** and ***Amazon v. Future Retail*** illustrate a maturing, pro-enforcement approach. Emergency arbitrator decisions are now impactful. New institutions such as the Mumbai Centre for International Arbitration (MCIA) and the New Delhi International Arbitration Centre (NDIAC) have handled over 400 cases by 2025, according to NITI Aayog. The COVID-19 pandemic normalized virtual hearings, and fast-track arbitration (Section 29B, for disputes under INR 3 crore) has increased accessibility, especially for MSMEs that represent the majority of disputes.[23]

However, challenges remain. Delays persist. Section 34 applications to set aside awards can still take two to three years, and with nearly 47 million cases pending in Indian courts, deadlines are often ignored. About 40% of challenges are successful, largely due to the broad "public policy" ground (from ONGC v. Saw Pipes), and the 2021 fraud-stay provision (Section 36(3)) is sometimes misused. Most arbitrations—around 90%—are still ad hoc, leading to inconsistent processes, quality issues, and a perception of unfairness compared to fully institutionalized systems like SIAC. Enforcement remains problematic. International awards are still subject to strict scrutiny under Section 48, especially regarding "patent illegality," which discourages global parties. Many opt for Singapore, where disputes are resolved in 9–12 months, even though the costs are higher than in India.

To address this, India needs to prioritize institutional arbitration. This involves activating the ACI (Part 1A), establishing tiered panels of arbitrators (as suggested in the Law Commission's 275th Report), and creating specialized benches to expedite Section 11 and 34 matters. The "public policy" exception should be more narrowly defined—codifying the standards from Associate Builders and preventing retroactive stays. Parties should be allowed to opt into appeals, like at HKIAC, to enhance enforceability. Data is crucial: regular audits of timelines, set-aside rates, and institutional selection (similar to Queen Mary Surveys) can help assess what's effective, especially as "Make in India 2.0" accelerates. Digitizing processes—using platforms like ARBITRO and e-filing—can help bridge the urban-rural divide.

The international context is important as well. If President Trump returns to office in 2025 and implements pro-business tariffs, Indo-US trade patterns will shift. India could attract $200 billion in FDI into PLI schemes, where robust arbitration clauses are essential. Indian courts are

[23] NITI Aayog. (2024). *Strengthening arbitration in India*. Government of India.

supporting arbitration-friendly norms—the arbitrability matrix in Vidya Drolia, the inclusion of non-signatories in Chloro Controls—so India could compete with Singapore or Hong Kong as Asia's leading arbitration hub, provided judges maintain minimal intervention. They should avoid maximalism (as cautioned in Ssangyong Engg.), adhere to BALCO's minimalist stance, and serve as facilitators, not overseers. If India continues to enhance its infrastructure, conduct empirical reviews, and remain committed to minimalism, it can position arbitration as the core of judicial reform, targeting 20% of the global caseload by 2030—a genuine step toward economic leadership in a multipolar world.

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