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INSTITUTIONAL ARBITRATION IN INDIA

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ABSTRACT

Globalized living requires constant upgrade abreast of latest developments of international law. A significant tendency in the process of settling the clashes is the fact that a settlement through arbitration instead of the traditional court trial is becoming part of common practice. India enacts the Arbitration and Conciliation (Amendment) Act, 2019 (often called the 2019 Act) as a response to the artificial intelligence revolution. Obviously, the target of this measure was to position India as global arbitration hub. However, it looks like it will not be easy and straightforward. Though, it is, important to consider the progress made during the last year in the context of the 2019 amendment. There is a rapid growth of community development contracts around throughout the nation that enable the public private alliances. Furthermore, it is expected that as the market reforms, international businesses may become more common in the sector, due to more liberated environment for foreign direct investment. India features the largest sophisticated market with having a diversified population helping to drive the country's large and expanding economy. Consequently, the space for trade and commerce will inevitably expand, and the issue of business conflicts will be given a greater chance to manifest. This leaves open the question to be answered, "Does India have the system that could effectively address the problems?" The system in India is strong but the left difficulties are evident and the report of India Justice 2019 has not alleviated any of the problems. Additionally, one of the major impediments of the companies, creating contracts is the enforcement of the same.

Introduction

Arbitration is a process of conflict settlement which is as easily acceptable worldwide as anywhere in by the countries across the globe. There are cases when settlement of a conflict on the international level needs an out-of-court proceeding. One of such procedures is arbitration, which is widely used ADR approach for many international disputes. What arbitration offers that neither litigation nor alternative methods of dispute resolution will ever provide is the reason behind its growing popularity! The creation of an arbitration agreement, selecting the arbitrators of one's choice and applying the laws that they are familiar with are some of the main pillars of arbitration and this forms an important aspect of the settlement of the disputes. Private arbitration is, indeed, considered among the many advantages of this means of resolving disputes because of this very approach as well as confidentiality, efficiency, timeliness and choice of the arbitrators.

An economy of the country is at stake as well as its image as a prime commercial venue on effective resolution of disputes. In a short time period, India's economic growth track record has clearly shown that it is serious about being a global trading center. For example, the Made in India campaign, encouraging private investment into start ups, and the tax reform to ensure investor confidence are all recent and notable efforts. After the implementation of such initiatives, India rose by 14 places in the Ease of Doing Business index and it was placed at 63rd out of 190 countries. However, their

reliance on the fact that these legal amendment ensures efficiency in contract enforcement and bankruptcy mechanism is so important to keep balance among the society during an economic recession.

Even though all these improvements are made, India sustains a position not that better than other nations that have occupied the OECD certificate. For example, it takes the Indian courts on average 1445 days to resolve a local commercial dispute at the first instance which is 3 times longer than the average time taken in the OECD countries for this purpose. Therefore, the Indian rule has an adverse impact on business response to the nation's economic environment. Additionally, these processes are most of the time factors accounting for 39.8% of claims per value. India's contract enforcement regime is not strong either. It has the judicial rank of 163rd in the world. This was primarily caused by flaws in court room operations, which encompassed court setup and court procedure, case administration, automated court systems, and alternative ways of dispute resolution.

Historical Perspective: Ad-Hoc Arbitration vs Institutional Arbitration

Indian apporaches to understand conflicts in the past is considered a as an informal and ad hoc processes which did not satisfy the demand of settling dispute effectively. Indian parties frequently give much attention to venues of arbitration in foreign countries like Singapore and London as they depend on an interior improvised arbitration system. The number of reasons cited in this regard provides a clarity of the problems boiling today in India in the context of dispute resolutions. The tribunal model that we had to adopt for resolving commercial disputes was not a surprise as there were no proper arbitration institutions in India. Arbitration won't be perceived favorably because nobody will respect the arbitration processes when there is no authority to monitor the procedures and ensure their impartial. Because the dispute is handled by an excellent organization like Singapore International Arbitration Centre (SIAC) which provides a more credible dispute resolution framework hence institutional disputes been moved outside.

The issue of Judicial backsliding also came an obstacle to the growth of the arbitration in India. The reliance and absolute nature of the arbitral rulings have been undermined by Indian courts' involvement in arbitral procedures, wherein their continuous judicial review and activities are nothing short of obstructive. This handling resulted in diminishing of arbitration's expected benefits and unpredictability in the matter of a decision based on an international point of view. It seemed that the parties involved in arbitrations were being thrown with more difficulties because there was no separate arbitration cluster available in India. Despite the prevalence of professional arbitral centers in India, unlike countries with established arbitration laws and a pool of qualified legal experts experienced in arbitration, finding professionals with knowledge about arbitration protocols and practice proved to be difficult. Such a labor shortage in the cadre of people with adequate expertise in case arbitration provisions implied full limitation on the pool of candidates for parties and held back the general development of arbitration.

The process of arbitration suffered in India due to laxity, inconsistency and lack of elaborate and defined uniform public policy outline. The level of uncertainty and non-predictability associated with the contentions between parties over the meaning and extent of the public policies when introducing them into the arbitrational rules and procedures. This unknown caused foreign investors not to immensely participate anymore in arbitration in India because it also deterred them from selecting India as the venue for their arbitration. Now as if it was not enough causing the already damaged the perception of the India as the country providing arbitration it it made so many Indian parties to seek resolution in ways which were completely foreign to the national territory. Particularly, in India, which had a more

appealing arbitration environment to which political parties were more acquainted with institutions such as the SIAC.

However, recognizing the fact that reforms are needed, Indian lawmakers and the judiciary have begun what it takes to place institutional arbitration at the center of the dispute resolution ecosystem and overcome the shortcomings in the structure. The settingup procedures aimed at encouraging shifting from ad hoc private arbitration to party-appointed arbitration formalization has become more deliberate recently in India. These solutions entail several initiatives such as taking various steps like enhancing arbitral reputation, efficiency, and allure as a peaceful method of settling conflicts.

Thus, throughout the history of arbitration in India it was marked by many unwanted difficulties however, these attempts and reforms intended for the setting up of an institutional arbitration. India has the ambition to solve the issue of the lack of reliable institutions, the court meddling, and a "barrier to entry" so that Arbitration becomes a main stream defence mechanism of global partnership. Nevertheless, growth in the use of arbitration and ADR methods in resolving civil cases in India will be possible with the increase of awareness and the use of these techniques as an alternative to the traditional court trials.

High Level Committee (HCL) Report on Institutionalizing Arbitration

On 3 August 2017, the Honorable Justice Mr. R.S. Prasad, the Minister of Justice and Electronics and Information Technology, accepted the report of the High-Level Committee (HLC), which was headed by Justice SriKrishan , and had 7 sessions. The study was divided in three parts: (a) each part of which discussed individually different areas of Indian arbitration; and (b) each part of which suggested useful tips/suggestions to improve these.

The HLC engaged the resourceful entities in the arbitration sector to better the performance and acceptability of arbitration centres in India as its first step. In addition to that, it was recommended to set up an Arbitration Promotion Council of India (APCI) as a neutral privately managed body. The group will, though, have representatives from all the parties coming together and it being responsible for giving the grades to the international centres in the entire country at the end of the semester. For the purpose of educating lawyers who want to specialize in ADR the APCI will also recognize corporations that certify arbitrators as well as conduct training sessions in conjunction with law firms and state universities.

The second advice of the High-Level Commission was set to create the Business Arbitration Court inside the legal system as a measure to solve the long lasting commercial disputes in a timely and effective manner . For this recommendation to pass, however, the act deed should be altered by the sections of the Arbitration and Conciliation Act of 2015, in line with the best practices and to speed up the arbitration process. Committee focused on campaigning arbitration be given extreme attention as can be seen in the creation of The National Litigation Policy (NLP) .

The HLC[2298] evaluated the operation of the Indian Council of Arbitration (ICADR) as an institution which is one of the administrative units of the Ministry of Law and Justice in Part II of the report. All of their proposals gave way for the ICADR to be entitled to a statutory takeover status as a national entity of great obsolescence. Finally, it was ICADR that was introduced to the aid of ADR mechanisms and the various related venues that host such mechanisms. Its Committee agreed upon the improvement of ICADR, which by that time was still striving to compete with other arbitration centers on the world arena.

The matters of arbitration pertaining to the Union of India, and for the cases of arbitrations under bilateral investment treaties (BIT), were

[2298] Report of the High Level Committee to Review the Institutionalisation of Arbitration Mechanism in India (2017).

discussed under part III of the full text. This indicated establishing an International Law Advisor (ILA) office, which would provide the government with issue-based and conflict-resolution policy proposals, as part of its focus on resolving BIT disputes. They laid down the position DTAA stands for dialogue with Indian Liaison Agencies during the trade negotiations and signings and indicated the Department of Economic Affairs that it is the agency in charge of this process.

As a result, through institutional quality enhancement, specialized training, expedited legal processes, and facilitating government participation in arbitration, the HLC's recommendations aimed at fixing the arbitration system of India. Finally, these goals were accomplished through the improvement of institutional quality, specialized training, expedited legal procedures, and fostering government involvement in arbitration. In its recommendations, arbitration was underscored as an instrumental factor which contributes to development of efficient dispute-resolution mechanisms and helps to rejuvenate India's position among the leaders of global arbitration.

Role of Arbitration Institutions in India

Adjudication within the Indian progress context is hinged on the non-judicial composed of arbitration institutions as the fast solutions to settle disputes providing the essential infrastructure, support, and resolution method to clear the shortcomings of problems that litigation faced in the past. Some of these bodies which are comprising Arbitration Promotions Council of India (APCI) are trying to evolve among the arbitration community by solely helping in the accreditation of and training the arbitrators. On the top of this, they also lobby for institutional arbitration which works as the arbitration engine by reducing its process to a minimum and thus lets more space for Indian courts. In India, since institutional arbitration is increasing because of policy changes like the Arbitration and Conciliation Amendment Act of 2019 (the "2019 Amendment"), its significance has come to the fore.

The 2019 Amendment, that has formed the Arbitration Council of India (ACI), is a landmark legislation, which fills in the gap of institutional arbitration weakness and biasness. Sections 43-A through 43-M of the trade dispute resolution covers the functions of ACI, including the role of promoting different forms of alternative dispute settlement mechanisms like arbitration, mediation and conciliation. To achieve that the ACI is in charge of setting rules, evaluate arbitral institutions and arbitral candidates, and conduct dialogue. The purpose is to be of a country with a leading position as an arbitration place. However, there is still no precise plan in place about the whole execution of the ACI's mandate. Despite the fact that the 2019 Amendment has been duly adopted[2299].

Joining the India International Arbitration Centre (IIAC) is one other must-mention when talking about the arbitration sector of India. IIAC aims mainly at improving India's role and visibility on the so-called 'arbitration map' by the various researches, teaching, and training activities that the center provides. Through inter-court transfers of arbitral appointments to the Multi-Project Commercial Arbitration Centre at Mumbai, reminscent of the tradition of sentencing judges to counterparts in other jurisdictions, the Supreme Court of India has signified its commitment to institutional arbitration and set up the standard for an efficient and fast-forward arbitration process[2300].

Therefore, the institutional uniqueness of India is crucial to the development of institutional arbitration as well as its country's status in the peacefully settlement of disputes. Through

[2299] Edlira Aliaj, Dispute resolution through ad hoc and institutional arbitration, 2, Academic Journal of Business, Administration, Law and Social Sciences (2016), (Last Accessed on 11th of April, 2024) http://iipccl.org/wp-content/uploads/2016/07/241-250.pdf.

[2300] World Bank, Ease of Doing Business 2019, https://www.doingbusiness.org/content/dam/doingBusiness/media/Annual Reports/English/DB2019-report_webversion.pdf, (Last Accessed on 06th April, 2024).

training, certification, and advocacy programs these organizations not only bolster arbitration industry locally but also they develop a high quality and balanced ecosystem which in turn contributes to the effective settlement of conflicts and provision of justice. To improve the institutional potential and quality of resolution, additional activities are still needed.

Challenges to Institutional Arbitration in India

In the flow of emerging the path for international-standard arbitration organizations onwards and the further expansion of their jurisdiction is one of the key problems in the view of Indian arbitrating system. India is becoming one of the countries where arbitration is being increasingly used as a means of resolving disputes amid the slower growth of this method in the world yet. Still, there are some obstacles that make India an exception in the context of the currently fastest-growing popularity of arbitration as this method mainly on the global scale. The major hindrances to arbitration process like, (i) many people thinking about the arbitration process unproductive, (ii) no legislative strength, (iii) no political support and (iv) courts being too involved in the process that actually lengthens it also exist.

One of main reasons is the understanding of the arbitration conducted by the institution to be more expensive than the arbitration conducted by an individual. Resource associated with applying arbitral institutions implies litigants are not going to see institutional arbitration as more affordable. This argument, however, does not take into consideration an important fact that financial benefits are a result of saved costs to avoid the disagreements over procedural issues and the arbitration organizations that organize arbitration procedures in an effective way. Also, commercial arbitration is often wrongly regarded as a place where only institutions are in charge while parties' autonomy is highly restricted. However, in reality most arbitral institutions remain intent to impose rules curtailing the scope of regulation to issues of originality and integrity of proceedings in order to achieve the right equilibrium between institutionalization and parties autonomy. The fact that they are unaware of the advantages of institutional arbitration for the parties may often not be singled out as the reason[2301].

The lack of a robust legal framework for consolidated institutional arbitration in India is also known as an impeding factor. The state that is the most litigant nation does have contracts and rules; being, however, the latter are rarely providing for institutional arbitration. The institutional arbitration system is not able to progress due to the fact that the government policy in this area is unclear. Such cases demand a lot of money, so they consider it particularly significant. There are some states which are keen to follow institutional arbitrations, but not yet in force of any legislative actions to establish arbitration institutions. On similar lines, districts like Singapore give institutional arbitration a gentler touch by providing a specifically crafted jurisdiction but on the other hand, India's Arbitration Act does not have any specific provisions intended to foster institutional arbitration[2302].

Also, judicial carnival arbitration being prevalent in India is another hurdle in the way of institutional arbitration. Problems which are the effect of the clogging up of the court cases in Indian courts and that of the judges who interfere with the arbitral processes are exaggerations. Dispute settlements can be met quite often as they include the legal procedures before or during arbitration that leads to additional delay of a dispute. By establishing a Series of specialist business courts which could adjudicate arbitration cases speedily, the Act of Business Courts aimed at addressing this issue comprehensively. Nevertheless, the issue of judges changing with the overview and a deficiency in international arbitration law and

[2301] Fouchard, Gaillard, Goldman, the International Commercial Arbitration book, (1999).
[2302] Sundra Rajoo, 'Institutional and Ad hoc Arbitrations: Advantages and Disadvantages', The Law Review (2010).a

practice skills remain the critical challenges for the effectiveness of the ICJ. Besides, there is not desire for India to become a friendly country for dispute resolution since the courts are an obstacle for the dispute procedures and their lacunas in judgmental precedence.

While the Indian government has taken some practical steps to promote the development of institutional arbitration by taking some important steps, still the majority of the barriers exist that are preventing the full use of arbitration. However all these impediments should be overcome by debunking the myths around the rigidity and costliness of institutional arbitration, collecting state support, will legislate cases in favour of institutional arbitration and less complicated judicial intervention in arbitration proceedings. Through the elimination of these hurdles, India may play the role in fostering arbitration environment and being source of nationally and foreign parties for formal arbitration and also may work as top arbitration center in world.

Srikrishna Committee

The Indian government established a High Level Committee in December 2016 with Justice (Retd.) B.N. Srikrishna as its head, marking a major advancement in the institutionalization of arbitration. This Committee was entrusted with examining and suggesting changes to fortify India's arbitration system. This Committee was established in response to previous declarations made by influential Indian leaders pledging to support the nation's institutional arbitration framework[2303].

On August 3, 2017, following several months of discussion and examination, the Committee turned in its thorough report. This study included a number of important suggestions meant to change India's arbitration laws. Here, we examine the main suggestions made by the Committee and assess how they could affect the arbitration landscape.

- The creation of the Arbitration Promotion Council of India (APCI) was one of the Committee's main recommendations. The APCI's intended function would be to accredit arbitrators and assess arbitral institutes in India. The APCI, which gets its inspiration from organizations such as the Chartered Institute of Arbitrators (CIArb), works to advance arbitration by offering arbitrators certification and training. Notably, the Committee stressed the APCI's autonomy and expressed the desire for it to remain an independent organization independent of the government. Furthermore, in order to prevent monopolization of the accreditation process, the Committee made it clear that accreditation by the APCI would not be a prerequisite for the acceptance and execution of verdicts administered by arbitral institutions.
- The Committee's proposal to establish an arbitration bar and specialized arbitration benches in India was another important one. In order to promote best practices in international arbitration inside the nation, the arbitration bar would be made up of qualified and accredited arbitrators. The judges sitting over these specialist arbitration benches would periodically take refresher courses on the latest advancements in arbitration while they handled arbitration issues before the courts. The objective of this project is to bring about a reform in arbitration by guaranteeing that judges and attorneys have the requisite knowledge to enable smooth arbitration procedures.
- The Committee recognized some of the difficulties presented by the 2015 modifications to the Arbitration and Conciliation Act, 1996 (the Act), especially with relation to the lengthy judicial participation that causes delays in the arbitration procedure. The Committee suggested changes to

[2303] T Webster and M Buhler, Handbook of ICC Arbitration: Commentary, Precedents and Materials (3rd edn, Sweet & Maxwell 2014).

address these issues and advance institutional arbitration in India. Limiting the role of Indian courts in arbitrator appointments was one of the Committee's major recommendations. The Committee suggested changing Section 11 of the Act to designate arbitral institutions designated by the Supreme Court or High Courts for the appointment of arbitrators, taking inspiration from the appointment processes in countries like Singapore, Hong Kong, and the UK. The purpose of this change is to expedite the arbitration procedure and lessen the time that court-related actions take.

- The Committee promoted the use of arbitration in government contract disputes as an alternative to costly and time-consuming judicial cases. The Committee suggested using the National Litigation Policy (NLP) to push government agencies and independent groups to arbitrate conflicts in order to accomplish this goal. The Department of Justice created an action plan to decrease government litigation in response to this advice, advising government bodies to think about arbitration as a preferable method of resolving disputes. The proposal put out by the Committee aims to establish an arbitration culture in government contracts, which would lessen the load on the courts and increase the effectiveness of dispute settlement.
- The Committee suggested designating the International Centre for Alternative Dispute Resolution (ICADR) as an institution of national importance in recognition of the organization's revolutionary potential. The objective of this distinction is to augment ICADR's worldwide competitiveness and improve its standing. Due to its low exposure and marketing initiatives, ICADR has handled comparatively few cases despite being established in 1995. The government plans to aggressively market ICADR's services and encourage its selection as the preferred arbitral institution, especially in contracts relating to the government, by designating it as an institution of national importance.
- Finally, the Committee suggested permitting overseas attorneys to take part in and represent clients in arbitrations conducted outside of India. This proposal aims to reduce barriers to immigration and taxes, which will promote more involvement of foreign attorneys in India's institutional arbitration system. Although foreign attorneys often take part in international arbitrations held in India, it is anticipated that their involvement would increase with the provision of more precise immigration and taxes regulations.

Therefore, the proposals made by the High Level Committee, which Justice B.N. Srikrishna led, are a big step in the right direction for improving and reviving India's arbitration system. These suggestions have the potential to improve investor trust in India's legal system, enhance the country's standing as a desirable location for arbitration, and encourage efficient conflict settlement. To guarantee that these reforms result in noticeable enhancements to the arbitration ecosystem, legislators, attorneys, arbitral organizations, and other stakeholders must work together for the effective implementation of these changes.

Developments from the Courts

The Supreme Court of India issued an order in July 2017 involving the Mumbai Centre for International Arbitration (MCIA) in an international arbitration dispute between Sun Pharmaceuticals Industries Ltd. and Nigeria-based Falma Organics Ltd., marking a significant development in India's arbitration landscape. This ruling was a significant step toward the advancement of institutional arbitration in the nation since it was the first time the Court has used Section 11 of the

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Arbitration and Conciliation (Amendment) Act, 2015.

The modified Section 11 gives the Supreme Court and the High Courts the authority to name an arbitrator at a party's request in the event that the opposing party does not name an arbitrator within 30 days of the request being made. This clause deals with the problem of arbitrator appointment delays, which was a major source of worry in the Indian arbitration scene.

Prior to designating an arbitrator, Section 11 mandated that the courts investigate the existence and legality of the arbitration agreement. This procedure was laborious and time-consuming, especially as the High Courts handled domestic arbitration proceedings and the Supreme Court alone had authority over Section 11 applications pertaining to conflicts involving foreign arbitration. The extended duration of procedure, in conjunction with an unfamiliarity with appropriate arbitrators, resulted in inefficiencies in the arbitration process.

In addition to demonstrating the judiciary's support for arbitration, the Supreme Court's ruling in the Sun Pharmaceuticals-Falma Organics case gave the MCIA, which had just been created as India's preeminent arbitral organization, legitimacy. The Court demonstrated its readiness to assign such duties to arbitral institutions by establishing a precedent for future cases by including the MCIA in the nomination of an arbitrator.

This is an important development for a number of reasons. In the first place, it emphasizes how important institutional arbitration is to the effective resolution of conflicts by the judiciary. The Court demonstrated its confidence in the MCIA's capacity to manage arbitration cases by interacting with such a specialist organization. Parties choosing institutional arbitration are likely to feel more confident as a result of this decision, knowing that their conflicts will be handled more quickly and expertly.

Second, other courts at the High Court and lower echelons may follow the Supreme Court's lead and adopt a comparable strategy. Courts can expedite the arbitration process and ensure prompt conflict settlement by enabling arbitral institutions to help with arbitrator appointments.

Furthermore, the participation of organizations such as the MCIA in arbitration procedures improves the process's accountability and openness. These organizations usually have a roster of competent arbitrators, guaranteeing that appointments are determined by qualifications and experience. This dispels any doubts regarding partiality or prejudice in the choice of arbitrators, therefore enhancing the arbitration process' legitimacy.
The Supreme Court's ruling also emphasizes the necessity of continuous changes to India's arbitration laws. Even while the 2015 Amendment Act brought about a number of beneficial adjustments to the arbitration environment, there is still room for development, especially with regard to the selection of arbitrators. The Court's proactive stance in this area indicates a readiness to modify and improve current legislation in order to better meet the interests of parties involved in arbitration[2304].

Hence, A major advancement for institutional arbitration in India has been made with the Supreme Court's ruling engaging the MCIA in the nomination of an arbitrator in the Sun Pharmaceuticals-Falma Organics case. The Court's decision to assign arbitrator appointments to specialized organizations is indicative of its dedication to advancing effective and efficient dispute settlement procedures. This breakthrough is expected to have a significant impact on India's arbitration scene, opening the door for more institutional participation and enhanced trust in the arbitration procedure.

Conclusion

India's arbitration institutions are crucial in determining how the country develops into one

[2304] Peter J. Turner and Reza Mohtashami, A Guide to the LCIA Arbitration Rules (OUP 2009) 137-78.

of the world's leading arbitration hubs. These organizations work as catalysts for the development of a thriving arbitration community, the adoption of institutional arbitration procedures, and the promotion of legislative changes that are in line with the changing demands of the arbitration market.

The progress of arbitration in India is contingent upon a comprehensive strategy that integrates institutional growth, cultural shifts, and legislative modifications. India exhibits its dedication to provide effective, dependable, and unbiased channels for settling conflicts by adopting institutional arbitration as the cornerstone of its dispute resolution architecture. India's proactive approach in this area is demonstrated by the formation of organizations like the India International Arbitration Centre, which indicates the country's preparedness to address the needs of a dynamic and quickly changing arbitration scene.

India has to keep making the development and maintenance of its arbitration institutions a top priority if it is to reach its full potential as a leader in international arbitration. These establishments form the cornerstone of India's arbitration landscape, offering the necessary resources, know-how, and assistance to enable the smooth operation of arbitration procedures. These institutions play a major role in making India an appealing location for arbitration, both domestically and internationally, by improving the effectiveness, accessibility, and legitimacy of arbitration. It is impossible to overestimate the significance of arbitration institutions given India's growing economic influence on the world stage. By offering a strong framework for settling conflicts, their efforts not only help Indian citizens and companies but also enhance India's standing as a trustworthy and arbitration-friendly country. These institutions will be vital in forming India's arbitration landscape and enhancing its standing as a strong arbitration powerhouse, as the country aims to establish itself as a major participant in the global arbitration arena.

To significantly improve India's arbitration ecosystem going ahead, continued cooperation and creativity between arbitration institutions, attorneys, legislators, and other stakeholders will be crucial. India can further advance its position as a worldwide leader in arbitration by utilizing the combined knowledge and resources of these organizations, promoting creativity, quality, and effectiveness in the dispute resolution industry.

References

- World Bank, Ease of Doing Business 2019, https://www.doingbusiness.org/content/dam/doingBusiness/media/AnnualReports/English/DB2019-report_webversion.pdf, (Last Accessed on 06th April, 2024).
- The High Level Committee was given the mandate to review the institutionalization of arbitration mechanism and suggest reforms thereto. The Committee held 7 sittings. It submitted its report on 3 August, 2017 to Shri Ravi Shankar Prasad, Hon'ble Minister of Law & Justice and Electronics and Information Technology.
- Report of the Working Group on International Contract Practices on the work of its third session, A/CN.9/216, paras. 15-18, 17; Report of the Secretary-General: Possible Features of a Model Law on International Commercial Arbitration, A/CN.9/207, paras. 29-30.
- Peter J. Turner and Reza Mohtashami, A Guide to the LCIA Arbitration Rules (OUP 2009) 137-78.
- Maxi Scherer and Lisa Richman, Arbitrating under the 2014 LCIA Rules: A User's Guide (first published 2015, Kluwer Law International 2015) 239-256 paras 32-33.
- T Webster and M Buhler, Handbook of ICC Arbitration: Commentary, Precedents and Materials (3rd edn, Sweet & Maxwell 2014).