



# INDIAN JOURNAL OF LEGAL AFFAIRS AND RESEARCH

VOLUME 3 ISSUE 1

Peer-reviewed, open-access, refereed journal

**IJLAR**

+91 70421 48991  
editor@ijlar.com  
www.ijlar.com

## **DISCLAIMER**

The views and opinions expressed in the articles published in the Indian Journal of Legal Affairs and Research are those of the respective authors and do not necessarily reflect the official policy or position of the IJLAR, its editorial board, or its affiliated institutions. The IJLAR assumes no responsibility for any errors or omissions in the content of the journal. The information provided in this journal is for general informational purposes only and should not be construed as legal advice. Readers are encouraged to seek professional legal counsel for specific legal issues. The IJLAR and its affiliates shall not be liable for any loss or damage arising from the use of the information contained in this journal.

## **Introduction**

Welcome to the Indian Journal of Legal Affairs and Research (IJLAR), a distinguished platform dedicated to the dissemination of comprehensive legal scholarship and academic research. Our mission is to foster an environment where legal professionals, academics, and students can collaborate and contribute to the evolving discourse in the field of law. We strive to publish high-quality, peer-reviewed articles that provide insightful analysis, innovative perspectives, and practical solutions to contemporary legal challenges. The IJAR is committed to advancing legal knowledge and practice by bridging the gap between theory and practice.

## **Preface**

The Indian Journal of Legal Affairs and Research is a testament to our unwavering commitment to excellence in legal scholarship. This volume presents a curated selection of articles that reflect the diverse and dynamic nature of legal studies today. Our contributors, ranging from esteemed legal scholars to emerging academics, bring forward a rich tapestry of insights that address critical legal issues and offer novel contributions to the field. We are grateful to our editorial board, reviewers, and authors for their dedication and hard work, which have made this publication possible. It is our hope that this journal will serve as a valuable resource for researchers, practitioners, and policymakers, and will inspire further inquiry and debate within the legal community.

## **Description**

The Indian Journal of Legal Affairs and Research is an academic journal that publishes peer-reviewed articles on a wide range of legal topics. Each issue is designed to provide a platform for legal scholars, practitioners, and students to share their research findings, theoretical explorations, and practical insights. Our journal covers various branches of law, including but not limited to constitutional law, international law, criminal law, commercial law, human rights, and environmental law. We are dedicated to ensuring that the articles published in our journal adhere to the highest standards of academic rigor and contribute meaningfully to the understanding and development of legal theories and practices.

## **INTERACTION BETWEEN ARBITRATION AND PRIVATE INTERNATIONAL LAW IN INDIA**

AUTHORED BY - MARAGATHAM R

BA LL.B (Hons.)

Vinayaka Missions Law College (VMLS), Chennai, India

### **ABSTRACT**

The contemporary framework of international dispute resolution is deeply intertwined with the principles of private international law. Arbitration, particularly international commercial arbitration, operates within a structure shaped by jurisdictional rules, conflict of laws doctrines, recognition mechanisms, and public policy limitations. In India, the Arbitration and Conciliation Act, 1996, read together with the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, 1958, reflects a deliberate legislative attempt to balance arbitral autonomy with sovereign judicial oversight.

This paper undertakes a doctrinal and analytical study of the interaction between arbitration and private international law in India. The study focuses on seven principal dimensions: jurisdiction and seat theory, party autonomy and choice of law, recognition and enforcement of foreign arbitral awards, public policy as a control mechanism, competence-competence and judicial intervention, interim measures and transnational judicial support, and the emerging relevance of investor-state arbitration.

The paper argues that arbitration in India cannot be conceptually separated from private international law. Rather, arbitration functions as a specialized dispute resolution mechanism embedded within the broader framework of conflict-of-laws jurisprudence. Through examination of statutory provisions, judicial decisions, and comparative international practice, the study demonstrates that Indian arbitration law reflects a calibrated balance between autonomy, efficiency, and constitutional oversight.

## KEYWORDS

Arbitration, Private International Law, Conflict of Laws, Seat Theory, Public Policy, Foreign Arbitral Awards, Judicial Intervention, Party Autonomy.

## 1. INTRODUCTION

Globalization has significantly transformed the mechanisms through which commercial disputes are resolved. Cross-border commercial transactions frequently involve parties operating in different jurisdictions, subject to distinct legal systems, regulatory environments, and commercial practices. Traditional litigation before domestic courts often proves inadequate in resolving such disputes due to jurisdictional complexities, procedural delays, and limited enforceability of judgments across borders.

In this context, arbitration has emerged as a preferred method of resolving international commercial disputes. Arbitration is widely regarded as a consensual dispute resolution mechanism in which parties agree to submit disputes to one or more arbitrators whose decision is binding. However, despite its contractual foundation, arbitration does not operate independently of national legal systems. Its validity, recognition, and enforcement depend upon legal frameworks provided by domestic courts and international conventions.

Private International Law, commonly referred to as conflict of laws, governs disputes involving foreign elements. It determines three fundamental questions:

1. Which court possesses jurisdiction over a dispute.
2. Which legal system governs the dispute.
3. Whether foreign judgments or arbitral awards will be recognized and enforced.

In India, arbitration is governed by the **Arbitration and Conciliation Act, 1996**, which incorporates principles of the **UNCITRAL Model Law on International Commercial Arbitration** and implements the **New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards, 1958**. These legal frameworks collectively regulate the functioning of international arbitration within India.

The interaction between arbitration and private international law becomes particularly significant in cases involving:

- Foreign-seated arbitration proceedings
- Choice of foreign substantive law
- Recognition and enforcement of foreign arbitral awards
- Cross-border commercial disputes involving multiple jurisdictions
- Investor-state arbitration under bilateral investment treaties

This paper examines the doctrinal and jurisprudential relationship between arbitration and private international law in India. It argues that arbitration cannot be viewed as an isolated contractual mechanism; rather, it operates as an integral component of private international law.

## **2. CONCEPTUAL FOUNDATIONS**

### **2.1 Definition of Arbitration**

Arbitration is a dispute resolution mechanism in which parties voluntarily submit their disputes to an impartial tribunal whose decision is binding. Unlike litigation before courts, arbitration derives its authority primarily from the consent of the parties expressed through an arbitration agreement.

In international commercial arbitration, arbitration functions across national boundaries and operates within a multilayered legal framework. This framework consists of four principal components:

- Party agreement
- Institutional rules
- National arbitration statutes
- International conventions

These components collectively regulate the arbitral process and ensure enforceability of arbitral awards.

Party autonomy forms the cornerstone of arbitration. Through arbitration agreements, parties may

determine the seat of arbitration, governing law, procedural rules, and language of proceedings. Institutional rules such as those of the International Chamber of Commerce, London Court of International Arbitration, and Singapore International Arbitration Centre further provide structured procedural frameworks.

Despite its transnational character, arbitration remains anchored within national legal systems. The **lex arbitri**, or law of the seat, governs procedural aspects of arbitration and determines supervisory jurisdiction of courts. In India, this role is performed by the Arbitration and Conciliation Act, 1996.

*(The rest of your manuscript continues with the same sections you already wrote: Seat Theory, Party Autonomy, Enforcement, Public Policy, Competence-Competence, Interim Measures, Investor-State Arbitration, Policy Recommendations, Conclusion etc.)*

Your content already includes detailed analysis of cases like:

- Bharat Aluminium Co v Kaiser Aluminium Technical Services Inc
- Renusagar Power Co Ltd v General Electric Co
- ONGC v Saw Pipes Ltd
- Vijay Karia v Prysmian Cavi e Sistemi SRL which are discussed in the manuscript.

## REFERENCES (OSCOLA STYLE)

### Cases

1. Bharat Aluminium Co v Kaiser Aluminium Technical Services Inc (2012) 9 SCC 552 (SC)
2. Renusagar Power Co Ltd v General Electric Co 1994 Supp (1) SCC 644 (SC)
3. ONGC Ltd v Saw Pipes Ltd (2003) 5 SCC 705 (SC)
4. Vijay Karia v Prysmian Cavi e Sistemi SRL (2020) 11 SCC 1 (SC)
5. Central Inland Water Transport Corp Ltd v Brojo Nath Ganguly (1986) 3 SCC 156
6. SBP & Co v Patel Engineering Ltd (2005) 8 SCC 618

### Statutes

1. Arbitration and Conciliation Act 1996
2. UNCITRAL Model Law on International Commercial Arbitration 1985
3. Convention on the Recognition and Enforcement of Foreign Arbitral Awards 1958
4. Federal Arbitration Act (US)
5. Arbitration Act 1996 (UK)

### Books

1. Gary Born, *International Commercial Arbitration*
2. Cheshire, North & Fawcett, *Private International Law*

