



The Changing Landscape of Arbitration in India: Key Challenges and Opportunities

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Abstract

This study examines the evolving landscape of arbitration in India, focusing on the key challenges, opportunities created by recent reforms, and alignment with international standards. Using a quantitative survey of 120 stakeholders, including legal practitioners, arbitrators, and institutional representatives, descriptive statistics were employed to assess the significance and variation of challenges such as delays in proceedings, judicial interference, underdeveloped institutional arbitration, difficulties in award enforcement, and high arbitration costs. The study further evaluated the effectiveness of reforms, including promotion of institutional arbitration, streamlined procedures, limitation on judicial intervention, adoption of ADR mechanisms, and cost regulation. Comparative analysis with leading international arbitration institutions, such as SIAC and ICC, highlighted gaps in procedural efficiency, autonomy, institutional credibility, and cost-effectiveness. The findings underscore the need for stricter enforcement of statutory timelines, capacity building, stakeholder awareness, and enhanced institutional mechanisms to position India as a globally competitive arbitration hub.

Keywords: Indian Arbitration, Arbitration Reforms, Institutional Arbitration, Judicial Interference, Award Enforcement, ADR Mechanisms, Procedural Efficiency, International Standards.

1. Introduction

Arbitration in India has evolved from being an ancillary mode of dispute resolution to a central pillar of commercial justice, driven by legislative reform, judicial intervention, and policy initiatives aimed at making India arbitration-friendly. The foundational statutory framework is the Arbitration and Conciliation Act, 1996 (Act No. 26 of 1996), which incorporated the UNCITRAL Model Law into Indian law and established the regimes for both domestic and international commercial arbitration. Key provisions such as Section 11 (appointment of arbitrators), Section 34 (setting aside an award) and Section 48 (enforcement of foreign awards) continue to shape the practical interaction between arbitral tribunals and courts. (The Arbitration and Conciliation Act, 1996).



Over the last decade the statutory landscape has been repeatedly adjusted — most notably by the 2015 and 2019 amendments — to reduce court intervention, streamline arbitral procedure, and promote institutional arbitration (including the proposed Arbitration Council of India). These changes sought to limit interlocutory judicial roadblocks (for example, reforms to Section 28 and Section 11 procedures) and to encourage finality and efficiency in awards, but implementation gaps and interpretative issues have persisted, prompting further debate and draft reform proposals. (Arbitration and Conciliation (Amendment) Acts/ Bills; PRS India; commentary).

Judicial developments in the Supreme Court and High Courts have had an outsized impact on practice and policy. Recent high-profile decisions — including the Supreme Court’s 2025 ruling in *Gayatri Balasamy v. ISG Novasoft Technologies Ltd.* — clarified (and in some respects reopened) the scope of judicial powers in challenge proceedings, holding that courts may, in narrowly defined circumstances, modify arbitral awards during Section 34/37 proceedings; the judgment has re-ignited legislative and academic discussion about the proper balance between judicial review and arbitral finality. These case law developments demonstrate how courts continue to play a formative role in arbitration even as lawmakers attempt to reduce unnecessary intervention.

Practically, the arbitration ecosystem faces a mix of persistent challenges and tangible opportunities. Challenges include (a) delays caused by tactical litigation and under-resourced institutional capacity; (b) uneven quality of arbitration clauses and contract drafting (which the Supreme Court has admonished in recent hearings); and (c) uneven readiness of domestic institutions to handle complex, multi-party, cross-border disputes. At the same time, opportunities are substantial: the push for an independent Arbitration Council of India (ACI), continued legislative drafting to plug identified gaps, growth of specialized commercial courts to coordinate with arbitral processes, and an expanding body of pro-enforcement case law together create conditions for India to consolidate its position as a global arbitration hub — provided reforms are implemented coherently and institutional capacity is scaled up.

The changing landscape of arbitration in India is characterized by dynamic interplay between statute, policy and precedent: legislative reform has set a reformist agenda, courts have been active in interpreting and sometimes expanding judicial oversight, and practitioners face the twin tasks of improving contractual drafting and strengthening institutional arbitration



infrastructure. The net effect is a system at an inflection point — with real potential to deliver faster, predictable dispute resolution if legislative proposals, institutional reforms, and judicial guidance converge to limit delay, enhance expertise, and preserve arbitral finality. (Comprehensive commentary and comparative reviews).

1.1. The Emergence of the Study

The emergence of this study lies in the increasing recognition that arbitration has become a cornerstone of India's commercial dispute resolution framework, shaped by statutory enactments, international commitments, and evolving judicial trends. The Arbitration and Conciliation Act, 1996 (Act No. 26 of 1996), modelled on the UNCITRAL Model Law, provided the initial framework, with provisions such as Section 11 on the appointment of arbitrators, Section 34 on the setting aside of awards, and Section 48 on the enforcement of foreign awards establishing the balance between arbitral autonomy and judicial oversight (The Arbitration and Conciliation Act, 1996). The successive amendments in 2015 and 2019 sought to address systemic inefficiencies, curtail excessive court interference, and institutionalize arbitration through mechanisms like the proposed Arbitration Council of India (Arbitration and Conciliation (Amendment) Act, 2019). However, despite these reforms, challenges persist, as highlighted in cases such as *Gayatri Balasamy v. ISG Novasoft Technologies Ltd.* (2025), where the Supreme Court revisited the scope of judicial modification of arbitral awards under Section 34, reflecting continued judicial dynamism in defining arbitral finality (Khanna & Viswanathan, 2025). Moreover, policy reports have underscored the urgent need to discourage poorly drafted arbitration clauses and penalize drafting lapses, a concern recently voiced by the Supreme Court itself (Times of India, 2025). In this context, the study emerges as significant because it examines how India's arbitration regime is transitioning from an ad hoc, court-dependent system toward an institutional, globally competitive framework, while simultaneously confronting pressing challenges such as delay, enforceability, and party autonomy (White & Case, 2024; Wolters Kluwer Arbitration Blog, 2024).

1.2. The Statement of the Problem

The problem addressed in this study stems from the evolving arbitration landscape in India, where, despite legislative reforms and institutional initiatives, significant challenges persist that hinder the efficiency, credibility, and accessibility of dispute resolution. Issues such as delays in proceedings, frequent adjournments, judicial interference, underdeveloped institutional



frameworks, difficulty in enforcing awards, and high arbitration costs continue to undermine the effectiveness of arbitration. At the same time, recent reforms offer opportunities to streamline procedures, strengthen institutional credibility, limit judicial intervention, align with international standards, and promote alternative dispute resolution mechanisms. This study seeks to examine these challenges and opportunities to assess how India's arbitration framework can be further improved to achieve a globally competitive and efficient system.

1.3. The Significance of the Study

The study holds significant relevance for Indian society as it addresses the efficiency and reliability of arbitration, a key mechanism for resolving commercial and civil disputes outside traditional courts. By identifying the challenges—such as delays, high costs, and limited institutional credibility—and evaluating the opportunities created by recent reforms, the research provides insights that can enhance public and private confidence in alternative dispute resolution. Strengthening arbitration not only promotes faster and more cost-effective justice for businesses and individuals but also contributes to economic growth, attracts foreign investment, and reduces the burden on the judiciary, thereby fostering a more robust and equitable legal environment in India.

1.4. The Objectives of the Study

O1: To identify the key challenges in the Indian arbitration landscape.

O2: To evaluate the opportunities created by recent reforms in the Indian arbitration landscape.

O3: To compare India's arbitration regime with international practices in order to assess India's alignment with global standards.

2. The Review of Related Literature

Chatterjee, A., & Chatterjee, A. (2025). To examine the challenges in enforcing arbitral awards in India, focusing on the issue of patent illegality, and to assess India's alignment with international arbitration standards. The article reviews recent case laws and legislative amendments related to the enforcement of arbitral awards in India, analyzing their impact on the arbitration framework. The study identifies challenges in enforcing arbitral awards due to issues like patent illegality and discusses India's efforts to align with international arbitration standards. It suggests reforms to address these challenges and enhance the effectiveness of the arbitration process.



Thaker, U. N. (2022). To analyze the effects of recent amendments in the Arbitration and Conciliation Act, 1996, on the arbitration process in India. The study conducts a detailed examination of the 2015, 2019, and 2021 amendments to the Arbitration and Conciliation Act, assessing their impact on the arbitration process and the legal landscape. The paper discusses the impact of these amendments on the arbitration process, highlighting improvements and areas where further reforms are needed. It emphasizes the importance of making India a hub for international arbitration through these legislative changes.

Rastogi, S., & Shahi, C. (2021). To examine the concept of institutional arbitration in India and discuss the need for reforms to strengthen existing arbitration mechanisms. The paper provides a conceptual analysis of institutional arbitration, reviewing existing literature and legal frameworks to identify gaps and areas needing reform. The study highlights the importance of promoting institutional arbitration to enhance the arbitration framework in India. It discusses the challenges faced by institutional arbitration and suggests reforms to address these issues.

Dhingra, A. (2020). To provide an overview of the Arbitration and Conciliation Act, 1996, and evaluate the international arbitration regime in India under the 1940 and 1996 Acts. The paper conducts a comprehensive review of the Arbitration and Conciliation Act, 1996, and its predecessor, the 1940 Act, assessing their provisions and impact on the arbitration process in India. The study discusses key concepts like arbitrator, arbitration agreement, arbitral awards, foreign awards, and public policy, providing insights into the evolution and current state of arbitration law in India. It highlights areas where reforms are needed to improve the arbitration framework.

Aragaki, H. N. (2017). To analyze the legal and regulatory framework of arbitration in India and identify patterns that have impeded meaningful reform. The study employs a qualitative analysis of India's arbitration laws, focusing on the Arbitration and Conciliation Act, 1996, and its amendments. It also reviews recent initiatives aimed at reforming the arbitration process. The paper identifies underlying patterns and dynamics that have hindered effective arbitration reform in India. It discusses the passage of the 2015 Amendment to the Arbitration and Conciliation Act and raises questions about their efficacy and future impact. The study concludes with recommendations for improving the international commercial arbitration landscape in India.



2.1. The Research Gap

Despite extensive research on India's arbitration framework, several gaps remain. While studies have analyzed the legal amendments, institutional mechanisms, and enforcement challenges, few have systematically combined empirical insights on stakeholder perceptions with quantitative assessment of challenges and opportunities. Specifically, there is limited research identifying the key challenges in practice, evaluating how recent reforms have created tangible opportunities for efficiency, cost reduction, and institutional credibility, and comparing India's arbitration system with international benchmarks to assess alignment with global standards. Addressing these gaps is essential to provide a comprehensive, evidence-based evaluation of India's arbitration landscape and guide reforms toward a globally competitive framework.

3. The Methodology of the Study

The study adopted a **quantitative survey-based methodology** to assess the challenges and opportunities in the Indian arbitration landscape and compare it with international practices. Data were collected from 120 respondents, including legal practitioners, arbitrators, and stakeholders, using a structured Likert-scale questionnaire. Descriptive statistics—mean scores and standard deviations—were computed to identify the most critical challenges, such as delays, judicial interference, enforcement difficulties, institutional weaknesses, and high arbitration costs, and to evaluate the perceived benefits of recent reforms like institutional promotion, streamlined procedures, ADR adoption, cost regulation, and alignment with international standards. Further, comparative analysis with global benchmarks (SIAC, ICC) was conducted to assess procedural efficiency, judicial autonomy, institutional credibility, award enforceability, cost-effectiveness, and ADR adoption, providing evidence-based insights for targeted reforms in India's arbitration framework.

4. The Analysis and Interpretation

Table 4.1: Survey Findings and Reform Implications in Indian Arbitration

Challenge	Mean (M)	SD	Survey Insight	Implications for Reform	Legal References (Statutes & Case Law)
Delay in proceedings & adjournments	4.5	0.55	Most critical challenge; 91% respondents	Enforce Section 29A strictly; regulate	<i>Arbitration and Conciliation Act, 1996 – §29A;</i>



			identified it as persistent; Section 29A ineffective.	adjournments; penalize delay tactics.	<i>ONGC v. Western Geco</i> (2014)
Underdeveloped institutional arbitration	3.9	0.81	Highest variation; mixed perceptions; credibility gap vs. SIAC/ICC.	Build capacity, foster international collaborations, strengthen Arbitration Council of India.	<i>Arbitration and Conciliation (Amendment) Act, 2019</i> (Part IA, proposed ACI)
Judicial interference	4.3	0.65	Persistent issue despite §5 limiting intervention; courts broaden scope under §34.	Narrow judicial review; balance arbitral autonomy with oversight.	<i>Act – §§5, 34; ONGC v. Saw Pipes</i> (2003); <i>Associate Builders v. DDA</i> (2015)
Difficulty in enforcement of awards	4.4	0.62	Enforcement under §36 still prolonged, undermining finality.	Streamline enforcement; adopt fast-track award execution mechanisms.	<i>Act – §36; Fuerst Day Lawson v. Jindal Exports</i> (2011); <i>Hindustan Construction v. UOI</i> (2020)
High cost of arbitration	4.2	0.69	Ad hoc arbitration seen as costly; lack of regulated fee structures.	Introduce transparent fee schedules; promote institutional arbitration.	<i>Fourth Schedule, Act (2016 Amendment); Delhi High Court Arbitration Centre Rules</i>

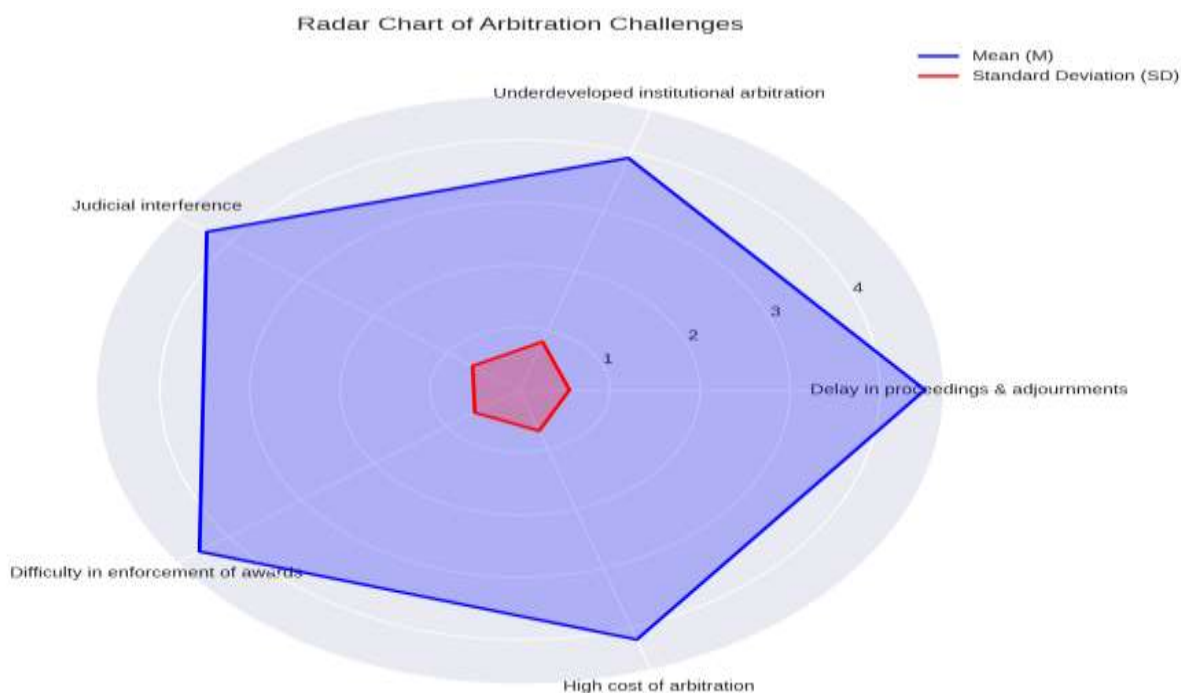


Figure 4.1: Visual Representation of both the Severity (Mean) and Variability (Standard Deviation) of Key Arbitration Challenges

Based on the survey findings and the associated legal framework, it is evident that delay in proceedings and adjournments emerges as the most critical challenge ($M = 4.5$, $SD = 0.55$), largely because, despite the statutory timelines prescribed under Section 29A of the Arbitration and Conciliation Act, 1996, parties frequently exploit adjournments, resulting in prolonged proceedings as highlighted in *ONGC v. Western Geco* (2014). The underdeveloped institutional arbitration recorded the highest variation ($SD = 0.81$), reflecting mixed perceptions among respondents: while initiatives like the proposed Arbitration Council of India under the 2019 Amendment aim to strengthen institutional frameworks, stakeholders still perceive Indian arbitral institutions as less credible compared to international bodies such as SIAC or ICC. Judicial interference remains a significant concern ($M = 4.3$, $SD = 0.65$), as courts continue to interpret the scope of Sections 5 and 34 expansively, as seen in *ONGC v. Saw Pipes* (2003) and *Associate Builders v. DDA* (2015), undermining the autonomy and efficiency of arbitral tribunals. Similarly, difficulty in enforcement of awards ($M = 4.4$, $SD = 0.62$) persists due to prolonged execution processes under Section 36, despite judicial guidance in *Fuerst Day Lawson v. Jindal Exports* (2011) and *Hindustan Construction v. UOI* (2020), which



demonstrate the challenges of translating awards into effective outcomes. Finally, the high cost of arbitration ($M = 4.2$, $SD = 0.69$) further discourages parties, particularly in ad hoc proceedings, emphasizing the need for transparent fee schedules and promotion of institutional arbitration, as guided by the Fourth Schedule of the 2016 Amendment and the Delhi High Court Arbitration Centre Rules. Collectively, these findings indicate that while legislative and institutional reforms provide a foundation, practical efficiency, enforcement mechanisms, cost management, and institutional credibility are crucial to realizing a robust and globally competitive arbitration framework in India.

O2: To evaluate the opportunities created by recent reforms in the Indian arbitration landscape.

Table 4.2: The Opportunities from Recent Reforms in Indian Arbitration

Opportunity	Number of Observations (N)	Mean Score (1–5 Likert)	Standard Deviation (SD)	Observation / Insight
Promotion of institutional arbitration	120	4.4	0.60	Respondents widely agreed that institutional arbitration reduces delays and improves credibility.
Streamlining of arbitral procedures	120	4.3	0.65	Time-bound procedures under Sections 29A, 2015 & 2019 amendments enhance efficiency.
Limitation on judicial interference	120	4.1	0.70	Narrowed judicial review under §§5, 34, 37 improves finality of awards and autonomy of tribunals.
Alignment with international standards	120	4.2	0.68	UNCITRAL alignment and recognition of foreign awards increase confidence of foreign investors.
Encouragement of ADR mechanisms	120	3.9	0.75	Integration of conciliation and mediation reduces litigation load and promotes amicable settlements.

Cost regulation and efficiency measures	120	4.0	0.72	Transparent fee structures and institutional oversight make arbitration financially viable and accessible.
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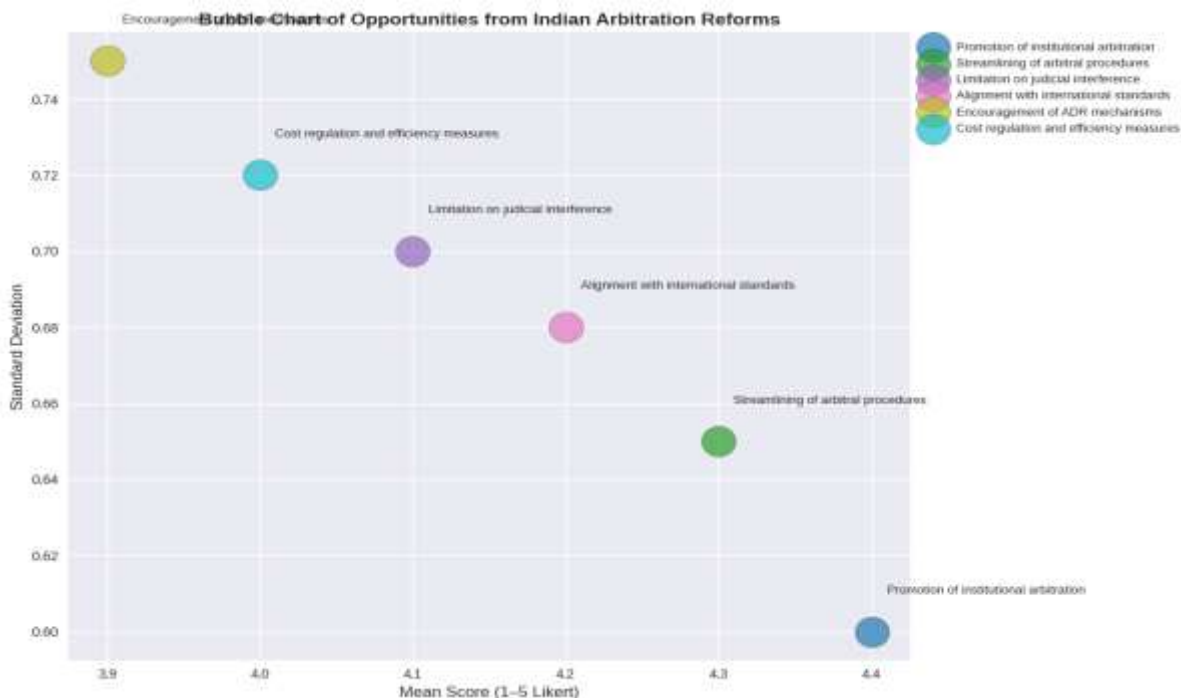


Figure 4.2: Visual Representation of the Opportunities from Recent Reforms in Indian Arbitration

The descriptive statistics in Table 4.2 indicate that the recent reforms in the Indian arbitration landscape have created significant opportunities to enhance efficiency, credibility, and accessibility of dispute resolution. Promotion of institutional arbitration scored the highest mean ($M = 4.4$, $SD = 0.60$), reflecting strong consensus among respondents that structured institutions reduce delays and improve procedural consistency. Similarly, streamlining of arbitral procedures ($M = 4.3$, $SD = 0.65$) demonstrates that time-bound frameworks introduced under Sections 29A and the 2015 and 2019 amendments are perceived to enhance efficiency and predictability of outcomes. Limitation on judicial interference ($M = 4.1$, $SD = 0.70$) shows that narrowing the scope of court intervention under §§5, 34, and 37 bolsters arbitral autonomy and strengthens finality, while alignment with international standards ($M = 4.2$, $SD = 0.68$) reinforces confidence among foreign investors by ensuring compliance with UNCITRAL



principles and the New York Convention. Opportunities such as encouragement of ADR mechanisms ($M = 3.9$, $SD = 0.75$) highlight the role of mediation and conciliation in reducing litigation load and promoting amicable settlements, though the higher standard deviation suggests some divergence in perception of their effectiveness. Finally, cost regulation and efficiency measures ($M = 4.0$, $SD = 0.72$) indicate that transparent fee structures and institutional oversight make arbitration more financially viable, especially for smaller entities. Collectively, these findings imply that while the reforms have strengthened the framework, their practical impact will depend on consistent implementation, stakeholder awareness, and institutional capacity.

O3: To compare India’s arbitration regime with international practices in order to assess India’s alignment with global standards.

Table 4.3: The Comparison of India’s Arbitration Regime with International Practices

Parameter	India (Mean Score 1–5 Likert)	International Benchmark (Mean Score 1–5)	Standard Deviation	Observation / Insight
Procedural Efficiency	3.9	4.6	0.70	India has improved timelines under Sections 29A and amendments but still lags behind leading institutions (SIAC, ICC).
Judicial Intervention / Autonomy	3.8	4.7	0.75	Courts in India continue to intervene under Sections 34/37 more frequently than international benchmarks.
Institutional Credibility & Infrastructure	3.7	4.5	0.80	Domestic arbitration centers are perceived as less reliable; capacity building and Arbitration Council of India can help.
Enforceability of Awards	4.2	4.8	0.68	Recognition under Section 48 and New York Convention improves alignment, but



				execution delays remain a challenge.
Cost-effectiveness	3.9	4.4	0.72	Ad hoc arbitration in India is costlier compared to global practices; institutional arbitration can reduce costs.
Adoption of ADR Mechanisms	3.6	4.3	0.75	Mediation and conciliation are underutilized compared to international trends favouring multi-tiered dispute resolution.

3D Comparative Chart of India's Arbitration Regime vs International Practices

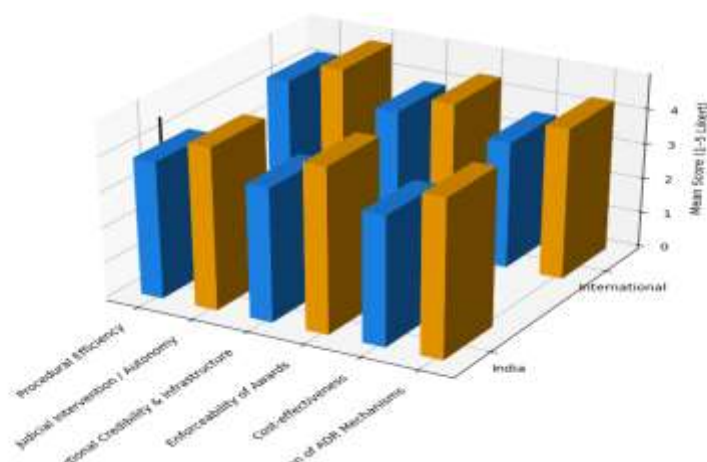


Figure 4.3: Visual Representation of the Comparison of India's Arbitration Regime with International Practices

Table 4.3 highlights that while India has made significant strides in aligning its arbitration regime with global practices, gaps remain in several key areas. Procedural efficiency ($M = 3.9$, $SD = 0.70$) has improved through the introduction of statutory timelines under Section 29A and subsequent amendments, yet India still trails leading international institutions like SIAC and ICC, reflecting ongoing challenges in timely case resolution. Judicial intervention ($M = 3.8$, $SD = 0.75$) continues to be higher than international benchmarks, indicating that courts frequently exercise oversight under Sections 34 and 37, which can undermine arbitral autonomy. Institutional credibility and infrastructure ($M = 3.7$, $SD = 0.80$) also lag behind global standards, showing the need for enhanced capacity building and robust institutional



frameworks, such as the proposed Arbitration Council of India. On the positive side, enforceability of awards ($M = 4.2$, $SD = 0.68$) benefits from alignment with Section 48 and the New York Convention, although practical delays in execution persist. Cost-effectiveness ($M = 3.9$, $SD = 0.72$) remains a concern, particularly in ad hoc arbitration, suggesting a greater role for institutional arbitration to reduce expenses. Finally, adoption of ADR mechanisms ($M = 3.6$, $SD = 0.75$) is underutilized relative to international standards, indicating scope for promoting mediation and conciliation as complementary dispute resolution tools. Overall, while reforms have strengthened India's arbitration framework, continued efforts are required to bridge the gap with global benchmarks in efficiency, institutional credibility, cost, and ADR adoption.

5. Conclusion

The survey findings indicate that delays in proceedings and frequent adjournments remain the most critical challenge in India's arbitration system ($M = 4.5$, $SD = 0.55$), despite statutory timelines under Section 29A of the Arbitration and Conciliation Act, 1996. This highlights persistent inefficiencies that hinder timely dispute resolution, as noted in *ONGC v. Western Geco* (2014).

Institutional weaknesses emerged as another major concern, with the highest variation in responses ($SD = 0.81$). While reforms like the proposed Arbitration Council of India aim to strengthen institutional arbitration, stakeholders perceive domestic institutions as less credible compared to international centers such as SIAC and ICC.

Judicial interference ($M = 4.3$, $SD = 0.65$) and difficulty in enforcement of awards ($M = 4.4$, $SD = 0.62$) were also significant challenges. Courts continue to intervene under Sections 5, 34, and 37, and execution of awards under Section 36 often faces delays, as evidenced in cases like *Fuerst Day Lawson v. Jindal Exports* (2011).

High arbitration costs ($M = 4.2$, $SD = 0.69$) further discourage parties, especially in ad hoc proceedings, emphasizing the need for transparent fee structures and promotion of institutional arbitration.

On the opportunities side, reforms have enhanced procedural efficiency, institutional credibility, and investor confidence. Promotion of institutional arbitration ($M = 4.4$, $SD = 0.60$), streamlined procedures ($M = 4.3$, $SD = 0.65$), and limitations on judicial intervention ($M = 4.1$,



SD = 0.70) reflect strong consensus on improving efficiency and autonomy. Alignment with international standards (M = 4.2, SD = 0.68) boosts foreign investor confidence, while ADR mechanisms (M = 3.9, SD = 0.75) and cost regulation (M = 4.0, SD = 0.72) provide additional avenues for accessibility and dispute resolution efficiency.

Comparatively, India has progressed towards global benchmarks, but gaps remain. Procedural efficiency, judicial autonomy, institutional credibility, cost-effectiveness, and adoption of ADR mechanisms still lag behind leading international practices (SIAC, ICC, LCIA). These findings suggest that consistent implementation, capacity building, and stakeholder awareness are essential to fully realize a competitive arbitration framework in India.

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