

# LIDW 2025

## India's role in international dispute resolution – a rising global player? | Key takeaways

As part of **London International Disputes Week 2025**, Reed Smith and Indian Women in International Arbitration (IWIA) were delighted to co-host a lively in-person discussion exploring India's evolving role in international dispute resolution.

The panel, comprising leading practitioners and in-house counsel, explored legislative reforms, practical challenges, and the broader ambitions for India as a global arbitration hub.



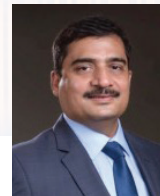
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### Ambition to become a global arbitration hub

India's aspiration to position itself as a leading seat for international arbitration was a central theme. The government's intent is clear: to make India a regional, if not global, hub for arbitration. This ambition is reflected in ongoing legislative reforms and the establishment of new arbitration institutions. However, panelists noted that while the direction is positive, significant practical and systemic changes are still required to realize this vision.

**The road to arbitration excellence in India is paved with ambition, reform, and debate.**

### Legislative reform: The Draft Arbitration Amendment Bill 2024

The panel discussed the Draft Arbitration Amendment Bill 2024 in detail, highlighting its mixed reception. On the positive side, the Bill introduces statutory recognition of emergency arbitration and acknowledges the use of technology in proceedings. However, concerns were raised about overregulation, increased judicial intervention, and the risk of regressing to less arbitration-friendly practices. The Bill's approach to emergency arbitration, appellate tribunals, and the role of the Indian Council of Arbitration were seen as both innovative and potentially problematic, depending on implementation.

### Emergency arbitration and judicial intervention

The formal recognition of emergency arbitration in the Bill was welcomed, as it addresses a longstanding gap in Indian law. However, the Bill limits enforceability to India-seated arbitrations and introduces ambiguity regarding foreign-seated emergency awards. The panel cautioned that the involvement of the Indian Council of Arbitration in procedural matters could undermine party autonomy and institutional rules, potentially complicating enforcement and efficiency.



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### **Appellate arbitral tribunals: Progress or pitfall?**

A notable and controversial proposal is the introduction of appellate arbitral tribunals for the first level of challenge to awards. While intended to create a specialist forum and reduce court backlogs, panelists expressed skepticism based on India's mixed experience with similar tribunals in other sectors. Concerns included lack of clarity on appointments, potential delays, and the risk of undermining the finality of arbitral awards.

### **Enforcement of awards: Progress and persistent challenges**

Enforcement remains a critical issue for parties considering India as a seat or enforcement jurisdiction. While there have been improvements, delays and procedural hurdles persist, particularly for foreign awards. The panel discussed recent Supreme Court decisions allowing modification of awards, which, while pragmatic, raise concerns about overreach and uncertainty. Practical tips for award creditors included seeking interim relief and leveraging court processes to exert pressure toward settlement.

### **Party autonomy and overregulation**

A recurring concern was the risk of overregulation. The panel emphasized that arbitration's appeal lies in its flexibility and party autonomy. Proposals to centralize control (e.g., through the Indian Council of Arbitration) or to legislate procedural details (such as technology use) could undermine these core attributes and deter international users.

### **Diversity and the rise of the Indian arbitration bar**

The growth of the Indian arbitration bar, including the increasing participation of women and the establishment of a dedicated arbitration bar, was highlighted as a positive development. The panel stressed the importance of broadening the pool of arbitrators, promoting diversity, and encouraging the next generation of practitioners to take up full-time arbitration roles, moving away from the "weekend arbitrator" model.

### **India's approach to investor-state dispute settlement (ISDS) and BITs**

India's recalibration of its approach to bilateral investment treaties (BITs) and ISDS was discussed in the context of its emergence as a stronger economy. The panel noted India's termination of many BITs and its negotiation of new treaties with more balanced terms. While this reflects a desire to protect sovereign interests, it also raises questions about the protection of outbound Indian investment and the need for robust investment laws or contractual protections.

### **Mediation and alternative dispute resolution**

The panel noted a shift in attitudes toward mediation, especially following the enactment of the new Mediation Act. Mediation is increasingly seen as a viable and enforceable precursor to arbitration, particularly in the context of ongoing commercial relationships and infrastructure projects. This development is expected to complement arbitration and enhance the overall dispute resolution ecosystem.

### **Practical realities: Choice of seat and institutional preferences**

Despite legislative progress, many Indian and international parties continue to prefer foreign seats (such as Singapore or London) for their arbitrations, citing greater certainty, efficiency, and enforceability. The credibility and capacity of Indian arbitral institutions remain a work in progress, and the choice of seat is often driven by practical considerations around enforcement and the quality of the arbitral process.

### **Conclusion**

India's journey toward becoming a global arbitration hub is marked by ambition, ongoing reform, and a growing pool of talented practitioners. However, the path is complex, with significant challenges around enforcement, judicial intervention, and the need to balance regulation with party autonomy. Clients engaging in India-related disputes should remain attentive to these developments, seek strategic advice on seat and enforcement issues, and monitor the evolving legislative landscape.