

INTERNATIONAL JOURNAL OF LEGAL STUDIES AND SOCIAL SCIENCES [IJLSSS]

ISSN: 2584-1513 (Online)

Volume 3 | Issue 2 [2025] | Page 432 - 444

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ENFORCEMENT OF FOREIGN ARBITRAL AWARD IN INDIA : ISSUES AND CHALLENGES

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ABSTRACT

This study focuses on the enforcement of foreign arbitral awards in India, a subject of growing importance in an increasingly globalized economy. As international trade and cross-border commercial relationships expand, the need for a reliable and efficient arbitration framework becomes essential. Foreign arbitral awards—decisions made by arbitration tribunals located outside India—play a pivotal role in resolving international disputes. Their enforcement, however, is not always straightforward within the Indian legal system.

India has adopted international conventions such as the New York Convention (1958) and the Geneva Convention (1927) to facilitate the enforcement of foreign awards. These conventions have been incorporated into domestic law through the Arbitration and Conciliation Act, 1996. Despite this, significant issues persist, including procedural delays, excessive judicial interference, and the broad interpretation of the public policy exception. These challenges often create uncertainty and can discourage foreign investors and international business entities. The study is organized into five chapters, each examining a specific aspect of foreign award enforcement—from the historical evolution of arbitration law in India, to the practical and legal complexities faced in its implementation. A comparative analysis is also conducted between the Indian Arbitration and Conciliation Act and the internationally accepted benchmarks of the New York Convention. This comparison highlights the areas where Indian law aligns with, or deviates from, global standards.

The paper concludes that while India has made significant progress toward becoming an arbitration-friendly jurisdiction, further reforms are necessary. Strengthening institutional support, minimizing judicial intervention, and promoting consistency in legal interpretation are key to improving the enforcement mechanism. Ultimately, the study advocates for a balanced legal framework that respects both national interests and international obligations, paving the way for greater credibility and confidence in India's arbitration landscape.

CHAPTER 1

INTRODUCTION

Indians have a long-standing familiarity with alternative dispute resolution, as it has been a part of their society since the beginning of recorded history. Throughout the ages, mankind has been constantly exploring ways to make the process of acquiring justice simple, affordable, and convenient. One such method that has been widely used is the traditional approach to settling conflicts, which has proven to be highly effective in resolving not only small and family-related disputes but also conflicts involving larger groups of people.¹

In India, the introduction of the Lok Adalat, a court where all the disputes are resolved, in 1982 marked a significant development in this area. This system further evolved over time, eventually transforming into the Arbitration Act of 1940, and ultimately culminating in the modern and globally recognized Arbitration & Conciliation Act of 1996. With regards to domestic arbitration awards, the Indian legal system provides relatively smooth implementation procedures.² The issue arises when a decision taken by the country different from the place in which the enforcement is being looked out for. Any arbitral decisions by individuals from other countries or following foreign legal procedures are not recognizable for state. Only domestic courts, which operate based on local legislation which allow enforcement of local awards, have the authority to carry out such enforcement. It is not automatically assumed that the legal system of a state has jurisdiction over disputes settled inside other state. As a result, the recognition and enforcement of awards in international commercial arbitration are handled differently than those in domestic arbitration.

¹United States Agency for International Development, 1998, 'Alternative Dispute Resolution Practitioners' Guide', Center for Democracy and Governance, USAID, Washington, D.C., <https://gsdrc.org/document-library/alternative-dispute-resolution-practitioners-guide/> accessed on 13 March 2021

² kumar sumit, Arbitral Award Its Challenge & Enforcement (Legal service India) accessed on 13 March 2021 <http://www.legalservicesindia.com/article/433/Arbitral-Award-Its-Challenge-&-Enforcement.html>

CHAPTER 2

BRIEF OF HISTORY

A foreign award, although widely acknowledged for its substance, can have differing interpretations in different legal systems because of their distinct policies. In the early stages courts had a pessimistic approach towards arbitration of commercial nature. The King's Bench, in the case of **kill v. Hollister**³, declared that arbitration initiatives to settle disputes outside the court aimed to undermine the court's authority. The concern regarding the reversibility of an agreement to arbitrate future conflicts led the courts to establish a ruling that allowed such agreements to be reversed prior to any order. In **Kill v. Hollister** ruling and now leans towards a more supportive stance on commercial arbitration. However, despite the significant changes in the arbitration process over time, certain contradictions still exist. Consequently, various multilateral approaches have been implemented to address and manage these contradictions effectively. The first strategy was established through the implementation of the Geneva Convention of 1927 on Execution of Foreign Arbitral Awards and the Geneva Protocol of 1923 on Arbitration Clause. Through the advent of above conventions, marked the initiation of a significant strategy. According to this strategy, for an award to be recognized, it must be the outcome of a legally binding arbitration agreement, issued from a legally built tribunal that is in compliance with the domestic laws, and should not be contradicting the laws affecting the public of the nation in question. Increase in ICC led to adopting of the UN Convention. Despite some limitations of the Geneva Conventions, the introduction of the NYC along with the 'Foreign Award Recognition & Enforcement Act', effectively addressed the issue of international judgments not attaining conclusive status in their country of origin⁴. The UNCITRAL Model Law on International Commercial Arbitration, endorsed by the United Nations Commission on International Trade Law, was established on June 21, 1985, urging all nations to consider adopting it to create a consistent legal framework for arbitral proceedings tailored to the unique requirements of international commercial arbitration⁵. Prior to the Arbitration (Protocol & Convention) Act of 1937, India lacked specific legislation governing the enforcement of global arbitral decisions. However, India became a party to the 1927 Convention on the Execution of Foreign Arbitral Awards and ratified the Geneva Protocol on

³ kill v Hollister (1746) 1 Wills. 129.

⁴ Jain, Sankalp, Enforcement of Foreign Arbitral Awards: International Conventions and Legal Regime in India (October 11, 2015)

⁵ Gamaliel G. Bongco 'The Enforcement of Foreign Arbitral Agreements and Awards in the Philippines', (1996)

Arbitration clauses after 1937⁶. In line with the principles of the NYC, India enacted the International Awards Act in 1961.

CHAPTER – 3

COMPETENT AUTHORITY DEALING WITH FOREIGN ARBITRAL AWARDS

The term foreign award can be found in both the 1937 & 1961 Act, although the definition is somewhat vague, it is used to refer to arbitration proceedings. According to Section 2 of the 1937 Act, a foreign award is an award made after July 28, 1924, on differences related to matters considered commercial under Indian law.⁷ The term was discussed in a dispute between parties in the **Lachman das Sat Lal v. Parmeshri Das** case, where the disagreement arose over the quality and quantity of goods sent to purchasers. The respective firm appointed an arbitrator, while the appellants failed to appoint anyone.⁸ As a result, a favourable decision was given by the arbitrator. The respondent then sought to reap the benefits from the particular decision. However, the appellants argued that the decision was considered a foreign award, and therefore, the Indian Arbitration Act of 1940 should not be applicable.

The arbitral tribunal, lacks the authority to execute its award, except for issuing an order permitting the parties towards executing the award. Consequently, when the party on the non benefiting side of the award does not willingly adhere to it, the prevailing party can enforce it in any place containing the property of the non benefiting party. The responsible body for enforcement varies among countries, typically being judicial entities or public offices that assume this responsibility. Different countries have different procedures for issuing orders of enforcement to authorize courts to enforce foreign awards, leading to uncertainty about which court has jurisdiction. In the case of **Badat Co. v. East India Trading Co.**, the Supreme Court's ruling underscores two crucial points. Firstly, it asserts that the cause of action for the plaintiff's lawsuit filed in the original side of the Bombay High Court, based on the judgment of the New York Supreme Court, falls outside the jurisdiction of the Bombay High Court. Secondly, it emphasizes that arbitral awards lack the necessary finality under New York law until they result in a judgment and thus cannot serve as a valid cause of action for a suit before the Bombay High Court. The subject matter of the award refers to the specific issue addressed in the award.⁹

⁶ K. Venkatramaih, 'Enforcement of Foreign Arbitral Awards in India', Law of International Trade Transaction

⁷ Section 2 The Arbitration (Convention & Protocol) Act, 1937

⁸ Lochman Das Sat Lal v. Parmeshri Dass, 1958 SCC OnLine Punj 30

⁹ Badat Co. v. East India Trading Co 1964 AIR 538.

Regarding international arbitral awards, the subject matter is intricately connected to the court in what jurisdiction the individual involved in executing the award is situated. For example, if the award involves a monetary claim, the party seeking enforcement would file the application in the court where the respondent's bank account is located. It is important to note that the concept of subject matter under Section 47 of the Act differs from the definition provided in Section 2(e) Part I of the Act.¹⁰ Section 47 outlines the process for initiating proceedings to enforce and execute an award, while Section 2(e) Part I provides a broader understanding of the subject matter.¹¹ The first reason for the court's decision goes against the doctrine of obligation. This doctrine states that even if a new cause of action arises from a judgment, the primary cause cannot be consolidated within the judgment. Therefore, the question of lack of jurisdiction for the Bombay High Court to hear the case cannot arise if this doctrine, which is incorporated in section 13 of the Civil Procedure Code in India, is considered *res judicata*.¹² The second reason for the court's decision is that foreign awards are considered inferior to foreign judgments. However, there is minimal distinction between a foreign judgment & award. Despite this, the court concluded that some proper cause of action for enforcing the foreign award. The first ground on which the court's decision contradicts the doctrine of obligation is related to the rule of non-merger of the original cause of action in a judgment. According to this doctrine, even if a lawsuit is based on a judgment that provides a new cause of action, the lack of jurisdiction for the Bombay High Court to entertain the suit cannot be questioned. This doctrine is incorporated in section 13 of the Civil Procedure Code in India, making it *res judicata*. However, the Supreme Court of India failed to recognize that this procedural rule of jurisdiction and cause of action is irrelevant when it comes to enforcing a foreign judgment¹³. Secondly the inferior position assigned to foreign awards compared to foreign judgments. In terms of finality and The court's decision was influenced by the perception that foreign awards are often undervalued compared to foreign judgments, despite both being

¹⁰2(1)(e). Court means – in the case of an arbitration other than international commercial arbitration, the principal Civil Court of original jurisdiction in a district, and includes the High Court in exercise of its ordinary original civil jurisdiction, having jurisdiction to decide the questions forming the subject-matter of the arbitration if the same had been the subject-matter of a suit, but does not include any Civil Court of a grade inferior to such principal Civil Court, or any Court of Small Causes; in the case of international commercial arbitration, the High Court in exercise of its ordinary original civil jurisdiction, having jurisdiction to decide the questions forming the subject matter of the arbitration if the same had been the subject-matter of a suit, and in other cases, a High Court having jurisdiction to hear appeals from decrees of courts subordinate to that High Court.

¹¹ Before 21/11/1999 the Commercial Court was the competent Court. This was repealed by Article 2 of Royal Decree No.90/99 of the Promulgation of Judiciary Authority Law, and Articles 36 and 41 of Civil and Commercial Procedure Law issued in 2003.

¹²V. C. Govindaraj, 'Foreign Arbitral Awards and Foreign Judgments Based upon Such Awards (Based on *Badat & Co., Bombay v. East India Trading Co.*)' 1964 13 *The International and Comparative Law Quarterly* pp. 1465-1468

¹³ 6 *Ibid*

equally binding and final. The court argued that enforcing a foreign award is justified, as it allows for actions beyond the constraints of domestic law. It is recognized that all rights and authorities derive from a system of domestic law. The court's involvement in international arbitration is likened to that of a collaborative partner, aiming to improve the efficiency of arbitration processes. In many legal systems, national courts play a crucial role in international arbitration by overseeing the enforcement of awards based on specific statutory requirements. There is a possibility that national courts may refuse to enforce an arbitral award under Article V of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards 1958.

ROLE OF NATIONAL COURTS

According to Dr. F A Mann, the domestic laws govern the arbitration proceedings, and private individuals cannot act outside of those laws. Some argue that the court should play a role in arbitral proceedings to enhance their effectiveness. However, the court's supervisory powers are necessary to ensure fairness in arbitration.¹⁴

In cases of foreign arbitration, the NYC safeguards the party's rights and permits them to challenge the enforceability of awards. National courts play a significant role in arbitration, particularly during the enforcement stage. The court's powers serve as a tool, ensuring the trial to be fair. However, the New York Convention does not provide clear guidance on how the defence of public policy should be interpreted by national courts. Some courts, like those in India, have a tendency to interfere with international arbitration based on laws relating to the public.

GOI has made proposal to alter the local laws to address concerns raised from previous cases. One proposed change is to limit the scope of public policy as a ground for setting aside an award. This would prevent courts from finding a breach of public policy based on broad interpretations.

EMERGENCY EXECUTION OF FOREIGN AWARDS

Enforcing foreign arbitration awards can be a lengthy process, similar to regular legal cases. However, emergency arbitration provides temporary relief for a limited time and functions like a temporary tribunal. The NYC is a widely accepted set of guidelines for enforcing foreign arbitration awards, but it does not recognize emergency arbitration awards. Nevertheless, numerous legal systems have acknowledged the significance of interim arbitration awards within the framework of their respective legislations.. In the United States, court rulings have enforced emergency arbitration awards, while in England, the High Court cannot grant relief if parties can

¹⁴ F.A. Mann, 'Lex Facit Arbitrum' in P. Sanders (ed.), *International Arbitration: Liber Amicorum for Martin Domke* (1967) 157 at 159.

obtain interim relief from emergency arbitration. In India, parties can seek interim relief from the appropriate court before enforcing emergency arbitration awards. The Law Commission recommended expanding the meaning of an arbitral tribunal to include emergency arbitrators in India. In a specific case in India, the court ruled that parties can approach the court for interim relief disregarding the emergency arbitrator's order. Enforcing emergency arbitration awards in India lacks legal provisions. However, choosing an emergency arbitrator offers advantages such as submitting to a neutral jurisdiction and obtaining a decision within a specified timeframe.

PARTIAL ENFORCEMENT OF FOREIGN ARBITRAL AWARDS

Foreign arbitral awards can have both enforceable and non-enforceable sections depending on whether they are in accordance with the law of the land. The issue at hand is whether it is viable to distinguish the enforceable segments from the non-enforceable ones for the purpose of granting enforcement. The NYC permits partial enforcement when the arbitrator exceeds their authority in certain aspects of the decision. It also allows for the acknowledgment of the portions of the award addressing issues of Arb as long as they can be effectively segregated. This provision enables enforcement under arbitrator's jurisdiction, providing its discerning from the portions that fall outside their authority. The Italian court enforced the award solely to the degree of matters that were not technical, as the arbitration agreement exclusively empowered arbitrators to decide on such issues. The court's discretion in granting part of enforcement under the NYC might be applicable in other scenarios. Although partial enforceability might not be explicitly outlined in different cases, it is recognized that they are feasible for specific conditions. Moreover, the International Law Association's recommendation suggesting violation of any particular foreign public policy, it could be separated from non-violating parts, and only the non-offending section may be acknowledged. However, the convention itself does not explicitly address partial enforcement under the specified article, leaving room for the enforcing court to exercise discretion in granting partial enforcement.

PROCEDURE FOR ENFORCEMENT OF FOREIGN ARBITRAL AWARDS

According to Section 2(6) CPC, a foreign judgment is defined as an international judgement that doesn't fall under the GOI. Enforceability of international awards relies on whether the country it originates from is reciprocating or non-reciprocating. If it is from a reciprocating country, the party seeking enforcement must initiate process. Nevertheless, in the case of a country that does not reciprocate, initiating a fresh legal action must be undertaken before the pertinent court in India. In the case of **Union of India v. Hardy Exploration and Production (India) Inc**, it was determined that when an arbitration agreement specifies the venue for the arbitration sittings but

does not specify the seat, the determination of the seat becomes crucial in deciding the applicability of laws for post-award arbitration proceedings. Due to conflicting decisions and laws laid down by the Supreme Court, the matter was referred to a larger bench.¹⁵ However, in the recent judgment of **BGS SGS SOMA JV v. NHPC Ltd**, the earlier decision was overruled, stating that unless the arbitration agreement specifies the seat, the venue of the arbitration will be considered as the seat.¹⁶

THE PRINCIPLE OF LEX FORI

The matter of enforcing international arbitral awards in India is regulated by the conventions overseeing the enforcement process. According to NYC, the process for enforcement are dictated by domestic laws of the jurisdiction seeking enforcement. Each signatory is obligated to acknowledge and give effect to arbitral awards as binding, adhering to the procedures of the territory where the award is being enforced. Additionally, the procedural laws of the jurisdiction seeking enforcement can extend to other facets of enforcement not explicitly covered by the NYC. Several conventions applicable in our country attribute the regulations concerning the jurisdiction seeking enforcement. For instance, an award under Washington Convention is considered *res judicata* in all member states, but the procedural rules for executing the award must align with the laws of the state where enforcement is being sought.

PROCEDURAL RULES FOR ENFORCING FOREIGN ARBITRAL AWARDS

The rule of enforceability of international awards can be divided into four main categories. These include specific provisions for procedure, using a single procedure, applying similar process for foreign judgments, and using the similar process for local award. While most awards are voluntarily followed, there are cases where it is necessary to determine how to enforce an award. Some countries may not recognize awards from foreign tribunals or based on foreign procedures. Non-compliance with an award can result in court proceedings, which vary between countries. Multilateral conventions such as the Geneva Convention and the New York Convention can be used to enforce foreign awards, and in India, these conventions are enacted through specific laws. The examination of detailed procedure rules is important for parties in international arbitration to ensure prompt enforcement of awards. Aggrieved party can appeal against such award in hopes of modifying or overturning it.

¹⁵ Union of India v. Hardy Exploration and Production (India) Inc (2018) 7 SCC 37

¹⁶ BGS SGS SOMA JV v. NHPC Ltd (2019 SCC Online SC 1585)

CHAPTER – 4

CONDITIONS REQUIRED FOR NON-ENFORCEMENT OF FOREIGN ARBITRAL AWARDS

1. Section 48(1) states the criteria for the non-enforcement of a foreign award in India. It stipulates that enforcement will be denied if the party being sought for enforcement can demonstrate certain circumstances, such as incapacity to perform under relevant laws, lack of validity of the agreement, or unfair trial conduct by the tribunal.

2. If an award is rendered, either partially or entirely beyond the agreement, it can be removed from the award

3. There is deviation from the principles outlined in the arbitration agreement or lacked any reference, or wasn't in conformity with the laws of the place of arbitration.

4. The award hasn't acquired irrevocable or is annulled or temporarily halted by the country's authority, where the place of the seat of arbitration exists. The court can request the party's submitting an application under Section 48(1) to present evidence supporting the presence of any or all of the reasons for rejecting the enforcement of the award.

5. According to Sec 48(2), the court in India may decline to enforce a foreign award if it determines that:

(a) The settlement of the award aligns with Indian Arbitration Act

(b) Executing the award goes against the public policy of India. It is imperative to interpret this defense in a narrow manner. An award is considered inconsistent from laws relating to public, if its influenced by fraudulence or deceit, if it violates the Act, or if it contravenes the law of the land.

Section 48 solely presents criteria of rejecting the enforcement of an international award as outlined above, refraining from allowing an investigation into the error through an appellate inquiry. In cases where an application to set aside or suspend the award has been submitted to the competent authority, the court has the discretion to postpone the decision on enforcing the award. Additionally, upon the request of the party seeking an enforcement order, the court may compel the opposing party to furnish appropriate security.

TIME PERIOD OF ENFORCEMENT OF FOREIGN ARBITRAL AWARDS

Sections 47-49 of the IAC act, which are part of the chapter on New York awards, are pertinent to this matter. Section 48 establishes grounds for refusing enforcement of the award debtor.

Section 49 specifies that the court may enforce the foreign award if it is satisfied with its enforceability under this regime.¹⁷

In 2019, the Mumbai HC, in the case of **Imax Corporation v E-City Entertainment**, took a different stance after considering the cases of **Thyssen Stahlunion GMBH v Steel Authority of India and Fuerst Day Lawson v Jindal Exports**. The court held that Article 136, which pertains to a limitation period of 12 years, applies to an enforcement petition. In *Thyssen*, the Indian Supreme Court compared the provisions of the repealed Foreign Awards Act, 1961, with the new act and noted that under the previous act, a decree followed the award¹⁸. While the SC hasn't directly addressed this question, in the recent case of **Bank of Baroda v Kotak Mahindra Bank**, it held that the limitation period for executing a foreign decree under Section 44A of the Civil Procedure Code 1908 is determined by the limitation law of the reciprocating country where the decree was issued. It was noted that Article 136 of the Limitation Act, which applies only to decrees of Indian courts, is not applicable.¹⁹ However, the foreign awards will not come under the purview of the above case for the following reasons:-

To begin with, it is important to acknowledge that the Civil Procedure Code aptly acknowledges the multitude of legal realms within which arbitration thrives. Furthermore, it explicitly emphasizes that an arbitration award, even when enforceable as a decree, should not be categorized as a foreign decree.

Furthermore, the esteemed SC has invoked the esteemed principle of reciprocity, traditionally exercised among nations, which may not readily be applied to arbitral awards. The meticulous interpretation of sections 47-49 of the Act necessitates the careful examination of Article 136 of the Limitation Act in the context of enforcement applications. It is of utmost importance to safeguard the integrity of the Act's interpretation, so as to not compromise the essence and finality of the esteemed arbitral proceedings undertaken by the parties involved. In the present circumstances, a foreign award is recognized as holding the same legal standing as a decree, yet it should not be dubbed as a 'foreign' decree. Indian courts are currently grappling with the issue of identifying the appropriate limitations to file petitions for the enforcement of an international award. The law sets out specific deadlines for such applications, and the decision ultimately rests on whether the international arbitral award is deemed equivalent to a decree. Given the strong

¹⁷ Sec 47. Evidence of foreign arbitral awards of Arbitration & Conciliation Act, 1996, Sec 48. Conditions for enforcement of foreign awards of Arbitration & Conciliation Act, 1996, Sec 49. Enforcement of foreign awards.— Where the Court is satisfied that the foreign award is enforceable under this Chapter, the award shall be deemed to be a decree of that Court.

¹⁸ *Imax Corpn. v. E-City Entertainment (India) (P) Ltd.*, 2019 SCC OnLine Bom 4044

¹⁹ *Bank of Baroda v Kotak Mahindra Bank* 2020 267 SC

emphasis on enforcement in Art III - NYC aim to expedite dispute resolution, limit court oversight, and facilitate the swift enforcement of awards, especially foreign ones, a purposive approach is essential. The issue at hand is in sec 49 of the act, where domestic awards are recognized as decrees if the court confirms enforceability. Its widely understood that the enforcement process consists of two stages: determining the enforceability of the foreign award and then taking necessary steps for enforcement if deemed enforceable. Fulfillment under section 49 is reached upon successfully completing the first stage, with a potential 12-year limitation period. This would involve applying Article 136 of the Limitation Act to enforcement requests while ensuring that the Act's interpretation upholds the substantive and finalized arbitration proceedings between the involved parties.

CHAPTER –5

LIMITATIONS ON FOREGIN ARBITRAL AWARDS

THE COURT'S INTERVENTION POSES A SIGNIFICANT OBSTACLE

International Commercial Arbitration offers the advantage of being able to enforce awards in different countries. This is made possible by NYC, however enforcing international arbitral awards can be challenging in India due to court intervention. It is essential for the court to support the enforcement of arbitral awards, acknowledging the autonomy of the arbitration process. Any challenges to an award should be assessed according to the standards of NYC & UNCITRAL. The recognition and enforcement of foreign arbitral awards depend on international agreements and considerations between the parties involved. In India, court intervention in the enforcement of foreign awards is warranted only in cases where it goes against legal provisions, is clearly unlawful, or goes against public policy.

The arbitration process can be significantly influenced by the legal regulations of each jurisdiction, particularly when it comes to the essential requirement of judicial review during the enforcement phase. In the Indian context, the A&C act, plays a pivotal role in facilitating court intervention in domestic arbitration cases and the subsequent enforcement of awards. Furthermore, India's approach to the acknowledgement & enforceability of international awards is elaborated upon in Part II of the Act, which is thoughtfully divided into two chapters, aligning with the principles of NYC & Geneva Convention. Notably, Indian courts possess the competence to address any challenges pertaining to an award's conformity with public policy, thereby ensuring the utmost integrity of the arbitration proceedings.

PUBLIC POLICY ARGUMENT

ICA offers the distinct advantage of recognizing and enforcing the awards across multiple jurisdictions, bolstered by the esteemed NYC. Nonetheless, the process encounters hindrances in India where court intervention poses challenges to enforce the international awards. Its imperative that the court's involvement is strictly limited to facilitating the enforcement of these awards, acknowledging and respecting arbitration as a distinct and autonomous procedure. While there may be legitimate reasons to reject the awards, their interpretation must align harmoniously with the guiding principles delineated in the NYC and the UNCITRAL. The successful enforcement of foreign arbitral awards depends greatly on the adherence to international policies and the harmonious agreements fostered among the parties involved.

The intervention of the court in India's implementation of foreign awards is only permissible if it goes against established laws, is clearly illegal, or violates the principles of public policy. The legal frameworks of different jurisdictions in relation to arbitration can have a significant impact on the arbitration process itself, including the need for judicial review. The involvement of the courts in our country is facilitated by the A&C, which applies to both domestic arbitration and its resulting awards. The enforcement of foreign awards in India is outlined in Part II of the Act, which is divided into two chapters corresponding to the NYC and the Geneva Convention. Furthermore, Indian courts have the authority to address any challenges regarding an award that is in conflict with public policy.

CONSEQUENTIAL DRAWBACKS IN ENFORCEMENT OF FOREIGN ARBITRAL AWARDS.

Increasing review power of courts to interfere with awards is the main cause of delays in enforcing them. This excessive judicial interference leads to a high number of cases being accepted that should have been dismissed initially, which hampers the resolution of commercial disputes and hinders economic growth. Indian courts have often misinterpreted the law to suit their own needs, making it difficult to achieve desired outcomes. These errors are disappointing and discouraging for parties who choose arbitration as a means of dispute resolution. Another criticism is the lack of specified time limits for enforcing awards, resulting in excessive delays. Without a set time frame, arbitration can become as lengthy and costly as traditional litigation, losing its appeal. Speed and cost efficiency are essential elements of arbitration, particularly in commercial cases. One solution to reduce stepping in by the courts is to establish someone to appoint. The current law for recognizing and enforcing awards in India may need to be reviewed and updated to address these challenges. Proposed amendments have been suggested, but they are not seen as a way to limit judicial interference.

CHAPTER – 6

CONCLUSIONS & SUGGESTIONS

This research deals into the intricacies around implementation of international awards in India, specifically highlighting the profound influence wielded by the NYC. This esteemed convention assumes immense significance as it boasts a multitude of signatory nations, including India, thereby presenting provisions that effectively expedite the enforcement procedure by obviating the requirement for multiple authorizations. The Convention emphasizes the paramount importance of acknowledging the award in its country of origin, presuming its authenticity, and shifting the onus of proof onto the party contesting enforcement.

The inclusion of Article VII in the Convention bestows upon the victorious side the privilege of invoking a local law or treaty that offers superior conditions for the enforcement of foreign arbitral awards. India's unequivocal backing of the NYC serves as a testament to its unwavering dedication to upholding the acknowledgment and implementation of these esteemed awards. An expedited enforcement procedure stands as an indispensable pillar for the effectiveness of International Commercial Arbitration, for without a proficient mechanism, its significance would undoubtedly dwindle.

This comprehensive report delves into the intricate process of enforcing awards across various jurisdictions, with a particular focus on the contentious issues surrounding the implementation of different enforcement regimes in India. In light of these complexities, we put forth a compelling proposition to introduce novel laws that regulate execution of international awards in India. Our persuasive advocacy highlights the importance of minimal evidence requirements for the party seeking enforcement, thus streamlining the process and ensuring efficiency. Additionally, we emphasize the necessity of establishing a clear difference between laws relating to the public at national and international level, as this will effectively minimize grounds for refusing foreign arbitral awards.

It is proposed that Indian courts be given the authority to execute awards when valid criteria for refusal exists. The conditions and fees for enforcing foreign arbitral awards should not be difficult from domestic awards. To avoid abuse of the enforcement process, a concise deadline should be set for appeals seeking to enforce foreign arbitral awards. Furthermore, the legislation shall offer clear guidance on the validity of arbitration agreements, leaving little room for disputes to be settled in the jurisdiction where enforcement is sought.