

INTERNATIONAL JOURNAL OF LEGAL STUDIES AND SOCIAL SCIENCES [IJLSSS]

ISSN: 2584-1513 (Online)

Volume 3 | Issue 3 [2025] | Page 403 - 406

© 2025 International Journal of Legal Studies and Social Sciences

Follow this and additional works at: <https://www.ijlsss.com/>

In case of any queries or suggestions, kindly contact editor@ijlsss.com

ARBITRATION AS GO-TO SOLUTION FOR MODERN COMMERCIAL DISPUTES

- Aish Sajjan

ABSTRACT

Arbitration has emerged as a prominent method of dispute resolution in the commercial world, offering flexibility, confidentiality, and enforceability. As globalization increases the complexity and frequency of cross-border disputes, arbitration serves as a crucial mechanism for ensuring business continuity and minimizing litigation-related costs and delays. This paper examines the historical evolution, legal framework, judicial interpretation, and future prospects of arbitration, highlighting its significance as an indispensable tool for modern commercial dispute resolution.

INTRODUCTION

“Arbitration is the business man’s method of settling disputes. The great advantages of this system are the saving of time, expense, and the avoidance of ill-will.

-William H. Taft

Traditionally, litigation was the primary mechanism for resolving disputes. However, the growth of modernization and globalization has brought with it increasingly complex commercial conflicts. Inefficient legal procedures, jurisdictional issues, and prolonged timelines have led to a shift toward alternative dispute resolution (ADR) mechanisms, especially arbitration. Arbitration has emerged as an effective tool in resolving commercial disputes efficiently while preserving relationships and reputations. This blog delves into the historical context, advantages, pivotal case laws, and the global future of arbitration.

BACKDROP

Arbitration, as a method of dispute resolution, has existed since the dawn of commerce. Historical evidence suggests that even before the establishment of formal courts, parties turned to private adjudicators. In England, arbitration gained prominence during the 1600s. The enactment of the

Common Law Procedure Act of 1854¹ marked a turning point, enabling courts to refer disputes to arbitration and thereby institutionalizing the process.

The globalization of arbitration began with the establishment of the **International Chamber of Commerce**² (ICC) in 1919, which promoted the practice on an international scale. Subsequent legal instruments significantly shaped its framework:

- **Geneva Protocol on Arbitration Clauses, 1923**³
- **Geneva Convention on the Execution of Foreign Arbitral Awards, 1927**⁴
- **New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards, 1958**⁵
- **UNCITRAL Arbitration Rules, 1976**⁶
- **UNCITRAL Model Law on International Commercial Arbitration, 1985**⁷

These instruments have collectively enabled cross-border enforcement and recognition of arbitral awards. India adopted this framework through the *Arbitration and Conciliation Act, 1996*⁸, aligning with the UNCITRAL⁹ Model Law.

RELEVANT CASE LAWS

The strength of arbitration lies in its legal enforceability and its growing judicial recognition:

- ***Prima Paint Corp. v. Flood & Conklin Mfg. Co.***,¹⁰ This case established the doctrine of separability, affirming that arbitration clauses are independent of the main contract and should be enforced even if the contract is alleged to be void.
- ***Tata Sons Pvt. Ltd. v. Siva Industries & Holdings Ltd.***,¹¹ The Supreme Court held that the 12-month deadline under § 29A of the **Arbitration and Conciliation Act, 1996** does

¹ 17 & 18 Vict. c. 125 (UK)

² <https://iccwbo.org/>

³ Geneva Protocol on Arbitration Clauses, Sept. 24, 1923, 27 L.N.T.S. 157],

⁴ Geneva Convention on the Execution of Foreign Arbitral Awards, Sept. 26, 1927, 92 L.N.T.S. 301

⁵ Convention on the Recognition and Enforcement of Foreign Arbitral Awards, June 10, 1958, 330 U.N.T.S. 3

⁶ UNCITRAL Arbitration Rules, G.A. Res. 31/98, U.N. Doc. A/RES/31/98 (Dec. 15, 1976)

⁷ UNCITRAL Model Law on Int'l Commercial Arbitration, G.A. Res. 40/72, U.N. Doc. A/RES/40/72 (Dec. 11, 1985)

⁸ Arbitration and Conciliation Act, No. 26 of 1996, India Code (1996)

⁹ <https://uncitral.un.org/>

¹⁰ 388 U.S. 395 (1967)

¹¹ (2019) 9 SCC 449

not apply to international commercial arbitration. It further ruled that parties may mutually extend timelines under § 29A(3).

- ***Gujarat Composite Ltd. v. A Infrastructure Ltd.***,¹² The Court reiterated that arbitration is only available when an enforceable arbitration agreement under § 8 exists between the parties.
- ***Cox and Kings Ltd. v. SAP India Pvt. Ltd.***,¹³ The Court highlighted the importance of adhering to the arbitration agreement, emphasizing judicial non-interference unless the agreement is void or inoperative.

These rulings demonstrate the judiciary's pro-arbitration stance and its intent to minimize judicial intervention in arbitration proceedings.

ADVANTAGES OF ARBITRATION

Arbitration offers several compelling advantages over traditional litigation:

- **Efficiency:** Arbitration is faster than court proceedings, especially in international matters.¹⁴
- **Confidentiality:** Unlike public court hearings, arbitration proceedings are private, protecting sensitive business information.¹⁵
- **Flexibility:** Parties can choose arbitrators, venue, and procedural rules.¹⁶
- **Enforceability:** Arbitral awards are globally enforceable under the New York Convention, ratified by over 160 countries.¹⁷
- **Expertise:** Arbitrators with specialized knowledge can be appointed, improving the quality of decisions.¹⁸

These features have made arbitration a preferred method for resolving disputes in industries such as construction, international trade, finance, and technology.

¹² (2019) SCC OnLine SC 1273.

¹³ 2022) 8 SCC 1.

¹⁴ Bharat Chugh, *Arbitration: A Shift Towards Efficiency*, *LiveLaw* (Aug. 15, 2021), <https://www.livelaw.in>.

¹⁵ Julian D.M. Lew et al., *Comparative International Commercial Arbitration* (2003)

¹⁶ Alan Redfern et al., *Law and Practice of International Commercial Arbitration* (4th ed. 2004)

¹⁷ Gary B. Born, *International Commercial Arbitration* (3d ed. 2021)

¹⁸ Redfern & Hunter, *Law and Practice of International Commercial Arbitration* (6th ed. 2015)

CONCLUSION

Arbitration has cemented itself as a cornerstone in the framework of modern commercial dispute resolution. In an increasingly globalized world, where business transactions transcend national boundaries and involve parties from diverse legal and cultural backgrounds, the need for a neutral, enforceable, and efficient dispute resolution mechanism has never been greater. Arbitration fulfills this need by offering parties a forum that is not only detached from domestic legal systems but also tailored to their specific needs. The enforceability of arbitral awards under international conventions such as the **New York Convention, 1958** ensures that parties can expect finality and global compliance with decisions rendered through this mechanism. The ability to select arbitrators with domain expertise, define procedural rules, and choose neutral seats of arbitration increases both the fairness and effectiveness of the process. Despite its many advantages, arbitration is not without drawbacks. In high-stakes disputes, the cost of arbitration especially when using institutional bodies can rival that of traditional litigation. Additionally, the limited scope for appeal can be a double-edged sword: while it promotes finality, it may also leave parties with no remedy against flawed decisions. Concerns about arbitrator impartiality and procedural delays especially in jurisdictions with less developed arbitration infrastructure persist. However, courts around the world are increasingly supportive of arbitration and reluctant to interfere unless absolutely necessary, creating a more predictable legal environment for parties engaging in arbitration. The future of arbitration is promising, particularly with the integration of **technology-driven solutions** such as online dispute resolution (ODR), virtual hearings, blockchain-based evidence systems, and AI-assisted case management. These tools promise to address many of the current criticisms and make arbitration even more accessible, especially for small and medium enterprises. In sum, arbitration offers a highly adaptable, efficient, and enforceable method of resolving commercial disputes. As businesses increasingly seek certainty, neutrality, and efficiency in legal processes, arbitration will continue to grow as the preferred method of dispute resolution in both domestic and international contexts. Policymakers, institutions, and practitioners must now focus on making arbitration more inclusive, affordable, and technologically up-to-date to maintain its relevance and effectiveness in the evolving global legal landscape.