ARBITRATION FRAMEWORK AND EASE OF DOING BUSINESS IN INDIA

Ayushi Singh, University of Petroleum and Energy Studies, Dehradun, Uttarakhand

INTRODUCTION

In India, arbitration has become a vital way for resolving disputes as it opens an alternative route to the traditional court system that is often synonymous with delays and complex procedures. Built upon the solid foundation of the Arbitration and Conciliation Act, 1996, with latter amendments further strengthening the Act in 2015, 2019, and 2021, arbitration provides an avenue for the swift resolution of commercial disputes with assurance to the businesses and stakeholders involved. As a private and consensual process, it affords the parties an option to sidestep prolonged court proceedings, to appoint neutral arbitrators, and to obtain tailored binding decisions. In an emerging economy market with abundant commercial transactions, arbitration stands as a cornerstone of timely and effective justice, especially for cross-border and domestic business disputes.[1]

Significance of Arbitration not only relates to dispute resolution but also serves another important function-the enhancement of India's score in the Ease of Doing Business (EoDB) Index, a key indicator by the World Bank that measures the ability of economies to do business. A strong arbitration framework indicates to all investors, both domestic and foreign, that India provides a predictable, timebound, and enforceable mechanism for resolving commercial disputes. This gives a boost to investors' confidence, improves contract enforcement, and reduces pressure on an already overstretched judiciary. As India strives to climb the EoDB rankings and establish itself as a global trade and investment hub, it becomes a linchpin in ensuring efficacious arbitration systems.

Furthermore, this research aims at evaluating the arbitration framework of India through those who live in its heart namely, arbitrators and advocates. From this examination of their experiences, including challenges faced and suggestions forwarded, a detailed evaluation is

[1] INTRO JUDICIARY HUB, *Introduction to Judiciary's Role in Arbitration Unveiled, Intro Judiciary Hub Blog* (Feb. 15, 2023), https://www.introjudiciaryhub.com/introduction-judiciarys-role-arbitration-unveiled/.

made of the strengths and weaknesses apparent within the current system in relation to the breadth of its direct impact on doing business. In particular, among such objectives were including review regarding the effectiveness of legislative amendments; persistence of obstacles such as interference by judiciary and delays in enforcement; and the scope of institutional arbitration towards streamlining the processes. Accordingly, this has meant bringing to employ a questionnaire survey as methodology with a sample size of 20 respondents, who have both been experienced arbitrators and advocates involved with India's arbitration scene. Their inputs offer a pragmatic viewpoint on understanding the actual performance of the system and proposing concrete reforms.

RESPONDENT PROFILE

The respondent profile sets afresh basis towards understanding the category of persons in this study-and the respondent's professional background and expertise in arbitral or commercial litigations. There were 20 respondents who filled out the survey, all of whom are in some way connected—either as arbitrators or advocates—with the arbitration ecosystem in India. This section analyzes their demographics in terms of their profession, years of experience, and the number of arbitration cases they have handled. This will help establish the credibility of the study and complement it with diverse perspectives.

Among the 20 respondents, there is an even split of respondents in the sample between the two professions, with 10 acting as arbitrators and another 10 as advocates. This equal distribution permits a richer view of the subject matter, with the perspective from arbitrators in decision-making matters being weighed against that of advocates in representational matters in arbitration proceedings. The range of experience recorded for respondents is so widely varied that it calls upon a mix of emerging along with seasoned practitioners. Respondents include four (20%) who had less than 5 years of experience, five (25%) with 5 to 10 years of experience, six (30%) with 11 to 20 years of experience, and five (25%) with more than 20 years of experience. This distribution represents thereby a mix of fresh perspectives from the new practitioners and the wisdom of the veterans, thus giving this study a wide-bore temporal perspective.

Perhaps the number of arbitration cases successfully handled reinforces the idea of the considerable involvement of the respondents in the field. That said, four respondents (20%) handle 1-5 cases, five of them (25%) handle 6-10 cases, four of them (20%) handle 11-20 cases,

while the majority of the respondents (35%) handle above 20 cases. Most remarkably, the majority of respondents with more than 20 cases are mostly arbitrators or advocates with experience greater than 20 years, which leads to the inference that the longer one stays in the profession, the more cases one has the opportunity to handle. On the other hand, respondents with 1-5 cases are mostly those with less than 5 years of experience; in essence, newer entrants are just busy building their portfolios.

Most important from this profile is the pool of respondents with a depth of expertise and with a strong background in the business practice of arbitration. It has eminent professionals - 60% having more than 10 years of experience and 35% over 20 cases registered -. The study gains gravity from such people, who witnessed India's arbitration structure and legislative amendments through its transformation. On the other hand, relatively new people, where responses would not miss the contemporary issues that face newer practitioners, such as access to institutional arbitration or delays in courts, would also be present among the respondents. Altogether, the composition offers a collection of diverse arbitrators and advocates that should make a solid foundation upon which to measure how effective the arbitration system actually is or whether it's in line with the goals of enhancing the ease of doing business in India. Given these varied backgrounds, the study captures both the institutional memory of the field and the developing trends that shape its future.

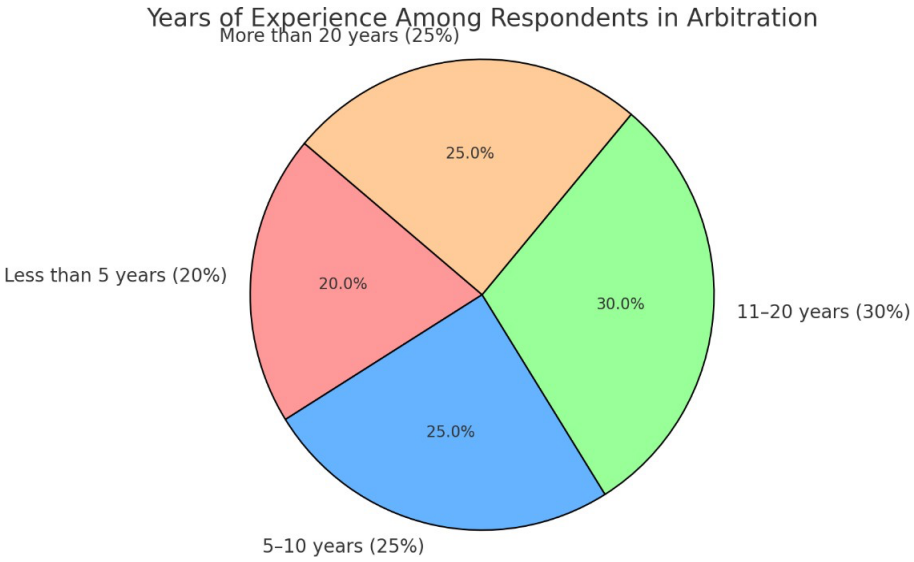

Fig1. The pie chart highlights the diversity in professional experience among the 20 respondents. With 60% having more than 10 years in the field, the data underscores a strong base of seasoned professionals, while still incorporating fresh perspectives from newer

practitioners.

ARBITRATION LAW AND JUDICIAL INTERVENTION

This Act, the Arbitration and Conciliation Act, 1996, is the foundation of India's arbitration system, which intended to provide a form of resolving disputes that is more effective and time saving than litigation. Amendments introduced in 2015, 2019, and 2021, in turn, have sought to make changes to the Act in line with global practice as well as to provide remedies for problems that have existed for years. Surveys of the respondents on the effect post-amendments have produced a mixed bag by way of responses on how the Act would facilitate time-bound resolution of disputes. A mean score of 3.65 was derived on a scale of 1 to 5 (1 = Very Poor; 5 = Excellent) with the ratings weighted as follows: 35% (7 respondents) rated it 5; 30% (6) rated it 4, while 20% (4) rated it 3, and 15% (3) rated it 2. Hence, this at large indicates a protective but positive attitude with some challenges, especially for less experienced advocates who tend to score lower, possibly because it has practical hindrances.

This research center is focused on certain amendments and their effectiveness in arbitration, particularly the amendments of 2015, 2019, and 2021. A majority, represented by 50% (10 respondents), have supported the view that the amendments have made arbitration more efficient. Specifically, Section 29A's time limits and restrictions on judicial interference have been pointed out as the most significant improvements. Nevertheless, 25% (5 respondents) hold the opinion that the amendments have made no change, whereas the remaining 25% (5 respondents) consider them as partially effective. Respondents rating the Act high (4 or 5) tend to cite the reduction of court interference and speeding up of the process as the major reasons for their optimism, but implementation of these objectives lags behind. Respondents rating lower contend that the lack of enforcement and institutional support to back the efficient operation of arbitration indicates that the intent of the law is not in practice.

The most common challenges cited by respondents concerning arbitration include systemic issues that directly affect its efficiency. The delay in the enforcement of awards has come out on top with 35% citing this as a reason (7 respondents), closely followed by 30% (6 respondents) citing judicial interference. Some, 20% (4 respondents), cited the unavailability of qualified arbitrators, while 15% (3 respondents) mentioned inefficiency in institutional support. While these findings indicate that the legislative framework has progressed, however, these practical hurdles-post-award delays and over-reach by the judiciary-continue to impede

the promise of an expeditious resolution, which is a concern echoed more loudly by advocates than arbitrators

In the post-2015 amendment phase, trends in judicial intervention have been depicted quite differently. The amendment was made in response to the perception that the courts were tending towards excessive involvement with the arbitral process, so it limited the scope of judicial review under Section 34 and fast-tracked timelines. According to about 60% of the respondents (12) who opined judicial interference to have been on the decrease since 2015, clearer statutory provisions and judicial precedents extending greater deference for arbitral autonomy were cited. The second largest group, 25% (5 respondents), said there was no apparent lessening, generally couching their observations in terms of inconsistent application of the amendments in different courts, while the remaining 15% (3 respondents) were uncertain, suggesting their different experiences. Older arbitrators, particularly those with more than 20 years of experience, tend to perceive a dip in judicial intervention, probably as they participated in high-profile cases where courts have complied with the modified standards.

A particular example of court interference drawn from the respondent's feedback has illustrated the dual potential of the interference: Respondent R1, an arbitrator with experience of 11–20 years, describes a positive case where the court took steps to hasten the enforcement of an arbitral award, which had been held up due to procedural objections. The court then went ahead to provide execution of an awarded decree in a timely manner while at the same time reinforcing the trust in the system by being proactive under Section 36 of the Act. On the other hand, Respondent R10, an advocate with 5-10 years of experience, narrated a negative example where an award was stayed by a court on ludicrous grounds, dragging resolution for more than a year. These cases present conflicting experiences underscoring the fact that judicial intervention can strengthen arbitration when exercised judiciously, but malpractices go a long way in being one of the major hurdles to effectiveness, especially in commercial disputes of higher complexity.

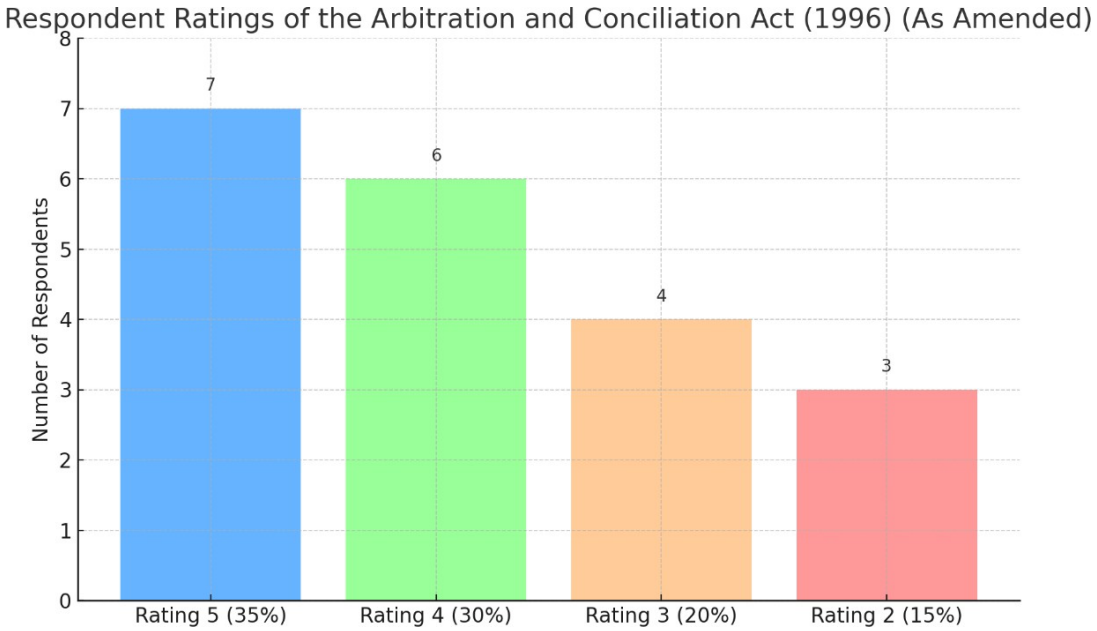

Fig 2. This chart shows a generally favorable perception of India's Arbitration Act among legal professionals, with 65% rating it 4 or 5. While optimism stems from reduced judicial interference and structured timelines, lower scores reflect lingering implementation and enforcement challenges.

INSTITUTIONAL ARBITRATION VS. AD HOC ARBITRATION

In the Indian arbitration scenario, institutional versus ad hoc arbitration is more than just a matter of choices; it is an important divide across which practitioners have differing priorities. The survey results present a mixed bag of responses among the 20 respondents. Institutional arbitration is favored by 40% (8 respondents) who value a more structured form of practice with administrative support, whereas 35% (7 respondents) favor ad hoc arbitration for its flexibility and economy. The remaining 25% (5 respondents) express that which method they favor largely depends on the nature of the dispute, thus adopting a somewhat pragmatic approach that is colored by the complexity of the case and requirements of the clients. Arbitrators, especially those having more than 20 years of experience, tend to favor institutional arbitration (R7, R11, R17), citing procedural reliability, while less experienced and relatively young advocates [innocently or out of cost consideration-R4, R8, R14] seem to gravitate towards ad hoc arbitration.

An additional layer of insights is provided due to previous experience with Indian arbitration

institutions such as the Mumbai Centre for International Arbitration (MCIA), the Delhi International Arbitration Centre (DIAC), and the Indian Council of Arbitration (ICA). A fair number of 65% (13 respondents) have participated in institutional arbitration through the Indian institutions mentioned, while 35% (7 respondents) have not. Ratings given by those who have experienced Indian institutional arbitration are averaged at 4.15 on a 1-5 scale, where 1 = Poor, 5 = Excellent: 38% (5 respondents) gave a rating of 5, 46% (6 respondents) gave a rating of 4, while 15% (2 respondents) gave a rating of 3. High ratings from experienced arbitrators (e.g., R3, R7, R11) reflect satisfaction with the institutional framework, especially regarding the modern facilities at the MCIA, although advocates like R12 (rating 3) pointed out sporadic inefficiencies in case management and suggested that improvements could be made.

The costs are evidently high judging by what 65% (13 respondents) said, including arbitrators and advocates of varying experience (for example, R1, R9, R15). In some cases, the respondents claimed that they lacked information about institutional arbitration; as is reflected toward 20% (4 respondents), especially lower-experienced advocates (for instance, R2, R8). These findings necessitate a more vigorous outreach program. In each case, 10% (2 respondents) mentioned difficulties in trust with the institutions and complexity of procedures, with R4 bringing out rigidity in procedure and R12 bringing out perceived biases as being causes. These factors are most likely to affect new practice members and small clients, who may turn to ad hoc arbitration to avoid the perceived financial and administrative burdens.

Institutional arbitration is supposed to offer a lot of hope when it comes to reduction of procedural delays and the judicial burden, especially with the support it enjoys from a strong majority as already mentioned. To be more specific, 70% (or 14 respondents) are of the opinion that these goals can be achieved through structured time lines, professional case management, and reduced reliance on courts for procedural oversight for instance (R6, R13, R18). On that note, one would think that the remaining 15% (3 respondents) would be in the center ground unless of course someone thinks differently since they are of a contrary opinion that institutional inefficiencies coupled with high costs nullify any such benefits (e.g., R4, R8), while the last 15% (3 respondents) have nothing to say, having mixed experiences on the issue (e.g., R2, R19). More optimistic are arbitrators, who boast some institutional experience, in line with the general world trend where bodies - such as one example, the Singapore International Arbitration Centre (SIAC) - portray efficiency while working under an

institutional framework. Overall, institutional arbitration would promise relieve of systemic pressures, depending on how the hurdles of cost and awareness can be surmounted in the Indian context for wider adoption.

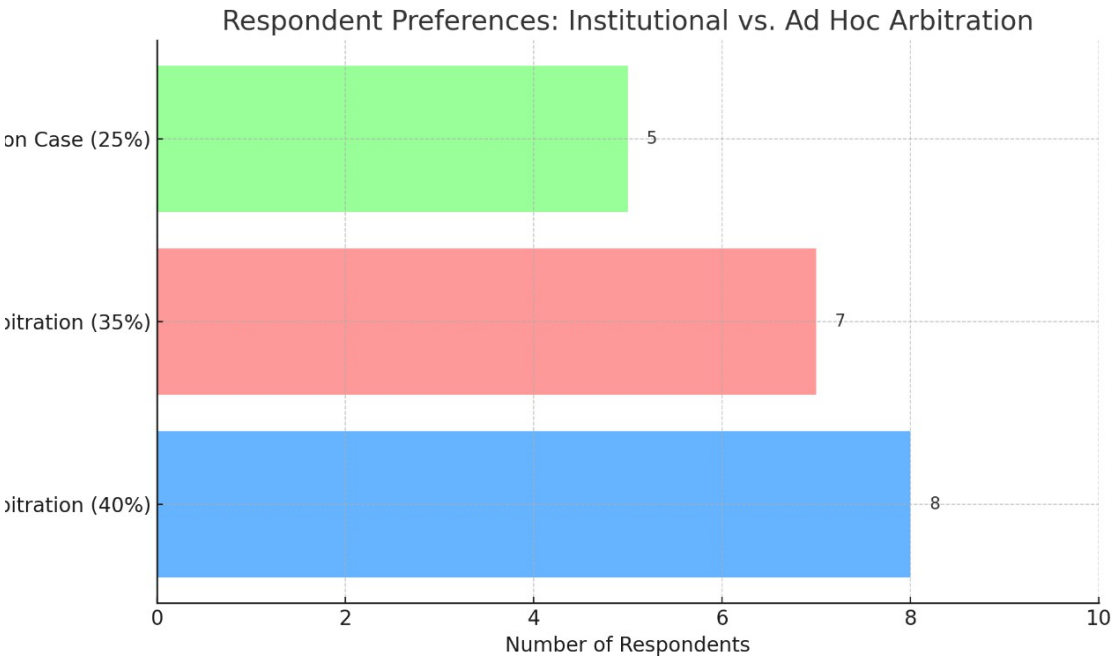

Fig 3. The chart highlights a slight preference for institutional arbitration among legal professionals, driven by structure and support. However, a notable share values the flexibility of ad hoc methods or makes decisions based on case specifics, reflecting a diverse and context-sensitive arbitration landscape in India.

ARBITRATION AND EASE OF DOING BUSINESS

Arbitration plays a crucial role in determining India's position in the Ease of Doing Business (EoDB) Index, as it applies particularly to contract enforcement and dispute resolution efficiency—two indicators measured by the World Bank. Among the 20 respondents, 65% (13 respondents) agree that arbitration has a positive influence on EoDB in India, viewing it as a potentially faster and more predictable alternative to litigation (e.g. R1, R7, R15). On the flip side, 15% (3 respondents) are opposed, stating that all-time delays and interference from the courts have affected arbitration's efficacy (e.g. R4, R10), while 20% (4 respondents) are neutral, showing that they do not believe in intervening changes (e.g. R2, R12). Above everything, experienced arbitrators are more willing to endorse arbitration as an EoDB impetus

in tune with the drive of India to streamline business affairs, while less experienced advocates will point out implementation lapses.

A significant dimension of economic effects of arbitration is the influence it holds on foreign investors' confidence. A considerable 60% (12 respondents) sees it positively; such a reliable arbitration system suggests that the legal environment is also stable, thus more favorable toward investment (e.g., R3, R9, R18). For instance, Respondent R11, with about 20 years of experience as an arbitrator, observes that a foreign party's perception is raised through the amendment of 2015, which restricts overreaching judicial power. On the other hand, 30% (6 respondents) see it as neutral, as they mention delays resulting from enforcement as discouraging (e.g., R5, R16); while 10% (2 respondents) represent a negative connotation of it by associating it with inconsistent judicial support that erodes their trust (e.g., R4, R8). All respondents that have experience with international frameworks (e.g., R13, R20) agree that alignment of Indian arbitration with global standards would likely further enhance investor confidence.

The viability of time limits under Section 29A, which require arbitral awards to be made within 12 months, with possible extension of 6 months, receives opposing views. Only 35% (7 respondents) consider these limits realistic for commercial disputes, especially those with more than 20 years of experience and who value disciplined timelines (e.g., R7, R17, R20), while 40% (8 respondents) say they are unreasonable because complex cases are often dragged beyond these limits by procedural bottlenecks or party delays (e.g., R2, R10, R14). The remaining 25% (5 respondents) consider feasibility to depend on case complexity, with arbitrators like R9 suggesting that institutional support could facilitate its adherence. This

divide indicates an inherent tension between legislative intent and practical realities, most notably for less-experienced advocates constrained by limited resources.

Pediatric recommended reforms are topical, speaking to the general consensus to ameliorate systemic deficiencies. Indeed, they put strengthening institutional framework at the top of their reform agenda, with a contingency of 25% (5 respondents) demanding a well-endowed body such as MCIA and DIAC (e.g., R1, R13). Smoothing the judicial interference, tabled by 20% (4 respondents), sought to prevent the overreach of the courts across as a drain on the credibility (e.g., R6, R18). For instance, with enforcement mechanisms faster in response time (15%, 3 respondents; e.g., R15), increasing the pool from which arbitrators will be taken (15%, 3

respondents; e.g., R5), and bring adherence to global standards (10%, 2 respondents; e.g., R3). There are also recommendations regarding simplifying procedures and awareness (e.g., R4, R12), thereby displaying a cursory approach to building the status of arbitration itself. All these would cumulatively rein in policy-practice gaps to further reinforce the credit of arbitration toward the Doing Business and investor confidence in India.

Focus Area	**Response Categories**	**Percentage**	**Key Observations**	**Examples (Respondents)**
Impact on EoDB Ranking	Positive	65%	Arbitration seen as faster and more predictable than Litigation.	R1, R7, R15
	Negative	15%	Judicial interference and delays reduce effectiveness	R4, R10
	Unsure	20%	Scepticism due to lack of visible improvements	R2, R12
Effect on Foreign Investor Confidence	Positive	60%	Reliable arbitration seen as legal stability indicator	R3, R9, R18
	Neutral	30%	Delays in	R5, R16
			enforcement affect perception	
	Negative	10%	Inconsistent judicial support reduces trust	R4, R8

Feasibility of Section 29A Timelines	Realistic	35%	Senior arbitrators favor strict timelines	R7, R17, R20
	Unrealistic	40%	Complex cases often exceed 12–18 months	R2, R10, R14
	Case-Dependent	25%	Timelines feasible with better institutional support	R9
Suggested Reforms	Strengthen institutions	25%	More funding for MCIA, DIAC	R1, R13
	Reduce judicial interference	20%	Limit court overreach	R6, R18
	Faster enforcement	15%	Speed up award execution	R15
	Expand arbitrator pool	15%	Train and appoint more arbitrators	R5
	Adopt global standards	10%	Harmonize with international arbitration norms	R3
	Simplify procedure and	Not quantified	Promote accessibility and	R4, R12
	increase awareness		user understanding	

COMPARATIVE ANALYSIS AND SUGGESTIONS

International Familiarity

- 65% (13 respondents) are familiar with international arbitration models like SIAC (Singapore) and UK Arbitration Act 1996.
- Familiarity is higher among professionals with 10+ years of experience, indicating a need to bridge the knowledge gap for newer advocates (35% unfamiliar).

Global Best Practices Identified

International Model	**Key Feature Highlighted**	**% Respondents**	**Remarks**
Singapore (SIAC)	Efficiency (strict timelines, robust support)	30% (6)	High global trust due to procedural speed and reliability
UK Arbitration Act	Procedural clarity & minimal judicial interference	25% (5)	Enhances arbitral autonomy and legal predictability
Singapore/UK	Institutional support & perceived neutrality	15% (3)	Critical for fostering business confidence

Top Recommendations to Enhance India's Arbitration Framework

Recommendation	**% Respondents**	**Inspiration/Goal**
Reduce judicial interference	35% (7)	Align with UK model – empower arbitral finality
Faster enforcement mechanisms	25% (5)	Inspired by Singapore's swift award execution
Increase arbitrator pool & training	20% (4)	Improve availability and quality of neutrals
Promote institutional arbitration	15% (3)	Enhance reliability, reduce case-by-case uncertainty

Reduce arbitration costs	15% (3)	Make arbitration more accessible and scalable

Additional Strategic Suggestions

- Awareness Campaigns – Address knowledge gaps and encourage adoption, especially for SMEs and younger advocates.
- Simplified Procedures – Reduce complexity in institutional frameworks to increase participation and efficiency.

CONCLUSION

A comprehensive snapshot of India's arbitration framework, including its advantages and chronic problems, is provided by a survey of 20 arbitrators and advocates. The major findings favor their cautiously optimistic assessment of the Arbitration and Conciliation Act, 1996, and its amendments in 2015, 2019, and 2021, most of which scored good marks (average 3.65/5) for enhancing time-bound procedures for resolving disputes, although 50% of those polled see partial or no improvements in effectiveness at all. Judicial interference and delays in the enforcement of awards were the most stated obstacles. About 60% noticed a drop in court involvement after 2015, but there was still contradiction. Institutional arbitration is favored by 40%, with 70% opining it can reduce delay and a huge burden on the judiciary; however, it fails to catch the broader spectrum of usage due to high cost and lack of knowledge. Among the impression on the Ease of Doing Business (EoDB), 65% agree that arbitration is a positive factor, and 60% interlink it with increased confidence from foreign investors but muzzled by apprehensions over enforcement and unrealistic timelines under Section 29A (40% dissent). Internationally, 65% of respondents knowledgeable about Singapore and UK frameworks would recommend adopting their efficiency and clarity, with top suggestions including reducing judicial interference (35%) and faster enforcement (25%).

"The implications of these findings carry weight for the stakeholders. For such policymakers, strengthening institutional arbitration would entail funding, awareness, and a larger pool of arbitrators but should entail a more stringent timeline and limit judicial overreach. Legal practitioners will have to adjust to a developing landscape, utilizing institutional mechanisms to advocate for even more streamlined processes to enhance client trust. Much investment

needed in India becomes hopeful, but investors must be careful about enforcement delays and advocate for contractual protection while bearing in mind the potential of such arbitration. Clearly, the data implies that a system is changing; the mood established by legislation seems to go beyond what is practically achieved, making targeted reform a necessity to join the two processes."

The power of arbitration in India's commercial future will lie in its transformation into an internationally recognized business-friendly mechanism. Cost factors, lack of judicial consistency, and institutional inefficiencies have been the main impediments to arbitration receiving the just treatment it deserves that can greatly enhance India's EoDB ranking to the level of serious contenders like Singapore. Increasingly exposed to international best practices, the experienced practitioners are prepared to take the necessary steps toward modernization, but that will only happen if we obtain continued policy flexibility and judicial restraint. With its pursuit of a position as a global economic powerhouse, India should realize that an effective arbitration regime will, to a great extent, shape its commercial attractiveness for many years, engendering trust and efficiency.