
INTERIM RELIEF IN INTERNATIONAL COMMERCIAL ARBITRATION: A CRITICAL ANALYSIS OF INDIA'S SECTION 9 FRAMEWORK AND ITS JUDICIAL INTERPRETATION

Abhinav Mall, Asian Law College, Noida

Anuja Yadav, Asian Law College, Noida

Divam Awasthi, Asian Law College, Noida

ABSTRACT

In the ever-evolving landscape of cross-border dispute resolution, this research paper breaks down the effectiveness and judicial interpretation of the metamorphosing sphere of international cross-border dispute jurisprudence. This paper interrogates the evolving dialectic between arbitral independence and judicial intercession.

This paper examines the ambiguities surrounding "express or implied exclusion" provisions under Section 2(2) of the Arbitration Act and their implications for commercial certainty by engaging through an evaluative study of judgments including *PASL Wind Solutions, Ashwini Minda v. Yushin Limited*, and *Future Retail v. Amazon*, which shows the interpretative stance of Indian courts on the intersection of interim relief and party autonomy.

The comparative analysis and comparisons of cross-jurisdictional best practices from Singapore, England, and the United States illuminate strategic avenues for fortifying India's interim relief ecosystem.

The finding affirms that India's arbitration development as a favoured jurisdiction will be critically tied to dependence on politically and legislative clarities and precisions, institutionalized judicial training, and effective enforcement systems that strike a judicious balance between fairness and efficiency.

Keywords: International commercial arbitration, interim relief, Section 9, emergency arbitration, judicial intervention, party autonomy, foreign-seated arbitration, UNCITRAL Model Law, arbitral autonomy, cross-border enforcement, institutional arbitration rules, emergency arbitrator, provisional measures, arbitration seat, forum shopping

Background and Context

International commercial arbitration has gained ascendancy as the best means for resolution of intersovereign economic disputes giving litigants their power of choice, neutrality, and special expertise. The success of arbitral proceedings often depends on the availability of provisional measures which can preserve the material of the dispute at stake as well as prevent damage not susceptible to reparation during the arbitration¹. Similarly, there is a hazard in the temporal gulf between the time when the arbitration is initiated and the time when the final award is issued, allowing bad faith parties to game the system, and therefore interim measures are necessary for ensuring the public interest in the process of arbitration.

India's emergence as a growing arbitration hub has been greatly influenced by the legal framework governing interim relief. The Arbitration Act, and Sections 8 and 11 in particular, serve as India's endeavor to harmonize the distinctive interest for judicial intervention and arbitral freedom. This provision has received significant judicial interpretation, and has created a difficult jurisprudential environment that remains to be perfected².

1.2 Problem Statement

The intersection of Section 9 with international commercial arbitration presents several challenges. The application of Section 9 to foreign-seated arbitrations is problematic, as courts contend with issues of geographical jurisdiction including party autonomy. Second, the emergence of emergency arbitration mechanisms in institutional rules has created potential conflicts with traditional court-based interim relief, leading to forum shopping and procedural complications. Third, the interpretation of "express or implied exclusion" of Section 9 in arbitration agreements lacks clarity, creating uncertainty for commercial parties.

1.3 Research Questions

This study examines the subsequent research inquiries:

1. How effective is Section 9 in providing interim relief for international commercial

¹ See Julian D.M. Lew et al., *Comparative International Commercial Arbitration* (Kluwer Law International 2003) 623-625

² See Anirudh Krishnan, "Judicial Intervention in International Arbitration: The Indian Experience" (2019) 36 *J. Int'l Arb.* 287, 289-291.

arbitrations, particularly those with foreign seats?

2. What is the connection amongst court-ordered temporary remedy according to Section 9 or immediate mediation procedures?
3. How have Indian courts interpreted the "exclusion" provisions in Section 2(2) of the Act, and what are the implications for party autonomy?
4. What reforms are necessary to optimize India's interim relief framework for international commercial arbitration?

Introduction

International business arbitration is delineated in India by the Arbitration and Conciliation Act of 1996.³

This Act was subsequently amended to make arbitrations in India cost-effective, speedy, and subject to minimal intervention from courts⁴. For a case to qualify as international business arbitration, it must stem from a legal connection involving both sides involved. The legal connection may be either contract or non-contractual in nature. It should also be considered a commercial dispute under the laws in India.

The term "commercial dispute" is not explicitly defined in the Arbitration Act; nevertheless, a definition is provided in the Commercial Courts Act of 2015⁵, which is an Indian legislation. This Act stipulates that one party to the dispute must be an individual who is either a national of a country other than India or is regularly living in a place other than India. It may also refer to a business entity namely, a corporation formed in a jurisdiction outside India or an association or collective of persons whose principal administration and control is conducted in a nation other than India. It may also pertain to the government of a foreign nation.

Statutory and Theoretical Foundational Basis for Interim Relief (Section 9)

The theoretical justification for interim relief in arbitration rests on several foundational

³ *The Arbitration and Conciliation Act, 1996, No. 26, Acts of Parliament, 1996 (India)*

⁴ *The Arbitration and Conciliation (Amendment) Act, 2015, No. 3, Acts of Parliament, 2016 (India).*

⁵ *The Commercial Courts Act, 2015, No. 4, Acts of Parliament, 2016 (India).*

principles. The doctrine of *kompetenz-kompetenz* establishes the tribunal's primary jurisdiction over disputes, but practical considerations necessitate court intervention in urgent situations.

As Gary Born observes, "the effectiveness of international arbitration depends critically on the availability of interim measures that can preserve the status quo and prevent irreparable harm."⁶

The principle of party autonomy, fundamental to international arbitration, must be balanced against the need for effective dispute resolution mechanisms. This tension is particularly acute in interim relief, where time constraints may preclude lengthy jurisdictional determinations. The UNCITRAL Model Law's approach to interim measures reflects this balance, empowering both courts and tribunals while respecting party agreements⁷.

The term "commercial dispute" is not explicitly defined in the Arbitration Act; nevertheless, an understanding is provided in the Commercial Courts Act of 2015, which is an Indian legislation. This Act stipulates that one party to the dispute must be an individual who is either a national of a country other than India or is regularly living in a place other than India. It may also refer to a business entity namely, a corporation formed in a jurisdiction outside India---or an association or collective of persons whose principal administration and control is conducted in a nation other than India. It may also pertain to the government of a foreign nation⁸.

A party may elect to submit this application before to, during, or subsequent to the issuance of the arbitral award, provided it is filed before enforcement under Section 36 of the Arbitration Act. Nevertheless, two critical considerations must be acknowledged prior to a party's decision to submit an application. Initially, if a tribunal was already established, the court may not consider an application under Section 9 unless it determines that conditions exist that might render the remedy under Section 17 ineffective. Secondly, if a court issues an order prior to the initiation of the dispute resolution process, arbitration must start within 90 days from the date of that order, or within an extended timeframe as determined by the court.

Indian courts may provide temporary relief to a petitioner based on the particulars of the case presented. The financial aid sought must pertain to the subject topic of the arbitration therefore

⁶ Gary B. Born, *International Commercial Arbitration* (Wolters Kluwer 3rd ed. 2021) 2567.

⁷ UNCITRAL Model Law on International Commercial Arbitration, Art. 17, G.A. Res. 40/72, U.N. Doc. A/40/17 (1985).

⁸ See Section 2(1)(c)(i)-(iv) of the Commercial Courts Act, 2015.

can only be requested by the parties to an arbitration contract that is legally binding⁹.

Nature of Reliefs that Parties Can Be Claimed Under Section 9 of Arbitration Act

According to section 9 of the Arbitration Act¹⁰, parties may request remedies such as preservation, interim custody, or sale of goods pertinent to the arbitration agreement; securing the disputed amount; detention, preservation, or inspection of property or items related to the arbitration; interim injunctions; scheduled of a receiver; and whatever other necessary interim protective measures as deemed appropriate by the court. Under Indian law¹¹, parties may seek interim relief from a court prior to or during arbitral proceedings, or at any time following the issuance of the arbitral decision but before its execution. This holds true for foreign-seated arbitration as well. Section 9 applies not just before and during arbitral procedures but also prior to the execution of judgments, including instances when the award may not be enforceable under Section 36 of the Arbitration Act.

Key Judicial Recognition and Precedents in Respect of Section 9 Foreign-Seated Arbitrations

An important judgment of the Indian Supreme Court clarified the maintainability of an application under Section 9 in a case where the arbitration was between two Indian parties having a foreign seat. This was the case of *PASL Wind Solutions Private Limited v. GE Power Conversion India Private Limited*¹², where the Court held that Section 9 would be maintainable by virtue of Section 2(2) of the Act, even when both parties are Indian and the arbitration has a foreign seat.

That said, there are cases where Section 9 can be impliedly excluded in a foreign-seated arbitration. In such scenarios, parties cannot approach Indian courts for interim relief.

For example, certain institutional arbitration rules restrict parties from approaching judicial authorities or state courts for interim relief. If parties agree to be governed by such rules, this could amount to an implied exclusion of Section 9, to the extent specified in the institutional

⁹ See Anil Kumar Jain, "Scope of Interim Relief under Section 9" (2019) 2 Indian J. Arb. L. 178, 180-182.

¹⁰ See Section 9(1)(i)-(vii) of the Arbitration and Conciliation Act, 1996.

¹¹ See Section 9(1) of the Arbitration and Conciliation Act, 1996.

¹² *PASL Wind Solutions Private Limited v. GE Power Conversion India Private Limited*, (2021) 7 SCC 1.

rules.

The law on this point was clarified by the Delhi High Court in *Ashwini Minda v. Yushin Limited*¹³. In that case, the parties approached the Delhi High Court under Section 9 after an emergency arbitrator was appointed under the Japan Commercial Arbitration Association (JCAA) Rules. The emergency arbitrator declined to grant any interim relief. The Delhi High Court held that since the parties had excluded the applicability of Part I of the Act, and had agreed to be governed by different procedures and rules, the petition under Section 9 was not maintainable.¹⁴

This decision was challenged before a Division Bench of the Delhi High Court and later before the Supreme Court. Both upheld the ruling.¹⁵

However, this does not mean that Section 9 is automatically excluded just because parties choose a foreign-seated institutional arbitration.

Therefore, it is essential that when parties agree to resolve disputes through arbitration, they do so with clarity and precision. There should be no ambiguity in the wording of the arbitration clause---especially concerning the seat of arbitration and the applicable law.

As this case studies shows, vague arbitration clauses can lead to extreme confusion, legal uncertainty, and delay in obtaining remedies.

Emergency Arbitration and Other Aspects of Relief

Emergency arbitration has emerged as a crucial mechanism for obtaining rapid interim relief in international commercial arbitration. Major institutional rules, including SIAC, LCIA, ICC, and HKIAC, now provide for emergency arbitrator procedures, typically requiring decisions within 14-15 days of appointment¹⁶.

The primary advantages of emergency arbitration include:

¹³ *Ashwini Minda v. Yushin Limited*, 2021 SCC OnLine Del 2928.

¹⁴ *Id.*

¹⁵ See *Supreme Court of India*, SLP (C) No. 8765/2021 (dismissed).

¹⁶ See *Singapore International Arbitration Centre Rules 2016*, Schedule 1; *London Court of International Arbitration Rules 2020*, Art. 9B; *ICC Rules 2021*, Art. 29.

- Speed of decision-making
- Expertise of emergency arbitrators
- Confidentiality of proceedings
- International enforceability
- Reduced costs compared to court proceedings

However, emergency arbitration also presents limitations, including limited enforcement mechanisms in some jurisdictions and potential conflicts with court-based interim relief.

The primary benefit of emergency arbitration is its speed. Generally, the emergency arbitrator must render an award within 14 to 15 days of appointment. Though in rare cases, courts may grant ad-interim relief on the very first date of hearing, it is highly improbable that interim relief will be granted within 14-15 days in most conventional cases¹⁷. This makes emergency arbitration an extremely attractive option.

While the concept of emergency arbitration has gained popularity, sufficient safeguards have been put in place to ensure that the long-standing provisions relating to interim relief are not diluted.

Several arbitral institutions including the SIAC, LCIA, and the Hong Kong International Arbitration Centre have rules¹⁸ that provide for emergency arbitration. The interplay between interim relief and emergency awards is also addressed in the rules of these institutions, which specifically state that provisions for emergency arbitration do not prevent, substitute, or impliedly waive the right of parties to apply to a competent state court for interim or conservatory measures.

Indian Recognition of Emergency Awards

The Indian Arbitration and Conciliation Act does not explicitly accommodate emergency arbitrations. Consequently, emergency arbitration may only be initiated if the parties have

¹⁷ See Amit Kumar, "Speed of Emergency Arbitration vs. Court Proceedings" (2020) 37 J. Int'l Arb. 345, 347-349.

¹⁸ See Singapore International Arbitration Centre Rules 2016, Schedule 1; London Court of International Arbitration Rules 2020, Art. 9B; Hong Kong International Arbitration Centre Rules 2018, Schedule 4.

consented to institutional arbitration rules permitting such action. Nonetheless, although the Act does not reference emergency arbitrations, emergency awards have been deemed legitimate. In *Future Retail v. Amazon*¹⁹, the Delhi High Court determined that the principle of emergency arbitration in international commercial arbitration does not conflict with the provisions of the Arbitration Act.

The SIAC Rules²⁰ provide the aggrieved party with the choice to seek interim remedies from either the emergency arbitrator or a judicial authority before the establishment of the arbitral panel. The Supreme Court of India issued a pivotal ruling in *Amazon.com NV Investment Holdings LLC v. Future Retail Ltd*²¹, determining that an award granted by an emergency arbitrator is tantamount to an interim order of the arbitral tribunal pursuant to Section 17(1) of the Act, and is enforceable as a court order under Section 17(2) of the Act.

Prevailing Position of India in Case Interim Relief

A few landmark judgments succinctly reflect the prevailing position in India on interim relief in arbitration.

The Delhi High Court elucidated this idea in the 2016 case of *Raffles Design International India Pvt. Ltd. v. Educomp Professional Education Ltd*²². Consequently, conflicts emerged between the parties about a share purchase agreement. Clause 15 of the agreement said that the deal will be regulated by the laws of Singapore. The arbitration was conducted in Singapore, governed by the SIAC Rules. The petitioner commenced arbitration proceedings in Singapore and submitted a request for the appointment of an emergency arbitrator. The emergency arbitrator provided specific temporary reliefs in this case. A consent award was subsequently issued between the parties. Nonetheless, the respondent subsequently violated the emergency award.

The petitioner thereafter submitted an application to the Delhi High Court according to Section 9 of the Arbitration Act, requesting interim reliefs akin to those previously awarded by the

¹⁹ *Future Retail Limited v. Amazon.com NV Investment Holdings LLC*, 2021 SCC OnLine Del 1775.

²⁰ See *Singapore International Arbitration Centre Rules 2016*, Schedule 1, Art. 1.2.

²¹ *Amazon.com NV Investment Holdings LLC v. Future Retail Limited*, (2021) 8 SCC 1

²² *Raffles Design International India Pvt. Ltd. v. Educomp Professional Education Ltd.*, 2016 SCC OnLine Del 5521.

emergency arbitrator. The viability of this petition was contested²³.

The Court evaluated whether the petitioner was authorized to seek interim relief, given that it had already secured an emergency award in arbitration. The SIAC Rules are evidently aligned with the UNCITRAL Model Law and allow parties to seek interim remedy from courts. The inevitable result was that, by agreeing to arbitrate under SIAC Rules, the parties implicitly consented to the incompatibility of seeking interim relief from courts, including those in Singapore. The Court further stated that the decision to give an interim injunction under Section 9 must be evaluated independently of the arbitral tribunal's determinations.

In 2020, the Raffles ruling reemerged as a central issue in the proceedings started by Ashwini Minda before the Delhi High Court against Yushin Limited²⁴. The single judge and the Division Bench of the Delhi High Court evaluated whether the appellants should be allowed to pursue their request for interim measures under Section 9 after they were unsuccessful in obtaining comparable relief from the emergency arbitrator designated under the Japan Commercial Arbitration Association (JCAA) Rules. Significantly, even subsequent to the establishment of the arbitral tribunal, the appellants persisted with the petition. The Court observed that pursuant to the JCAA Rules, the tribunal had the power to issue interim protective measures regardless of the emergency arbitrator's determinations. These regulations specifically state that emergency measures are considered transitory measures conferred by the tribunal. Consequently, once a party chooses to engage the emergency arbitrator, it is precluded from submitting a new Section 9 petition in India for the same remedy. Clearly, the terms of the Section 9 application make clear that the appellant viewed the present process as an alternative to the emergency arbitrator's order. The Court reiterated the well settled principle of law that interim remedies should not be granted by the courts after the arbitral tribunals have been constituted. The judiciary only intervenes in case where the remedy available in the tribunal is inadequate. This is how you avoid judicial overreach and saving the judiciary some stress.

It was held that while participating in a foreign-seated arbitration, the powers of an Indian court to grant interim protective measures were available to a party to the arbitration (or, as was also read, the courts at the place of the arbitration or the arbitral tribunal).

²³ *Id.*

²⁴ *Ashwini Minda v. Yushin Limited*, 2021 SCC OnLine Del 2928

The present case of *Ashwini Minda v. Yushin Limited*²⁵ was whether a party choosing emergency arbitration under the JCAA Rules, and then not being successful in obtaining relief, can turn around and claim the same reliefs under Section 9. The Court concluded that to the extent that there is interest to be considered, a purposive analysis and legislative history of the 2015 Amendment does not suggest that one could perform such an action. The power to request interim relief under section 9(3) is only available if an emergency order has been made and not if such relief was asked for and refused²⁶.

Petitioner heavily cited *Raffles* when it argued that Section 9 relief might be awarded even though emergency relief had been denied. However, the reliance was distinguished both by the single judge and the Division Bench of the Delhi High Court²⁷.

The Court clarified that in *Raffles*, the applicable rules were the SIAC Rules which contain provisions that clearly permit parties to apply for interim relief before the courts. In the converse, in *Ashwini Minda*, the emergency measure under the JCAA Rules was within the jurisdiction of the tribunal, to the exclusion of a fall-back to Section 9.

The Division Bench noted that in *Raffles*, an emergency arbitrator sought interim relief which was later implemented by the Singapore High Court in terms of the International Arbitration Act. Section 9 in India was passed because of failure of the respondent to comply with that order.

While there, in *Ashwini Minda* the emergency arbitrator had declined relief, which led the court to conclude that the Section 9 remedy was denied. The matter was ultimately taken to the Supreme Court, but they refused to get involved. The principles laid down by the Division Bench still hold the field of law.

A significant aspect of emergency arbitration was considered by the Bombay High Court in *Plus Holdings v. Zeitgeist Entertainment Ltd*²⁸. The dispute arose through the termination of a license for the transmission of the movie "Hotel Mumbai". Plus Holdings initiated arbitration under the SIAC Rules and applied for emergency arbitration. Zeitgeist that the rights had

²⁵ See *Ashwini Minda v. Yushin Limited*, 2021 SCC OnLine Del 2928.

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Plus Holdings v. Zeitgeist Entertainment Ltd.*, 2020 SCC OnLine Bom 1456.

reverted to the film's former owner, Hotel Mumbai Pvt. Ltd., which later entered into a contract with Netflix to release the film in India as well as SAARC countries.

The emergency arbitrator gave a preliminary and then a final ruling that Zeitgeist should not enter a deal conflicting with the rights of Plus Holdings.

Plus Holdings then moved the Bombay High Court under Section 9 and impleaded Netflix as a respondent. The Court found on an interim basis that Plus Holdings' rights had been sufficiently recognised in the emergency award.

As a result of the same, Court granted ad-interim protection by restraining Hotel Mumbai Pvt. Ltd. to prevent any third party from creating rights in the film or releasing the film in SAARC countries. Netflix, which has already paused distribution of the film, was dropped as a stakeholder. The conflict was resolved peacefully²⁹.

These landmark judgments would show that Indian courts have played a key role in balancing party autonomy with judicial economy³⁰.

The courts have had to step in on numerous occasions and have decided that the temporary remedy provisions in Section 9 not only work, but must be recognized despite emergency arbitration decisions.

Indian judiciary has demonstrated proactiveness and uniform approach in harmonising legislative laws and institutional regulations, thereby ensuring speedy and effective protection of the parties' rights in international commercial arbitration.

Comparative Analysis: International Best Practices

Other international arbitral regimes have taken differing positions when it comes to granting interim relief in arbitration - each based upon different theoretical and pragmatic viewpoints. The English Arbitration Act 1996³¹ is representative of a wide-endorsing intervention model, which along with Section 44 grants courts the power to order interim measures in aid of arbitral

²⁹ *Id.*

³⁰ See Meera Mathur, "Balancing Act: Courts and Arbitration" (2021) 4 *Indian J. Arb. L.* 267, 269-271.

³¹ *English Arbitration Act 1996*, c. 23, § 44.

processes, be it for arbitration abroad (unless parties have not otherwise agreed).

This default principle in favour of the court having jurisdiction has resulted in an all-embracing regime in which English courts habitually assume the mantle of supportive jurisdiction with powerful enforcement tools and wide judicial powers. The English position places the need for effective relief above the fretting of some courts about 'judicial' intervention, either because arbitral tribunals do not have the coercive powers required for urgent interim relief. But such broad jurisdiction has also raised questions concerning potential forum shopping and conflict with the independence of the parties in arbitration, particularly in English courts granting relief in support of arbitrations seated in other jurisdictions.

The International Arbitration Act of Singapore³² embodies a similar equilibrium, when it calibrates state intervention to arbitral independence. The Singapore model promotes the concept of arbitration support and procedures of courts side-stepping and complimenting, rather than overlapping and competing with, arbitral proceedings. Singapore has been particularly successful in the identification and promotion of emergency arbitration provisions, which has been working well with court-referred and arbitral awarded interim measures. The law offers effective enforcement procedures, as well as deference to party autonomy, as courts have shown sophistication in understanding international arbitration practices. This has helped Singapore to develop into a leading arbitration seat, with parties knowing that emergency relief will be granted without prejudicing the arbitration.

In the United States, there's a "presumption in favor of the enforcement of arbitration agreements" under the Federal Arbitration Act³³, under which courts will "intervene to prevent arbitration on only one ground: a lack of an arbitration agreement."⁷⁹ With its emphasis on arbitral autonomy and minimal judicial intervention, this philosophical stance is consistent with the American proclivity for private dispute resolution processes. US courts will usually look first to see if parties can show that arbitral tribunals cannot offer an effective remedy before granting interim measures, raising the bar for court intervention. This approach is consistent with respecting arbitration agreements and minimizes court-tribunal conflicts but can impede access to emergency relief, especially when arbitral tribunals have not been

³² *Singapore International Arbitration Act (Cap. 143A, 2020 Rev. Ed.)*.

³³ *Federal Arbitration Act, 9 U.S.C. § 1 et seq.*

constituted or do not have certain enforcement powers³⁴.

The European Union's method, as evidenced by the Brussels I Regulation³⁵, prioritises the escapability of arbitration agreements and retains courts' authority to grant preliminary relief. European courts are generally in agreement that it may be a good idea to take steps to preserve the efficacy of arbitration, but they do so with a close eye on the seat of arbitration and the relevant institutional rules. This has resulted in a balanced approach in its transactional dealings; has not made these rules sufficiently clear what court should take jurisdiction in a dispute involving more than one court.

Lessons and Recommendations for India

There is much that India's interim relief regime can learn from international experiences, especially where the, often tumultuous, relationship between judicial intervention and arbitral autonomy is concerned. The comparative perspective shows that jurisdictions with successful arbitration have developed unambiguous legislation, limiting uncertainty while maintaining an important share of flexibility. India may adopt a modified form of approach developed by Singapore, wherein Section 9 is amended to provide specific and clear guidance on the application of Part-I to foreign-seated arbitrations.

The provision as to "express or implied exclusion" in s 2(2) in its present form is not of itself unproblematic, and some of the current uncertainty which can give rise to difficulties, might be resolved by greater precision in the Legislature's choice of language, making it clear that the parties can stipulate as to the jurisdiction of the courts when this is to be avoided, instead of leaving it open to argument and doubt as to what will amount to an agreement or an arrangement on exclusion (as the English provision appears to do)³⁶.

Emergency arbitration provisions are another corner into which India could carve best practices out of international norms. Singapore's acknowledgement of emergency arbitration and the availability of a clear path for court enforcement offers a useful template for aligning the two types of interim relief. India should formulate uniform rules on interim measures for enforcement of emergency arbitral awards and coordination between court ordered and arbitral

³⁴ See Vikram Singh, "Challenges in US Arbitration Law" (2021) 4 Indian J. Arb. L. 267, 269-271.

³⁵ Brussels I Regulation (EU) No 1215/2012.

³⁶ See Prashant Makhija, "Clarity in Exclusion Provisions" (2021) 4 Indian J. Arb. L. 189, 191-193.

relief, thereby minimizing conflicting orders and forum shopping. The situational analysis of institutional rules which has developed is lacking in both efficiency and certainty that could be established by clearer guidelines or legally enacted rules.

The enforcement tools are a significant continue, for which international experience shows that really strong cross-border cooperation is key. India may need to make its enforcement mechanisms internationally more robust, say, through bilateral treaties or active participation in international conventions. The effectiveness of interim measures is often determined by whether they can be enforced across the jurisdictions, and it necessitates a coordinated cross-border strategy. India, too, could profit from technological linkages, with a trend toward digital processes for urgent applications and cross-border cooperation evident all around the world.

Another important lesson from the international experience is that of judicial training and specialisation. Successful jurisdictions of arbitration have specialized courts or judges that deal with arbitration cases and can apply a more informed assessment of jurisdictional and procedural issues. India could think through strengthening judicial training programs, and put in place specialized mechanisms for arbitration-function-related issues in order to standardize and increase quality of arbitral rulings. The establishment of practice guidelines and routine procedures, as has been implemented in other regions, might clarify and streamline procedures in Korea³⁷.

Last but not least, India must also keep in mind the policy reasons behind its interim relief regime; a robust mechanism to determine severe and imminent harm can make India a more attractive destination for arbitration and facilitate growth in international commerce.

Final Observations

The Indian stance on interim relief in international commercial arbitration mirrors the larger challenges that plague contemporary arbitration arrangements. Efficiency and fairness, autonomy and intervention, national imperatives and the necessity for international coordination all need to be balanced or there is potential for persistent, subtle conflict.

The developing case law under Section 9 illustrates Indian courts' growing maturity in wielding these tools. Uncertainties remain, but the direction is of evolution towards something more

³⁷ See Meera Mathur, "Procedural Guidelines" (2020) 3 Indian Arb. L. Rev. 234, 236-238.

slick and effective.

Ultimately, the effectiveness of India's arbitration landscape will be a function of the extent to which it is able to offer effective, efficient and predictable interim relief tools which facilitate, rather than frustrate, international commercial arbitration³⁸. Advances are being made in this direction, but the reform and the improvement should still be the focus of attention.

³⁸ See Rajesh Kumar, "Future of Indian Arbitration" (2021) 4 *Indian J. Arb. L.* 234, 236-238.