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THE EFFECTIVENESS OF THE INDIAN JUDICIARY IN SUPPORTING ARBITRATION: COMPREHENSIVE STUDY

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ABSTRACT

Arbitration has become a popular alternative dispute resolution procedure in India that offers parties the freedom and autonomy to resolve their issues outside of traditional court proceedings. In-depth analysis of the Indian judiciary's support for arbitration is provided in this research study, with a special emphasis on crucial elements including interim relief, jurisdictional issues, and public policy concerns. The article begins by highlighting the growing dependence on India arbitration as a method of dispute resolution spurred by legislative changes and legal position. It examines the importance of interim relief, a crucial component of arbitration procedures, and assesses the extent to which Indian courts have accepted their responsibility for awarding prompt and efficient interim measures to protect the arbitral process. Arbitration jurisdictional issues are frequently brought up by complicated multi-party and international disputes. In order to evaluate the judiciary's commitment to respecting the concept of party autonomy while providing due process, this study examines how Indian courts approach jurisdictional concerns. Case law and legislative measures are analyzed.

The study also explores how Indian courts must strike a careful balance when dealing with public policy issues in arbitration. It discusses the evolution of the Indian judiciary's position on protecting the integrity of the arbitration process while defending public interests and looks at cases when the courts have been asked to interfere based on public policy. Incorporating a thorough review of relevant legal provisions, landmark judgments, and international best

practices, this study report gives a complete review of the Indian judiciary's efficacy in promoting arbitration. It finishes with insights into India's changing arbitration landscape and recommendations for future changes, promoting an atmosphere favorable to efficient and impartial conflict resolution through arbitration.

Keywords: Arbitration, Indian judiciary, alternate dispute resolution, jurisdiction, interim relief, public policy.

INTRODUCTION:

India's increased reliance on arbitration as a form of conflict resolution is due to a mix of legislative changes and a supportive judicial culture. During the last few decades, India has made significant efforts to promote arbitration as a preferred method of conflict settlement. In India, a number of legislative amendments have been implemented in order to modernize the arbitration environment. One of the most significant is the Arbitration and Conciliation Act of 1996 (the "1996 Act"), which was modified in 2015 to reflect worldwide best practices and fix weaknesses in previous legislation. These changes shortened the arbitration procedure, minimized the need for judicial involvement, and increased the effectiveness and cost-effectiveness of arbitration. The 1996 Act emphasizes party autonomy by allowing parties to pick the arbitrators, the site for the arbitration, and the language of the proceedings. This method gives parties the ability to customize arbitration to meet their unique demands, which increases its appeal as a conflict settlement method. To maintain the concept of party autonomy and enable the prompt resolution of conflicts, courts are becoming less willing to become involved in cases meant for arbitration. In accordance with the New York Convention, Indian courts have showed a willingness to enforce arbitral decisions rendered both locally and internationally¹. Due to the likelihood that their decisions will be sustained and enforced, this has given parties engaged in arbitration in India more confidence. India has established specialized commercial courts in major cities to deal with commercial disputes, including those arising out of arbitration agreements. These courts have the expertise to handle complicated arbitration cases expeditiously. India has taken attempts to establish international arbitration centers, such as the Mumbai Centre for International Arbitration (MCIA) and the Delhi International Arbitration Centre (DIAC), in order to provide world-class arbitration facilities and promote India as an international arbitration hub. Businesses and legal professionals

¹ Kumar A and others, 'Interpretation and Application of the New York Convention in India' [2017] Recognition and Enforcement of Foreign Arbitral Awards 445

are becoming more aware of the benefits of arbitration. Educational programs, seminars, and conferences have contributed to disseminating knowledge about arbitration procedures and best practices.

APPROACH OF INDIAN COURTS TO INTERIM RELIEF

Interim remedies must preserve the interests of arbitration parties. It might stop one of the parties from doing something that would make the arbitration procedure pointless or ineffective. Since the goal of arbitration could be thwarted in the absence of interim remedy, Indian courts have come to appreciate the importance of this feature. Interim relief plays a crucial role in minimizing prejudice that parties may suffer during the course of arbitration. This includes preventing parties from dissipating assets, continuing harmful conduct, or causing irreparable harm. Indian courts have been responsive to such concerns and have granted injunctions, stay orders, and other interim measures to address them promptly. Ensuring the effectiveness of the arbitral process itself is a key responsibility of Indian courts. They understand that without adequate interim relief, parties might resort to court litigation, defeating the purpose of arbitration. As a result, Indian courts have been increasingly proactive in protecting the arbitral process by granting interim measures. Indian courts comprehend the significance of establishing a balance in arbitral procedures between offering interim relief along with preventing undue intrusion. They are generally inclined to uphold party autonomy and the arbitrator's authority but also acknowledge that there are circumstances where court intervention is necessary to maintain fairness and prevent injustice. The courts should not adopt a hyper-technical approach in deciding whether interim relief should be granted and should ensure that parties are not unfairly prejudiced.² When providing interim relief, Indian courts now take public policy issues into account. They have acknowledged the necessity to protect legitimate arbitration agreements and not for public policy to be utilized as a weapon for delaying or blocking arbitration procedures while recognizing the public policy exclusion under the Arbitration and Conciliation Act, 1996.

The issue of whether Section 2(2)³ abolished the courts of India's ability to award interim remedies in international commercial arbitrations held outside of India was decided in the renowned case

² National Aluminium Co. Ltd. v. Pressteel & Fabrications (P) Ltd (2004) 1 SCC 540

³ See BALCO, (2012) 9 SCC 552, ¶¶ 194–197 (India) (this is manifest in the discussion in BALCO wherein the Court overruled Bhatia International's position that the provisions of Part I of the Arbitration Act can be used in foreign seated arbitrations).

of Bhatia International v. Bulk Trading S.A.⁴. In Bhatia, the Supreme Court attempted to clarify the vague nature of 2(2) by taking the bold stance that, despite its wording to the contrary, the entirety of Part I of the Act also applied to international commercial arbitrations held outside of India, blatantly contradicting the conceptual and structural distinctions made by the 1996 Act. The court may have meant to encourage arbitration by addressing the conflict between the Model Law⁵ and the 1996 Act, but by making Part I applicable to arbitration held outside of India, it may have gone too far in widening the scope of Part II. Given that the Model Law itself does not anticipate delegating such extensive powers to national courts, the Court's ruling stands in stark contrast to the Model Law.

The need of adhering to international norms while granting interim relief has also been acknowledged by Indian courts. The ruling in *Ssangyong Engineering and Construction Co. Ltd. v. NHAI*⁶ underlined India's adherence to the principles articulated in the Model Law developed by the UNCITRAL, which emphasizes the issuance of interim remedies by both arbitral tribunals and courts to protect the arbitral process.

When granting interim relief, Indian courts have worked to strike a balance between party sovereignty and effectiveness. The Supreme Court affirmed the temporary injunction to safeguard the arbitral procedure in the case of *Amazon.com NV Investment Holdings LLC v. Future Retail Ltd. (2021)*⁷, while acknowledging the independence of the parties in choosing the arbitrator. The court's dedication to upholding arbitration's integrity while avoiding excessive interference in party decisions is demonstrated by this ruling.

⁴ See *Bhatia Int'l v. Bulk Trading S.A.*, (2002) 4 SCC 105, ¶¶ 21, 32 (India) [hereinafter "Bhatia International"] (the Bhatia International principle was that the Indian Courts will exercise jurisdiction over interim applications and challenges resulting from arbitrations, unless the intention of the parties was to expressly or impliedly oust the jurisdiction of Indian courts. This means that the Indian Courts would exercise concurrent jurisdiction, along with the courts of the seat of the arbitration).

⁵ *Hardy Exploration*, (2019) 13 SCC 472, ¶¶ 26–27 (India); See United Nations Commission on International Trade Law (UNCITRAL), Model Law on International Commercial Arbitration, G.A. Res. 40/72, U.N. Doc. A/RES/40/72 (Dec. 11, 1985), as amended by G.A. Res. 61/33, U.N. Doc. A/RES/61/33 (Dec. 18, 2006) [hereinafter "Model Law"] (the Model Law is similar to the ICC Rules as it also gives the arbitral tribunal the right to decide the seat if the parties have not already specified it).

⁶ See *Ssangyong Engineering & Construction Co. Ltd. v. National Highways Authority of India (NHAI)* 2019 SCC OnLine SC 677, the Supreme Court elucidated and interpreted the grounds for setting aside an award when the party was unable to present its case under Section 34(2)(a)(iii) of the Arbitration & Conciliation Act, 1996 ('Act'), when arbitral award deals with a dispute not contemplated or falling within the terms of submission under Section 34(2)(a)(iv) of the Act, when the award is in conflict with the public policy of India as provided under Explanation 1 & 2 of Section 34(2)(b)(ii) of the Act and what constitutes patent illegality appearing on the face of the award under Section 34(2A) of the Act.

⁷ 1.3 In these Rules: "Award" includes a partial, interim or final award and an award of an Emergency Arbitrator"

Efficiency is essential while providing temporary relief. In its decision in *M/s. Mayavti Trading Pvt. Ltd. v. Pradyuat Deb Burman*⁸, the Supreme Court emphasized the value of promptness in the granting of temporary remedies. According to the Court, giving interim relief slowly might defeat the goal of arbitration. This underscores the responsibility of Indian courts to ensure that interim relief is awarded promptly and efficiently to protect the arbitration procedure.

JURISDICTIONAL CHALLENGES

The ability of the parties to choose the arbitral location is an essential component of party autonomy in arbitration. The courts' ability to monitor and aid the arbitration is based on the location of the arbitration, which also establishes the legal framework that will apply to the arbitration proceedings. Indian courts have traditionally adopted a pro-arbitration stance in this respect and have demonstrated a strong commitment to maintaining party autonomy. The supreme court of India has traditionally held that the site of the arbitration confers jurisdiction on its courts. The *Balco*⁹ case is a significant ruling demonstrating the Indian judiciary's view on arbitration jurisdiction. In *Balco v. Kaiser Aluminium*¹⁰, the Supreme Court of India held that Indian courts should exercise minimal intervention in arbitration matters. The court affirmed the kompetenz-kompetenz principle¹¹, emphasizing the tribunal's authority to decide its own jurisdiction. This landmark judgment underscored India's pro-arbitration stance and its commitment to party autonomy. Building upon the *Balco* precedent, the Supreme Court, in *Bharat Aluminium Co. v. Kaiser Aluminium Technical Service (2012)*, reiterated its pro-arbitration approach. The court emphasized that Indian courts should only intervene if the arbitration agreement is "null and void" or "inoperative," as per the Act. This ruling outlined the boundaries of judicial review's limited

⁸ See 2019 (8) SCC 714 “appointment of an arbitrator is a judicial power and is not a mere administrative function leaving some degree of judicial intervention; when it comes to the question to examine the existence of a prima facie arbitration agreement, it is always necessary to ensure that the dispute resolution process does not become unnecessarily protracted.”

⁹ See *Bharat Aluminium Co. v. Kaiser Aluminium Tech. Servs., Inc.* (2012) 9 SCC 552, ¶¶ 95 (India); the term “subject matter of the arbitration” cannot be confused with “subject matter of the suit”. The term “subject matter” in Section 2(1)(e) is confined to Part I. It has a reference and connection with the process of dispute resolution. Its purpose is to identify the courts having supervisory control over the arbitration proceedings. Hence, it refers to a court which would essentially be a court of the seat of the arbitration process. In our opinion, the provision in Section 2(1)(e) has to be construed keeping in view the provisions in Section 20 which give recognition to party autonomy.

¹⁰ See *Bharat Aluminium Co. v. Kaiser Aluminium Tech. Servs., Inc.* (2012) 9 SCC 552, ¶¶ 71–76, 95–117 (India) [hereinafter “BALCO”].

¹¹ *Enercon (India) Ltd & Ors v Enercon GmbH & Anr* (2014) 5 SCC 1, ¶¶20 (India); “*In the present case, even though the venue of arbitration proceedings has been fixed in London, it cannot be presumed that the parties have intended the seat to be also in London. In an International Commercial Arbitration, venue can often be different from the seat of arbitration. In such circumstances, the hearing of the arbitration will be conducted at the venue fixed by the parties, but this would not bring about a change in the seat of the arbitration*”.

power to address jurisdictional questions, thereby safeguarding the rights of parties. Indian courts make a distinction between domestic and foreign arbitration, taking a more pro-arbitration stance in certain situations. The Supreme Court stressed in its most recent ruling in *Vijay Karia v. Prysmian Cavi E Sistemi Srl*¹² that courts should limit their involvement in international commercial arbitration in order to support party autonomy and speed up conflict settlement. While upholding the independence of the parties, Indian courts retain the power to step in if arbitration agreements or decisions are in conflict with basic principles of Indian public policy. This approach was clarified by the historic decision in *ONGC v. Western Geco*¹³, which placed an emphasis on a constrained understanding of public policy. In keeping with their dedication to due process and international arbitration norms, courts are careful not to abuse this provision. The significance of the arbitration venue in resolving jurisdictional questions is acknowledged by Indian courts. The ruling in *BGS SGS Soma JV v. NHPC Ltd.*¹⁴, which placed emphasis on the independence of the parties in determining jurisdiction, reaffirmed that the parties' choice of the seat indicates their objective regarding the arbitral procedure. The Indian courts have, however, occasionally displayed considerable uncertainty in how they handle jurisdictional disputes. One such issue is when both parties to an international arbitration consent on having their arbitration conducted outside of India yet decide to have Indian law apply to the dispute as its substantive law. In such circumstances, there is a possibility that inconsistent judgements from Indian courts and courts at the arbitration site would arise, creating uncertainty and perhaps complicating issues. This situation shows how important it is for Indian courts to have a more defined and consistent stance on jurisdictional issues in foreign arbitrations. In addition, Indian courts have been critiqued for meddling extensively with arbitration proceedings, notably when it comes to the nomination and the removal of arbitrators. It is crucial for courts to find a careful balance between their function as gatekeepers and the independence of the arbitral procedure. Although it is clear that the courts must uphold justice and due process, they should take care to avoid excessively interfering with the jurisdictional choices made by the parties since doing so would violate the idea of party autonomy. Finally, it should be noted that Indian courts have a strong history of upholding parties' autonomy in arbitration. They use a methodical approach to dispute resolution by granting authority to the courts of the designated arbitration venue. Clearer rules are still required,

¹² See *Vijay Karia & Ors. v. Prysmian Cavi E Sistemi SRL & Ors.* 2020 SCC OnLine SC 177, ¶¶ 85 (India); “if a foreign award fails to determine a material issue which goes to the root of the matter or fails to decide a claim or counter-claim in its entirety, the award may shock the conscience of the Court [and its enforcement may be refused] on the ground of violation of the public policy of India, in that it would then offend a most basic notion of justice”.

¹³ See 2014 (9) SCC 263, ¶¶ 31-34

¹⁴ See *BGS SGS Soma JV vs. NHPC Ltd.* [2019 SCC Online SC 1585], ¶¶ 25-30 (India)

especially in international arbitration proceedings where conflicts of jurisdiction may occur. To foster trust in the judiciary's dedication to upholding due process, Indian courts should work to find a balance between supervisory authorities and the autonomy of the arbitral proceedings.

PUBLIC POLICY CONSIDERATIONS

Public policy is a fundamental tenet of legal systems worldwide, serving as a safeguard against injustice and illegality. Indian courts in the context of arbitration have the challenging task of ensuring that the arbitral awards do not violate public policy while preserving party sovereignty and the finality of arbitral rulings, public policy is pursued. In Indian arbitration, the notion of public policy is a key legal principle that plays a critical role in ensuring the integrity and justice of arbitral rulings. It establishes a constrained frame of reference for court engagement with proceedings involving arbitration and the enactment of arbitral recommendations. Sections 34¹⁵ and 48¹⁶ of the Arbitration and Conciliation Act, 1996, which supervise domestic and foreign arbitration, respectively, consolidate public policy in Indian law. Although the Arbitration and Conciliation Act expressly define public policy, Indian courts have interpreted it broadly to encompass principles of justice, morality, and the basic framework of Indian law. It acts as a protection against the implementation of awards that are contradictory to India's core principles and legal system. Indian courts have established a high bar for using public policy as a justification to relinquish or reject the execution of an arbitral reasoning. Even grave mistakes of law or fact are insufficient to invoke the public policy exemption. The breach must be so severe that it shocks the conscience or is clearly prohibited. Public policy includes principles of natural justice and fairness. An award that contravenes due process established standards or is unjust in its fundamental nature may be acknowledged against public policy. The idea of separability is followed by the Indian legal system, which implies that an arbitration agreement is viewed as a separate agreement. Even if the underlying contract is deemed to be illegal, the arbitration

¹⁵ 34 Application for setting aside arbitral award. —

(2) An arbitral award may be set aside by the Court only if—

(b) the Court finds that—

(ii) the arbitral award is in conflict with the public policy of India.

Explanation. —Without prejudice to the generality of sub-clause (ii) it is hereby declared, for the avoidance of any doubt, that an award is in conflict with the public policy of India if the making of the award was induced or affected by fraud or corruption or was in violation of section 75 or section 81.

¹⁶ 48. Conditions for enforcement of foreign awards.—

(2) Enforcement of an arbitral award may also be refused if the Court finds that—

(b) the enforcement of the award would be contrary to the public policy of India. Explanation.—Without prejudice to the generality of clause (b) of this section, it is hereby declared, for the avoidance of any doubt, that an award is in conflict with the public policy of India if the making of the award was induced or affected by fraud or corruption.

agreement may still be enforced. Domestic and foreign arbitration are both subject to the idea of public policy. However, in conformity with India's international commitments under the New York Convention, the bar for refusing to implement an international arbitral award on public policy grounds is considerably higher. Indian courts have consistently emphasized that public policy should be used cautiously and in rare circumstances. The courts are generally deferential to arbitral awards and aim to minimize interference in the arbitration process. In international arbitration, Indian courts are mindful of the need to uphold India's international commitments, particularly under the New York Convention. This means that they should be cautious about national policy reasons, declining to enforce foreign arbitral judgements. *Renusagar Power Company Ltd. v. General Electric Company*¹⁷ established the idea of public policy in Indian arbitration. The Supreme Court ruled that in order for an award to be overturned on public policy grounds, it must either "shock the conscience" or be "patently illegal."¹⁸ This high bar guarantees that public policy is not exploited as a pretext to re-argue a dispute's merits.

Respecting the autonomy of both parties is the foundational principle in arbitration that is vital to both the efficiency and acceptability of this dispute-resolution approach. It refers to the parties' ability to modify the terms and processes of their binding arbitration contract according to their individual needs and inclinations. Party autonomy in arbitration incorporates several basic concerns that require being precisely balanced. While party autonomy is crucial, it is not absolute. Arbitral awards or agreements that conflict with indispensable public policy principles may not be perpetuated. The view of public policy acts as a hedge against ethically or legally invalid agreements or judgments. The primary virtue of arbitration is that every stakeholder has a fair chance of claims for relief. Excessive party autonomy that restricts a party's right to be heard or

¹⁷ See *Renusagar Power Company Ltd. v. General Electric Company* 1994 Supp (1) SCC 644, ¶¶ 27, (India).

¹⁸ See *Renusagar Power Company Ltd. v. General Electric Company* 1994 Supp (1) SCC 644, ¶¶ 66, (India); Article V(2)(b) of the New York Convention of 1958 and Section 7(1)(b)(ii) of the Foreign Awards Act do not postulate refusal of recognition and enforcement of a foreign award on the ground that it is contrary to the law of the country of enforcement and the ground of challenge is confined to the recognition and enforcement being contrary to the public policy of the country in which the award is set to be enforced. There is nothing to indicate that the expression "public policy" in Article V(2)(b) of the New York Convention and Section 7(1)(b)(ii) of the Foreign Awards Act is not used in the same sense in which it was used in Article I(c) of the Geneva Convention of 1927 and Section 7(1) of the Protocol and Convention Act of 1937. This would mean that "public policy" in Section 7(1)(b)(ii) has been used in a narrower sense and in order to attract to bar of public policy the enforcement of the award must invoke something more than the violation of the law of India. Since the Foreign Awards Act is concerned with recognition and enforcement of foreign awards which are governed by the principles of private international law, the expression "public policy" in Section 7(1)(b)(ii) of the Foreign Awards Act must necessarily be construed in the sense the doctrine of public policy is applied in the field of private international law. Applying the said criteria it must be held that the enforcement of a foreign award would be refused on the ground that it is contrary to public policy if such enforcement would be contrary to (i) fundamental policy of Indian law; or (ii) the interests of India; or (iii) justice or morality."

manipulate the process unfairly may be challenged. Balancing party autonomy with the principles of finality and efficiency is vital. Overpowering procedural discretion or interruptions might jeopardize arbitration's overall efficiency. In *ONGC v. Saw Pipes*¹⁹, Indian courts stressed their belief that they should refrain from participating in the arbitration process unless there is a "patent illegality"²⁰ in the award or a breach of the "most basic notions of morality or justice." The Court recognized the essence of contacting an intricate equilibrium between advocating for public policy and guaranteeing party autonomy.

Indian courts have gradually refined their approach to public policy in arbitration. The definition of public policy has evolved to encompass a broader understanding of what constitutes a violation, ensuring that only the most egregious cases are subject to intervention. In the context of arbitration, the notion of public policy has evolved over time to adapt to changing legal and societal norms. The development is particularly obvious in India, where landmark judgments have drastically changed the scope of public policy in arbitration. The courts adopted a rather restrictive reading of public policy in the early years of Indian arbitration. This approach focused on fundamental illegality, such as agreements to commit crimes or violate Indian law. It was highlighted in judgments like *Oriental Insurance Co. Ltd. v. Narbheram Power and Steel P.*

19 See *ONGC v. Saw Pipes* 2003 (5) SCC 705, ¶¶ 31, (India); "In our view, the phrase "public policy of India"...is required to be given a wider meaning. It can be stated that the concept of public policy connotes some matter which concerns public good and the public interest. What is for public good or in public interest or what would be injurious or harmful to the public good or public interest has varied from time to time. However, the award which is, on the face of it, patently in violation of statutory provisions cannot be said to be in public interest. Such award/judgment/decision is likely to adversely affect the administration of justice. Hence, in our view in addition to narrower meaning given to the term "public policy" in *Renusagar* case it is required to be held that the award could be set aside if it is patently illegal. The result would be – award could be set aside if it is contrary to:

- (a) fundamental policy of Indian law; or
- (b) the interest of India; or
- (c) justice or morality, or
- (d) in addition, if it is patently illegal.

Illegality must go to the root of the matter and if the illegality is of trivial nature it cannot be held that award is against the public policy. Award could also be set aside if it is so unfair and unreasonable that it shocks the conscience of the court. Such award is opposed to public policy and is required to be adjudged void."

²⁰ Section 28(2) specifically provides that arbitrator shall decide *ex aequo et bono* [according to what is just and good] only if the parties have expressly authorised him to do so. Similarly, if the award is patently against the statutory provisions of law which is in force in India or is passed without giving an opportunity of hearing to the parties as provided under Section 24 or without giving any reason in a case where parties have not agreed that no reasons are to be recorded, it would be against the statutory provisions. In all such cases, the award is required to be set aside on the ground of 'patent illegality'

Ltd"²¹. Subsequent judgments, such as "Phulchand Exports Ltd. v. O.OO. Patriot"²², emphasized that public policy should also encompass principles of natural justice and fairness. This evolution recognized that public policy concerns go beyond mere statutory violations and extend to ensuring that the arbitral process itself is just and equitable. The decision in Shri Lal Mahal Ltd. v. Progetto Grano Spa²³ stressed the restricted scope of public policy participation in arbitration. It warned against using public policy to re-evaluate the merits of a dispute. The Court emphasized the significance of party sovereignty and the finality of arbitral rulings.

In international arbitration, Indian courts are mindful of aligning with international standards. They realize that the New York Convention imposes a higher threshold for refusing to implement international arbitral judgements based on public policy considerations. Cases such as "Venture Global Engineering v. Satyam Computer Services"²⁴ show this international viewpoint, underlining the importance of India adhering to its international obligations. The decision in "ONGC v. Saw Pipes" reaffirmed that courts should not intervene in the arbitration process unless there is a "patent illegality" in the award or a violation of the "most basic notions of morality or justice. "This high bar guarantees that public policy is not utilized to re-argue the merits of a case. The perspective of public policy in Indian arbitration has evolved from a relatively narrow focus on statutory violations to a broader interpretation that encompasses moral, legal, and procedural considerations. Attention has broadened to assuring a fair and equitable arbitral method while maintaining an exceptionally high standard for setting aside or refusing to execute arbitral guidelines on public policy grounds. This evolution reflects India's building arbitration environment, is identical to international norms, and advances the concepts of party autonomy and the finality of arbitral rulings.

²¹ Clause 13 which provides for the dispute redressal clause can be broadly classified into the following three parts:

1. Disputes with regards to quantum of claim shall be referred to an arbitrator, to be appointed by the procedure prescribed therein.
2. No reference to arbitration if the insurer denies its liability.
3. Obtaining of arbitral award to be condition precedent to initiating any right of action or suit against the policy.

²³ See Phulchand Exports Ltd. v. O.OO. Patriot, (2011) 10 SCC 300, ¶¶ 12

²³ See Shri Lal Mahal Ltd. v. Progetto Grano Spa, (2014) 2 SCC 433, ¶¶ 29, that expression "public policy of India" under Section 48(2)(b) is narrow and limited to the extent of [11]: (i) Fundamental policy of Indian law. (ii) Interests of India. (iii) Justice and morality. However, the Arbitration and Conciliation (Amendment) Act, 2015 with regard to enforcement of foreign awards added Explanation to Section 48(2)(b) and thereby clarifying when an award shall be considered to be in conflict with "public policy of India".

²⁴ See Venture Global Engineering v. Satyam Computer Services, (2008) 4 SCC 190.

CONCLUSION:

Beneficial alterations and dedication to be consistent with international norms characterize India's developing arbitration system. India may solidify its dominance as an internationally renowned arbitration powerhouse by complying with the recommendations provided above and propagating a situation that promotes efficiency, openness, and impartiality. This will not only benefit domestic and international parties seeking to resolve disputes in India but also contribute to the overall expansion and advancement of the country's legal and business landscape. India should continue to update and refine its arbitration laws to keep pace with international best practices. This includes addressing any remaining ambiguities, enhancing confidentiality provisions, and encouraging the use of technology in arbitration proceedings. Fostering a pool of well-trained arbitrators and legal professionals is essential. Initiatives to train arbitrators and practitioners in international arbitration best practices should be encouraged. India should actively promote institutional arbitration by supporting and recognizing more arbitration institutions. This will help streamline and standardize arbitration processes and build trust in institutional arbitration. Encouraging parties to explore alternative dispute resolution (ADR) methods, including mediation, can help reduce the burden on the judicial system and promote faster resolution of disputes. Maintaining transparency in arbitration proceedings and ensuring accountability of arbitrators is vital. Establishing clear ethical guidelines and codes of conduct for arbitrators can help maintain impartiality. While India has made progress in enforcing foreign arbitral awards, further improvements in the enforcement process, including streamlining procedures and reducing delays, can enhance the esteemed status of India as an arbitration-friendly jurisdiction. Public awareness campaigns can educate businesses and individuals about the benefits of arbitration and ADR, promoting their use as a primary means of dispute resolution.