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# **THE PUBLIC POLICY EXCEPTION UNDER THE NEW YORK CONVENTION: JURISDICTIONAL DIVERGENCE, ENFORCEMENT CHALLENGES, AND THE QUEST FOR UNIFORMITY**

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## **ABSTRACT**

The 1958 Convention on the Recognition and Enforcement of Foreign Arbitral Awards - the New York Convention stands as arguably the most successful multilateral treaty in international commercial law. Ratified by more than 170 states, it creates a presumption in favour of enforcement of foreign arbitral awards, limiting refusal to narrowly defined grounds enumerated in Article V. Yet the Convention's aspiration to uniformity is tempered by a structural reality: it entrusts implementation to domestic courts operating within diverse legal traditions. Of the available Article V Defences, none is more controversial, more frequently invoked, or more variably applied than the public policy exception contained in Article V(2)(b). This paper investigates how the public policy exception is defined and applied across three major arbitration jurisdictions — the United Kingdom, the United States and India and analyses the extent to which divergent judicial approaches undermine the Convention's harmonizing objectives. Drawing upon leading case law, legislative frameworks and academic commentary, the paper argues that the vagueness of the public policy concept, combined with the Convention's reliance on domestic courts, produces an enforcement landscape characterized by doctrinal inconsistency. It further contends that meaningful uniformity requires not merely textual reforms but sustained judicial education, institutional investment, and a shared jurisprudential culture that treats arbitral finality as a governing norm. The paper concludes with targeted recommendations for reform directed at arbitral institutions, domestic legislatures, and the judiciary.

## **I. INTRODUCTION**

International commercial arbitration has emerged as the dominant mechanism for resolving cross-border disputes in the contemporary global economy. Its appeal rests on well-understood advantages: party autonomy in the selection of arbitrators and procedural rules, the neutrality of the forum, confidentiality of proceedings, and, critically, the global enforceability of awards through the framework established by the New York Convention. The last of these advantages is perhaps the most significant. An arbitral award that cannot be enforced against the assets of the losing party is commercially worthless, regardless of the quality of the reasoning that produced it. The Convention was designed precisely to address this concern, creating a system under which arbitral awards cross borders with far greater ease than foreign court judgments.

The Convention's architecture reflects a clear policy judgment. Enforcement is the rule; refusal is the carefully bounded exception. Article V lists, exhaustively, the grounds on which a court may decline to recognize or enforce a foreign award. These grounds include incapacity of parties, invalidity of the arbitration agreement, breach of due process, excess of jurisdiction, irregularity in tribunal composition, non-binding or set-aside awards, non-arbitrability and public policy are intended to be read narrowly. The burden of proving any ground rests upon the party resisting enforcement, not the party seeking it. This design reflects a deliberate pro-enforcement bias, calibrated to provide commercial certainty to parties who choose arbitration. Yet the Convention's ambition for uniformity confronts an inherent structural tension. By leaving implementation to domestic courts, it necessarily exposes enforcement outcomes to the influence of domestic legal traditions, judicial philosophies, and constitutional values. This tension is sharpest in the context of the public policy exception. Unlike most Article V grounds, which are relatively defined and fact-specific, public policy is an inherently open-textured concept. Different legal systems invest it with different content, and even within a single jurisdiction, its application may shift over time in response to changing social, economic, or regulatory priorities.

This paper examines the public policy exception as the principal site of jurisdictional divergence under the New York Convention. It proceeds in five parts. Part II situates the public policy exception within the Convention's legal framework and explains why it is particularly susceptible to inconsistent application. Part III analyses the treatment of public policy in the United Kingdom, a jurisdiction widely regarded as a benchmark for pro-enforcement practice. Part IV examines the United States, where a strong federal policy favouring arbitration has

produced a similarly narrow public policy standard with distinct constitutional dimensions. Part V considers India, a jurisdiction whose enforcement history illustrates the risks of expansive public policy interpretation and the capacity for legislative and judicial self-correction. Part VI draws comparative conclusions and proposes reforms aimed at strengthening uniformity in enforcement practice.

## **II. THE NEW YORK CONVENTION: FRAMEWORK AND THE PUBLIC POLICY EXCEPTION**

### **A. The Convention's Pro-Enforcement Architecture**

Adopted on 10 June 1958 and in force since 7 June 1959, the New York Convention replaced the more restrictive Geneva Protocol of 1923 and Geneva Convention of 1927, which had imposed cumbersome requirements on the party seeking enforcement, including the obligation to prove that the award was final in the country of origin. The New York Convention reversed this burden. Under Article III, contracting states are obliged to recognize arbitral awards as binding and enforce them in accordance with their procedural rules, without imposing conditions more burdensome than those applicable to domestic awards. Under Article V, the resisting party bears the burden of proving a specific ground for refusal.

The architecture is deliberately restrictive. Albert Jan van den Berg, one of the foremost authorities on the Convention, emphasized that the Article V grounds are exhaustive. Courts may not invent additional defences and that ambiguity in their application should be resolved in favour of enforcement. The UNCITRAL Secretariat has similarly noted that the Convention's effectiveness depends upon domestic courts treating enforcement as the norm and applying Article V defences with restraint. This interpretive consensus has been adopted in the jurisprudence of major enforcement jurisdictions, though, as the following analysis demonstrates, it has not always been observed in practice.

### **B. Public Policy Under Article V(2)(b): Textual Indeterminacy and Interpretive Variation**

Article V(2)(b) provides that enforcement of a foreign award may be refused if the competent authority in the country where recognition and enforcement is sought finds that the recognition or enforcement of the award would be contrary to the public policy of that country. Three features of this provision are immediately apparent. First, unlike most Article V(1) grounds, the public policy exception under Article V(2) may be raised by the court of its own motion,

without the resisting party invoking it. Second, the provision is mandatory in form but discretionary in application: it permits, rather than requires, refusal. Third, and most significantly for the purposes of this paper, the Convention provides no definition of public policy, leaving the concept entirely to domestic determination.

This textual indeterminacy has produced a spectrum of interpretive approaches. At one end, some jurisdictions distinguish between domestic public policy encompassing all mandatory rules applicable within the state's internal legal order and international public policy, which is narrower and confined to principles so fundamental that they must be protected even in cross-border contexts. Many courts in pro-enforcement jurisdictions apply only international public policy when considering foreign awards, thereby substantially limiting the scope for refusal. At the other end of the spectrum, some jurisdictions have historically applied domestic public policy in its full breadth, effectively permitting courts to review the substantive correctness of the award under the guise of the public policy exception.

The academic literature consistently identifies the public policy exception as the most contentious Article V ground. Anthony E. Cassimatis has shown that the tension between domestic legal standards and the Convention's uniformity objective is most acutely felt through public policy, where local values and international obligations intersect. Christopher Drahozal has further argued that some degree of diversity in public policy standards may be inevitable and not entirely unwelcome, insofar as it allows jurisdictions to protect legitimate core values, but that this diversity becomes problematic when it crosses into protectionism or merits review.

### **III. PUBLIC POLICY ENFORCEMENT IN THE UNITED KINGDOM**

#### **A. Legislative Framework**

In the United Kingdom, the New York Convention is implemented through Section 103 of the Arbitration Act 1996, which mirrors the Convention's Article V structure and has been consistently interpreted by the courts in a pro-enforcement manner. The Arbitration Act 1996 is widely regarded as a model statute, reflecting the same minimal-intervention philosophy that animates the Convention itself. Section 103(3) provides that enforcement may be refused if it would be contrary to public policy, but English courts have interpreted this ground with exceptional restraint.

#### **B. The Narrow English Standard**

The touchstone of English public policy analysis in enforcement proceedings is the standard articulated by the Court of Appeal in *Westacre Investments Inc v Jugoimport-SDRP [1999] QB*

740: enforcement should be refused on public policy grounds only where it would be offensive to the most basic notions of morality and justice. This formulation sets an extremely high threshold. It confines public policy to violations of fundamental principles — not merely errors of law, departures from mandatory statutory requirements, or commercially sharp conduct.

The High Court's decision in *Maximov v OJSC Novolipetsky Metallurgichesky Kombinat [2017] EWHC 1911 (Comm)* illustrates the practical operation of this standard. The respondent argued that the award had been obtained through fraudulent misrepresentation before the tribunal and that enforcement would therefore be contrary to public policy. The court rejected the application, emphasising that unsubstantiated allegations of fraud, without clear and cogent evidence, are insufficient to engage the public policy exception. The court reiterated that its role is not to conduct a general review of the arbitral proceedings but to assess, on a high evidential threshold, whether enforcement would affront the most fundamental principles of English justice.

The UK Supreme Court's landmark decision in *Dallah Real Estate and Tourism Holding Co v Ministry of Religious Affairs of Pakistan [2010] UKSC 46* demonstrates that English courts are capable of rigorous analysis of Article V grounds — including refusal of enforcement — without abandoning the pro-enforcement philosophy. In *Dallah*, the Court refused enforcement on jurisdictional grounds after conducting a thorough *de novo* review of whether Pakistan was bound by the arbitration agreement. Critically, however, the refusal was grounded in disciplined legal analysis confined to the specific Article V ground raised, with no resort to merits review. This decision illustrates that English pro-enforcement practice does not mean automatic enforcement irrespective of the facts; it means that refusal is genuinely exceptional and that the analysis leading to any refusal is principled and constrained.

### **C. Post-Brexit Considerations**

The United Kingdom's withdrawal from the European Union has introduced new complexities into its enforcement landscape. The severance of the Brussels Recast Regulation and the failure to accede to the Lugano Convention 2007 have created a significant lacuna in the mutual recognition of judgments between the United Kingdom and EU member states. While this does not directly affect the enforcement of arbitral awards under the New York Convention, it has increased the practical importance of arbitration as an enforcement mechanism for English commercial parties operating in Europe, reinforcing the institutional and judicial commitment to a robust arbitration framework.

## **IV. PUBLIC POLICY ENFORCEMENT IN THE UNITED STATES**

### **A. The Federal Arbitration Act and the Pro-Arbitration Policy**

In the United States, the New York Convention is implemented through Chapter 2 of the Federal Arbitration Act (FAA). The U.S. Supreme Court has developed a body of jurisprudence articulating what it describes as a strong federal policy favouring arbitration, which has translated, in the enforcement context, into a highly deferential attitude toward foreign arbitral awards. U.S. federal courts have consistently emphasised that enforcement proceedings are not an occasion for merits review and that the public policy exception is narrow.

The standard formulation of the U.S. public policy threshold in the enforcement context draws from *Parsons & Whittemore Overseas Co Inc v Societe Generale de l'Industrie du Papier (RAKTA)*, 508 F.2d 969 (2d Cir. 1974), where the Second Circuit held that the public policy defence should be construed narrowly and applied only where enforcement would violate the forum state's most basic notions of morality and justice. This formulation, which echoes the English standard articulated in *Westacre*, has been adopted by courts across multiple circuits and represents the prevailing standard in American enforcement jurisprudence.

### **B. Arbitrability and the 'Second Look' Doctrine**

A distinctive feature of U.S. enforcement jurisprudence is the breadth with which statutory claims are treated as arbitrable. The Supreme Court's seminal decision in *Mitsubishi Motors Corp v Soler Chrysler-Plymouth Inc*, 473 US 614 (1985), established that claims under the Sherman Act which is the centrepiece of U.S. antitrust law and may be submitted to international arbitration. The Court acknowledged that courts retain a 'second look' at the enforcement stage to ensure that the arbitral process gave adequate effect to the statutory purpose, but made clear that this review is extremely limited and does not constitute a re-examination of the merits. This approach has significantly narrowed the scope of the non-arbitrability defence and reinforced the general deference accorded to arbitral awards.

### **C. Constitutional Dimensions and Sovereign Immunity**

The treatment of investment arbitration awards in U.S. courts adds a further constitutional dimension to public policy analysis. In *BG Group plc v Republic of Argentina*, 572 US 25 (2014), the Supreme Court reviewed an investment treaty award with significant deference, holding that threshold procedural conditions for arbitration — such as waiting periods or prior resort to local courts — are presumptively arbitral questions rather than jurisdictional prerequisites. This decision has been seen as reinforcing the pro-arbitration stance even in the

sensitive context of state arbitration, where the tension between deference to awards and legitimate regulatory interests of states is most acute. The U.S. approach thus demonstrates that a strong federal policy favouring arbitration can accommodate constitutional concerns without abandoning the narrow interpretation of the public policy exception.

## **V. ENFORCEMENT CHALLENGES IN INDIA: FROM INTERVENTIONISM TO REFORM**

### **A. The Pre-Reform Era: Expansive Public Policy and Judicial Over-Intervention**

India's experience with the enforcement of foreign arbitral awards constitutes one of the most instructive cautionary narratives in comparative arbitration law. Following its accession to the New York Convention in 1960, India implemented the Convention initially through the Foreign Awards (Recognition and Enforcement) Act 1961 and subsequently through the Arbitration and Conciliation Act 1996. The 1996 Act, modelled substantially on the UNCITRAL Model Law, appeared to establish a framework broadly aligned with international standards. In practice, however, Indian courts — and particularly the Supreme Court — developed an approach to the public policy exception that diverged substantially from the Convention's pro-enforcement philosophy.

The foundational decision is the Supreme Court's judgment in *Renusagar Power Co Ltd v General Electric Co*, AIR 1994 SC 860, decided under the Foreign Awards Act 1961. In *Renusagar*, the Court articulated a three-limbed public policy test: enforcement would be contrary to public policy if it were contrary to the fundamental policy of Indian law, contrary to the interests of India, or contrary to justice or morality. While the Court in *Renusagar* ultimately adopted a relatively narrow application of this test, the breadth of the formulation itself created interpretive avenues that subsequent courts would exploit. The most significant exploitation came in *ONGC Ltd v SAW Pipes Ltd*, (2003) 5 SCC 705, where the Supreme Court expanded the domestic public policy standard to include 'patent illegality,' effectively permitting courts to review the substantive correctness of arbitral awards on questions of law. Although *ONGC* arose in the context of domestic award setting-aside proceedings, its reasoning was extended to foreign award enforcement in *Phulchand Exports Ltd v OOO Patriot*, (2011) 10 SCC 300, where the Supreme Court held that the expansive *ONGC* public policy standard applied equally to the enforcement of Convention awards under Section 48 of the 1996 Act. The conflation of the domestic supervisory jurisdiction with the international enforcement regime was widely criticized in the academic and practitioner literature as a

fundamental misapplication of the Convention. By importing a domestic appellate review standard into enforcement proceedings, the Supreme Court effectively substituted a merit-based enquiry for the minimal intervention that the Convention requires.

### **B. Partial Correction and Legislative Reform**

The overextension of ONGC in the foreign enforcement context was addressed — though not definitively resolved by the Supreme Court's decision in *Shri Lal Mahal Ltd v Progetto Grano Spa*, (2014) 2 SCC 433. The Court in *Shri Lal Mahal* expressly overruled *Phulchand Exports*, holding that the patent illegality ground was not available in enforcement proceedings relating to Convention awards and that the public policy defence applicable to foreign awards is narrower than that applicable to domestic awards. This decision represented a significant corrective but did not eliminate all uncertainty, as the broader *Renusagar* formulation encompassing violations of the fundamental policy of Indian law, the interests of India, and justice or morality remained applicable and continued to afford courts considerable discretion. The Arbitration and Conciliation (Amendment) Act 2015 gave statutory force to *Shri Lal Mahal*'s corrective approach. The 2015 Act inserted an Explanation to Section 48, providing that the public policy review does not extend to the merits of the dispute and confining permissible grounds of refusal to three categories: awards induced or affected by fraud or corruption; awards in contravention of the fundamental policy of Indian law; and awards in conflict with the most basic notions of morality or justice. The deliberate adoption of the phrase 'most basic notions of morality or justice' language that echoes the English and U.S. standards signals a legislative intention to align Indian law with the international benchmark. The Arbitration and Conciliation (Amendment) Act 2019 introduced further refinements, including provisions directed at promoting institutional arbitration and expediting proceedings.

### **C. Post-Reform Jurisprudence**

The post-2015 judicial application of the narrowed standard has, at the Supreme Court level, been broadly consistent with the legislative intent. In *Vijay Karia v Prysmian Cavi E Sistemi SRL*, (2020) 11 SCC 1, the Supreme Court conducted an extensive review of the post-amendment enforcement regime and held unequivocally that the post-2015 public policy standard is narrow, that courts are not entitled to re-examine the factual or legal findings of the arbitral tribunal, and that the objective of the legislative reform was to send an unambiguous signal to the international commercial community that India is committed to honouring its Convention obligations. The Court further held that procedural objections to the conduct of

arbitral proceedings unless they rise to the level of a fundamental denial of due process — do not engage the public policy exception.

The Supreme Court's treatment of the fraud and corruption ground in *Avitel Post Studios Ltd v HSBC PI Holdings (Mauritius) Ltd*, (2021) 4 SCC 713, further illustrates the post-reform judicial approach. The Court held that a mere allegation of fraud is insufficient to resist enforcement; the fraud must go to the root of the arbitration agreement or the award itself and must be established by clear and cogent evidence. The Court drew a careful distinction between fraud that vitiates the formation of the arbitration agreement which may render the clause inoperative and fraud alleged as part of the substantive dispute, which is arbitrable in the ordinary way. This analysis represents a measured and principled approach that guards against both opportunistic fraud allegations and the enforcement of genuinely compromised awards. Notwithstanding these achievements at the Supreme Court level, the Indian enforcement regime continues to face significant practical challenges. The consistency of application at the High Court level — where the vast majority of enforcement applications are determined at first instance — remains uneven, reflecting disparities in judicial familiarity with international arbitration law and the structural pressure of heavy dockets. India's courts carry among the largest caseload backlogs of any major judicial system, and the time required to obtain a final enforcement order, even in the absence of substantive grounds for challenge can be considerable. The Commercial Courts Act 2015 has contributed to more efficient handling of enforcement applications in major commercial centres, but a significant gap between the formal legal standard and the practical experience of enforcement litigants remains in many cases.

## **VI. COMPARATIVE ANALYSIS: CONVERGENCE, DIVERGENCE, AND THE HARMONISATION DEFICIT**

### **A. Convergence on the Formulation of the Standard**

The comparative analysis reveals a striking degree of formal convergence across the three jurisdictions examined. The United Kingdom, the United States, and India, all post 2015, all nominally subscribe to a narrow public policy standard that confines refusal of enforcement to violations of the most fundamental principles of justice and morality. The language used across these jurisdictions is remarkably similar: English courts speak of conduct offensive to the most basic notions of morality and justice; American courts apply the most basic notions of morality and justice standard derived from the Parsons decision; and Indian law, since the 2015 amendments, explicitly adopts the most basic notions of morality or justice formulation. This

linguistic convergence is not accidental it reflects the influence of international academic commentary, cross-citation of case law, and the normative pull of the Convention's pro-enforcement philosophy.

### **B. Divergence in Practice**

Yet formal convergence in the articulation of the standard conceals significant divergence in its practical application. Three dimensions of divergence merit attention. First, the consistency of application across different tiers of the national judiciary varies considerably. In the United Kingdom, the Commercial Court's specialist expertise and dense body of precedent produce highly consistent enforcement outcomes. In India, the gap between Supreme Court jurisprudence and High Court practice reflects the institutional challenges of a large, diverse judiciary with variable familiarity with international arbitration law. Second, the domains in which public policy is invoked differ across jurisdictions. Areas such as competition law, sanctions compliance, punitive damages, and anti-corruption measures may engage public policy in some jurisdictions but not others, reflecting different regulatory priorities and constitutional values. Third, the treatment of procedural integrity within the public policy framework as opposed to under the separate due process ground of Article V(1)(b) varies, with some courts conflating procedural unfairness with public policy violations in ways that may extend the scope of the exception beyond its intended limits.

### **C. The Structural Sources of Divergence**

The divergences identified above are not accidental or easily remedied. They reflect deep structural features of the Convention's design. By entrusting implementation to domestic courts, the Convention inevitably exposes enforcement outcomes to the influence of domestic legal culture, constitutional frameworks, and judicial philosophy. The absence of a supranational enforcement body or an appellate mechanism capable of ensuring consistent application means that the Convention's uniformity aspirations are dependent upon the voluntary convergence of national jurisprudences. This dependence is particularly acute for the public policy exception, which — unlike more defined Article V grounds — invites precisely the kind of value-laden, context-specific analysis that produces divergence.

Academic commentary has long recognised this structural tension. Pieter Sanders, one of the Convention's principal drafters, acknowledged that the Convention's deliberate reliance on domestic implementation was a necessary political compromise, designed to secure broad ratification by accommodating states with diverse legal traditions. The price of this

accommodation, as Sanders's own later analysis and subsequent scholarship by van den Berg and Born have emphasised, is the persistent risk of divergent application — a risk that is managed but never eliminated by the Convention's pro-enforcement framework.

## **VII. TOWARD GREATER UNIFORMITY: REFORM PROPOSALS**

### **A. Interpretive Guidance from UNCITRAL**

The most immediate and practically achievable contribution to greater uniformity lies in enhanced interpretive guidance from UNCITRAL. The Commission's existing instruments — including the 1985 Model Law and its 2006 amendments — have provided valuable harmonising benchmarks for domestic arbitration legislation. A targeted interpretive instrument addressing the public policy exception under Article V(2)(b) — analogous to the UNCITRAL Legislative Guide on Insolvency Law — could provide courts with authoritative guidance on the content of international public policy, the distinction between domestic and international public policy, and the circumstances in which the exception appropriately applies. Such guidance would not bind domestic courts but would carry significant persuasive authority and would help to anchor judicial interpretation to a common international standard.

### **B. Judicial Education and Specialist Court Capacity**

The analysis of enforcement practice in India illustrates that formal legislative alignment with international standards is insufficient to produce consistent enforcement outcomes without corresponding investment in judicial education and specialist court capacity. Courts that are unfamiliar with the norms and expectations of international commercial arbitration are more likely to apply domestic standards instinctively, potentially expanding the scope of the public policy exception beyond its intended limits. Sustained investment in judicial education programmes — delivered through national judicial academies, international arbitration conferences, and collaborative initiatives between arbitral institutions and judiciaries — is essential to closing the gap between formal law and enforcement practice. The establishment of specialist commercial courts with dedicated arbitration lists, as demonstrated by the Singapore International Commercial Court, provides a model that other jurisdictions would benefit from emulating.

### **C. Enhanced Transparency in Enforcement Decisions**

A further reform that would contribute to greater uniformity is the systematic publication and accessibility of enforcement decisions across jurisdictions. Currently, enforcement

jurisprudence is fragmented: some decisions are published in national law reports, others are accessible only through commercial legal databases, and many — particularly from developing jurisdictions — are effectively inaccessible to foreign courts and practitioners. A centralised, publicly accessible database of enforcement decisions under the New York Convention — potentially maintained by UNCITRAL or the International Council for Commercial Arbitration (ICCA) — would facilitate cross-jurisdictional dialogue, enable domestic courts to benefit from comparative jurisprudence, and create a body of shared international precedent that reinforces convergence on the narrow public policy standard.

#### **D. Reform of the Public Policy Exception**

Some scholars have argued for a more fundamental reform: the amendment of Article V(2)(b) to provide a definition or criteria for public policy in the international enforcement context. While such an amendment would require the political will of contracting states and the convening of a diplomatic conference, the precedent of the UNCITRAL Model Law's 2006 amendments which introduced interim measures provisions that have been widely adopted and demonstrates that targeted reform of international arbitration instruments is achievable. A definition of international public policy confined to violations of fundamental principles of procedural fairness, peremptory norms of international law, and clearly established prohibitions on corruption would provide a textual anchor for judicial interpretation and reduce the scope for divergent application.

### **VIII. CONCLUSION**

The New York Convention has achieved a remarkable degree of success in creating a global framework for the recognition and enforcement of foreign arbitral awards. Its near-universal ratification, its pro-enforcement architecture, and its influence on domestic arbitration legislation across the world testify to its enduring significance as the foundation of international commercial arbitration. Yet the Convention's aspirations for uniformity remain imperfectly realised, and nowhere is this imperfection more apparent than in the application of the public policy exception under Article V(2)(b).

The comparative analysis conducted in this paper reveals that the United Kingdom, the United States, and India. Three major arbitration jurisdictions representing different legal traditions and enforcement histories have formally converged on a narrow articulation of the public policy standard. At the level of principle, each jurisdiction now subscribes to the view that

enforcement should be refused only where it would violate the most fundamental notions of morality and justice. Yet beneath this formal convergence lie significant divergences in practical application: in the consistency of outcomes across different court levels, in the domains in which public policy is invoked and in the institutional capacity of courts to apply international standards reliably.

These divergences are not merely technical imperfections in an otherwise well-functioning system. They have real consequences for international commercial actors, who depend on the predictability and reliability of enforcement outcomes when choosing arbitration as their dispute resolution mechanism. Uncertainty in enforcement even at the margins increases transaction costs, reduces confidence in arbitration, and potentially discourages recourse to an institution whose global utility depends on the consistency of its outputs.

Addressing these divergences requires action on multiple fronts. UNCITRAL interpretive guidance, judicial education, specialist court capacity, enhanced transparency in enforcement decisions, and ultimately consideration of targeted amendment to the Convention itself are all part of a coherent reform agenda. The trajectory of Indian enforcement law, from the expansive interventionism of ONGC and Phulchand Exports to the disciplined narrowness of Vijay Karia and the 2015 reforms, demonstrates that convergence is achievable but that it requires sustained commitment from legislative, judicial, and institutional actors over an extended period.

The New York Convention was, as Pieter Sanders recognized, a carefully designed compromise between international ambition and domestic reality. That compromise has served the international arbitration community well for nearly seven decades. Ensuring that it continues to do so in an increasingly complex and interconnected global economy requires ongoing vigilance, reform, and a shared commitment across jurisdictions, institutions, and legal traditions to the pro-enforcement values that the Convention embodies.

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