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STRENGTHENING INDIA'S ARBITRATION FRAMEWORK: EMERGENCY ARBITRATION, ODR, AND GLOBAL ALIGNMENT

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Abstract

This article examines the recent developments proposed in the arbitration law of India and critically analysis and discusses about the new provisions added specifically emergency arbitration and ODR and critically examined it and compares with foreign practice. Highlighting the challenges, such as absence of definition of ODR, timeline for appointment of emergency arbitrator, non-consideration of AI. Through comparative foreign practices, the study suggests to adopt the best global standards. The article provides for the solution and recommends a framework which is clear, easily accessible.It emphasizeson timely government actions and implementation on the Arbitration and Conciliation (Amendment) Draft Bill, 2024.

Keywords: emergency arbitration, stricter timeline, ODR, technology, AI, economic.

Introduction

It is a widely known fact that the current Judicial System in India is very expensive and is of time-consuming nature. The long delays in litigation have destroyed the faith of the common people in the judicial process that lead to a lack of confidence in the traditional courts.[2]Owing to these structural limitations, Alternative dispute resolution is defined as a way or method through which parties can resolve their issues without litigation. It is a method, which aims rapidity, confidentiality and flexibility. As court backlogs, escalating litigation costs, and prolonged delays continue to burden litigants, several states have started exploring

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[2] Pinki Krishnarao Churad, 'Alternative Dispute Resolution: Types, Benefits and Drawback' [2024] 7(3) International Journal of Law Management & Humanities 951 <https://ijlmh.com/wp-content/uploads/Alternative-Dispute-Resolution-Types-Benefits-and-Drawback.pdf> accessed 28 February 2026.

Alternative Dispute Resolution (ADR) mechanisms. It provides a way for disputing parties to come to a settlement with the assistance of a neutral third party. ADR can be used for a wide range of matters, including industrial, family disputes, civil, commercial, where negotiation between disputing parties may be challenging or unsuccessful. In ADR, the neutral third-party acts as an arbitrator to guide the parties to communicate effectively, discuss their differences, and work together to find a mutually agreeable solution.

Theoretical framework of ADR in India

The constitutional foundation for ADR in India lies in Article 39A of the Constitution, which directs the State to ensure equal access to justice and provide free legal aid.[3] Moreover, Section 89 of the Code of Civil Procedure, 1908, formally recognises various ADR methods, including arbitration, conciliation, mediation, and judicial settlements such as Lok Adalat's.

Currently, the arbitration ecosphere of India is under a transformation through which there is a shift of focus on speed, accessibility, and global alignment. On June 12, 2023, Arbitration Law's Expert Committee was set up under Honourable chairman Dr. T.K. Vishwanathan to evaluate the arbitration law in India as well as to formulate reforms to the Arbitration and Conciliation Act, 1996. The report of the committee was submitted on February 7, 2024, which suggested multiple amendments. Many of those have still not been implemented but can prove to be positively affecting arbitration. Further, the government of India also released a draft bill for invitation of public comments on the amendments on October 18, 2024.Emergency arbitration provisions was one of the most anticipated inclusions, as well as those of technology, rigid timelines for addressing urgent disputes and reduction in delays. These proposed changes displayed a growth in recognition of the fact that effective ADR should progress to meet the requirements of modern commerce and trade. Since litigation has become increasingly difficult to comply with, the amendments proved to be a proactive move to fortify India's position as a competitive hub for arbitration.

Emergency Arbitration: global standards and Indian developments

[3]Wex, 'Alternative Dispute Resolution' (Legal Information Institute, 1 March 2025) <https://www.law.cornell.edu/wex/alternative_dispute_resolution> accessed 20 February 2026

The validity or legitimacy of an emergency arbitrator derives from the fundamental principle of arbitration law, known as party autonomy[4].Before an arbitral tribunal is formally established, parties may request immediate temporary remedy through emergency arbitration.It is essential in circumstances where prompt action is required to prevent irreversible damage or safeguard assets. Parties can ensure the overall efficacy and integrity of the arbitration process by designating an emergency arbitrator, who will provide prompt decisions on interim remedies.

Emergency arbitration, providing swift interim relief prior to tribunal establishment, has significantly evolved since it was first introduced by the International Chamber of Commerce (ICC) in 1990.[5]

EAhas become a vital part and a parcel of international arbitration due to the increasing need of urgent interim measures by parties. The relief provided includes freezing orders, order for preservation and inspection of evidence, prohibitive and mandatory injunctions. The growth increased as other arbitral institutes followed for adopting emergency arbitration rules. The Singapore internation arbitration centre ["**SAIC**"] introduced its rules in 2010 and International Chamber of Commerce ["**ICC**"] did the same in 2012, the Hong Kong Internation Arbitration Centre ["**HKIAC**"] in 2013, the London Court of International Arbitration ["**LCIA**"] in 2014 and the China International economic and Trade Arbitration Commission ["**CIETAC**"] in 2015.[6].In past years the use of emergency arbitration has increased across various arbitral institution all over the world. Leading development "The Arbitration & Mediation,2023"["**AMA**"], which recently came into primary legislation on arbitration in Nigeria also introduced the emergency arbitration provision. This is added to various arbitration laws of the different states of the federation. In the amid of other provisions introduced by the ["**AMA**"], it recognizes the importances of the appointment of an emergency arbitrator for providing the relief to the aggrieved party before the arbitral constitution does. So,if a party needs urgent relief in emergency arbitration for pursuant to

[4]Vijayendra Pratap Singh, Abhijnan Jha and Arnab Ray, 'The Emergency Arbitrator in India – Status and Enforceability' (AZB & Partners, 9 September 2021) <https://www.azbpartners.com/bank/the-emergency-arbitrator-in-india-status-and-enforceability/> accessed 25 February 2026

[5]Banala Chaitanya, Toleti Krishna Saketh and Ravi Bundela, 'Emergency Arbitration: A Comparative Analysis OfGlobal Standards And India's 2024 Legislative Framework' (2025)<https://theaspd.com/index.php/ijes/article/view/2810> accessed 24 February 2026

[6]Owen Umeh, 'The Emergence of Emergency Arbitration in International Arbitration' (SSRN, 17 July 2023) <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4512857> accessed 28 February 2026.

dispute then they have tosubmit anapplicationto a arbitral institute to the court. The emergency arbitration can be conducted in person, video conferencing or in any similar means of communication.[7]

Indian legislative journey

EA gained prominence in India when the Law Commission of India in its 246th Report (2014) suggested, among other reforms, an amendment to the "1996 Act.In India, the emergency arbitratorgot its official sanction by the Arbitration and conciliation (Amendment) Bill, 2024, allowing parties to seek interim relief from the tribunal. The Draft Amendment also introduces a comprehensive legal framework for emergency arbitration. The Supreme Court of India in *Amazon.com NV Investment Holdings LLC v. Future Retail Ltd*[8] had recognised the enforceability of emergency arbitrators' orders under Indian law. [9]The draft amendment in 2(1) (ea) provides the definition of emergency arbitrator and under section 9-A mentions about the arbitral institution that can recruit an emergency arbitrator before the constitution of arbitral tribunal with the motive of him granting interim measures.[10]

Critical limitations

Section 9-A provides immediate interim relief to the parties but the 2024 Bill lacked specific timeframe for the appointment and determination of arbitrator which weakens the "emergency" flavour, unlike the SIAC, ICC and LCIA.[11][**'SIAC'**], further developed the mechanism by adding extensive provisions in its Arbitration Rules dated January 1, 2025, including a 24-hour appointment process and 14 - day decision time by emergency arbitrators. In comparison with international view, the SAIC also mentions about how to calculate the 24hrs time.**["LCIA"]** and [**"ICC"]**too introduced identical mechanisms, with appointment times of 3 and 2 days, respectively, and decision times of 14 and 15 days, thereby enabling expeditious adjudication of urgent matters.[12]The arbitration and conciliation

[7]Ibid.
[8]Amazon.com NV Investment Holdings LLC v Future Retail Ltd and Others (2022) 1 SCC 209 (SC).
[9]Abhisaar Bairagi, Milind Sharma and Ausaf Ayyub, 'Future of Arbitration in India: Decoding the Draft Arbitration and Conciliation (Amendment) Bill, 2024' (SCC Online Blog, 10 December 2024) <https://www.scconline.com/blog/post/2024/12/10/future-of-arbitration-in-india-decoding-the-draft-arbitration-and-conciliation-amendment-bill-2024/> accessed 24 February 2026
[10]Ibid.
[11]Banala Chaitanya, Toleti Krishna Saketh and Ravi Bundela, 'Emergency Arbitration: A Comparative Analysis Of Global Standards And India's 2024 Legislative Framework' (2025) 11(14s) International Journal of Environmental Sciences https://www.theaspd.com/ijes.php accessed 1 November 2025
[12]Ibid.

amendment 2024 also fails to incorporate a provision resembling to rule 16 of the ["**SAIC**"]rules, which gives power to emergency arbitrator to issue interim relief even before fully reviewing the facts of the case. This provision is significant as the ["**SAIC**"]have recognized the need to provide relief for urgent matters. For example, under the rule 16, if a party seeks to prevent a sale for a disputed property to save from irreparable harm, then emergency arbitrator can issue a preliminary order to freeze the transaction. The absence of this mechanism in 2024 amendment undermines the efficacy of emergency relief in Indian arbitration. Incorporating these missing provisions would bring India forward and align our nation which global best practices, ensuring timely relief to parties and clear stances for emergency arbitrator.[13]

ODR: technological integration

The amendment proposed meant to substitute the contemporary definition with the clause,"Arbitration means any arbitration whether or not administered by an arbitral institution and includes arbitration conducted, wholly or partly, by use of audio-video electronic means."[14]To further clarify the scope of "audio-video electronic means" under Section 2(1)(aa) of the Bill, the proposed amendment specified that it includes the use of any communication device for video conferencing, filing pleadings, recording evidence, transmitting electronic communications, conducting arbitral proceedings, and other related matters[15], in the manner as specified by the council under subsection (5) of the section 19.-[16]Online Dispute Resolution (ODR) is generally perceived as a form of Alternative Dispute Resolution (ADR) that operates through technological means, also referred to as e-ADR. This mechanism presents numerous potential advantages that extend beyond those offered by the traditional ADR framework. It plays a crucial role not only in resolving disputes but also in containing and preventing them, thereby contributing to the overall enhancement of the

[13]Ibid.
[14]Anhad Law, 'Promises and Pitfalls of the Draft Arbitration and Conciliation (Amendment) Bill, 2024' (Lexology, 7 November 2024)<https://www.lexology.com/library/detail.aspx?g=9cb3f0c3-15fa-454d-83d5-386621cd5b1a> accessed 20 February 2026
[15]Ibid.
[16] Kochhar & Nath LLP, 'Draft Arbitration Amendment Bill: A Boon or a Barrier to India's Arbitration Future?' (Kochhar & Nath LLP, 2024)<https://kochhar.com/wp-content/uploads/2025/02/The-Draft-Arbitration-And-Conciliation-Amendment-Bill-2024-1.pdf> accessed 27 February 2026

nation's legal health. ODR has already been adopted in various jurisdictions, including the United States of America (USA), Canada, Brazil, and the United Arab Emirates (UAE), where the government, judiciary, and private institutions are collaboratively working to harness the benefits of ODR to promote wider and more efficient access to justice. [17]

Technical and legal challenges

Despite the advantages, ODR encounters significant constraints, especially in complicated legal matters which necessitate thorough and lengthy analysis, evidences or expert opinion. The limitation also includes personal interaction, which is sometimes absolutely necessary in cases that are emotionally sensitive and high-risk disputes. The e-filing mechanism is often complicated and lacks user-friendliness, posing challenge for litigants and even legal practitioners to navigate efficiently. Establishing and maintaining e-courts requires large amounts of investment in advanced technology, which is an expensive undertaking for the government. Additionally, the insufficient training of paralegals and support staff in dealing the digital records and evidences can decrease the efficiency and consistency of the virtual court proceedings. Cybersecurity continues to be a nagging issue in virtual proceedings because of the responsibility to handle confidential data, the government's cyber security strategy on-ground implementation is yet to materialize.Considering the fact that, right to privacy is fundamental right in India under Article 21 of Indian Constitution, personal data-exchange during such process must be handled with care.Infrastructure- related obstacles further accelerate the situation, areas where electricity, internet facilities, and access to digital devices lacks or non-existent.

Also, the amendment lacks the definitions of online dispute resolution and ODR platform. Clear definitions and recognition criteria would strengthen the infrastructure and rules of arbitration. Further, introducing a provision under 43 d (2) which mandates the council to update list of authorised ODR platforms and formulate uniform regulations for them would bring transparency. Regular update about the privacy policies, procedures followed by the

[17] NITI Aayog, *Designing the Future of Dispute Resolution: The ODR Policy Plan for India* (Policy Report, March 2023) <https://www.niti.gov.in/sites/default/files/2023-03/Designing-The-Future-of-Dispute-Resolution-The-ODR-Policy-Plan-for-India.pdf> accessed 28 February 2026

platforms should align with the standards issued by the council. Protocol on Video Conferencing in International Arbitration, which was published in March. Comparably, while using online dispute resolution (ODR) systems, parties and arbitrators should take acceptable information security precautions, according to the Protocol on Cybersecurity in International Arbitration. The International Institute for Conflict Prevention and Resolution, the New York City Bar Association, and the International Commercial Court of Arbitration formed a working group that created these protocols. These international frameworks can direct India's adoption of international best practices to guarantee the efficient operation of arbitration procedures.

The Draft Amendment also recognizes arbitration agreements executed through digital signatures under article 7 (4) (a) of the act. Previously too through judicial pronouncements, the court has shown progressive intent toward integrating technology into dispute resolution. It does not matter if an agreement was made in traditional witting means or electronic means as long as it has a verifiable record, it was upheld under section 7 of Arbitration and conciliation. It was also upheld in *Shakti Bhog Foods Ltd. v. Kola Shipping Ltd* the agreements can be formed through a sign by both parties or in any electronic means as long as they are formed through mutual consent. In *Timex International FZE Ltd. v. Vedanta Aluminum Ltd* the Supreme Court upheld the enforceability and validity of arbitration agreements through email exchange.

AI in Arbitration: future regulatory challenges

Even though the proposed amendment does not directly mention about AI in arbitral proceedings, the ongoing time requires to anticipate the changes in future. A major issue regarding the application of artificial intelligence in arbitration is “black box” issue. In simple terms AI systems function like sealed boxes: Users see the input and the output, but the reasoning which leads to that answer is invisible. While parties to the arbitration may receive some general description of the training data or some vague outline of how the algorithm operates, they will never understand how the system in question evolves, learns and develops. This situation leads to the loss of meaningful oversight and makes it very difficult to adequately supervise the system. When systems make decisions and the reasoning cannot be articulated, the accuracy, fairness, and overall integrity of the process may not be reliable.

If the problem of ai systems leads to a black box and it becomes serious, then the AI "hallucinations" may result in the inventing legal authorities which do not even exist, unreal academic references, wrong facts, or even non - existing precedents. In arbitration processes, such mistakes can wrongly lead participants and distort legal reasoning, or, worse, violate the principles of due process. In the absence of proper surveillance, it is even probable that such results will call into question the integrity of the arbitration process and will undermine trust in the resolution of disputes by technology.The abovementioned challenges have prompted some jurisdictions in the U.S. to issue recommendations to the parties and arbitrators using AI, suggesting that they understand how AI works, including its data, and how it is used in the relevant legal context. These recommendations also suggest that AI is used at the expense of the merits balance, due process, the right to legal protection, and the confidentiality of legal information is also affected.

The problem of confidentiality is an even larger concern that may give rise to the above issues. Entering sensitive arbitration information into AI tools that rely, in whole or in part, on third party services, and whose data availability, retention, and use for machine learning is unknown, shows serious challenges. In large-scale, sophisticated disputes, monitoring and controlling the traversal of information across various digital platforms is, if not infeasible, at least extremely difficult. To put safeguard for the above risks, practitioners in India must get in use AI systems that have undergone strict certification processes with taken care of information privacy and cybersecurity protection. Clear and confident agreements or pursuance for closed and secure model system would balance technological advancements with taking in consideration with fundamental principles of arbitration.

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The safeguard incorporation for up and-coming technologies, especially AI is fundamental to protect data and ensure transparency. Artificial intelligence integration within the legal industry, particularly in international arbitration, is drastically reshaping traditional practices. AI's pivotal role in areas of arbitration selection, research, review of documents and even predictive analysis. Silicon Valley Arbitration and Mediation Centre, Chartered Institute of Arbitrators and other International-organisations have offered guidelines for the use of AI in arbitration proceedings responsibly.AI's black-box attributes, hallucinations by language highlights the concerns about the validity and fair treatment. There has been discussion by scholars for a hybrid regulatory framework of hard and soft law, which can be a practical approach to ensure ethical adoption of ai in arbitration.

Economic implications and global competitiveness

India's arbitration ecosystem stands to benefit very effectively if the government acts timely on the Draft Arbitration and Conciliation (Amendment) Bill, 2024. Timely reforms could reduce the competitiveness gaps with leading hubs like the Singapore International Arbitration Centre (SIAC) which can offer a clear roadmap for efficient practices so that India can strengthen its system. In 2024, SIAC achieved strong results with a record 625 new cases—91 percent international, involving parties from 72 jurisdictions (up from 66 in 2023)—led by users from South Korea, China, India, and the USA. Disputes totalled US$11.86 billion across trade, commercial contracts, construction, maritime, and corporate sectors, yielding 167 awards supported by initiatives like the Abu Dhabi Global Market MoU, which grew Middle Eastern engagement. SIAC also approved 66 of 143 fast-track requests, granted 7 of 13 early dismissal applications, and managed a record 152 emergency arbitrator cases since 2010. Amendments led it to land in the top five global as per the "International Arbitration Survey," conducted jointly by White & Case LLP and the School of International Arbitration at Queen Mary University of London (QMUL), making it a preferred hub for swift, transparent dispute resolution.

In furtherance, companies like Telenor and Unitech selected Singapore for talks on their partnership issues instead of India; most Videocon Group contracts with Indian parties choose Singapore for arbitration. Also, the recent shipping disputes involving Indian firms are also

being settled outside the country. [18]Supreme Court judges have often called for reforms to help India become a better arbitration centre.The failure and delay to improve the arbitration systems in India costs the economy considerably.Multinational corporations leave and move their arbitration to other jurisdictions, leaving India to handle disputes worth billions of dollars. India, therefore, relinquishes its involvement majorly in economic trades with other big economies which results in lower job Opportunities, decreased foreign direct investments, and economic stagnation. India's sixty-third place rank in the World Bank's Ease of Doing Business report is indicative of the country's economic predicament. India needs a more reliable and productive dispute resolution process to improve its ranking. Resolution mechanism of Indian disputes is in urgent need of an overhaul, and the 2024 Draft Bill, when passed into law, will be the first step in the overhaul. The Bill will add SIAC-like mechanisms of emergency arbitration, case timelines, and dismissal procedures. The initial step will be more limited judicial interventions and improved and fast accreditation of arbitration institutions in India. In extension, the Bill will improve and bring development in India's arbitration system, and as a result, will improve domestic arbitration, spur investment, and will operationalize India's previously held promises.

Conclusion

The recent developments mark a progressive step towards technology, efficiency and accessibility. The major changes like inclusion of emergency arbitration, ODR stricter timelines is a welcome change. However, loopholes still remain that need to be improved such as undefined timelines, absence of clear definitions, protection of data to match the global standards. Cautions and proactive steps should be even taken for future developments. Overall, to progress consistently India must adopt an innovation balanced with accountability and forward and inclusive approach. it should ensure that justice is not denied because of innovation, rather innovations should help to deliver justice swiftly, securely and equitably.

[18]Amiti Sen, 'Why Singapore Scores Over India on Settlement of Corporate Conflicts' The Economic Times (New Delhi, 31 December 2012) https://m.economictimes.com/news/company/corporate-trends/why-singapore-scores-over-india-on-settlement-of-corporate-conflicts/articleshow/17836163.cms> accessed 24 February 2026

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