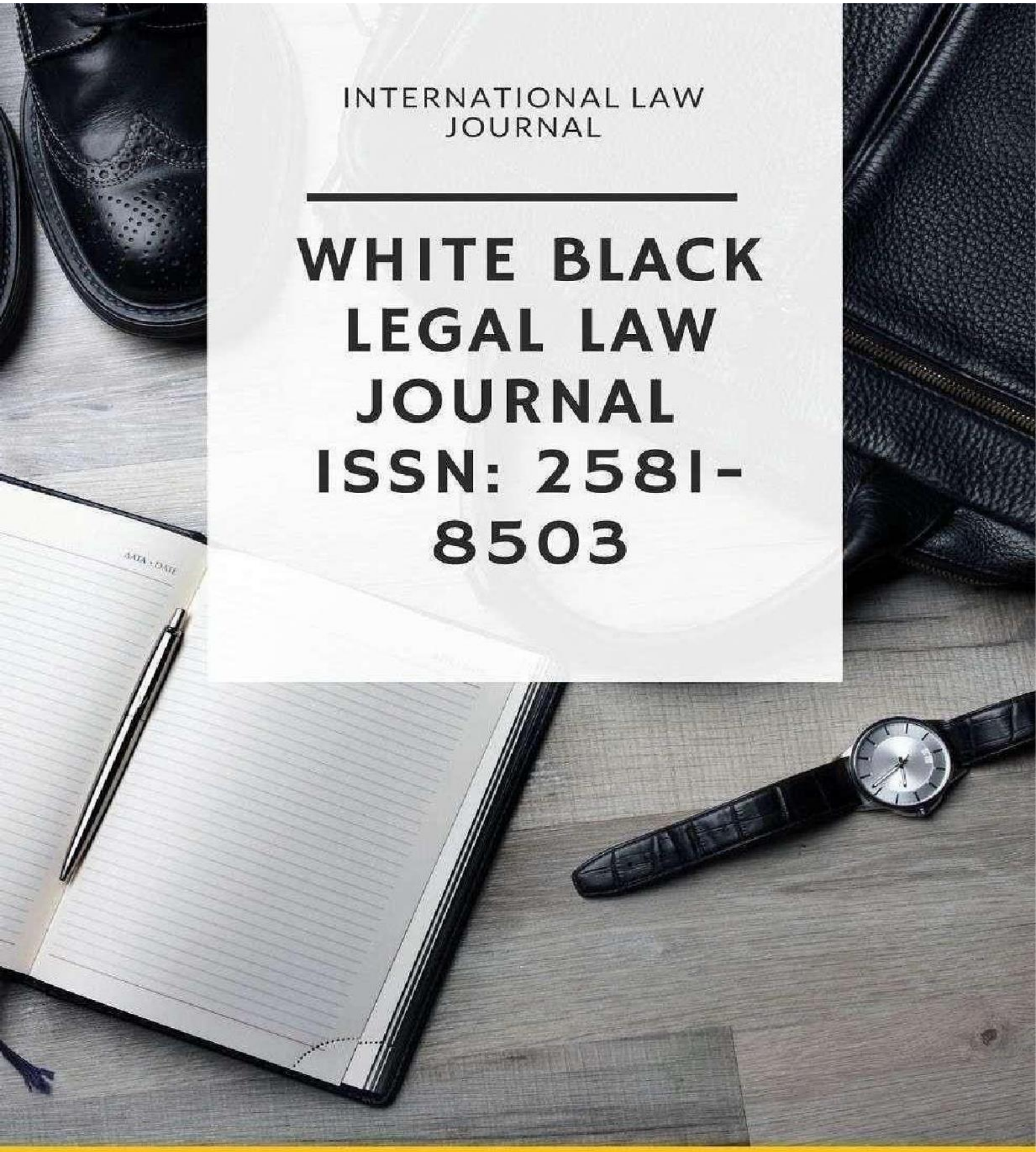


INTERNATIONAL LAW JOURNAL

WHITE BLACK LEGAL LAW JOURNAL

ISSN: 2581-8503

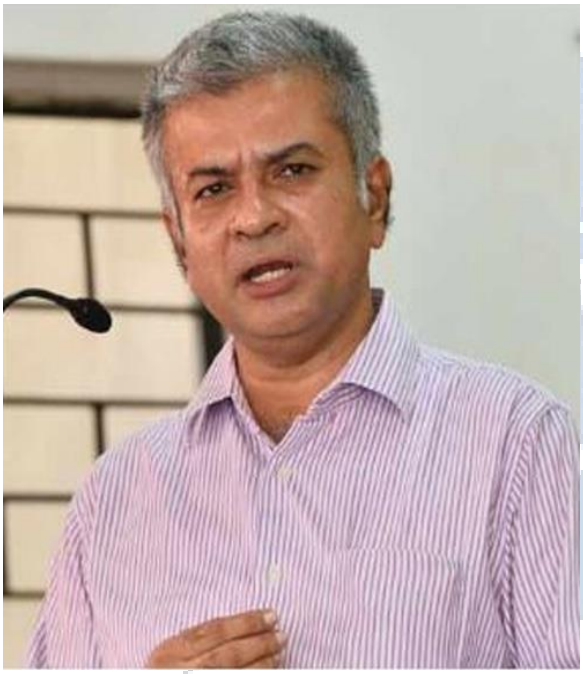
Peer - Reviewed & Refereed Journal

The Law Journal strives to provide a platform for discussion of International as well as National Developments in the Field of Law.

DISCLAIMER

EDITORIAL TEAM

Raju Narayana Swamy (IAS) Indian Administrative Service officer



Dr. Raju Narayana Swamy popularly known as Kerala's Anti Corruption Crusader is the All India Topper of the 1991 batch of the IAS and is currently posted as Principal Secretary to the Government of Kerala . He has earned many accolades as he hit against the political-bureaucrat corruption nexus in India. Dr Swamy holds a B.Tech in Computer Science and Engineering from the IIT Madras and a Ph. D. in Cyber Law from Gujarat National Law University . He also has an LLM (Pro) (with specialization in IPR) as well as three PG Diplomas from the National Law University, Delhi- one in Urban Environmental Management and Law, another in Environmental Law and Policy and a third one in Tourism and Environmental Law. He also holds a post-graduate diploma in IPR from the National Law School, Bengaluru and a professional diploma in Public Procurement from the World Bank.

Dr. R. K. Upadhyay

Dr. R. K. Upadhyay is Registrar, University of Kota (Raj.), Dr Upadhyay obtained LLB , LLM degrees from Banaras Hindu University & Phd from university of Kota.He has succesfully completed UGC sponsored M.R.P for the work in the ares of the various prisoners reforms in the state of the Rajasthan.

Senior Editor

Dr. Neha Mishra

Dr. Neha Mishra is Associate Professor & Associate Dean (Scholarships) in Jindal Global Law School, OP Jindal Global University. She was awarded both her PhD degree and Associate Professor & Associate Dean M.A.; LL.B. (University of Delhi); LL.M.; Ph.D. (NLSIU, Bangalore) LLM from National Law School of India University, Bengaluru; she did her LL.B. from Faculty of Law, Delhi University as well as M.A. and B.A. from Hindu College and DCAC from DU respectively. Neha has been a Visiting Fellow, School of Social Work, Michigan State University, 2016 and invited speaker Panelist at Global Conference, Whitney R. Harris World Law Institute, Washington University in St.Louis, 2015.

Ms. Sumiti Ahuja

Ms. Sumiti Ahuja, Assistant Professor, Faculty of Law, University of Delhi, Ms. Sumiti Ahuja completed her LL.M. from the Indian Law Institute with specialization in Criminal Law and Corporate Law, and has over nine years of teaching experience. She has done her LL.B. from the Faculty of Law, University of Delhi. She is currently pursuing Ph.D. in the area of Forensics and Law. Prior to joining the teaching profession, she has worked as Research Assistant for projects funded by different agencies of Govt. of India. She has developed various audio-video teaching modules under UGC e-PG Pathshala programme in the area of Criminology, under the aegis of an MHRD Project. Her areas of interest are Criminal Law, Law of Evidence, Interpretation of Statutes, and Clinical Legal Education.

Dr. Navtika Singh Nautiyal

Dr. Navtika Singh Nautiyal presently working as an Assistant Professor in School of law, Forensic Justice and Policy studies at National Forensic Sciences University, Gandhinagar, Gujarat. She has 9 years of Teaching and Research Experience. She has completed her Philosophy of Doctorate in 'Intercountry adoption laws from Uttranchal University, Dehradun' and LLM from Indian Law Institute, New Delhi.

Dr. Rinu Saraswat

Associate Professor at School of Law, Apex University, Jaipur,
M.A, LL.M, Ph.D,

Dr. Rinu have 5 yrs of teaching experience in renowned institutions like Jagannath University and Apex University. Participated in more than 20 national and international seminars and conferences and 5 workshops and training programmes.

Dr. Nitesh Saraswat

E.MBA, LL.M, Ph.D, PGDSAPM
Currently working as Assistant Professor at Law Centre II, Faculty of Law, University of Delhi. Dr. Nitesh have 14 years of Teaching, Administrative and research experience in Renowned Institutions like Amity University, Tata Institute of Social Sciences, Jai Narain Vyas University Jodhpur, Jagannath University and Nirma University.
More than 25 Publications in renowned National and International Journals and has authored a Text book on Cr.P.C and Juvenile Delinquency law.

Subhrajit Chanda

BBA. LL.B. (Hons.) (Amity University, Rajasthan); LL. M. (UPES, Dehradun) (Nottingham Trent University, UK); Ph.D. Candidate (G.D. Goenka University)

Subhrajit did his LL.M. in Sports Law, from Nottingham Trent University of United Kingdoms, with international scholarship provided by university; he has also completed another LL.M. in Energy Law from University of Petroleum and Energy Studies, India. He did his B.B.A.LL.B. (Hons.) focussing on International Trade Law.

ABOUT US

WHITE BLACK LEGAL is an open access, peer-reviewed and

refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

A COMPARITIVE ANALYSIS OF THE EXISITING LAWS ON INTERNATIONAL COMMERCIAL ARBITRATION IN INDIA AND UNITED KINGDOM

AUTHORED BY - TANVI CHHABRA

ABSTARCT

Post-world war – II a significant rise in International trade and investment was observed. This lead to a cascading effect in the International Legal system. The rise in International trade and investment was seen to be directly proportionate to the rise in cross – border disputes. This also increased the need for international commercial arbitration, establishment of international Arbitration centres and chambers. It did not only effect the number of cases seen Internationally but also domestically. Common law countries had to reframe their laws to be inclusive of laws covering issues arising out of cross – border trade. Globalisation was the kingpin driver of the trades of such nature. It opened up economies to allow free flow of foreign traders or investors. This form of resolution is speedy and cost-effective. Since arbitration in general offers these benefits, it is then not surprising that its popularity among business people around the world has grown exponentially. Significantly, with the unleashing of a movement towards harmonizing or modernizing/modifying the domestic laws on the subject to make them consistent with international rules; the institutionalization of arbitration, the respect and prestige of arbitration as a substitute for adjudication through court of law continued to grow impressively.

KEYWORDS: International,Arbitration,Business,Trade,Cross-border Dispute

INTRODUCTION

Arbitration and Conciliation have emerged as pivotal mechanisms for resolving commercial disputes, bridging historical legal traditions with modern legislative frameworks in both India and the United Kingdom. Tracing back to ancient village Panchayats in India and early common law practices in England, the evolution of arbitration laws reflects the dynamic socio-legal landscapes of these nations. This research delves into the historical journey and contemporary facets of arbitration laws in India and the UK, analyzing key legislative enactments, procedural frameworks, and thematic aspects such as confidentiality and arbitrability of disputes. By juxtaposing the trajectories of arbitration in these jurisdictions, this study aims to elucidate the convergences, divergences, and underlying principles shaping arbitration practices in two distinct legal contexts.

The era witnessed after the second world war took place was a profound surge in international trade and investment, catalyzing a transformative ripple effect across the global legal landscape. As commerce transcended national borders, the incidence of cross-border disputes surged in tandem with the expansion of economic interactions. In response to this burgeoning demand for dispute resolution mechanisms, the prominence of international commercial arbitration soared, prompting the establishment of specialized arbitration centers and chambers on a global scale. This phenomenon reverberated not only in the realm of international commerce but also reverberated domestically, compelling common law jurisdictions to reconfigure their legal frameworks to encompass issues arising from

transnational trade.

At the heart of this seismic shift lay the driving force of globalization, which dismantled barriers and facilitated the unhindered flow of foreign traders and investors across borders. In this landscape, arbitration emerged as a preferred avenue for dispute resolution, distinguished by its swiftness and cost-effectiveness. The allure of arbitration, with its inherent advantages, propelled its exponential popularity among business entities worldwide. Moreover, the momentum towards harmonizing or modernizing domestic laws to align with international standards further bolstered the institutionalization of arbitration.

As arbitration gained institutional recognition and procedural refinement, its stature as a credible alternative to traditional court adjudication continued to ascend, commanding increasing respect and prestige. This evolution underscores the pivotal role played by arbitration in shaping the contours of contemporary commercial dispute resolution, symbolizing a paradigmatic shift towards a more adaptive and globally integrated legal regime.

EXISTING ARBITRATION LAWS IN INDIA

Arbitration and Conciliation is not a new arena of law in India infact it has experienced expansion into the aforementioned area of law quite recently. The modern arbitration laws in India have been deeply impacted by historical legal traditions. Arbitration in India has been divided into three periods i.e. Ancient to British, British to Independence, Independence to the Present. Origin of arbitration dates back to panchayats and in modern day and age this receives a legal recognition i.e. under Article 243 of the constitution of India

"The lack of a single homogeneous legal system in the State and the incapacity for self-rejuvenation of the major legal systems (Hindu and Muslim) coupled with the break down and fragmentation of central political authority (the Mughal Emperor at Delhi) presented a confusing vacuum in the rule and legal judicial system at the time of the advent of the British".[1]

The British came to India as trader with establishment of East India Company (approximately 1600 B.C.). Compelled and tempted by then circumstances in India, the British merchants turned in to administrators and conquerors. Although, British did not abrogate the system relating to arbitration as prevalent in the country at the time, they came in to power. But their regime had introduced various laws closely relating to arbitration which were applicable either to a part of the country or subsequently to the whole nation. Like most Indian laws, the law relating to arbitration in India is also based on the English arbitration law. A

[1] Sumeet Kachwaha. "*The Arbitration Law of India a Critical Analysis*", 1/2 *Asian International Arbitration Journal* 105-26 (2005).

basic form of arbitration, as it is recognized today, was introduced between 1772 and 1827 in the Presidency towns of Madras, Calcutta and Bombay.

The Bengal Regulations of 1787, 1793 and 1795 were the first to introduce the concept of the courts referring matters to arbitration as well as the procedure for the conduct of arbitration proceedings. After the establishment of the Legislative Council for India, it passed the Code of Civil Procedure of 1859 which was repealed by the Act of 1877 and subsequently revised by the Code of Civil Procedure Act, 1882. Later, the Act was further replaced by the Code of Civil Procedure of 1908. This Code was contained elaborate provisions relating to arbitration in Sections 89 and 104 and Second Schedule of the Code of Civil Procedure of 1908. The Indian Arbitration Act of 1899 as a first Indian legislation devoted entirely to arbitration, however, continued to be applied only to subject-matters which were not before a Court of law for adjudication. This Act was built on English common law principles.[2]

Ultimately in 1940 after a largely unsatisfactory of the Act, 1899, The Indian Government base on the English Arbitration Act, 1934 opened an important chapter in the history of the law of arbitration in British period as in this year was enacted the Arbitration Act, 1940.

After independence in 1947, with increasing emphasis on arbitration there was more and more judicial grist exposing the infirmities,

[2] N. V. Paranjape. "*Law Relating to of Arbitration & Conciliation in India*", fourth Ed. (Allahabad: General Law Agency, 2011) .

shortcomings and lacunae in the Arbitration Act of 1940. It was not compatible with the new aspirations and dimensions of multiple needs of the emerging social and economy trends. As the Act of 1940 was largely unsatisfactory, India opened a new chapter in its arbitration law when it enacted the Arbitration and Conciliation Act, 1996.

This Act repealed all previous statutory provisions on arbitration in India were contained mainly of three different statutes, namely; (i) the Arbitration (Protocol and Convention) Act, 1937 (ii) the Indian Arbitration Act, 1940 and (iii) the Foreign. Awards (Recognition and Enforcement) Act, 1961. It has two main parts about Arbitration and part III of the Act on the base on UNCITRAL Conciliation Rules, 1980 is only about Conciliation.

The present Act is mainly inspired by UNCITRAL Model Law, 1985 and New York Convention, 1958. Its primary objectives of the Act were to achieve twin goals in arbitration as a cost effective and quick mechanism with the minimum court intervention for the settlement of commercial disputes. The Act, 1996 is barely 18 years old and what is the Indian experience is obvious by the fact the Act not met the purpose for which the Act was passed.

ARBITRATION LAW IN THE UNITED KINGDOM

Arbitration in England is as old as its legal history. In early times arbitration was governed by the common law and a long line of decisions

can be traced since Blake's case.[3] A domestic arbitration service grew up in London and served the shipping and commodity trade on a worldwide basis. The important characteristic of such arbitration is that arbitrators were not regarded as outsiders.[4]

Apart from the statute of 1698 and act of 1889, the (English) Arbitration Act 1950 became effective from 1st September1950. It is a consolidating Act. It enlists the procedures which regulate arbitration that can be invoked through a clause in the written agreement between the parties. It also provides for a specific type of arbitrations presented as statutory provisions. However, many of these provisions are disposable at the request of parties.

Later on, several legislations were enacted in Britain covering this subject – matter:

- New York convention was given effect by the 1975 Act as it recognized the Foreign Arbitral Awards and enforced them as well. The introduction of this act brought about several changes in the legal system.

- The 1979 Act abolishes the system of judicial review of awards and replaces it by appeal on a question of law relating to arbitral award. This Act confers power on the High Court to enforce an arbitrator's interlocutory orders. It ousts the right of appeal in certain cases under

[3] (1606) 6 Rep. 43b as cited in H.K. Saharay, *Supra* note 53 at p. 15
[4] *Pando* v. *Filmo*, [1975] 1 QB 742 as cited in H.K. Saharay, *Law of Arbitration and Conciliation* , (Kolkata: Eastern Law House, 2001).

agreements. Certain minor amendments have been made relating to awards and appointment of arbitrators and umpires.

- The Arbitration Act 1996 passed on 17th June 1996 has repealed the first part of the act of 1950, second part of 1975 act and 1979 act.

- Royal assent was given to the new English Arbitration Act 1996 in June 1996. When operative, the 1996 Act would be retrospective, applying to arbitration agreements and foreign awards made before the operative date. Before that operative date, the 1996 Act is likely to be amended to comply more strictly with Art. 6 of the Maastricht Treaty: after consultation, the Board of Trade may now seek to abolish Part II (which reintroduces the concept of a "domestic" arbitration agreement based directly or indirectly on the nationality of the parties). In that event, the 1996 Act would draw no distinction between domestic and international arbitration, i.e., stay of legal proceedings and the efficacy (within the exclusion agreements); and same international regime would apply generally to all parties, from within and without the European Union. The 1996 act will be accompanied by the Report on the Arbitration Bill dated February 1996 of the Departmental Advisory Committee (DAC) and the DAC's Final Report, both of which contain official commentaries on the purpose and content of the legislation.[5]It is also considered to be the most extensive statutory reform in the UK parliament.The Arbitration Act 1996 is radical in form if not in

[5] V.V. Veeder, "England", *Yearbook Comm. Arb*. XXI (1996), p. 369.

substance.

- As to substance, the 1996 Act consolidates in clearer language and format much of the English Arbitration Acts 1950-1979 (as amended by myriad legislation); it ignores the 1966 Act (enacting the 1961 Washington Convention); and it abolishes the Consumer Arbitration Act 1988 in favor of the Consumer Contracts Regulations 1994 made on the UTCC (Unfair Terms in Consumer Contracts) under the EEC's Directive on 05.04.1993.The philosophy UNCITRAL Model Law dated 1985 has the most pervasive influence even where the latter's language is missing from the 1996 Act.

- The Arbitration Bill passed through its three readings December 18th, 1995, 18.01.1996 and 2 April 1996 (with the report and committee stages on 28 February and 18 March 1996). The Bill had all party support; and in the House of Lords, it received the acclaim of five Law Lords Lord Wilberforce, Lord Roskill, Lord Ackner, Lord Donaldson and Lord Mustill all of whom have or have had (before becoming judges) extensive experience in the field of commercial arbitration. Following its first and second readings in the House of Commons on 2 April and 2 May 1996, the Bill was then considered in committee on 14 May 1996. As now amended, the Bill underwent its report stage and its third reading on 10 June 1996, before returning to the House of Lords on 14 June 1996.

Together with other Travaux Preparators and the Parliamentary debates, the DAC"s official commentaries on the 1996 Act will be

useful documents in applying the text of the new legislation. Whilst this is not the place to discuss the specific details of the 1996 Act, it is useful, however, to describe its origin and more important general features.

The English reform has trodden a long, hard road: the exercise began in March 1985, following the DTI‟s decision (on the DAC‟s advice) to reject the UNCITRAL Model Law as a legislative text and to maintain the regime applying to English domestic and non-domestic arbitration. Despite such rejection, it was recognized that users needed a new English arbitration statute, with many features taken from the Model Law adapted to English law. In its Report of June 1989, the DAC recommended that there should be a new and improved Arbitration Act for England and Wales and Northern Ireland, with the following features (paragraph 108):

> "(1) It should comprise a statement in statutory form of the more important principles of the English law of arbitration, statutory and (to the extent practicable) common law.
>
> (2) It should be limited to those principles whose existence and effect are uncontroversial.
>
> (3) It should be set out in a logical order, and expressed in language which is sufficiently clear and free from technicalities to be readily

comprehensible to the layman.

(4) It should in general apply to domestic and international arbitrations alike, although there may have to be exceptions to take account of treaty obligations.

(5) It should not be limited to the subject-matter of the Model Law.

(6) It should embody such of our proposals for legislation as have then been enacted: see paragraph 100 (of the 1989 Report)."

Legislation relating to arbitration in England can be traced back to the year 1698. It has evolved magnificently since then with the current English Arbitration Act of 1996 not signifying any distinction between "domestic" and "international" modes of arbitration. The Courts in UK play a supportive rather than a supervisory role. Under Section 44 of the English Arbitration Act, the Court has the power to make orders in arbitration relating to taking of witness evidence, preservation of evidence, appointment of receivers, sale of goods which are subject to the proceedings and the granting of interim injunctions. However, S. 44 is a non-mandatory provision, and, if the parties so agree, can be excluded from the scope of arbitration.

There have been concerns that "Brexit" might have impacts on the

practice of arbitration in the United Kingdom, however there has been no immediate effect so and in 2018 had 88% of its cases seated in London. An introduction of database consisting information about anonymous arbitration challenging decisions has been made by the LCIA in 2018 this results in a more transparent process.

The importance of transparency in arbitration proceedings has been gaining considerable importance in the United Kingdom and around the world. The English Courts have repeatedly discussed this issue and the importance of disclosures by arbitrators to ensure transparence, with one such case being that of Wael Almazeedi v. Miachel Penner and Stuart Sybermsa.[6] In this case, the issue of transparency and how disclosures, when made in time, by the arbitrators can be helpful in preventing challenges to the arbitrator and their importance was discussed by the Privy Council.

The scope of the duty of disclosure was discussed by the Court for the first time in the case of Halliburton Company v. Chubb Bermuda Insurance Ltd.[7] where it was held that this duty not only extends to circumstances that a reasonable person, that is, a fair minded person and an informed observer would conclude, but also to circumstances that might give rise to a conclusion of bias on the part of the arbitrator.

A testament to the support extended by the Judiciary to the arbitral process is that there are very few challenges to arbitrators that ever

[6] [2018] UKPC 3.
[7] [2018] UKPC 3.

succeed, giving a clear indication that the English Courts are not willing to exercise unreasonable standards towards the qualifications of arbitrators and the disclosures required to be made. This was reaffirmed in the case of Soletanche Bachy France SAS v. Awaba Container Terminal (Pvt.) Co.[8]

The English Arbitration Act makes it clear in no uncertain terms that the Courts have the authority to intervene in an arbitration only in situations where the statute permits it to do so. The Court cannot intervene in any other situation. Even in those situations, the court must first be satisfied that the Applicant has exhausted all remedies that are available to him which are provided under an arbitral procedure. This procedure can be decided by the parties or the tribunal. Once the court is satisfied that all available remedies have been exhausted, can it intervene in the arbitration. Therefore, it can be quite clearly seen from judicial decisions and the scheme of the English Arbitration Act, that the judicial and legislative support towards arbitration is quite strong in the United Kingdom.

<u>International Arbitration Practiced At The London Court Of International Arbitration</u>

This international court was established in the year 1892. Over the years it has seen a number of developments, and a number of institutional rules to oversee and administer arbitrations referred to it. London has been selected as one of the most preferred seat of arbitration.

[8] [2019] EWHC 362 (Comm)

LCIA, as a center for institutional arbitration has a provision for "emergency procedures" which makes it a viable option. These emergency procedures include emergency appointments of arbitrators, appointment of replacement arbitrators and the expedited formation of an arbitral tribunal. Similar to the SIAC rules, under the LCIA Rules, 2014, the parties who wish to commence arbitration under the LCIA Rules, must deliver a "written request for arbitration" to the courts registrar.

The second article then provides that the Respondent must provide to the claimant, within 28 days of commencement of arbitration, a response which is written for arbitration made by Claimant. This too, shall be filed with the Registrar of the LCIA. The Rules very clearly provide for the manner in which written communications are to be made as well as the periods of time they must be made in. This allows for parties to have a set timetable per se as to the time the arbitration will take.

Article 5 provides for the formation of the Arbitral Tribunal. It further provides that all arbitrators forming part of the arbitral tribunal will be "independent and impartial", a vein that has been picked up by a number of Institutions as a rule from the UNCITRAL. The LCIA also provides an insight into its own rules by providing guiding notes for parties and arbitrators.

The LCIA has been immensely effective in promoting England as a global arbitration center, and in 2018 had 88% of its arbitrations handled by it seated in London. It attracts parties from all over the world and

administers their disputes. The LCIA is also a highly transparent institution, with its most recent step being the introduction of a database which consisted of information about anonymized arbitrator challenge decisions.[9] The LCIA, therefore, is a very attractive institution to arbitrators and parties alike, the primary reason being the ease and flexibility provided by the arbitral institution.

PRACTICES OF LAW OF ARBITRATION IN INDIA AND THE UNITED KINGDOM

It is widely accepted that parties often prefer arbitration in order to maintain confidentiality of the proceedings, a luxury that is oft not provided in litigation.

Earlier, the status of confidentiality of arbitration proceedings was quite precarious in India. The act of 1996 only provided for the confidentiality of the conciliation proceedings and not of arbitration or mediation proceedings. However, this lacuna was addressed by the Courts of the Country in regards to mediation, where, the Apex Court upheld confidentiality was an implied duty with respect to mediation proceedings.[10] The position relating to arbitration was left open, leaving various commentators to argue that the same position of confidentiality

[9] Ileana Smeureanu, *Confidentiality in International Commercial Arbitration* 15 (Wolters Kluwer Law and Business, United States of America 2012).

[10] *Moti Ram* v. *Ashok Kumar*, (2010) 14 SCR 809.

was bound to be extended to Arbitration as well.

This issue relating to confidentiality was solved by the amended act of 2019.The Amendment provides that confidentiality shall be maintained by the Arbitrators, arbitrating parties and the Arbitral Institution of the arbitral proceeding. However, this amendment poses a problem as well. While the introduction of this confidentiality clause has been a welcome introduction, the Amendment Act does not provide for the necessary exceptions to such confidentiality requirements. Once such example is when evidence is to be given by third parties. This situation may be used as a dilatory tactic to prolong the arbitration by claiming a breach of confidentiality by either party.

The question of Arbitrability of disputes is perhaps one of the most important questions that comes up for parties trying to decide their seat of arbitration. This is for the reason that this question determines whether or not their future dispute will be arbitrable at the seat or not.

The Indian Law on Arbitrability of disputes is more or less unambiguous. S. 2(3) of the Arbitration And Conciliation Act categorizes certain disputes as un-arbitrable. This is due to the fact that certain laws preclude the submission of varied disputes to arbitration such as family disputes , charities, Insolvency, infringement of Trademarks or Copyrights and winding up of companies, etc. Even if there are bars to statutory provisions, there are some types of claims which are rendered un-arbitrable by the court such as welfare claims, that is, disputes such as those under the Rent Control Act, 1958 and the Consumer Protection

Act, 1986.

In the case of Booz Allen and Hamilton Inc. v. SBI Home Finance Ltd. the apex court discussed "Arbitrability" at length and held that according to principle a dispute may be referred to and taken up by arbitration tribunal if decided so by a civil court. Criminal offenses can not be decided by arbitral Tribunal.

Therefore, as far as Arbitrability of disputes is concerned, only those disputes which are expressly barred from reference to arbitration, whether due to statutory application or due to subsequent limitation by law. These may not be subjected to arbitration.

In the United Kingdom, just like Singapore, there exists upon the parties, an obligatory confidentiality which is implied in nature. This position was solidified by the Courts in a particular judgement (Emmot versus Michael Wilson and Partners), where the Court held such duty exists upon the parties. However, the Law also provides for just exceptions to this obligation of confidentiality. The courts have spelled out that leave of court without requirement is not permitted specially when it is necessary to disclose information which is a necessity for protection of a party's interests.

While the English Law has been silent upon the law of confidentiality for a long time, developments through case laws have cleared up this position, and it is now a well settled position that there exists upon the parties, an implied obligation of confidentiality. While the position relating to witnesses of fact who give evidence is unclear, confidentiality

applies to documents which are disclosed as well as generated in arbitration. There exist exceptions however, to the duty of confidentiality in the United Kingdom such as in cases where certain arbitrating parties agree on limiting the duty of confidentiality or where the court has ordered so or where disclosures are necessary in the interests of justice.

CONCLUSION

The exploration of laws on arbitration in India and the United Kingdom unveils a narrative of historical legacies converging with modern legal reforms. The act of 1996 i.e. The Arbitration and Conciliation Act in India represents a pivotal shift towards a more robust and efficient dispute resolution mechanism, inspired by international models such as the UNCITRAL Model Law. The recent amendments addressing confidentiality signify that India is committed to align its goals with the international framework. Conversely, the Arbitration Act of 1996 in the UK epitomizes a comprehensive overhaul aimed at modernizing arbitration practices and enhancing the arbitral process throufh judicial support. The implied duty of confidentiality and the expansive scope of arbitrability underscore the UK's facilitative approach to arbitration. Despite contextual disparities, both jurisdictions exhibit a shared objective of fostering arbitration as a preferred avenue for resolving commercial disputes, thereby contributing to the broader landscape of international dispute resolution mechanisms. Cross border dispute resolution is an method which is established to settle disputes commercial in nature. which happen at an international level. Globalization makes it imperative for all business and their advisers to be fully aware of developments and pitfalls in dispute

resolutions. The cost of litigating across frontiers has resulted in increment in the Alternative Dispute resolution at an international level meant to resolve cross border disputes. Much debate currently centers around whether uniform rules should govern commercial arbitration and whether specific emerging markets, such as telecommunication, require specific rules. The increasing globalization of everyday trade and the future of dispute resolution can be expected to increase. It has overarching advantages, in terms of pace, less-rigidity and the free will of an arbitrator to include in his decisions the varied legal and regulatory principles which may affect each of the parties to the dispute, and not just those principles which are applied under a single national system are likely to be of substantial benefit to telecommunication companies seeking to resolve disputes in an effective and pragmatic way.

REFERENCES

1. Agarwal, Anurag K. "Role of arbitrators in the changing legal and economic scenario in India". 85 All India Reporter 33 (1998).

2. Agarwal, Nomita. "Alternative Dispute Resolution: Concept and Concerns". 7(1) Nyaya Deep 68-81 (2006).

3. Al-Baharna, Husain M. "International Commercial Arbitration in Perspective" 3(1) Arab Law Quarterly 3-18 (1988).

4. Alam, A., "Alternative Dispute Resolution (ADR): Socio-Legal Aspect,Chottanagpur Law Journal 110-14.

5. Bebber, D.K. "Arbitration Law in India", 26 Chartered Secretary A325- 6 (1996). Bhatia, Gautam. "Section 11 of the Arbitration and Conciliation Act of 1996: The Jurisprudence of the Supreme Court and Implications for the Jurisdiction of an
Arbitral Tribunal". 21(2) National Law School of India Review 65-75 (2009).

6. Bhosale, Dilip B. "Assessment in ADR in India". 6(4) Nyaya Deep 57-72 (2005). Cleis, Maria Nicole, "Alternative Standards of Independence and Impartiality", in: The Independence and Impartiality of ICSID
Arbitrators, Available at:
htts://www.jstor.org/stable/10.1163/j.ctt1q8h3hc.9

7. Cohn, E.J. "The Rules of Arbitration of the International Chamber of Commerce" 14(1) ICLQ 132-71,132 (1985)