Page 1051 - 1061 **DOI:** *https://doij.org/10.10000/IJLMH.112915*

INTERNATIONAL JOURNAL OF LAW MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

Volume 5 | Issue 2

2022

Arbitration and its Impact on the EoDB Index

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ABSTRACT

As of 2020, India ranked 63 out of 190 nations in the 'Doing Business' Index and 163 under the 'Enforcing Contracts' Index; the low rank, inter alia, can being attributed to the judicial backlog along with the setbacks in the domain of arbitration. Since the enactment of the Arbitration and Conciliation Act in 1996, the realm of arbitration has gone through a plethora of changes and reforms. The amendments have attempted to expand the scope of arbitrable disputes, reduce judicial intervention and make arbitral proceedings more certain. This paper shall explore the implementation of the said reforms and assess their impact on India's EoDB Index.

I. INTRODUCTION

In 1966, the Commission on International Trade Law (UNCITRAL) was established with the intention of reconciling the conflicts between international law and domestic law, due to which, trade was often hindered.[2] As a result, the UNCITRAL Model was formulated and later adopted by the Indian Legislature as the Arbitration and Conciliation Act 1996 (hereafter referred to as the 'A&C Act' or 'Act'). It was enacted with the objective of facilitating business and economic reforms[3] by promoting commercial arbitration[4] and by reducing the supervisory role of Courts in arbitration proceedings.[5] It has been studied that around 91% of companies in India opt for arbitration as their dispute resolution mechanism.[6]

The 'Doing Business' (DB) Reports, published by the World Bank, assesses regulations that impact business and trade related activities. Among ten forms of methodology, the index also accounts for the 'Enforcing Contracts' Index. From 2019 to 2020, India's DB Score increased

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[2] 246th Law Commission of India Report, *Amendments to the Arbitration and Conciliation Act 1996*, p. 3, ¶9 (2014)
[3] Arbitration and Conciliation Act 1996, Statement of Objects and Reasons, §1
[4] *Id*., at §4(i)
[5] *Id*., at §4(v)
[6] Alexis Mourre and Abhinav Bhusan, ICC Rules and Arbitration in India, 7(1) Indian Journal of Arbitration Law, 1, 2 (2018) https://www-kluwerarbitration-com.opj.remotlog.com/document/kli-ka-ijal-07-01-001-n?q=arbitration%20in%20india%20AND%2091%25 [Last Accessed 24th March 2022]

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from 67.5 to 71, and currently ranks 63 out of 190 nations.[7]

However, it ranks 163 in terms of Enforcing Contracts.[8] This index, also known as the Quality of Judicial Processes Index, has 4 components: Time, Case Management, Case Automation and lastly, the Alternative Dispute Resolution (ADR) index.[9]

Under the ADR Index, the following are the three elements that evaluate arbitration proceedings in each jurisdiction:[10]

1. whether a consolidated law exists to govern arbitration
2. whether all commercial disputes, with the exceptions of public policy and public order, can be arbitrable.
3. whether valid arbitration agreements are enforced by courts in most cases.

This paper will discuss the arbitrability of disputes, the amendments to Section 11 of the A&C Act, the introduction of time limits and lastly, the scope of challenging an arbitral award; subsequently, their impact on the aforementioned indices will be evaluated. The paper will also to analyze India's current and future status as an 'arbitration-friendly' zone, in relation to the EoDB Index and its constituent elements.

II. ARBITRABILITY OF DISPUTES

In *Vidya Drolia v. Durga Trading Corporation*,[11] the court had a liberal interpretation of arbitrability, stating that the binary of *in rem* and *in personam* rights was not a rigid classification[12]; for example, disputes that arose from a right *in rem* but had subordinate rights *in personum*, would be considered arbitrable, such as landlord-tenant disputes under the Transfer of Property Act.[13]

The Court also acknowledged the fact that allowing arbitration for disputes where it would be ineffective or futile,[14] would be a counterproductive exercise. As a result, it also held that arbitration could be barred for the reasons of public policy or public order. [15]

To get a score for arbitrability, if all commercial disputes, apart from those dealing with public

[7] The World Bank, Doing Business: Measuring Business Regulation, [Data:India] (2019). Retrieved From https://www.doingbusiness.org/en/data/exploreeconomies/india#DB_ec [Last Accessed 24th March 2022]
[8] The World Bank, Enforcing Contract Data, Doing Business: Measuring Business Regulation (2019). Retrieved From https://www.doingbusiness.org/en/data/exploretopics/enforcing-contracts [Last Accessed 24th March 2022]
[9] *Id.*
[10] *Id.*
[11] (2021) 2 SCC 1
[12] *Id.*, at ¶48
[13] *Id.*, at ¶80
[14] *Id.*, at ¶49
[15] *Id.*, at ¶15; Booz Allen & Hamilton Inc. v. SBI Home Finance Ltd (2011) 5 SCC 532, at ¶35

order, public policy, employment issues or intellectual property, are arbitrable, a score is assigned.[16] The aforementioned case directly aligns with this requirement. The court diluted the distinction between *in rem* and *in personam* disputes and made a plethora of cases arbitrable.

III. SECTION 11: REDUCTION IN COURT INTERVENTION

(A) Evolution of Section 11

The evolution of Section 11 illustrates two points- firstly, the attempt to reduce the burden on courts; secondly, to make the process more efficient in order make India more arbitration-friendly.

In the original provision of the Act, if the parties failed to agree on an arbitrator, the Chief Justice, or any other person/institution designated by the former, could appoint an arbitrator under section 11(4) and (5) respectively.

This was amended in 2015 to state that any judge in the Supreme Court or High Courts had the power to appoint.[17] The 246th Law Commission Report had recommended that the power to appoint arbitrators should be given the High Courts and the Supreme Court.[18] In order to give courts the incentive to delegate the power to specialized institutions or persons, it was also clarified that appointing arbitrators was not a judicial act.[19] As a result, the 2015 amendment empowered any judge from the Supreme or High Court to appoint arbitrators, thereby reducing the burden on the Chief Justice whilst expediting the process.

Following this, in 2019, Section 11 (3-A) introduced arbitral institutions that would be graded by the Arbitration Promotion Council of India (APCI)[20] and would then have the power to appoint arbitrators. This, however, has not manifested as of 2021. Until this amendment is brought into effect, the proviso to 3-A states that the Supreme Court and High Court can have a panel of arbitrators, who can then be appointed on a randomized basis.

The Law Commission Report of 2009 had highlighted the importance of institutional arbitration, stating that it was more advantageous and efficacious than *ad hoc* arbitration.[21] Prior to the 2019 amendment, if parties failed to appoint an arbitrator, they had to apply to a

[16] The World Bank, Enforcing Contracts Methodology, Doing Business https://www.doingbusiness.org/en/methodology/enforcing-contracts [Last Accessed 24th March 2022]
[17] Arbitration and Conciliation (Amendment) Act 2015
[18] 246th Law Commission of India Report, *supra* note 1, at p. 23, ¶24
[19] *Id.*
[20] Arbitration and Conciliation Act 1996, §43-B
[21] 222nd Law Commission of India Report, *Need for Justice-Dispensation through ADR etc*., p. 26,1.42 (2009) https://lawcommissionofindia.nic.in/reports/report222.pdf [Last Accessed 24th March 2022]

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High Court or to the Supreme Court. However, the amendment to section 11(6) stated that arbitrators would now be appointed by arbitral institutions designated by a court.[22]

This was based on the Justice B.N. Krishna's High Level Committee (HLC) Report, that stated that institutional arbitration would ensure maximum efficacy.[23] The HLC Report had critiqued the 2015 Amendment, stating that, despite reducing the burden on the Chief Justice, the amended section still implied that the courts would have to examine whether an arbitration agreement existed, which would then imply that there would be delays due to judicial backlog. [24]

The Report recommended the formation of the Arbitration Promotion Council of India (APCI),[25] which would have the authority to grade arbitral institutions. This has been incorporated into the Act through the 2019 Amendment under section 43-B. The HLC then proceeded to suggest that the appointment of arbitrators would be done through the graded arbitral institutions, designated by the court, without the latter having the assess the existence of the arbitration agreement. [26]

(B) Non-Implementation of the 2019 Amendment

In *M/S Mayavti Trading v. Pradyuat Deb Burman*,[27] the court observed that since Section 11(6A)[28] had been omitted, courts no longer had to go into whether an arbitration agreement existed, since Section 3-A stated that the appointment would be done institutionally.[29] However, the omission of 6-A is pursuant to the objectives behind sub-section 3-A.[30] As a result, since the APCI has not been formed yet and graded tribunals do not exist, courts would retain the power of appointment by maintaining a panel of arbitrators.[31] Thus, this case reinstated that while appointing arbitrators, the judiciary's power was restricted to deciding the existence of an arbitration agreement,[32] as held in 2017 case of *Duro Felguera,S.A. v. Gangavaram Port Limited*.[33]

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[22] Arbitration and Conciliation (Amendment) Act 2019
[23] B.N. Krishna, Institutionalization of Arbitration Mechanism in India, High Level Committee Review, p. 44 (2017) https://legalaffairs.gov.in/sites/default/files/Report-HLC.pdf [Last Accessed 24th March 2022]
[24] *Id*., at p. 72
[25] B.N. Krishna, *supra* note 23, at p.50
[26] B.N. Krishna, *supra* note 23, at p.75
[27] (2019) 8 SCC 714
[28] 6-A stated that the courts had to restrict themselves to an evaluation of the existence of an arbitration agreement, while considering an application under Section 11
[29] M/S Mayavti Trading v. Pradyuat Deb Burman *(*2019) 8 SCC 714, at ¶6
[30] *Id*., at ¶6
[31] Arbitration and Conciliation Act 1996, §11(3-A)
[32] M/S Mayavti Trading v. Pradyuat Deb Burman *(*2019) 8 SCC 714, at ¶10
[33] (2017) 9 SCC 729

As also reiterated in the *M/S Mayavati Trading Case*,[34] the appointment of arbitrators is a judicial power and not a mere administrative function and hence, the court has the power to interfere to the extent of assessing the existence of a *prima facie* arbitration agreement.[35] It has been suggested that a *prima facie* evaluation is likely to more efficient since it will filter out cases at the initial threshold itself.[36]

(C) Has Section 11 Affected the EoDB Index?

Being an 'arbitration-friendly' jurisdiction is paramount when it comes to the EoDB Index. A primary feature of being arbitration-friendly is the "reluctance of courts to interfere in arbitral proceedings",[37] as held in *Grand Pacific Holding v. Pacific China Holdings*.[38] As seen from the Indian trajectory, Section 11 has been amended with the aim of attaining the abovementioned feature.

Despite such attempts, India has still not reached the threshold in order to become an ideal arbitration jurisdiction. Firstly, the arbitral institutions envisaged under the 2019 Amendment have still not been instituted. Until then, since the courts have the power to appoint, they should limit themselves to examining a *prima facie* existence of the arbitration contract, as mandated by the statute as well as judicial precedence. However, in a Delhi High Court case,[39] the court cited the *M/S Mayavati Trading Case*, and yet went into the existence as well as validity of the arbitration agreement.[40]

Analyzing Section 11 through the third criterion[41] of the ADR Index, since courts still have a supervisory role over enforcing arbitration clauses/agreements, the efficiency of enforcing contracts has not reached an adequate level.

In 2016 and 2017, India's rank in the Enforcement of Contracts went up from 178 to 172, and the score for Enforcing Contracts Index, which includes ADR, went up from 7.5 to 9. [42] As of May 2019, the Enforcing Contracts Index is 10.5 out of a total score of 18, ranking 163 out of 190 countries.[43] The consecutively low scores can be attributed to the lack of implementation

[34] (2019) 8 SCC 714
[35] *Id.*, at ¶10
[36] Vidya Drolia v. Durga Trading Corporation (2021) 2 SCC 1 at ¶134
[37] Grand Pacific Holding v. Pacific China Holdings [2012] 4 HKLRD 1, at ¶ 68
[38] [2012] 4 HKLRD 1
[39] Madhu Devi Fatehpuria vs. Jugal Kishore Shyam Prakash and Co. and Ors. (2020) SCC OnLine Del 1487
[40] *Id.*, at ¶17
[41] The third element of the ADR Index is whether valid arbitration agreements are enforced by courts in most cases.
[42] World Bank Report on Doing Business-2017: Enforcing Contracts, Department of Justice, Government of India, p.2 https://doj.gov.in/sites/default/files/Brief%20Note.pdf [Last Accessed 24th March 2022]
[43] The World Bank, Doing Business: Measuring Business Regulation, [Data:India] (2019). Retrieved From https://www.doingbusiness.org/en/data/exploreeconomies/india#DB_ec [Last Accessed 24th March 2022]

of the aforesaid amendments. As per the 2020 DB Report, India has improved in the aspects of resolving insolvency disputes, starting businesses etc., but the same change has not been seen for the element of 'Enforcing Contracts'.[44]

IV. TIME LIMIT: MANDATORY OR DIRECTORY?

(A) Section 34

In a Report by NITI Aayog, it was stated that suits that challenged arbitral awards under Section 34 of the Act, took up to 24 months to be disposed of in lower courts, 12 in High Courts and 48 months in the Supreme Court.[45] The 2015 Amendment introduced Section 34(6), according to which, all challenges had to be expeditiously disposed of within 1 year of filing.

However, in *State of Bihar v. Bihar Rajya Bhumi Vikas Bank Samiti*,[46] the Supreme Court opined that 34(6) was not mandatory, but merely directory.[47] The Court's reasoning was similar to cases that have declared time periods in civil proceedings to be directory.[48] Since the non-compliance of Section 34(6) had no consequences, the time period could not be binding. [49]

The purpose of procedural law is not just to facilitate efficacy, but also to ensure adequate justice.[50] While the judicial lag, highlighted by the aforementioned Report, is acknowledged, 1 year to dispose of a challenge is impractical and can defeat justice. Instead, to reduce judicial lag, other aspects of the Judicial Processes Index can be addressed. Hence, 34(6) has been rightfully interpreted to be directory in nature.

(B) Section 37

In *N.V. International v. State of Assam*,[51] the court had applied the time period under Section 34(4) to Section 37, which is a provision for filing appeals.[52] As a result, all appeals had to be filed within 3 months, with an additional month for exceptional situations.[53]

However, this has been overruled in *Government of Maharashtra v. Borse Brothers Engineers*

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[44] Doing Business Report, World Bank Group, p. 103 (2020) https://openknowledge.worldbank.org/bitstream/handle/10986/32436/9781464814402.pdf [Last Accessed 24th March 2022]
[45] Bibek Debroy and Suparna Jain, Strengthening Arbitration and its Enforcement in India-Resolve in India, NITI Aayog, p. 14 (2016) http://niti.gov.in/writereaddata/files/document_publication/Arbitration.pdf [Last Accessed 24th March 2022]
[46] (2018) 9 SCC 472
[47] *Id.*, at ¶24
[48] Salem Advocate Bar Association, Tamil Nadu v. Union of India (2005) 6 SCC 344, at ¶43
[49] Global Aviation Services Ltd. v. Airport Authority of India (2018) SCC OnLine Bom 233, at ¶121 ; State of Bihar v. Bihar Rajya Bhumi Vikas Bank Samiti (2018) 9 SCC 472, at ¶19
[50] Salem Advocate Bar Association, Tamil Nadu v. Union of India (2005) 6 SCC 344, at ¶20
[51] (2020) 2 SCC 109, at ¶4
[52] *Id.*
[53] Arbitration and Conciliation Act 1996, §34(4)

and Contractors,[54] with the court ruling that the time period for filing an appeal had to be 60 days.[55] The purpose of the Arbitration Act was to facilitate speedy disposal of disputes along with making India more amenable to arbitration.[56] Hence, a limitation period of 60 days would be an ideal way to improve India's ADR Index.

V. CHALLENGING AN ARBITRAL AWARD

In *Lesotho Highlands Development Authority v. Impregilo SpA and Others*,[57] the court was of the opinion that a challenge to an arbitration award was a "long stop"[58] and that it should be available only in cases where the tribunals' conduct was so incorrect that justice mandated it to be corrected.[59]

It is paramount to balance the importance of expedite proceedings against the fundamental principles of fairness and justice[60]; as a result, the Indian legislature has restricted arbitral challenges to solely procedural irregularity. In *Ssangyong Engineering and Construction v. NHAI*,[61] the court stated that a 'fundamental pillar' of judicial review was that a court should not invalidate an award merely because of a mistake of law[62]; it was also held that judicial review of an arbitrator's decisions based on merits would be antithetical to the New York Convention.[63] These restrictions not only limit judicial intervention, but also facilitate the enforcement of contracts.

(A) Public Policy

Under to original Act, patent illegality was an element under public policy, thus, giving courts a wide scope for setting aside awards. However, through the 2015 Amendment, the challenge of patent illegality was made into a separate ground applicable for arbitration proceedings that did not involve international commercial arbitration.[64]

The legal trajectory of Indian cases has alternated between giving a wide interpretation to public policy as opposed to a more restrictive approach.

In the 2019 case of *MMTC v. M/s Vedanta Ltd*.,[65] the court had a narrow approach, stating that

[54] (2021) SCC OnLine SC 233
[55] *Id.*, at ¶32
[56] *Id*., at ¶54
[57] [2005] UKHL 43
[58] *Id*., at ¶27
[59] *Id.*
[60] Thyssen Canada Ltd. v. Mariana Maritime S.A. and Anr. (2005) EWHC 2019 (Comm), at 1¶8
[61] (2019) 15 SCC 131
[62] *Id*., at ¶47
[63] *Id.*, at ¶45
[64] Arbitration and Conciliation Act 1996, §34(2-A)
[65] (2019) 4 SCC 163

Section 34 does not entail a right to appeal and hence, judicial intervention should be restricted to public policy as defined under Section 34(2)(b)(ii).[66]

However, in the 2020 case of *National Agricultural Cooperative Marketing Federation of India (NAFED) v. Alimenta S.A.*,[67] the court opined that the definition of public policy was too narrow and instead, held that the wider interpretation under the *Renusagar Case*[68] should be considered.[69] In *SEAMEC v. Oil India Ltd*,[70] the court held that an incorrect interpretation of a contract by the tribunal was perverse and would thus, justify the setting aside of an award.[71]

However, in the latter half of 2020, the Supreme Court in the case of *Government of India v. Vedanta Limited & Others*,[72] had a pro-enforcement approach, stating that reviewing evidence or the merits of an award was not permissible under law.[73]

While public policy is a valid ground to set aside an award, it must be applied with caution,[74] with the fundamental approach being pro-enforcement.[75]

(B) Upholding Minority Awards

Indian courts have also had a mixed approach towards enforcing minority opinions. While some decisions have held that a minority decision is merely an opinion and cannot be enforced, other courts have upheld minority awards.

In *Chowgule Brothers v. Rashtriya Chemicals*,[76] the Bombay High Court held that courts were not allowed to consider minority awards since this would cause confusion and result in complicating the process of challenging an arbitration award.[77] Thus, the basis for setting aside an award had to be on the prescribed grounds, and not the minority decision.

The 2007 case of *Numaligarh Refinery v. Daelim Industrial Company*[78] modified an award by considering a dissenting opinion. This reasoning was justified on the grounds of 'a peculiar

[66] *Id.*, at ¶11
[67] (2020) SCC OnLine SC 381
[68] (1994) Supp (1) SCC 644
(It was held that an award could be set aside if it violated fundamental policy of Indian law, was against the interest of India, was contrary to justice and morality and lastly, was patently illegal.)
[69] (2020) SCC OnLine SC 381, at ¶69
[70] South East Asia Marine Engineering and Constructions Limited (SEAMEC) v. Oil India Limited (2020) 5 SCC 165
[71] *Id.*, at ¶32
[72] (2020) 10 SCC 1
[73] *Id.*, at ¶127
[74] Cukurova Holding A.S (Appellant) v Sonera Holding B.V (Respondent) [2014] UKPC 15.
[75] Marie Berard and Katharina Lewis, Privy Council confirms pro-enforcement approach under New York Convention, ASA Bulletin, 32(4) Kluwer Law International, 869, 881 (2014) https://www-kluwerarbitration-com.opj.remotlog.com/document/print?ids=kli-ka-asab-3204019&title=PDF [Last Accessed 24th March 2022]
[76] (2006) SCC OnLine Bom 395
[77] *Id.*, at ¶61
[78] (2007) 8 SCC 466

state of affairs',[79] where two arbitrators were of the same opinion, while the third had a dissenting opinion. However, it has been seen that this approach has been used by the judiciary regardless of whether "a peculiar state of affairs" exists or not.[80] In *Modi Entertainment v. Prasar Bharati*,[81] the court modified the award by upholding the minority award.[82] Similarly, in *Ssangyong Engineering & Construction v. NHAI*,[83] the court not only set aside the award, but then proceeded to uphold the dissenting award.[84]

An arbitration forum is expressly selected by the relevant parties, and hence, the decision of the arbitrator/s should be considered supreme.[85] The interventionist approach, that disregards the decision of arbitration forums, directly clashes with arbitration hubs such as Singapore[86] and poses as a major hurdle for India to become a model arbitration jurisdiction.

(C) Removing the Possibility of Challenge

In *Perkins Eastman Architects DPC & Anr. v HSCC (India) Ltd*,[87] the Supreme Court held that a single party was not allowed to unilaterally appoint a single arbitrator.[88] The court further explained that despite consenting to the arbitration agreement, a person who has an interest in the arbitration proceedings, cannot have the right to appoint the sole arbitrator. [89]

The reason why this judgement is significant is because cases such as these often get tied up in litigation proceedings, where the appointment is challenged under the principle of Existence of Bias.[90] The judiciary has emphasized on the importance of eliminating the chances of challenges at the early stages.[91] This case helps to remove the possibility of the aforementioned challenge at the onset itself, due to which, arbitration proceedings can be made more certain and efficient, thus, making India incline towards pro-enforcement and a more arbitration-friendly environment.

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[79] *Id.*, at ¶24
[80] Aiswarya Murali and Vivek Krishnani, Minority Awards' in India: A Low Hanging Fruit for Judicial Interference?, Journal of International Arbitration, 37(6) Kluwer Law International, 731, 746 (2020) https://www-kluwerarbitration-com.opj.remotlog.com/document/print?ids=kli-joia-370603&title=PDF&searchTerm=judicial%20interference [Last Accessed 24th March 2022]
[81] (2017) SCC OnLine Del 7509
[82] *Id.*, at ¶45 & ¶46
[83] (2019) 15 SCC 131
[84] *Id.*, at ¶77
[85] Aiswarya Murali and Vivek Krishnani, *supra* note 79, at 734
[86] *Id.*
[87] (2019) SCC OnLine SC 1517
[88] *Id.*, at ¶21
[89] *Id.*, at ¶21
[90] *Id.*, at ¶24
[91] Vidya Drolia v. Durga Trading Corporation (2021) 2 SCC 1, at ¶134

VI. IMPACT ON THE EODB INDEX: A COMPARISON

Singapore, which is considered an arbitration friendly country, ranks 1 under the Enforcing Contracts Index and has an overall rank of 2 in the 2020 DB Rank.[92] In contrast, India has an overall rank of 63 and ranks 163 under the Enforcing Contracts Index.[93]

Under the EoDB Index, both India[94] and Singapore[95] have a score of 2.5 out of 3 for ADR. The United Kingdom has a lesser score of 2.0 out of 3.[96] Despite this, Singapore and the UK are considered more suited as the seat and *lex arbitri* for arbitral proceedings, as compared to India. However, under court structure, case management and court automation, India has received a net score of 8/15,[97] as compared to Singapore which has 13.5/15[98] and the United Kingdom which as 13/15.[99]

As highlighted in the previous sections, India has a problem of increased judicial intervention during arbitration proceedings. The data in this section indicates the logistical problem with the Indian court system in terms of delays and judicial lag. As a result, India has fallen behind other nations, therefore, ranking lower on the 'Doing Business' Reports.

VII. CONCLUSION

India's low rank can, therefore, be attributed to inadequate implementation of the legislative amendments, along with the increase in judicial intervention.

Courts should, firstly, not go into the merits of a case during a challenge to an award. Arbitration is a creature of consent and thus, the forum that parties mutually agree upon must be respected.[100] However, when a court sets aside or modifies an award by enquiring into the merits of a case, they usurp the power from arbitrators, the latter being the chosen forum by the parties.[101]

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[92] Doing Business Report, World Bank Group, p. 4 (2020) https://openknowledge.worldbank.org/bitstream/handle/10986/32436/9781464814402.pdf [Last Accessed 24th March 2022]
[93] *Id.*
[94] The World Bank, Doing Business: Measuring Business Regulation, [Data:India] (2019). Retrieved From https://www.doingbusiness.org/en/data/exploreeconomies/india [Last Accessed 24th March 2022]
[95] The World Bank, Doing Business: Measuring Business Regulation, [Data:Singapore] (2019). Retrieved From https://www.doingbusiness.org/en/data/exploreeconomies/singapore [Last Accessed 24th March 2022]
[96] The World Bank, Doing Business: Measuring Business Regulation, [Data:United Kingdom] (2019). Retrieved From https://www.doingbusiness.org/en/data/exploreeconomies/united-kingdom [Last Accessed 24th March 2022]
[97] The World Bank, *supra* note 94
[98] The World Bank, *supra* note 95
[99] The World Bank, *supra* note 96
[100] Aiswarya Murali and Vivek Krishnani, *supra* note 80, at 748
[101] *Id.*

While improving judicial proceedings is imperative, the ADR score can be improved by reducing judicial intervention where possible, specifically under Section 11. In Singapore, on parties failing to appoint an arbitrator, the President of the SIAC has the authority to do the same. Similarly, the appointment is done by the HKIAC in Hong-Kong. By implementing the 2019 Amendment to Section 11, the power to appoint arbitrators will be authorized to graded tribunals, thus, reducing extensive court involvement.[102]

This would then improve India's score for 'Enforcement of Contracts' as well as its overall EoDB rank and then subsequently, shift India towards a Model Law Jurisdiction.

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[102] B.N. Krishna, *supra* note 23, at p.18

 [ISSN 2581-5369]