

EDITORIAL NOTE

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The Indian Arbitration Law Review (IALR) was instituted with the aim of encouraging scholarship and research in the field of arbitration law in India. To further this vision, the editorial board of IALR has, since its inception in 2018, strived to publish the most illuminating submissions received for the periodical. We are indebted to Mr. Udyan Arya Srivastava, Mr. Prabal De, Mr. Pranjal Agarwal, and Mr. Syamantak Sen, the Editor-in-Chief of the previous volumes, and their colleagues, for their efforts in helping the Journal reach new heights with each successive volume. We are also thankful to Mr. Prashant Mishra, our Patron, for whose guidance and support towards the Journal we are eternally grateful.

We are supported in our editorial endeavour by some of the most esteemed legal luminaries in the Indian as well as international arbitration landscape, as our Board of Advisors. The invaluable inputs and direction offered by these internationally recognized jurists, practitioners, and academicians, from around the world have consistently benefitted us and our predecessors immensely. We are also sincerely grateful to Mr. Darius Khambata, for taking time out from his busy schedule to author the foreword for this volume.

Arbitration is a dynamic subject that continues to evolve and adapt to the changing contours of international commercial transactions. In the past years, significant developments and landmark changes have occurred in the field of arbitration, which have had a profound impact on its practice. For instance, in India, the recent *Amazon v. Future Retail* case has reaffirmed the country's pro-arbitration stance, while the *Hindustan Construction Company v. Union of India* case has improved the efficiency of arbitration proceedings. Furthermore, foreign lawyers and law firms can now practise international arbitration matters in India per the recently notified Bar Council of India Rules, thus taking another

step towards making India a hub of international commercial arbitration. These developments demonstrate India's growing commitment to the development of a modern and efficient arbitration regime and paint an optimistic view of the arbitration landscape moving forward. Globally, the pandemic has accelerated the shift towards virtual arbitration hearings, with institutions such as the ICC adapting by launching new virtual platforms to facilitate proceedings. These recent cases and changes underscore the importance of staying up-to-date with developments in the field of arbitration, and demonstrate the ongoing evolution of arbitration as a dynamic and essential mechanism for the resolution of international commercial disputes.

The authors in this edition have critically analysed various contemporary issues. The Amazon judgment, as referenced above, has been carefully evaluated by the authors in "*An Emergency Arbitrator is an Arbitrator... Is There A Need For Statutory Recognition Post-Amazon?*", wherein they have a discerningly for analysed the aftereffects of the judgment on Indian arbitration. Further, the unanswered query of whether emergency arbitration is viable and efficacious in India has been thoroughly examined by the authors in "*Emergency Arbitrations in India: Viability and Enforceability*". Next, in "*The India-Brazil BIT: Step forward, Two Steps Back*", the authors have engaged in a harm-versus-benefit assessment of the India-Brazil BIT and presented a well-reasoned critique of the treaty. Additionally, in "*Reconceptualising Consent in Arbitration Agreements - Chloro Controls Revisited*", the author has devised potential ways to remedy the deviation from arbitration's consent based approach, by the Supreme Court in the Chloro Controls case. Further, in "*Ensuring Fairness in Appointment of Arbitrators: Journey So Far*", the author posits that the challenging procedure of arbitrator is rife with subjectivity of the courts and presents an in-depth analysis of Section 12(5) of the Arbitration and Conciliation Act, 1996.

On top of that, in "*The ICSID Amendments: Analysing the Changes to the Arbitration Rules and what They Entail for Capital Importers and Developing Countries*", the author has delved into the recent amendments to the ICSID Rules and juxtaposed them with ICSID's historic bias

towards developed countries. Furthermore, in “*Revisiting Third-Party Funding – An Analysis of the New ICSID Arbitration Rules*”, the authors have thoroughly scrutinised Rule 14 and Rule 53, pertaining to disclosure and security for cost respectively. Next, in “*Disclosures in Third Party Funding in Arbitration: An Indian Perspective*”, the author conducts a comprehensive cross jurisdictional analysis of disclosure obligations and puts forth his preferred approach to the same.

Thus, as evidenced, multiple facets of these developments of import have been thoroughly investigated and comprehensively analysed by the authors in the present volume. The diverse form of academic writings that constitute the Journal ensure that it is able to chart the vast expanse of the field of arbitration, providing a meaningful insight into the field to the reader. In navigating through the pieces that explain the intricacies that underpin this area of law, the dedication and unrelenting hard work put in by the members of the Peer Review Board must not go amiss. Furthermore, the student editorial board of the IALR has worked tirelessly to sift through the overwhelming number of submissions and finalise a collection of articles written by seasoned authors, well versed in arbitration law. With this, we present to you the fifth volume of Indian Arbitration Law Review. We look forward to receiving feedback for this volume from our readers.