FROM ARBITRATION TO ENFORCEMENT: HOW ARE ARBITRAL AWARDS ENFORCED IN INDIA AND ABROAD?

by

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ABSTRACT

Arbitration is often selected because it offers parties a private and comparatively flexible method of resolving disputes. Yet the value of an arbitral process depends not only on the tribunal's decision but also on whether the successful party can obtain the relief granted. This paper examines the legal journey from an arbitral award to its enforcement, focusing on domestic awards in India and foreign awards sought to be enforced in India. It analyses the Arbitration and Conciliation Act, 1996, particularly Sections 34-36 and Sections 44-49, alongside the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, 1958 (New York Convention). It considers the distinction between setting aside a domestic award and resisting enforcement of a foreign award, the limited role of public policy, and the Supreme Court's approach in *Bharat Aluminium Co. v. Kaiser Aluminium Technical Services Inc.*, *Shri Lal Mahal Ltd. v. Progetto Grano SpA*, *Ssangyong Engineering & Construction Co. Ltd. v. National Highways Authority of India*, and *Vijay Karia v. Prysmian Cavi E Sistemi SRL*. The paper argues that Indian law generally supports finality while preserving safeguards for serious legal and procedural defects. Its central concern is the gap between an award becoming legally enforceable and the successful party actually receiving relief. It concludes that consistent judicial reasoning, proportionate case management, accessible procedural guidance, and effective execution practice are necessary to make enforcement more predictable without weakening legitimate safeguards.

Keywords: Arbitration; Arbitral Awards; Enforcement; Domestic Arbitration; Foreign Awards; New York Convention.

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I. INTRODUCTION

Arbitration has become an important method of resolving commercial disputes. Parties may choose arbitration because it allows them to select a decision-maker with relevant expertise, adopt a procedure suited to their dispute, and avoid some of the formalities associated with ordinary litigation. Arbitration is particularly significant in commercial relationships, where parties may need a binding decision without allowing a disagreement to remain unresolved for years.

The process does not end when an arbitral tribunal delivers its award. If the losing party complies voluntarily, the dispute may come to a practical end. If it refuses to comply, however, the successful party may need to approach a court. The law must then answer two different questions: whether the award is legally entitled to recognition or enforcement, and how the relief granted can actually be obtained. An award may be final and binding yet still require judicial assistance before money is recovered or other relief is secured.

The problem becomes more complex when a dispute crosses national borders. An arbitration may take place in London, Singapore, Paris, or another seat, while the losing party's assets are located in India. The successful party must then rely on Indian law to obtain enforcement. The award is not simply treated as an Indian domestic award. Instead, it must satisfy the relevant provisions governing foreign awards, including the requirements of Part II of the Arbitration and Conciliation Act, 1996.

India's principal legislation on arbitration is the Arbitration and Conciliation Act, 1996 ("1996 Act"). Part I deals with arbitration within its territorial scope, including domestic arbitration and international commercial arbitration seated in India. Part II contains provisions for the enforcement of specified foreign awards. Sections 34-36 address the setting aside and enforcement of domestic awards, while Sections 44-49 govern the recognition and enforcement of New York Convention awards. This distinction is central to the present study.

The international framework is supported by the New York Convention of 1958. The Convention aims to establish common standards for recognising arbitration agreements and enforcing foreign and non-domestic awards. It promotes cross-border enforcement while permitting refusal on defined grounds. It does not require courts to accept every award without examination, but it seeks to prevent the enforcement stage from becoming a full appeal on the merits.

This paper examines how an arbitral award moves from decision to enforcement under Indian law. It compares domestic awards with foreign awards sought to be enforced in India, analyses relevant judicial decisions, and considers the practical difficulties that may remain

after an award has been made. Its argument is that the strength of arbitration should be judged not only by the quality of the tribunal's decision but also by the fairness, predictability, and effectiveness of the enforcement process.

A. Statement of the Research Problem

The research problem is the gap that may arise between the legal finality of an arbitral award and the practical recovery of the relief it grants. The statutory framework establishes procedures for challenging and enforcing awards, but parties may still face disputes about the scope of judicial review, procedural requirements, the location of assets, and execution. A second issue is that domestic and foreign awards are governed by different statutory routes. A proper comparison must explain these differences without treating the legal tests as interchangeable.

B. Research Questions

This paper asks: (1) How are domestic arbitral awards challenged and enforced in India? (2) How are foreign arbitral awards recognised and enforced under Indian law? (3) What grounds permit a court to set aside a domestic award or refuse enforcement of a foreign award? (4) How have Indian courts balanced finality with judicial supervision? (5) What practical and procedural improvements could make enforcement more effective?

C. Research Objectives

The objectives are to explain the statutory framework for domestic and foreign awards; analyse the relevant provisions of the 1996 Act; examine leading Supreme Court decisions; compare the grounds and procedures applicable to domestic and foreign awards; and propose reforms that support timely enforcement while preserving due process.

D. Research Methodology and Scope

The paper uses doctrinal and analytical legal research. Its primary sources are the 1996 Act, the Code of Civil Procedure, 1908, the New York Convention, and judicial decisions. Secondary sources include academic commentary and explanatory material published by recognised legal institutions. The focus is Indian law, with international instruments considered where they clarify the enforcement of foreign awards. The paper does not claim to measure average enforcement times or success rates because it does not rely on a systematically collected empirical dataset. It also does not examine every aspect of arbitration,

such as tribunal appointment, interim measures, or investment arbitration, except where necessary to explain the enforcement framework.

II. UNDERSTANDING ARBITRAL AWARDS, RECOGNITION AND ENFORCEMENT

A. Meaning and legal effect of an arbitral award

An arbitral award is a decision made by an arbitral tribunal on a dispute submitted to arbitration. Depending on the reference and the governing law, an award may direct payment of damages, determine contractual rights, allocate costs, or grant another legally available remedy. Section 31 of the 1996 Act deals with the form and contents of an award. Section 35 provides that an award is final and binding on the parties and persons claiming under them, subject to the Act.

Finality is one of arbitration's principal advantages. Parties choose arbitration on the understanding that the tribunal will decide the dispute and that the result will ordinarily be respected. If the losing party could routinely ask a court to rehear all the evidence and reconsider the merits, arbitration would become little more than a preliminary stage before litigation. Finality is not absolute, however. The Act permits challenges on specified grounds, including serious procedural defects and certain jurisdictional or public-policy concerns.

B. Recognition compared with enforcement

Recognition and enforcement are connected but distinct. Recognition means that a court accepts the legal effect of an award, for example by treating the award as binding when a party relies on it in later proceedings. Enforcement is directed towards giving effect to the award, often through compulsory execution when the losing party does not comply voluntarily.

The distinction matters in cross-border cases. A foreign award may need to be recognised before execution can proceed against assets in the enforcement state. The New York Convention does not define the two terms exhaustively, but the UNCITRAL Secretariat Guide explains the common distinction between accepting an award's binding legal effect and using state procedures to give it effect. The Indian statutory scheme similarly links the court's determination of enforceability with the ability to execute the award.[2]

[2] United Nations Commission on International Trade Law, Guide on the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (2016), https://uncitral.un.org/sites/uncitral.un.org/files/media-documents/uncitral/en/2016_guide_on_the_convention.pdf.

C. Why enforcement is central to arbitration

The practical value of an award depends on whether it can be implemented. A business that wins a substantial award but cannot recover the amount due may still suffer financial loss. It may also have incurred the cost of arbitration and additional legal expenses to enforce the award. The position is more complicated where the debtor's assets are spread across jurisdictions or where the award creditor must first establish that the award qualifies for enforcement in the country concerned.

This does not mean that every difficulty in execution is caused by defective arbitration law. Some problems arise because the debtor has insufficient assets, assets are difficult to locate, or the applicable execution process requires particular steps. Nevertheless, enforcement procedure is a core part of the system. A legal framework that recognises an award but does not provide a workable path to relief would not fully achieve arbitration's purpose.

III. ENFORCEMENT OF DOMESTIC ARBITRAL AWARDS IN INDIA

A. The statutory framework

The 1996 Act is the principal statute governing arbitration in India. Section 5 expresses the policy of limiting judicial intervention in matters governed by Part I to the circumstances permitted by that Part. The provision does not remove the courts from arbitration. Rather, it requires that judicial intervention have a legal basis. Courts retain important functions, including the determination of applications to set aside awards and the execution of awards in accordance with the Act.

The seat of arbitration is important in determining the applicable supervisory law. In *Bharat Aluminium Co. v. Kaiser Aluminium Technical Services Inc.*, the Supreme Court adopted a territorial approach to Part I, holding in substance that Part I generally applies to arbitrations seated in India, subject to the judgment's treatment of the temporal issue. The decision clarified that the nationality of the parties alone does not determine the legal seat or the procedural law governing arbitration. An international commercial arbitration may be seated in India, while a dispute between Indian parties may raise a different question if the arbitration is seated abroad.[3]

[3] Bharat Aluminium Co. v. Kaiser Aluminium Technical Services Inc., (2012) 9 SCC 552 (India); Arbitration and Conciliation Act, No. 26 of 1996, § 5 (India).

B. Setting aside an award under Section 34

Section 34 provides the principal route for seeking to set aside an arbitral award governed by Part I. The grounds include incapacity of a party, invalidity of the arbitration agreement, lack of proper notice, inability to present one's case, an award dealing with matters beyond the submission to arbitration, and irregularities in the tribunal's composition or procedure. The section also contains grounds concerning non-arbitrability and conflict with the public policy of India. The exact scope of the statutory grounds must be determined from the legislation and binding judicial interpretation.[4]

Section 34 is not an ordinary appeal. A court is not generally authorised to reconsider every factual finding or replace the tribunal's interpretation of the contract merely because another view is possible. The limited grounds are intended to protect the integrity of arbitration without removing the award's finality. This distinction is important in commercial disputes: a party's dissatisfaction with the outcome is not, by itself, a legal reason to set the award aside.

In *Ssangyong Engineering & Construction Co. Ltd. v. National Highways Authority of India*, the Supreme Court examined the scope of interference with an award under the amended law. The decision explains the limits of the public-policy ground and cautions against turning Section 34 into a broad merits appeal. It is particularly relevant to the balance between correcting legally recognised defects and respecting the tribunal's role as the agreed decision-maker.[5]

C. Enforcement under Sections 35 and 36

Section 35 establishes that an award is final and binding, subject to the Act. Section 36 provides for enforcement in the same manner as if the award were a decree of the court, in accordance with the Code of Civil Procedure, 1908. The award becomes enforceable when the statutory conditions are met.[6]

An important feature of Section 36 is that filing an application under Section 34 does not, by itself, automatically stay enforcement. A separate stay order is required, subject to the statutory framework. This approach reduces the risk that a losing party can prevent enforcement simply by filing a challenge. The court considering a stay must exercise its powers in accordance with the law and the circumstances of the case.

[4] Arbitration and Conciliation Act, No. 26 of 1996, § 34 (India).
[5] Ssangyong Eng'g & Constr. Co. Ltd. v. Nat'l Highways Auth. of India, (2019) 15 SCC 131 (India).
[6] Arbitration and Conciliation Act, No. 26 of 1996, §§ 35-36 (India); Code of Civil Procedure, No. 5 of 1908 (India).

Even after the award becomes enforceable, execution may require additional steps. The award creditor may need to identify assets, file appropriate execution documents, seek attachment where permitted, or address objections about the property available for recovery. The legal status of the award and actual recovery are therefore separate questions. Section 36 supplies the route to execution, but the creditor must still use that route effectively.

D. Practical limits and critical assessment

Domestic award enforcement faces two broad types of difficulty. The first concerns legal proceedings: challenges and stay applications may require judicial time, and disputes about the proper scope of review can create uncertainty. The second concerns execution: the debtor may not pay voluntarily, assets may be difficult to identify, or the creditor may need to take several procedural steps before recovery.

These difficulties should not be treated as proof that the statutory framework has failed. Some level of judicial review is necessary to preserve fairness, and execution procedures must protect the rights of the judgment debtor and third parties. The concern is whether those safeguards are applied proportionately and without unnecessary repetition.

A sound approach would ensure that challenges are decided within the statutory boundaries, that stay applications are considered on their merits rather than assumed to suspend enforcement, and that execution proceedings focus on obtaining the relief legally due. The objective is not enforcement at any cost; it is enforcement that is both effective and consistent with due process.

IV. RECOGNITION AND ENFORCEMENT OF FOREIGN ARBITRAL AWARDS

A. The New York Convention

The Convention on the Recognition and Enforcement of Foreign Arbitral Awards, 1958, commonly known as the New York Convention, is a central instrument of international commercial arbitration. It seeks to ensure that foreign and non-domestic awards are recognised and generally capable of enforcement in contracting states, subject to the Convention's requirements and limited grounds for refusal. It also supports arbitration agreements by requiring courts, in the circumstances covered by the Convention, to respect the parties' agreement to arbitrate.[7]

[7] Convention on the Recognition and Enforcement of Foreign Arbitral Awards art. III, June 10, 1958, 330 U.N.T.S. 3 (New York Convention).

The Convention does not create an entirely uniform global execution procedure. Each state applies the Convention through its own legal system. The award creditor must therefore comply with the law of the place where enforcement is sought. In India, the Convention framework is implemented through Part II, Chapter I of the 1996 Act.

B. Sections 44-47: qualifying awards and documentary requirements

Section 44 defines the foreign awards covered by Chapter I, including requirements concerning the place where the award was made and the legal relationship from which the dispute arose. The Act also reflects India's relevant Convention declarations. It is therefore necessary to establish that the award falls within the statutory definition before seeking enforcement under these provisions.[8]

Section 47 specifies the evidence that the party applying for enforcement must produce. This includes the original award or a duly authenticated copy, the original arbitration agreement or a duly certified copy, and such evidence as may be necessary to establish that the award is a foreign award. If the award or agreement is in a foreign language, a translation into English certified in the manner required by law must be provided.[9]

These requirements serve a legitimate purpose: the court must be able to identify the award, verify the arbitration agreement, and determine whether the statutory framework applies. At the same time, documentary requirements should not be converted into unnecessary obstacles where the law has been satisfied. Proper preparation of the enforcement application can reduce avoidable procedural disputes.

C. Section 48: grounds for refusing enforcement

Section 48 lists the grounds on which enforcement of a foreign award may be refused. These include incapacity or invalidity of the arbitration agreement, inadequate notice or inability to present one's case, an award that goes beyond the submission to arbitration, defects in the tribunal's composition or procedure, and circumstances where the award is not yet binding or has been set aside or suspended by a competent authority at the seat.[10]

Enforcement may also be refused where the subject matter is not capable of settlement by arbitration under Indian law or where enforcement would be contrary to the public policy of India. The provision also permits an adjournment in specified circumstances if an application to set aside or suspend the award has been made before the competent authority, and allows

[8] Arbitration and Conciliation Act, No. 26 of 1996, § 44 (India).
[9] Id. § 47.
[10] Id. § 48; New York Convention, supra note 5, art. V.

the court to order appropriate security on the request of the party seeking enforcement. Scholarly commentary has also identified the treatment of awards set aside at the seat as a difficult question under Section 48(1)(e), requiring careful attention to the Convention framework and the legal effect of the setting-aside decision.[1112]

These grounds are safeguards, not an invitation to conduct a new trial. A party resisting enforcement must bring its objection within the statutory categories. Disagreement with the tribunal's factual assessment or interpretation of the contract does not automatically establish a ground for refusal. This is essential to the Convention's objective: if foreign awards were routinely reviewed on their merits, the promise of cross-border enforcement would become uncertain.

D. Section 49 and execution

Section 49 provides that where the court is satisfied that a foreign award is enforceable under Chapter I of Part II, the award is deemed to be a decree of that court. This provision connects the determination of enforceability with the execution process. It does not mean that all foreign awards are automatically enforceable; the requirements of the Act and any objections under Section 48 must first be considered.[13]

Once the statutory threshold is met, the award creditor may seek execution in accordance with the applicable procedure. The process may still require the identification of assets and compliance with execution rules. The award creditor may also need to consider whether assets are located in more than one jurisdiction, in which case separate proceedings may be required under the relevant local laws.

E. Comparison with domestic enforcement

The distinction between Sections 34-36 and Sections 47-49 is not merely procedural. Section 34 concerns setting aside an award within the Indian supervisory framework. Section 48 concerns whether a foreign award should be refused enforcement in India. The court at the seat ordinarily has the supervisory role over the arbitration, while the enforcement court applies the limited statutory grounds relevant to recognition and enforcement.

[11] Arbitration and Conciliation Act, No. 26 of 1996, § 48(1)(e) (India); New York Convention, supra note 5, art. V(1)(e).

[12] Gracious Timothy Dunna, "To Enforce or Not to Enforce: Laying a Standard of Enforcement of Annulled Awards in India," 1 Indian Rev. Int'l Arb. 114, 114-41 (2021).

[13] Arbitration and Conciliation Act, No. 26 of 1996, § 49 (India).

The two regimes share a commitment to finality, but they are not identical. A court must avoid importing a domestic-award test into foreign-award enforcement without statutory authority. The narrower approach to resisting enforcement of foreign awards supports international predictability and respects the division between supervisory jurisdiction and enforcement jurisdiction.

V. JUDICIAL APPROACH: FINALITY, PUBLIC POLICY AND FAIRNESS

A. *Bharat Aluminium Co. v. Kaiser Aluminium Technical Services Inc.*

In *Bharat Aluminium Co. v. Kaiser Aluminium Technical Services Inc.*, the Supreme Court clarified the territorial approach to the 1996 Act and the significance of the seat of arbitration. The decision is relevant because enforcement depends on identifying the correct legal category of the award and the law that governs the arbitral proceedings. The place where enforcement is sought may be different from the seat, and the enforcement court's function must be distinguished from the supervisory role of the courts at the seat.

The case illustrates why the domestic and international dimensions of arbitration must be considered together but not collapsed into one procedure. An award made in an arbitration seated in India is generally subject to Part I, while a qualifying foreign award sought to be enforced in India is governed by Part II.

B. *Shri Lal Mahal Ltd. v. Progetto Grano SpA*

In *Shri Lal Mahal Ltd. v. Progetto Grano SpA*, the Supreme Court considered the public-policy ground under Section 48. It rejected the proposition that the broader approach associated with patent illegality in domestic award challenges could simply be applied to foreign-award enforcement. The Court emphasised that Section 48 does not provide an opportunity for a second look at the merits of the foreign award.[14]

The significance of the judgment lies in its support for a narrower enforcement review. Public policy remains a safeguard, but it cannot be used as a general appeal mechanism. If an enforcement court were free to reconsider the tribunal's findings whenever the losing party alleged an error, the distinction between arbitration and litigation would become blurred.

[14] Shri Lal Mahal Ltd. v. Progetto Grano SpA, (2014) 2 SCC 433 (India) (decided July 3, 2013; reported in 2014).

C. *Vijay Karia v. Prysmian Cavi E Sistemi SRL*

In *Vijay Karia v. Prysmian Cavi E Sistemi SRL*, the Supreme Court reaffirmed the limited nature of objections under Section 48. The case involved foreign awards made in London under the London Court of International Arbitration Rules, which were sought to be enforced in India. The Court rejected the attempt to use objections concerning the award and foreign-exchange regulation to establish a basis for refusing enforcement in the circumstances of the case.[15]

The decision underscores that a court should not refuse enforcement merely because the losing party disagrees with the award or identifies an error that does not meet a statutory ground. It also illustrates the importance of assessing the actual legal effect of an alleged regulatory breach rather than assuming that every breach necessarily makes an award unenforceable.

The judgment supports commercial certainty, but it should not be read as removing the safeguards in Section 48. A genuine defect falling within the statutory grounds must still be considered. The correct principle is limited review, not no review.

D. *Ssangyong Engineering & Construction Co. Ltd. v. National Highways Authority of India*

In *Ssangyong Engineering & Construction Co. Ltd. v. National Highways Authority of India*, the Supreme Court examined the scope of setting aside a domestic award under Section 34, including the statutory limits on public-policy review after the 2015 amendments. The case demonstrates that courts should not substitute their own assessment of the merits for that of the tribunal except where the law permits intervention.

The decision and the foreign-award cases share a concern with finality, but the relevant provisions remain distinct. Section 34 deals with setting aside an award within the Indian supervisory framework; Section 48 deals with refusal of enforcement of a qualifying foreign award. Their grounds should be interpreted in their respective statutory contexts.

E. The balance between finality and due process

The cases collectively show that finality is a strong principle in Indian arbitration law. However, finality cannot be separated from fairness. If a party had no proper notice or no real opportunity to present its case, the law provides safeguards. Likewise, a tribunal cannot

[15] Vijay Karia v. Prysmian Cavi E Sistemi SRL, (2020) 11 SCC 1 (India) (decided Feb. 13, 2020).

necessarily decide matters beyond the authority conferred by the arbitration agreement and applicable law.

The challenge is to distinguish a genuine legal defect from dissatisfaction with the result. A broad review risks undermining arbitration; an overly narrow or mechanical approach risks enforcing an award despite a serious defect. Courts must therefore explain why an objection does or does not fit the statutory ground invoked. Reasoned decisions help parties understand the limits of review and promote consistency in later cases.

VI. CRITICAL ANALYSIS: FROM ENFORCEABILITY TO ACTUAL RECOVERY

A. The award is not always the end of the dispute

The central insight of this paper is that the making of an award and the recovery of the relief granted are different events. Arbitration may settle the parties' legal dispute, but the successful party may still have to pursue court proceedings. If the debtor does not comply voluntarily, execution becomes necessary. The additional proceedings can reduce the practical benefit of arbitration, particularly where the amount in dispute is modest relative to the costs of enforcement.

The problem is not unique to India. Enforcement is necessarily linked to national legal systems and the location of assets. Nevertheless, a well-designed domestic framework can reduce unnecessary procedural obstacles and ensure that courts distinguish between legitimate objections and tactics that merely postpone compliance.

B. Challenge proceedings and delay

The right to challenge an award is essential, but the existence of a challenge should not be confused with a finding that the award is defective. Section 36 addresses this concern by providing that a Section 34 application does not automatically stay enforcement. The court may grant a stay under the statutory framework, but the filing of an application alone is insufficient.

This structure seeks to balance the award creditor's interest in timely enforcement with the award debtor's right to pursue a legitimate challenge. Its effectiveness depends on careful judicial case management. If stay applications are decided slowly or adjournments become routine, the statutory distinction may have limited practical impact. Conversely, a stay should not be refused mechanically where the legal requirements and circumstances justify relief.

C. Public policy: safeguard or route to appeal?

Public policy is a necessary but sensitive ground for refusing enforcement. It allows a court to protect fundamental legal values, yet it can create uncertainty if interpreted too broadly. The Supreme Court's approach in *Shri Lal Mahal* and *Vijay Karia* limits the use of public policy as a means of reopening the merits of a foreign award.

A useful distinction is between a legal objection that falls within the statutory public-policy standard and an argument that the tribunal reached the wrong conclusion. The latter ordinarily belongs to the arbitral process and cannot automatically be converted into an enforcement defence. Courts should identify the specific legal principle said to be violated and explain how enforcement—not merely the reasoning of the tribunal—would conflict with the applicable standard.

D. Documentary and procedural requirements

Foreign award enforcement involves requirements concerning the award, arbitration agreement, authentication, and translation. These requirements are legitimate because the court must establish that the award falls within the statutory framework. Problems arise where parties fail to prepare documents correctly or where disputes about formal compliance consume disproportionate time.

Clear procedural guidance, standardised filing checklists, and early identification of missing documents could reduce avoidable disputes. Such steps should not create new substantive requirements or compromise the opposing party's right to object. Their purpose should be to make the existing legal process easier to follow.

E. Asset identification and execution

Even after an award is enforceable, the creditor may not know where the debtor's assets are located or whether they are available for execution. The creditor may need to use lawful procedures to identify assets and seek attachment or other execution measures. If assets are located abroad, enforcement may have to be pursued under another jurisdiction's law.

This demonstrates the limits of treating enforcement as a single judicial order. Recognition or enforceability establishes the legal basis for execution; it does not guarantee that assets exist or can immediately be recovered. Any assessment of enforcement effectiveness should therefore distinguish legal barriers from practical insolvency or asset-location problems.

F. Does the framework achieve a fair balance?

The 1996 Act establishes a broadly pro-enforcement structure while retaining specified grounds for judicial intervention. Domestic awards can be challenged under Section 34, and foreign awards can be resisted under Section 48. The grounds are not identical, reflecting the different roles of supervisory and enforcement courts.

The framework's success depends on how these provisions are applied. Excessive intervention may make arbitration less attractive by exposing awards to repeated litigation. Insufficient attention to procedural fairness may undermine confidence in the legitimacy of awards. A principled approach requires courts to respect the tribunal's role while giving genuine statutory objections a fair and timely hearing.

A further limitation is the lack of empirical analysis in this paper. It would be premature to claim, without systematic data, that a particular reform would reduce enforcement time by a specified amount or that one category of award is enforced more successfully than another. Future empirical work could examine court records, the time taken for enforcement, the grounds most frequently raised, and the relationship between enforcement orders and actual recovery. Such evidence would complement doctrinal analysis and help assess the practical performance of the framework.

VII. RECOMMENDATIONS

A. Improve procedural clarity

Courts and relevant institutions should make the requirements for enforcement applications easier to understand. Guidance on authentication, translations, filing requirements, and the documents required under Sections 47 and 48 could reduce avoidable procedural disputes. Any guidance should remain consistent with the statute and should not add conditions that Parliament has not prescribed.

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B. Ensure timely and proportionate case management

Enforcement and challenge proceedings should be managed so that genuine issues receive proper consideration without unnecessary adjournments. Courts should identify the main legal questions early and ensure that procedural applications do not become an automatic means of delaying enforcement. This does not mean imposing rigid timelines regardless of circumstances; it means using available case-management powers to prevent avoidable delay.

C. Maintain a principled approach to public policy

Courts should continue to distinguish between a genuine conflict with the statutory public-policy standard and an ordinary disagreement with the tribunal's findings. Decisions should explain the legal principle relied upon and why the facts satisfy or fail to satisfy the relevant test. Consistency would improve predictability for Indian and foreign parties.

D. Keep challenge and execution functions distinct

The distinction between setting aside an award and enforcing it should remain clear. Under Section 36, the filing of a Section 34 application does not by itself stay enforcement. Under Section 48, the court must examine the specific grounds for refusing a foreign award. Applying these provisions according to their terms would preserve legitimate remedies without allowing routine reconsideration of the merits.

E. Encourage better preparation by award creditors

Parties should retain complete copies of the arbitration agreement, award, relevant procedural records, and translations where necessary. When negotiating contracts, parties may also consider the likely location of assets and the jurisdictions in which enforcement could be required. Better preparation cannot eliminate all execution difficulties, but it can reduce avoidable mistakes.

F. Support empirical research

Future research should examine enforcement outcomes using a transparent and replicable methodology. Relevant indicators could include the time between award and enforcement application, the grounds raised in opposition, the time taken to decide those objections, the use of stays or adjournments, and whether execution resulted in recovery. Such work would help test assumptions about delay and identify which procedural changes would be most useful.

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VIII. FINDINGS

The study produces five principal findings.

First, Indian law provides distinct statutory routes for domestic and foreign arbitral awards. Sections 34-36 govern the challenge and enforcement of domestic awards, while Sections 44-49 address qualifying foreign awards under the New York Convention framework.

Second, finality is a central feature of arbitration. Courts are not ordinarily expected to rehear the dispute merely because a party disagrees with the tribunal's findings. Challenges and objections must fall within the applicable statutory grounds.

Third, foreign award enforcement is subject to limited grounds for refusal. The New York Convention and decisions such as *Shri Lal Mahal* and *Vijay Karia* support an approach that prevents enforcement proceedings from becoming an appeal on the merits.

Fourth, legal enforceability does not guarantee actual recovery. The creditor may still need to complete execution procedures, identify assets, and address practical obstacles. A full assessment of arbitration must consider both the award and the post-award process.

Fifth, the effectiveness of the system depends on implementation as well as statutory design. Clear procedures, reasoned judicial decisions, and proportionate case management can help preserve the balance between fairness and finality. Empirical research would be useful to measure the scale and distribution of practical enforcement difficulties.

IX. CONCLUSION

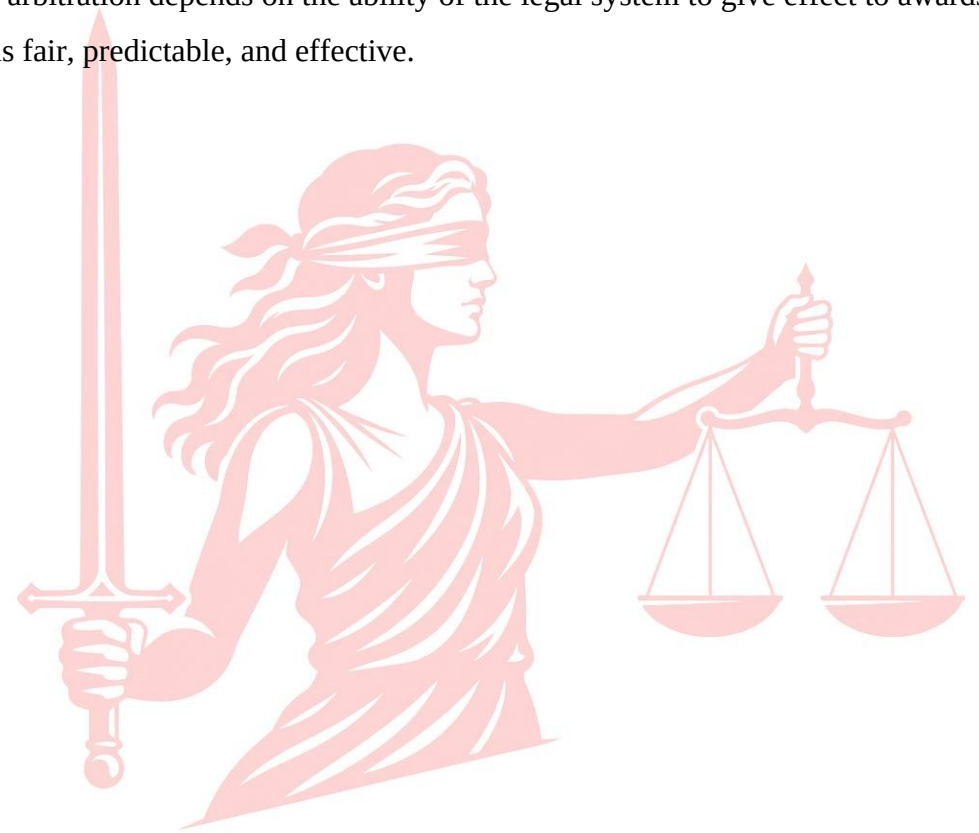
Arbitration is valuable because it allows parties to resolve disputes through a process chosen by agreement and intended to produce a binding decision. Yet the value of arbitration cannot be measured solely by whether a tribunal has delivered an award. The successful party must also be able to obtain the relief granted.

The Arbitration and Conciliation Act, 1996 provides separate mechanisms for domestic and foreign awards. Sections 34-36 govern the challenge and enforcement of domestic awards, while Sections 47-49 establish the central requirements for enforcement of qualifying foreign awards in India. The New York Convention supports international enforcement by promoting recognition of awards and limiting the grounds on which enforcement may be refused.

The Supreme Court's decisions in *Bharat Aluminium*, *Shri Lal Mahal*, *Ssangyong Engineering*, and *Vijay Karia* help explain the balance between judicial supervision and arbitral finality. They show that courts must respect the limited grounds for review and should not ordinarily reopen the merits of a dispute. At the same time, the law preserves safeguards for serious defects, including those concerning jurisdiction, notice, procedural fairness, and public policy.

The main conclusion is that an enforceable award and actual recovery are not the same thing. Even when the legal requirements have been met, the award creditor may need to pursue execution and locate assets. This practical stage deserves attention alongside the statutory rules on challenges and recognition.

The appropriate response is not to remove judicial supervision or to enforce every award without scrutiny. Rather, courts should apply the statutory grounds carefully, decide genuine objections in a timely manner, and prevent avoidable procedural delay. Clearer filing guidance and better empirical research could further improve the system. A balanced enforcement framework protects parties from serious injustice while ensuring that arbitration does not become an ineffective step before another prolonged dispute. Ultimately, the credibility of arbitration depends on the ability of the legal system to give effect to awards in a manner that is fair, predictable, and effective.



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