

## FORUM COMPETITION AND REGULATORY SIGNALLING: HOW THE UNITED KINGDOM, SINGAPORE, AND INDIA CRAFT THEIR ARBITRATION IDENTITIES IN THE GLOBAL MARKET

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### ABSTRACT

International arbitration has become a competitive global marketplace in which states deliberately construct and promote distinct regulatory identities to attract cross-border commercial disputes. This research delves into how the United Kingdom (UK), Singapore, and India, three influential yet contrasting jurisdictions, engage in forum competition through a blend of legislative design, judicial behaviour, institutional development, and market-driven branding. Drawing on theories of regulatory signaling, the research conceptualizes arbitration reform as a strategic communicative act by which states convey neutrality, efficiency, enforceability, and international commercial sophistication to global users. UK exemplifies stability-based signaling, leveraging the Arbitration Act 1996, a disciplined common-law judiciary, and the prestige of the London Court of International Arbitration to project an image of doctrinal consistency and commercial reliability. Singapore, by contrast, operates as a model of regulatory entrepreneurship, frequent targeted amendments, a strong pro-enforcement judiciary, and state-supported institutions, such as SIAC and Maxwell Chambers together signal innovation, efficiency, and user-centric governance. India represents a reform-driven trajectory, using successive amendments to the Arbitration and Conciliation Act, evolving jurisprudence, and nascent institutional efforts to rebuild credibility after decades of perceived judicial interventionism. By comparing the distinct signaling strategies across these jurisdictions, the research illustrates how different pathways, stability, innovation, and reform, shape global perceptions, and market share in international arbitration. It further highlights how mismatches between legislative ambition and judicial practice, especially in emerging jurisdictions, can dilute signaling effectiveness. The research delineates that successful arbitration identity formation requires coherent coordination among law-making, judicial conduct, and institutional capacity, supported by consistent messaging to international users. The research offers broader insights into how states participate in the global competition for dispute-resolution authority, with implications for policymakers, arbitral institutions, and the evolving international arbitration landscape.

*Keywords: International Arbitration, Forum Competition, Regulatory Signaling, Arbitration Identity, Legislative Reform, Institutional Design, Dispute Resolution Policy*

## BACKGROUND

The rise of international arbitration as the dominant mechanism for resolving cross-border commercial disputes reflects a structural shift in global economic governance, where private adjudicative autonomy increasingly supplements, and often supplants, state courts. This development has catalyzed a competitive dynamic among states seeking to position themselves as arbitration-friendly hubs, generating what scholars term “forum competition”. In this landscape, jurisdictions attempt to distinguish themselves not merely through the content of their legislative frameworks but through a broader ecology of regulatory signals, markers intended to convey neutrality, procedural efficiency, judicial restraint, and enforceability.<sup>1</sup> These signals, whether explicit or implicit, shape market perceptions and inform the choices of sophisticated commercial actors. As arbitral seats now function as globally traded regulatory commodities, the capacity of a jurisdiction to articulate a coherent arbitration identity has become central to its attractiveness in the international dispute resolution market.

Against this backdrop, the core problem this article addresses are how states strategically craft, refine, and publicize their arbitration regimes in response to both competitive pressures and evolving market expectations. The UK, Singapore, and India present three contrasting models of regulatory engagement, the UK draws on its longstanding common-law pedigree and judicial prestige; Singapore operates a model of deliberate regulatory entrepreneurship, with agile statutory reform and state-backed institutional innovation; India, by contrast, exemplifies the posture of a late reformer attempting to rehabilitate credibility after decades of judicial skepticism.<sup>2</sup> By examining these distinct trajectories, the paper seeks to uncover the mechanisms by which states mobilize legislative reform, judicial messaging, and institutional capacity-building to position themselves in the global arbitration hierarchy. The inquiry thus moves beyond descriptive comparison, instead interrogating the strategic rationality underpinning each jurisdiction’s regulatory choices.

This analysis is guided by a set of research questions aimed at disentangling the architecture of regulatory signaling within each jurisdiction. What specific legislative, judicial, and institutional signals are deployed to shape international perceptions of arbitration-friendliness? How effective are these signals in constructing a durable and recognizable arbitration identity capable of attracting complex commercial

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<sup>1</sup> Paul R. Ellington, *Arbitration – The new Arbitration Act 1996*, 1998 Amicus Curiae, (2012), <https://doi.org/10.14296/ac.v1998i3.1625>.

<sup>2</sup> *Id.*

disputes? To what extent does the intensity of forum competition discipline judicial behaviour and catalyze regulatory reforms, and where does such competition risk producing symbolic or inconsistent signaling? And, what normative lessons emerge for emerging arbitral seats regarding regulatory coherence, institutional design, and the cultivation of trust? These questions not only frame the comparative study but also contribute to broader debates on regulatory competition, transnational legal markets, and the evolving relationship between state sovereignty and private dispute resolution.

## **THEORETICAL FRAMEWORK**

Forum competition in international arbitration is best understood as a deliberate regulatory strategy through which states curate legal and institutional environments that are attractive to commercial parties seeking a neutral and predictable forum. This competition is not merely structural but deeply reputational, jurisdictions cultivate an image of neutrality, enforceability, and judicial restraint, knowing that parties' choices are profoundly shaped by perceptions of court behaviour and legislative clarity. Judicial ruling in *Dallah Real Estate v. Pakistan*<sup>3</sup> in the UK and *PT First Media v. Astro*<sup>4</sup> in Singapore exemplify how courts project predictability and a restrained supervisory role, an indispensable factor in forum credibility. Parties also respond to cost structures, the efficiency of court systems, and cultural or linguistic familiarity, all of which operate as market variables within this competitive landscape. Thus, forum competition operates through a blend of hard-law design and soft institutional branding, each reinforcing the jurisdiction's place within the global arbitration hierarchy.

Regulatory signaling theory provides the conceptual framework for understanding how jurisdictions communicate these attributes to the international market. Through legislative amendments, judicial posturing, and institution-building, states send signals that they are aligned with international standards such as the New York Convention & UNCITRAL Model Law. Substantive legal reforms, such as Singapore's targeted amendments to its International Arbitration Act or India's post-BALCO statutory recalibration, function as clear signals of doctrinal modernization. Procedural efficiency, embodied in fast-track proceedings or minimal court intervention, and pro-arbitration judicial philosophies, reflected in *Tomolugen v. Silica*<sup>5</sup> or *Enka v. Chubb*,<sup>6</sup> further amplify these signals. Institutional capacity, exemplified

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<sup>3</sup> UKSC/2009/0165.

<sup>4</sup> [2014] 1 SLR 372.

<sup>5</sup> [2014] 3 SLR 815.

<sup>6</sup> UKSC/2020/0091.

by the LCIA, SIAC, or emergent Indian centers, and the surrounding professional ecosystem of specialist practitioners and academics enhance the credibility of these signals by demonstrating both infrastructural robustness and intellectual capital. Regulatory signaling therefore operates not solely through legal texts but through a constellation of market cues that collectively convey arbitral friendliness.

The interaction between forum competition and regulatory signaling produces a dynamic feedback loop in which reforms trigger shifts in market perception, which in turn generate increased case flow, prompting further reforms. This loop is visible in Singapore's trajectory, early statutory modernization generated positive user perceptions, which increased SIAC's caseload, creating political incentives for continued refinement, constructing a self-reinforcing cycle of competitiveness. Conversely, the risks of over-signaling or purely symbolic reforms are evident in India's experience, where ambitious legislative amendments have at times been undermined by inconsistent judicial interpretations, such as the oscillation between interventionist and restrained approaches in *ONGC v. Western Geco*<sup>7</sup> and *Vijay Karia v. Prysmian*.<sup>8</sup> Similarly, jurisdictions that send contradictory signals, such as promoting arbitration while courts expand public policy scrutiny, risk eroding credibility and losing market share. Thus, the success of forum competition hinges not merely on signaling but on maintaining consistently aligned institutional behaviour, ensuring that the projected arbitration identity is matched by actual legal practice.

## **THE UNITED KINGDOM: STABILITY, JUDICIAL PRESTIGE, AND COMMON-LAW AUTHORITY**

UK's status as a premier arbitral seat is deeply rooted in its historical legacy and the path-dependent evolution of English commercial law, which collectively position London as a natural default for international dispute resolution. The entrenchment of the common-law method, marked by incremental development through precedent, detailed reasoning, and judicial craftsmanship, has reinforced foreign parties' confidence in the stability and predictability of English legal doctrine. Courts such as the Commercial Court and the Court of Appeal have, over decades, cultivated a reputation for technical expertise and commercial sensibility, thereby embedding London's reputation as an arbitration hub. This long-standing legal culture is complemented by London's historical role in international trade and finance, producing an ecosystem where commercial actors instinctively gravitate toward English law and London-

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<sup>7</sup> (2014) 9 SCC 263.

<sup>8</sup> AIR 2020 SUPREME COURT 1807.

seated arbitration. Judicial ruling in *Fiona Trust & Holding Corp v. Privalov*<sup>9</sup> demonstrate the courts' longstanding commitment to upholding the integrity of arbitration agreements as autonomous instruments, thereby reinforcing a legacy of judicial respect for arbitral autonomy that has shaped international perceptions of London's reliability.

The Arbitration Act, 1996 serves as a formalized legislative signal of the UK's pro-arbitration orientation, reflecting a deliberate policy decision to entrench party autonomy and limit judicial intervention. The Act's "philosophy" clauses, particularly sections 1(a) and 1(c), codify principles of fairness, efficiency, and respect for party choice, distinguishing the UK from jurisdictions where courts retain broader supervisory powers. Over the years, English courts have interpreted the Act in a manner that reinforces its purpose. For instance, in *Lesotho Highlands Development Authority v. Impregilo SpA*,<sup>10</sup> the House of Lords clarified the narrow confines of section 68 challenges, resisting expansive interpretations that could undermine finality. Likewise, in *Dallah Real Estate v. Pakistan*,<sup>11</sup> while the Supreme Court independently reviewed jurisdiction under the New York Convention, its reasoning emphasised the rule-of-law values that underpin international enforcement, demonstrating a careful calibration between pro-arbitration principles and judicial oversight. Current efforts to reform Act, 1996 particularly proposals enhancing summary disposal powers and clarifying confidentiality, signal an ongoing commitment to legislative modernization, reflecting the UK's awareness of competitive pressures from jurisdictions, like Singapore.

English arbitration's global prestige is further reinforced by its robust institutional ecosystem, spearheaded by LCIA, whose rules and administrative practices are viewed as models of clarity, efficiency, and procedural flexibility. The LCIA's reputation is augmented by the dense concentration of specialist barristers, solicitors, and expert arbitrators operating in London, creating a sophisticated professional market that underpins the quality and predictability of London-seated proceedings. Judicial decisions continue to send strong pro-arbitration signals, with courts consistently affirming minimal intervention and the centrality of party autonomy, in *Enka v. Chubb*<sup>12</sup> clarified governing law issues in a manner that enhanced predictability for international parties. These elements collectively craft the UK's brand identity as the "gold standard" of arbitration seats, associated with neutrality, commercial rationality, and doctrinal clarity. Yet the system is not without challenges, increasing cost concerns and London's general economic

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<sup>9</sup> [2007] UKHL 40.

<sup>10</sup> [2005] UKHL 43.

<sup>11</sup> [2010] UKSC 46.

<sup>12</sup> [2020] UKSC 38.

environment raise questions about long-term competitiveness, while Brexit introduces subtle uncertainties about enforcement dynamics within Europe. Nevertheless, the continued coherence between legislative policy, judicial reasoning, and institutional strength sustains the UK's position as a guardian of international commercial orthodoxy.

## SINGAPORE: STATE-LED INNOVATION AND REGULATORY ENTREPRENEURSHIP

Singapore's ascent as an arbitration hub is the product of deliberate statecraft, what scholars increasingly describe as "regulatory entrepreneurship", in which the government deploys legal, institutional, and infrastructural tools to craft a competitive arbitral identity. The state's strategic orientation became particularly evident from the mid-2000s onwards, when the Ministry of Law explicitly articulated the objective of positioning Singapore as the pre-eminent Asia-Pacific seat. This political will translated into sustained and carefully sequenced legislative innovation, beginning with the decision to anchor the International Arbitration Act (IAA) in the UNCITRAL Model Law, thereby signaling doctrinal familiarity and harmonization with global standards.<sup>13</sup> Targeted amendments, such as those clarifying the scope of judicial review, introducing opt-in confidentiality provisions, establishing a statutory framework for third-party funding (Civil Law (Amendment) Act 2017), and enabling hybrid structures like arb-med-arb, reflect a technocratic responsiveness to market expectations. Unlike jurisdictions that legislate in episodic or reactive bursts, Singapore's legislative philosophy is iterative, reforms are fine-tuned to remedy interpretive uncertainties identified by courts and users, thereby projecting an image of continual modernization.

Judicial signaling has operated as a complementary regulatory technique. The Singapore courts have crafted a jurisprudence that is simultaneously pro-enforcement and deferential, thereby enhancing the credibility of the seat. Key decisions, such as *PT First Media TBK v. Astro Nusantara International BV*<sup>14</sup> and *BZV v. BZW*,<sup>15</sup> reinforce the principle that parties' procedural choices and tribunal autonomy are to be respected, and that judicial intervention is justified only in exceptional circumstances grounded in the Model Law. The Court of Appeal has consistently emphasized that errors of law by tribunals are not grounds for curial interference, thereby enhancing predictability and reducing the risk of parochial review. Singapore's decision to publish arbitration-related judgments in English further amplifies the signaling effect, it broadcasts clarity, transparency, and doctrinal consistency to an international audience of practitioners. This

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<sup>13</sup> *UNCITRAL Arbitration Rules*\*, 7 Ocean Y.B. Online 537, (1988), <https://doi.org/10.1163/221160088x00417>.

<sup>14</sup> [2014] 1 SLR 372.

<sup>15</sup> [2022] SGCA 1.

judicial posture is not merely reactive; it forms part of a broader institutional narrative that Singapore courts are sophisticated transnational commercial courts attuned to the expectations of global parties rather than domestic litigants alone.

Institutional leadership reinforces this ecosystem in ways that few jurisdictions have replicated. The SIAC has grown exponentially, driven by procedural innovations such as emergency arbitration, expedited procedures, and a modernized rule set that anticipates user needs rather than merely reacting to them. The government-supported development of Maxwell Chambers as a purpose-built hearing facility operates both as material infrastructure and as a tangible symbol of state commitment, an architectural manifestation of Singapore's arbitration identity. Branding and marketing initiatives, including annual Singapore Convention Week and Ministry-of-Law-supported global outreach, frame Singapore as “efficient, modern, and reliable”, a jurisdiction where state policy, judicial philosophy, legislative design, and institutional practice are coherently aligned. This triangulation of government strategy, court messaging, and institutional dynamism positions Singapore not merely as a competitor in the forum-competition landscape, however, as a paradigmatic example of how a small state can leverage regulatory signaling to construct a globally recognizable arbitration brand.

### INDIA: LATE REFORMER SEEKING CREDIBILITY AND TRUST

India's trajectory as an arbitral jurisdiction has been shaped by long-standing skepticism arising from decades of judicial interventionism and a deeply embedded pro-litigation culture. *Bhatia International v. Bulk Trading*<sup>16</sup> and *Venture Global v. Satyam*<sup>17</sup> expanded the reach of Part I of the Arbitration and Conciliation Act, 1996 to foreign-seated arbitrations, creating significant uncertainty for international parties and generating the perception of India as a jurisdiction inclined to interfere with arbitral autonomy. Similarly, *ONGC v. Saw Pipes*<sup>18</sup> broadened the public policy exception to include “patent illegality”, a standard far more intrusive than that recognized in most Model Law jurisdictions. These precedents collectively undermined India's arbitration credibility at a time when global forum competition was intensifying; they were taken as judicial signals that commercial finality could be compromised by unpredictable court review. The resulting reputational deficit meant that, for many years, India was regarded

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<sup>16</sup> AIR 2002 SUPREME COURT 1432.

<sup>17</sup> AIR 2010 SUPREME COURT 3371.

<sup>18</sup> AIR 2003 SUPREME COURT 2629.

as a jurisdiction where arbitration awards, particularly foreign awards, were vulnerable to expansive judicial scrutiny, thereby discouraging foreign investment and seat selection.

The legislative reforms enacted in 2015, 2019, and 2021 represent India's most explicit attempt to issue corrective regulatory signals to the international market. The Amendment Act, 2015 curtailed excessive judicial intervention by narrowing the public policy ground, introducing strict timelines u/s 29A, and restricting automatic stays on awards. The Amendment Act, 2019 further emphasized efficiency and institutionalization, notably through the proposed establishment of the Arbitration Council of India (ACI) to standardize arbitral institutions and accredit practitioners, although its potential for state involvement generated debate about regulatory independence. The Amendment Act, 2021 while tightening the scope of stays on awards obtained by fraud or corruption, was perceived as a mixed signal because its open-textured language risked reintroducing judicial discretion. In aggregate, the legislative trajectory demonstrates India's attempt to align with global best practices by signaling commitment to speed, autonomy, and institutional capacity, yet also reveals the difficulty of reconciling reformist ambitions with domestic political and judicial sensitivities.

Judicial behaviour since *BALCO v. Kaiser Aluminium*<sup>19</sup> has reinforced, though not consistently, a shift toward a more arbitration-supportive philosophy. BALCO overruled *Bhatia International* prospectively, affirming the territoriality principle and limiting the application of Part I to India-seated arbitrations, a crucial doctrinal reset that aligned Indian law with the UNCITRAL Model Law. Subsequent decisions, such as *Ssangyong Engineering v. NHAI*<sup>20</sup> and *Vijay Karia v. Prysmian Cavi*<sup>21</sup> further narrowed the public policy exception and emphasized judicial restraint, signaling compatibility with international enforcement standards under the New York Convention. Yet, inconsistency persists due to the multilayered judicial federal structure, where lower courts occasionally revert to interventionist instincts, and even the Supreme Court has produced split messaging in cases involving allegations of fraud, arbitrability of complex disputes, or challenges to institutional processes. This variability dilutes India's signaling efforts and perpetuates a credibility gap between legislative intent and judicial-cultural practice. Although institutions, like MCIA and NDIAC, provide nascent market-based signaling, their development remains embryonic compared to Singapore's SIAC-driven ecosystem. India thus currently projects the identity of a reforming

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<sup>19</sup> CIVIL APPEAL NO.7019 OF 2005.

<sup>20</sup> AIR 2019 SUPREME COURT 5041.

<sup>21</sup> AIR 2020 SUPREME COURT 1807.

rather than mature arbitral seat, marked by substantial potential but constrained by the need for deeper judicial discipline and stronger institutional consolidation.

## **CONCLUSION & A WAY FORWARD**

The comparative study of the UK, Singapore, and India demonstrates that forum competition in international arbitration is neither a passive by-product of global commerce nor an incidental consequence of legal evolution; rather, it is a deliberate and strategic project shaped by regulatory signaling. Each jurisdiction crafts an arbitration identity through a complex interplay of legislative design, judicial behaviour, and institutional capacity. The UK leverages its long-standing common-law pedigree and judicial consistency to signal stability and doctrinal coherence, effectively preserving London's status as a "safe haven" for high-value commercial disputes. Singapore represents the archetype of regulatory entrepreneurship, using precisely calibrated legislative reforms, a disciplined judiciary, and state-backed institutional excellence to project an image of modernity, efficiency, and neutrality. India, by contrast, occupies the position of a reforming jurisdiction attempting to recalibrate its arbitration brand after decades of credibility erosion. While its recent reforms are normatively aligned with global standards, inconsistencies in judicial application and underdeveloped institutional infrastructure dilute the intended regulatory signals. Collectively, the three jurisdictions illustrate that the global market for arbitration seats rewards not merely substantive pro-arbitration laws but the coherence, consistency, and credibility of the entire legal ecosystem that surrounds them.

A forward-looking pathway must acknowledge that the next phase of forum competition will be shaped less by formal legislative reforms and more by the quality of institutional practice, the predictability of judicial intervention, and the jurisdiction's ability to respond to the evolving demands of transnational commerce. For the UK, safeguarding its arbitration identity requires maintaining judicial restraint while addressing emerging critiques around cost and procedural inefficiency. Singapore must continue balancing innovation with stability, ensuring that its rapid regulatory reforms do not outpace users' capacity to adapt or compromise legal predictability. India's trajectory depends on bridging the gap between legislative aspiration and judicial-institutional practice, achievable through capacity-building initiatives, greater judicial specialization, and the consolidation of arbitration institutions with credible governance structures. More broadly, all three jurisdictions need to engage with the next generation of arbitral concerns, digitalization, cybersecurity, cross-border enforcement in a fragmented geopolitical climate, and the integration of AI-driven dispute management tools. The way forward is thus not a race to out-legislate

competitors, however, a commitment to cultivating ecosystems of trust, where parties perceive not only competent legal frameworks but also mature, responsive, and internationally attuned regulatory environments.