

Kluwer Arbitration Blog

The Best Path Forward in International Arbitration: A Summary of the SIAC Annual India Conferences 2024

Shwetha Bidhuri, Steffi Mary Punnose (SIAC) · Saturday, October 26th, 2024 · Singapore International Arbitration Centre (SIAC)

The [Singapore International Arbitration Centre](#) (“SIAC”) hosted its Annual India Conferences in Mumbai and Delhi on 6 and 7 September 2024. These Conferences were themed ‘New Developments and Reforms in International Arbitration: The Best Path Forward’, and brought together members of the judiciary, lawyers, in-house counsel, and other prominent figures in the field of international arbitration.

The Conference in Mumbai opened with a Welcome Address by [Davinder Singh SC](#) (Chairman of SIAC Board of Directions; Davinder Singh Chambers LLC) who emphasised the close relationship between SIAC and India. He shared that Indian parties have consistently ranked among the top foreign users of SIAC for a decade and that, in 2023, Indian arbitrators were the third most appointed nationality at SIAC.

A Special Address was then delivered by [Chief Justice Devendra Kumar Upadhyaya](#) of the High Court of Bombay where he noted the growing focus on green arbitrations, increased use of technology, greater transparency, diversity, and procedural changes as part of various reforms in international arbitration. Chief Justice Upadhyaya also emphasised the importance of cross-jurisdictional collaboration and commended Singapore’s efforts in fostering an arbitration-friendly environment.

In his [Keynote Address](#), [Chief Justice Sundaresh Menon](#) of the Supreme Court of Singapore focused on the critical issue of securing trust in arbitration. He noted that the traditional view of arbitration as a private, simple, informal, and alternative mode of dispute resolution has changed owing to various developments in arbitration, including the transformation of arbitration from a relatively informal mode of dispute resolution to one that is governed by a substantial body of procedural rules, the professionalisation of arbitration, the shift from an alternative mode of dispute resolution to one that is preferred or made mandatory, and the general decline of trust in public institutions. Chief Justice Menon explored the ways in which arbitration can continue to secure trust among its stakeholders while calling upon all stakeholders in the arbitration community to collectively and proactively act to secure trust in arbitration.

He stressed that rebuilding this trust requires a renewed focus on promoting better access to justice by controlling costs to make it accessible to all the parties regardless of their financial resources or legal sophistication. He suggested that the concern over costs of arbitration could be addressed by

introducing substantive and procedural rules on costs, ensuring the efficient conduct of proceedings, and by harnessing the potential of generative artificial intelligence to make arbitration more efficient and cost-effective. In this regard, he commended SIAC for introducing the Streamlined Procedure¹⁾ in the [draft 7th ed. SIAC Rules](#). Lastly, he underscored the necessity of upholding the values of the legal profession by promoting and enforcing a consistent understanding of ethical values and principles.

The first panel discussion, moderated by [Shalaka Patil](#) (Trilegal), featured Dr. Birendra Saraf (Advocate General, State of Maharashtra), [Amit Jajoo](#) (IndusLaw), [Prakash Pillai](#) (Clyde & Co Clasis), and [Avinash Pradhan](#) (Rajah & Tann; Christopher & Lee Ong). The panel shared practical tips and strategies for efficient, speedy, and cost – effective arbitrations, emphasising the importance of drafting clear, non-pathological arbitration clauses and selecting an arbitration seat that makes commercial sense.

The second panel explored the future of international arbitration and how the field will evolve in view of technological advancements, geopolitical influences, and procedural innovations in ADR. Moderated by [Tomas Furlong](#) (Herbert Smith Freehills LLP), the panel featured [Farid Karachiwala](#) (JSA), [Sakate Khaitan](#) (Khaitan Legal Associates), [Paras Lalwani](#) (Bayfront Law), and [Raj Panchmatia](#) (Khaitan & Co) as speakers.

The final session of the day featured an Oxford-style debate on the motion, ‘This House Believes that Competence, Not Diversity, is the Only Relevant Factor in Arbitrator Selection’. Arguing for the motion, [Zal T. Andhyarujina, SA](#) (Fountain Court Chambers) and [Ila Kapoor](#) (Shardul Amarchand Mangaldas & Co) contended that selecting arbitrators based on competence would naturally lead to diversity and merit should be the only criterion. They further argued that in commercial reality, when selecting arbitrators, parties are primarily focused on choosing the best individual for the task, rather than addressing and rectifying any historic diversity divide.

On the opposing side, [Nakul Dewan, SA](#) (Twenty Essex) and [Priyanka Shetty](#) (AZB & Partners) argued that diversity itself enhances competence by introducing fresh perspectives and ideas. They pointed out that the current arbitrator pool is overwhelmingly “male, pale, and stale”, and Shetty shared striking statistics to support this argument: fewer than 22% of arbitrators in investment treaty cases are women, less than 5% come from Africa and the Middle East, and fewer than 9% from Asia.

The debate was judged by a panel comprising [Cyril Shroff](#) (Member of SIAC Board of Directors; Cyril Amarchand Mangaldas), [Zarina Chinoy](#) (Panchshil Group), and [Kevin Nash](#) (Registrar at SIAC). The debate was moderated by [Nidhi Parekh](#) (Engie India) and [Rishabh Malaviya](#) (Counsel at SIAC).

The Mumbai conference successfully combined thought-provoking discussions with practical insights, setting the stage for the following day’s discussions in Delhi.

The second day of the Conference, in New Delhi, began with an Opening Address by [Gloria Lim](#) (CEO at SIAC), who highlighted how India has been a key partner in SIAC’s journey. She shared that over the past decade, India has consistently been among SIAC’s top three users. Since 2011, SIAC has administered over 1,400 cases involving Indian parties, with disputes exceeding SGD 20 billion.

In his Welcome Address, [Davinder Singh SC](#) talked about how international arbitration offers practitioners the unique opportunity or a “passport” to practice across the world. He particularly emphasised the potential of young Indian legal practitioners to leave a lasting impact in the field. However, he expressed concern about limited arbitrator appointment opportunities for young practitioners noting that with a limited number of arbitrations globally and most cases often going to senior, experienced arbitrators, opportunities for younger professionals can be scarce, especially in an institutional setting. To address this, he urged practitioners to convert *ad hoc* arbitrations into institutional arbitrations, which will enable more opportunities to be created for younger practitioners to be appointed as arbitrators by institutions such as SIAC.

One of the event’s key highlights was a Fireside Chat featuring Singapore’s Chief Justice Sundaresh Menon, moderated by SIAC Court of Arbitration members, [Tejas Karia](#) (Shardul Amarchand Mangaldas & Co) and [Vijayendra Pratap Singh](#) (AZB & Partners). The conversation delved into important topics such as the use of technology, cross-border judicial cooperation, and the need for codes of conduct in arbitration. Chief Justice Menon spoke about the potential of technology to improve access to justice by making it more proportionate, more accessible, and more capable of providing closure for everyday problems. He also spoke about the organic evolution of a transnational justice system driven by instruments such as the New York Convention and the development of model and soft laws. Chief Justice Menon cited the example of the [annual roundtable](#) between the Supreme Courts of India and Singapore as an example of cross-jurisdictional collaboration at the macro level. He also discussed the increasing diversity in arbitration, noting that while it enriches the process, it can sometimes lead to cultural and procedural differences that may give rise to opportunistic challenges. He encouraged arbitral institutions to take the lead in creating codes of conduct to promote a consistent understanding of ethical values and principles across arbitration. Lastly, he highlighted a “mismatch” in using arbitration, a process traditionally used to resolve private disputes between private parties, to resolve disputes with broader public interest and impact, such as climate change. He noted that this challenge might become even more serious in the future and may require a more definitive solution.

The conference also featured two panel discussions. The first, moderated by [Vivekananda Neelakantan](#) (Deputy Registrar at SIAC), focused on the recent developments in the Indian arbitration landscape. The panellists [Jafar Alam](#) (Trilegal), Ashish Kabra (Nishith Desai Associates), [Sadhvi Mohindru](#) (HFW), and [Naresh Thacker](#) (ELP) deliberated on the recent Report by the Expert Committee on Arbitration Law chaired by Dr T.K. Viswanathan and the [Ministry of Finance’s Office Memorandum](#) discouraging arbitration for disputes over INR 10 crores. The panellists applauded the progressive nature of the Expert Committee Report, but cautioned against excessive statutory prescription.

The second panel, ‘The Making of an Enforceable Award’, moderated by Nash, featured insights from [VK Rajah SC](#) (Duxton Hill Chambers (Singapore Group Practice)), [Soorjya Ganguli](#) (Argus Partners), [Sanjeev Kapoor](#) (Khaitan & Co), [Dheeraj Nair](#) (JSA), and [Ramesh Bharani Nagaratnam](#) (RBN Chambers LLC). The discussion covered every aspect of crafting an enforceable award, including drafting a good arbitration agreement, Procedural Order No. 1, and enforcement and set-aside procedures.

The day concluded with an Oxford-style debate on the relevance of investment arbitration. Four leading voices in the field—[Salim Moollan KC](#) (Brick Court Chambers), Promod Nair SA, [Dr. Tai-Heng Cheng](#) (Sidley Austin), and Gourab Banerji SA debated the motion: ‘This House

Believes that a World Without Investment Arbitration Would Be a Better Place'. The debate was moderated by Manini Brar (Arbridge Chambers) and Aman Ahluwalia (Advocate) and judged by Justice Indu Malhotra (Former Judge, Supreme Court of India), [Pallavi Shroff](#) (Shardul Amarchand Mangaldas & Co), and [Anuradha Dutt](#) (DMD Advocates).

Moollan and Nair, supporting the motion, argued that the Investor-State Dispute Settlement (“ISDS”) system is rooted in an outdated colonial model, and disproportionately favours capital-exporting countries and corporations at the expense of developing nations. They argued that many developing countries entered into Bilateral Investment Treaties (“BITs”) without fully understanding the consequences, often seeing them as mere publicity opportunities. It is only when these nations face their first investment claim that they grasp the serious implications.

Opposing the motion, Dr. Cheng and Banerji acknowledged the flaws but asserted that the ISDS system requires reform, not abolition. They also stressed that foreign investors require protection, and among other available options, such as national courts or diplomatic persuasion, ISDS remains the most viable solution.

In the end, the lively debate concluded with a split verdict, leaving much food for thought on the future value of investment arbitration.

The Conferences drew full house attendance in both cities, which underscores SIAC’s continuing popularity among Indian users, practitioners, and arbitrators.

The views expressed herein are personal and do not reflect the views or the position of the Singapore International Arbitration Centre.

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References

The Streamlined Procedure is proposed to be introduced for low-value disputes, designed to be determined on a documents-only basis within a three-month timeframe – half the duration of an arbitration under Expedited Procedure – and may apply on application by a party where the amount **?**1 in dispute does not exceed S\$1m (approx. US\$740,000). Arbitrations under this procedure are proposed to be heard by a sole arbitrator and, unless the tribunal decides otherwise, shall be decided on the basis of written submissions only with no document production, and no fact or expert witness evidence.

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