ISSN: 3048-4782

VOL. III ISSUE I

BEYOND BRIEFS LAW REVIEW

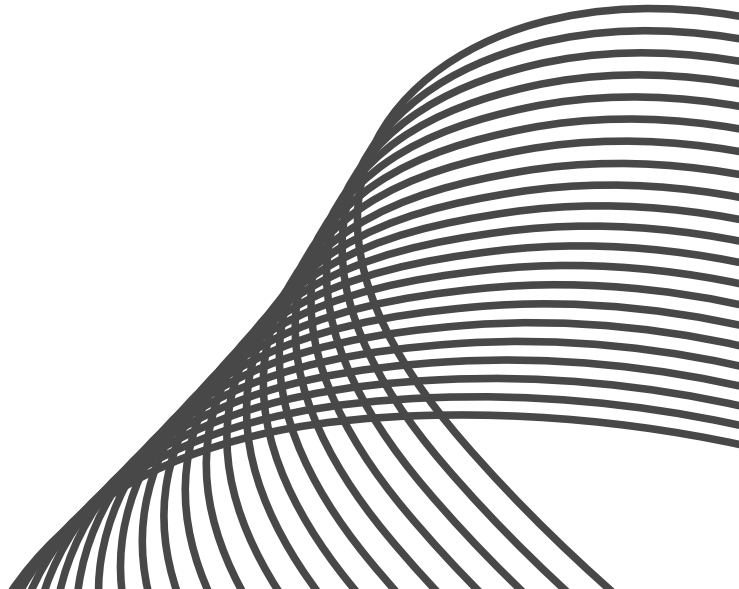
VOLUME III
ISSUE I

© 2025 BEYOND BRIEFS LAW REVIEW

DATE OF PUBLICATION: 31.12.2025

FREQUENCY: BI-ANNUAL

PUBLICATION CYCLE: (JULY - DECEMBER) 2025



ISSN: 3048-4782

VOL. III ISSUE I

DISCLAIMER

No part of this publication may be reproduced or copied in any form by any means without prior written permission of the Publishing Editor of Beyond Briefs Law Review. The Editorial Team of Beyond Briefs Law Review and the Author holds the copyright to all articles contributed to this publication. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of Beyond Briefs Law Review. Though all efforts are made to ensure the accuracy and correctness of the information published, Beyond Briefs Law Review shall not be responsible for any errors caused due to oversight or otherwise.

This article is brought to you for “free” and “open access” by Beyond Briefs Law Review. It has been accepted for inclusion in Volume 3 Issue 1 of Beyond Briefs Law Review after due review.

The Copyright of the Article duly remains with the Author and Beyond Briefs Law Review

ESTABLISHING A 'LEX ARBITRI' FOR ARTIFICIAL INTELLIGENCE: A FRAMEWORK FOR REGULATING AI USAGE BY PARTIES AND TRIBUNALS IN INDIA-SEATED ARBITRATIONS

~ Vanika Kansal [1]

Abstract

Artificial intelligence transforms dispute resolution, particularly in Arbitration 4.0, where it enhances efficiency and accessibility. Key technologies like AI, Blockchain, and Online Dispute Resolution (ODR) are improving arbitration processes but bring challenges including hallucination behavior and limitations in generating innovative solutions. This paper advocates for a new 'Lex Arbitri' framework in India to regulate AI use in arbitration, addressing the lack of comprehensive AI governance. It proposes a three-tier regulatory structure to integrate technological advancements while adhering to core Indian Arbitration principles, alongside legislative amendments to the Arbitration and Conciliation Act and cooperation from arbitral institutions and the judiciary.

Keywords

Artificial Intelligence, Lex Arbitri, Online Arbitration, India, Regulatory Framework

[1] You may contact the author at the following email address: vanikakansal17@gmail.com.

INTRODUCTION:

The realm of Dispute Resolution can no longer be looked at in the same way as we used to especially owing to the Digital Age we are in. The recognition of India as a preferred arbitration seat, locally as well as internationally, requires integration of technology into the practice. Conventionally, the concept of 'Lex Arbitri' i.e. the procedural framework governing arbitration has centred on established protocols of arbitral processes, tribunal formation and enforcement procedures. Yet as parties and tribunals increasingly use AI for document analysis, draft preparation, legal research, predictive insights and decision support, we find the need to fundamentally reconsider these foundational principles. The development of AI-infused arbitration compels us to grapple with critical concerns surrounding accountability, transparency, potential bias and the preservation of due process which are some of the pertinent hallmarks in arbitration.

Initiatives like amendments to the A&C Act over the years and establishment of formalized Institutional Arbitral Institutions like the Mumbai Centre for International Arbitration (MCIA), the Delhi International Arbitration centre (DIAC) etc. are examples of swift advancement in the landscape of Indian Arbitration system. Moreover, COVID-19 pandemic further surmounted the adoption of digital technologies in the legal field with virtual hearings becoming a routine matter and initiatives like e-Courts project being in place. Even in the international arena, institutions like International Chamber of Commerce (ICC), London Court of International Arbitration (LCIA), Singapore Internation Arbitration Centre (SIAC) are also opting for online arbitration methods to resolve the disputes in an efficient manner. According to ICC's report titled 'Leveraging Technology in International Arbitration', it was revealed that over 93% of the survey respondents coincided with the view that the integration of technology has improved the cost effectiveness and efficiency of the arbitral procedure. Hence, the usage of AI in Arbitration has already gained momentum and is no longer a far-off possibility that is subject to scepticism and debate. Since the status quo has shifted significantly, it provides an opportune moment to develop comprehensive AI governance framework for arbitration.

The characteristics that set traditional technologies apart from AI warrant establishment of a specific governance framework which inculcates usage of AI. The striking difference setting them apart is the fact that traditional servers operate via transparent and predictable mechanisms whereas AI technologies function through opaque processes where decision-making processes remains hidden and unknown. AI technologies can perpetuate biases, produce errors and give undesired

results. These shortcomings lead to prejudice to core arbitration principles like procedural fairness, right to be heard, equitable treatment to parties and valuable participation rights.

This research paper argues that enacting an AI centric arbitration law is something which is both forthcoming and essential. Infact, it is a necessary safeguard to protect the integrity of India-seated arbitrations in this digital age. Hence, this necessitates analytical decision-making protocols, preparation of awards and similar functions with the help of AI. A comprehensive and structured approach towards this integration would address the legitimate concerns by a number of stakeholders and at the same time, methodically preserve the benefits of AI for the practice of arbitration.

CONCEPTUAL FRAMEWORK: UNDERSTANDING EVOLUTION OF ARTIFICIAL INTELLIGENCE IN ARBITRATION:

The existing literature on the use of AI only gives information on the initiation and evolution of AI. There are diverse technologies ranging from basic document inspection to advanced machine learning programs. These advances technologies especially are capable of sound reasoning and analytical thinking. The integration of Artificial Intelligence into Arbitration (AI-Arb framework) will mainly consider three classes of technologies which are depicted below:

- Tools that support arbitral proceedings without making substantive decisions (Document review, translation services scheduling systems in the category of Assistive AI.
- Systems that enhance human decision-making capabilities (Predictive analytics, case law research and pattern recognition in evidence) in the category of Argumentative AI.
- Advanced systems capable of independent legal reasoning and potentially serving as arbitrators (Algorithmic decision-makers, AI arbitrators) in the category of Autonomous AI.

The practical implications of AI in arbitration proceedings can be categorized into three distinct scenarios as has also been discussed in existing literature on the topic:

1. **AI as an Information Tool** - Currently, AI systems primarily serve as sophisticated information processing and retrieval tools. These systems analyze historical data to predict case outcomes, estimate costs involved and identify relevant precedents.
2. **AI as a Process Assistant** - More advanced applications involve AI systems that actively assist in procedural aspects of arbitration. Natural Language Processing (NLP) technologies can proceed to analyse contracts to identify arbitration clauses, determine applicable law and translate documents across multiple languages.

3. **AI as Decision Maker** – The futuristic approach believes that AI systems can participate directly in decision-making processes. While no fully autonomous AI arbitrators currently operate in major arbitration centres, pilot programs are being tested in various countries.

CURRENT ARBITRATION LANDSCAPE IN INDIA: SETTING THE TONE FOR AI INTEGRATION:

India's approach to AI in arbitration has been cautious but progressive. There are instances even within the Arbitration & Conciliation (A&C) Act which prove that there has been a shift to integrating technology as discussed below:

- **Conception of e-arbitration agreements:** Mutual consent has been the paramount essential of conventional arbitration which plays a major role in validating the arbitration procedures. The principle, as it stood previously, stated that the arbitration agreement needs to be in written. However, with the passage of time, electronic agreements were deemed to be valid in arbitration. In a recent judgment by Delhi High court in **Belvedere Resources DMCC v. OCL Iron and Steel Ltd.**[2], the Court while referring to Section 7(4)(b) of A&C Act held that the series of communications held between the parties over Email and WhatsApp left no sense of ambiguity regarding the existence of a valid arbitration agreement, thus setting a forward-looking precedent for recognising arbitration clauses formed via digital correspondence. It also reaffirmed the ruling given in **Cox & Kings Ltd. v. SAP India Pvt. Ltd.**[3] which established that physical signatures aren't essential if mutual assent to arbitrate is evident in written communications like emails and WhatsApp messages. In **Trimex International FZE Ltd. v. Vedanta Aluminium Ltd.**[4]**,** the Hon'ble Supreme Court asserted that consensus ad idem of the parties is an essential requirement for the formation of a valid agreement through online arbitration. Moreover, the amendment to Section 7 of A&C Act now recognises the communication through electronic exchanges.
- **Jurisdiction of seat & Lex Arbitri' in case of Online Arbitration**: The establishment of Lex Arbitri in arbitration is a quintessential facet of online arbitration although various practitioners still question its pertinence. The issues persist due to absence of any geographical location where the award is made. In India, Article 20 of A&C Act provides that establishment of seat

[2] (2025) SCC Online Del 4652
[3] (2024) 4 SCC 1
[4] (2010) 3 SCC 1

is a matter subject to the mutual consent of both the parties. However, if there is no prior arrangement, the arbitration tribunal shall determine the seat of arbitration by observing the place and nature of the contract. Indian laws are reserved on the issue of determination of jurisdiction in online arbitration in the absence of mutual consent between the parties. The enforcement of the arbitral award will follow the same procedure as traditional arbitration and will depend highly on the establishment of seat.

- **Online Arbitration Proceedings**: Sec 21 of A&C Act provides flexibility to parties to the dispute to decide regarding the commencement of arbitration proceedings. However, if it is not agreed upon by the parties, the proceedings begin from the date respondent receives the notice of dispute referred to for arbitration by the claimant. In the case of online arbitration, the proceedings usually begin with the submission of an electronic request to arbitrate. It would comprise numerous electronic elements that form part of the proceedings such as e-hearings (could be conducted through audio and/or video conferencing), e-submissions, electronic assembly of documents and evidence, e-deliberations and e-communications between parties, tribunals or both. Thus, it follows that section 4 & 5 of the Information Technology (IT) Act, 2000 read in consonance with Section 63 of Bharatiya Sakshya Adhiniyam, 2023 thereby warranting that proceedings in online arbitration adhere to the legal standards.

The regulatory landscape in India presents both opportunities and challenges for AI integration in arbitration. The Information Technology Act provides a foundation for digital transactions and electronic evidence while the Digital Personal Data Protection (DPDP) Act, 2023 lays base for privacy protections. However, these laws are fairly general and were not designed keeping in mind the peculiar requirements of arbitral proceedings. The A&C Act, 2021, while progressive in many respects, contains no specific provisions addressing the use of Artificial Intelligence. Section 18 mandates equal treatment of parties and Section 19 grants parties' freedom to agree on procedural rules. Both these sections combined provide some flexibility for AI integration but lack the specificity needed for effective governance. Even, the traditional way of seat determination becomes troublesome when arbitral procedures are conducted in the virtual space.

Current Indian Arbitration law lacks clarity on transparency and accountability of AI servers and how to determine seat in the following cases:

- When AI arbitrators operate from servers located in multiple jurisdictions
- When parties participate virtually from different countries

- When evidence is stored and processed across various digital platforms

COMPARATIVE ANALYSIS: GLOBAL APPROACHES TO AI REGULATION IN ARBITRATION:

EUROPEAN UNION'S RIGHTS-BASED FRAMEWORK:

The European Union's proposed Artificial Intelligence Act (EU AI Act 2024) classifies servers based on the risk appetite and includes specific provisions for high-risk application. While not arbitration-specific, the EU framework's emphasis on transparency, accountability, rule of law and human oversight provides relevant precedents for arbitral AI regulation.[5]

The EU approach to algorithmic accountability, in particular, requirements for explainable AI in legal contexts offers important considerations for Indian policy development. India should consider developing a framework which follows EU's risk-based classification and establishing clear timelines.

SINGAPORE'S TECHNOLOGICAL LEADERSHIP MODEL:

Singapore has led the way in technology-enabled arbitration by the launch of an AI-powered case management system - SIAC Gateway by Singapore International Arbitration Centre (SIAC) and by the demonstration of virtual hearing technologies. The Technology and Law Committee of the Singapore Academy of Law has issued draft guidance on AI in legal disputes which discusses about arbitration variant rules.

The framework especially focuses on voluntary AI self-assessment and risk assessment with institutional oversight allowing parties to opt-in to AI-infused procedures while preserving traditional notions. Hence, the model provides useful findings for India's AI-Arb development.

DEVELOPING AI LEX ARBITRI FOR INDIA-SEATED ARBITRATIONS: A COMPREHENSIVE FRAMEWORK:

FOUNDATIONAL PRINCIPLES AND PROCEDURAL SAFEGUARDS:

The execution of AI centric 'Lex Arbitri' must be grounded in fundamental theoretical principles that preserve the essence of arbitration while accommodating technological promotion. The research work proposes six foundational notions:

1. Disclosure and Transparency - Constructive review of contributions to the decision-making processes warrants AI servers to operate with sufficient transparency. This doesn't require complete algorithmic disclosure but warrants adequate explanations as to how AI systems

[5] Regulation EU 2024/1689 on harmonized rules of Artificial Intelligence (AI Act)

influenced specific decisions including but not limited to information about the reasoning, data inputs and confidence levels associated with the outputs.

2. Technological Neutrality with Informed Consent - While maintaining technological neutrality as a general principle, parties should have the autonomy to make informed decisions about usage of AI in the proceedings. This requires extensive and thorough disclosure of capabilities, limitations, potential impacts on case outcomes and disclosures pertaining nature of AI applications, data sources, procedures for withdrawing consent etc.

3. Human Authority - There is no doubt that AI can assist in multiple facets of arbitral proceedings. However, the ultimate authority and control for the case outcomes and decision-making must be retained by the human arbitrators.

4. Procedural Neutrality - Regular bias auditing with a provision for corrective action, as and when any prejudicial patterns are noticed, should be inculcated. This necessitates careful detailing to possible disparities in AI access and impact across various claims and parties.

5. Data Integrity - Case details must remain secure and confidential throughout processing and the highest standards of data protection must be maintained at all times. This would involve protection against mishandling of sensitive information, unauthorized access and information violations.

6. Localization of data - Private data and other privileged information processed via AI servers must undergo localization procedures compulsorily. This would ensure storage within the territorial limits and strict adherence to local data protection laws will.

IMPLEMENTATION STRATEGIES AND PRACTICAL CONSIDERATIONS: TIERED REGULATORY STRUCTURE:

TIER 1: LEGISLATIVE AMENDMENTS TO A&C ACT

The proposed amendments aim to modernize arbitration by incorporating AI technology while maintaining fairness and transparency. The definition of arbitral tribunals should be expanded to recognize AI systems as valid decision-makers when parties mutually consent for such usage. Equal treatment provisions must be updated to address technology-related concerns. This means ensuring all parties have access to technology and the digital gaps are bridged.

The awards generated using AI technologies need enhanced safeguards. These include more detailed explanations of reasoning to arrive at a decision and mandatory human oversight. These

amendments collectively create a framework that embraces technological innovation while preserving the fundamental principles of fairness and due process in arbitration.

TIER 2: INSTITUTIONAL REFORMS

Mandatory AI Governance Committees - All recognized Indian arbitral institutions must establish specialized committees comprising of technologists, legal experts and ethicists to oversee AI implementations.

Maintenance of Database - Maintenance of comprehensive databases documenting AI system performance, bias incidents and corrective measures that could be implemented

Advanced Diplomas and Certification Programs - Provision for certification programs and diplomas to bridge the digital divide and make parties and tribunals aware of the compliance with technical and legal standards should be made.

TIER 3: JUDICIAL GUIDELINES

The focus should be on establishing streamlined procedures for parties to bring forth challenges to AI-related breaches, any bias detected or any connected issue. The judiciary must also rule out clear guidelines for admissibility of AI-generated evidence and how weight is to be attached to various forms of evidence. The classification could be based on the type of uses of AI applications as discussed above – Assistive/Augmentative/Autonomous AI. Moreover, formalized methods for execution of AI-assisted awards including supplementary scrutiny mechanisms must be established wherever required. Additionally, judiciary will also have to put in place programs educating parties, tribunals and arbitral institutions about the way forward.

The Foundation Will Be Established in Phase 1 (Months 1-12), this phase will include the development of the required legal changes and stakeholder collaboration/feedback to develop industry standards and pilot programs to test the program's framework on a small scale.

Initial Implementation Phase 2 (Months 13-24), the institutional rules will be adopted in this phase. Training programs will be developed for the relevant actors and technology providers will be certified to ensure their functionality for implementation on a limited scale to evaluate functionality and practical issues that may arise.

The Intermediate Phase is full implementation and forward operational capability (Months 25 - 36). Phase 3 is now fully implemented in all participating facilities. In this time frame, Performance Monitoring Systems are established, Continuous Improvement Models are in use, and activities to promote global harmonisation are in effect.

The Final Phase (ongoing), which will continue to evolve into the future, will be characterised by the establishment of a continuous framework review process, regular evaluations to ensure the evolution of frameworks to technological changes, continued integration of international best practices, and continual improvements through stakeholder input to keep the frameworks functioning effectively and relevant in the future.

RECOMMENDATIONS FOR DETERMINING THE SEAT IN PROCEEDINGS CONDUCTED FOR AI:

It makes practical sense for either the arbitration panel or the e-arbitration service provider to take responsibility for determining the most appropriate seat of arbitration in case the parties to the dispute fail to come to a consensus in light of the technical touchpoints discussed in the research work pertaining to Amendment to Section 20 of A&C Act. This decision shouldn't be made in isolation but should consider several important connecting and related factors. These factors include where each party is domiciled or has their principal place of business, the nationalities of the parties involved and where the e-arbitration provider itself operates. Taking all these elements into consideration would lead to an informed and calculated decision on the suitable seat for the proceedings.

The international models and the position adopted for Lex Arbitri in Online Dispute Resolution procedures would also provide some guidance. Several forward-looking arbitral institutions developed dispute resolution frameworks which would offer valuable insights for handling modern challenges. For example: China International Economic and Trade Arbitration Commission (CIETAC) takes a practical approach i.e. the parties decide the seat but if they can't agree, it defaults to CIETAC's location. The Russian Arbitration Association (RAA) simply designates Moscow as the seat unless parties choose otherwise while Georgia's Dispute Resolution Center (DRC) sidesteps the issue by recommending Tbilisi in their model clauses without mandating it.

In nutshell, a legislative amendment would be required to give effect to establishing the seat for AI and enforcement of such arbitral awards. It is significant to note that the principles of party autonomy and consent are of paramount importance and drives AI usage decisions. When parties specifically forbid AI use in their arbitration contract or early in the process, arbitrators must respect this restriction completely. On the flip side, if parties explicitly allow AI tools or the Arbitral tribunal has the discretion to conduct the proceedings in a fair and efficient manner using AI tools, as the case maybe, arbitrators and the tribunal can use them within the agreed boundaries

provided they still follow core procedural requirements like treating parties equally, ensuring everyone gets heard fairly and maintaining proper proceedings. They must also comply with relevant laws, particularly the local data protection laws, which will depend on the determination of seat. The seat for AI in such cases will be as per the legislative amendment brought into forced based on the technical points discussed earlier. This is also in tandem with the laws enshrined in UNICITRAL Model Laws and International Chamber of Commerce (ICC), wherein the parties can appoint the arbitrators by agreement with the recourse of choosing an A.I arbitrator.

CONCLUSION:

India is a developing economy and still making the shift towards adopting modern technologies. There still exists a digital divide due to which the parties and arbitral institutions are apprehensive of usage of AI in the arbitral proceedings. While we grapple with this, we need to shift the focus onto supplementary ideas and initiatives which would give a boost to the current scenario. It is high time we accept that the future lies not in debating to choose between human judgment and AI. These synergies should be thoughtfully integrated to create dispute resolution processes more efficacious. Secondly, capacity-building initiatives and training sessions must be implemented to bridge the gap. Mandatory awareness training for practitioners, guidance sessions for judiciary, arbitrators and specialized certification programs would certainly help in grappling with the fear of adopting AI. Thirdly, initiatives like research and development subsidies, tax incentives for AI adoption and Public-Private partnerships for building the framework could also be brought into effect. Lastly, ensuring coherence with international standards, involvement in global AI governance programs, establishing framework for testing innovative AI applications with controlled experimentation will bring about harmonization in laws.

Success in implementing this framework requires constant efforts from multiple stakeholders like legislators, judiciary, arbitral institutions, legal practitioners and technology providers. The phased implementation roadmap provides a practical and sustainable timeline to integration of AI into India's arbitration practice. The structure presented in this research work will help India gain a forefront in arbitral proceedings. This approach will improve India's position as a preferred seat for arbitration, train legal professionals in AI competencies and potentially serve as a model for other developing economies combating with similar transitions.

REFERENCES:

1. Nivedita Vyas & Ratnesh Srivastava, 'Assessing the Regulatory Landscape of Online Arbitration in India: Delineating the Roadblocks & Way Forward' (2024) 7 Int'l JL Mgmt & Human 1401
2. Mahnoor Waqar, 'The Use of Artificial Intelligence in Arbitral Proceedings' (2022) 9 LUMS LJ 23
3. Jeeri Sanjana Reddy & Vinita Singh, 'Soft Law, Hard Justice: Regulating AI in Arbitration' (2024) 17(2) Contemp. Asia Arb. J. 191
4. Swetha Ravishankar, 'The Role of AI in India: Prospects for India' (2025) Int'l JL for Multidisciplinary Research (IJFMR)