

Indian Dispute Resolution Centre

Helping Good People Resolve

4th ARBITRATION IN INDIA CONCLAVE 2025

Friday, 31st October 2025

India International Centre, New Delhi

A Report

Principal Academic Partner :

INDIA INTERNATIONAL UNIVERSITY OF LEGAL EDUCATION AND RESEARCH (IIULER)

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Dr. Shashwat Bajpai
Founding Partner, DRSB Law Chambers
Shri. Ayush Agarwala
Partner, Bombay Law Chambers
Ms. Anuradha Dutt



(L-R) Dr. Shashwat Bajpai, Founding Partner, DRSB Law Chambers, Mr. Ayush Agarwala, Partner, Bombay Law Chambers, Ms. Anuradha Dutt, Senior Partner, DMD Advocates, Mr. S.D. Sanjay, Additional Solicitor General of India, Ms. Shruti Sabharwal, Partner, Shardul Amarchand Mangaldas

Introduction

The Indian Dispute Resolution Centre (IDRC) is one of the leading institutional arbitration centres in India and Asia-Pacific. On 31st October 2025, it organised '4th Arbitrate in India Conclave, 2025' at the India International Centre, Lodhi Estate, New Delhi. The event was held in collaboration with the **Bar Council of India's India International University of Legal Education and Research, (IIULER)** Goa, and supported by the **Vienna International Arbitration Centre, Austria**.

The event focused on India's journey towards becoming a **global hub for arbitration**, examining both its inherent strengths and the structural challenges that must be addressed. Discussions centered on **international commercial arbitration, institutional arbitration**, and the evolving role of the judiciary and legislature in strengthening India's arbitration ecosystem.

The conclave commenced with an opening address by **Dr. Ved Prakash Sharma**, Co-Chairman of Bar Council of India, followed by the inaugural address. This was followed by an insightful panel discussion on the theme *"Autonomy and Accountability in Arbitration - Institutional Arbitration is the Way Forward"*, moderated by **Dr. Shashwat Bajpai**, Founding Partner, DRSB Law Chambers. The panel comprised **Mr. S. D. Sanjay**, Additional Solicitor General of India; **Ms. Anuradha Dutt**, Senior Partner, DMD Advocates; **Mr. Aayush Agarwala**, Partner, Bombay Law Chambers; and **Ms. Shruti Sabarwal**, Partner, Shardul Amarchand Mangaldas. The panelists deliberated on the shift from ad hoc to institutional arbitration, the role of courts in ensuring fairness and predictability, scrutiny of arbitral awards, and the need for strengthening India's arbitration framework in line with international best practices.

The Conclave featured a **Keynote Address** by **Mr. Arjun Ram Meghwal, Hon'ble Union Minister for Law and Justice**, followed by the **Valedictory Session** delivered by **Hon'ble Mr. Justice Manmohan, Judge of the Supreme Court of India**.

Ms. Sumedha Sindhu Rathi, Head of Operations and Member Secretary, Advisory Board, Indian Dispute Resolution Centre (IDRC), welcomed the dignitaries, panelists, and participants and outlined IDRC's institutional framework and the advantages of institutional arbitration. The Conclave concluded with closing remarks and a vote of thanks by **Mr. Divyanshu Hanu Rathi**, Hony. Secretary, Indian Dispute Resolution Centre.

About the Event:

Fourth Arbitrate in India Conclave, 2025: India's journey towards becoming a global hub for arbitration

The event marked the **Fifth Anniversary of the Indian Dispute Resolution Centre**. The IDRC was inaugurated by **Hon'ble Mr. Justice Arjan K. Sikri**, Former Judge, Supreme Court of India, in May 2020. In a short span of time, IDRC has accomplished more than 3000+ arbitration proceedings and assisted in numerous International and Domestic Arbitrations presided over by retired Hon'ble Judges of the Supreme Court and High Courts. The Conclave brought together esteemed legal luminaries, arbitration practitioners, industry experts, and academicians who successfully contributed to the ongoing discourse on arbitration reforms in India. Apart from former Judges of the Supreme Court and High Courts and Senior Advocates, the event saw participation of IDRC's Panel Arbitrators, including Heads of leading law firms, the PSUs and Members of the Bar. The Entire Event was organised professionally by IDRC's Board of Advisor Members along with officials of IIULER of Bar Council of India.

About the Organisers - Indian Dispute Resolution Centre (IDRC) & Bar Council of India's IIULER

IDRC is India's leading Institutional Arbitration Centre established by the not-for-profit Organisation 'International Dispute Resolution Council'. IDRC is registered with the Ministry of Corporate Affairs, NITI Aayog and empanelled with the Ministry of Law and Justice, Government of India. It provides a state-of-the-art institutional environment for online and offline resolution of disputes through Arbitration, Mediation and Conciliation with the facility of Expert Determination and Early Neutral Evaluation through its Cloud-Based in-house Digital Platform and its affiliates in all the major cities in India and overseas.



▲ **Shri Arjun Ram Meghwal, Hon'ble Union Minister of Law & Justice, Government of India being felicitated by Sh. Om Prakash Dhankar, National Secretary, BJP & Former Minister, Govt. of Haryana**



▲ **Hon'ble Mr. Justice Manmohan, Judge of the Supreme Court of India being felicitated by Mr. Divyansh Hanu Rathi, Hony. Secretary, Indian Dispute Resolution Centre**



▲ Dr. Ved Prakash Sharma, Co-Chairman of Bar Council of India being felicitated by Mr. Sanjay Rathi, Advocate and Member, Bar Council of Delhi



▲ Mr. S. D. Sanjay, Additional Solicitor General of India being felicitated by Mr. Divyansh Hanu Rathi, Hony. Secretary, Indian Dispute Resolution Centre



▲ Ms. Anuradha Dutt, Senior Partner, DMD Advocates being felicitated by Ms. Sumedha Sindhu Rathi, Head of Operations and Member Secretary, Advisory Board, Indian Dispute Resolution Centre (IDRC)



▲ Mr. Aayush Agarwala, Partner, Bombay Law Chambers being felicitated by Adv. Jaanvi Rathi



▲ Ms. Shruti Sabharwal, Partner, Shardul Amarchand Mangaldas being felicitated by Adv. Bhavika Rathi



▲ Dr. Shashwat Bajpai, Founding Partner, DRSB Law Chambers being felicitated by Adv. Chitragupt Dagar

About Arbitration in India:

Arbitration has been an integral part of India's dispute resolution culture for centuries, dating back to traditional mechanisms like village Panchayats. The first formal arbitration law was the **Arbitration Act, 1899,** followed by the **Indian Arbitration Act, 1940,** which governed arbitration for decades. However, recognizing the need for a modern and internationally aligned legal framework, India enacted the **Arbitration & Conciliation Act, 1996,** based on the UNCITRAL Model Law. Introduced alongside India's economic liberalization, the 1996 Act aimed to streamline arbitration proceedings, reduce delays, and enhance investor confidence.

Despite its initial promise, arbitration in India faced challenges, particularly due to excessive judicial intervention and inefficiencies that discouraged foreign investors. To address these issues, the government introduced significant amendments in the Act in 2015 and 2018, focusing on reducing court interference, improving enforceability, and promoting institutional arbitration. A major outcome of these reforms was the decision to establish the **Arbitration Council of India (ACI)**, tasked with accrediting arbitrators and institutions while ensuring professional standards. These measures align with India's broader economic vision of becoming a USD 5 trillion economy and have helped significantly improve its global Ease of Doing Business rankings.

Another landmark development was the Supreme Court's ruling in *Central Organisation for Railway Electrification (CORE) v. M/s ECI-SPIC-SMO-MCML (JV) (2024 Latest Caselaw 703 SC)*, wherein a **five-judge Constitution Bench** examined the validity of the Tribunal appointment mechanism that permitted one party to prepare a panel of arbitrators from which the other party was required to choose. The Court held that such panel-based appointment procedures, where one party exercises dominant control over the constitution of the arbitral tribunal, fail to meet the standards of fairness, independence, and impartiality mandated under the Arbitration and Conciliation Act, 1996.

Complementing these arbitration-centric reforms, India has also taken a significant step towards institutionalising mediation as a parallel and equally important mode of alternative dispute resolution. The enactment of the **Mediation Act, 2023** marks the first comprehensive legislative framework exclusively dedicated to mediation. The Act aims to provide statutory recognition to pre-litigation mediation, ensures confidentiality, enforces mediated settlement agreements as binding and enforceable, and promotes

institutional mediation through recognised mediation service providers. By placing mediation on a firm legal footing alongside arbitration, the legislature has signaled a broader shift towards consensual, time-efficient, and cost-effective dispute resolution, reinforcing India's commitment to a multi-door justice delivery system.









Dr. Ved Prakash Sharma, Co-Chairman, Bar Council of Delhi delivering the Inaugral Address

Inaugural Address

by Dr. Ved Prakash Sharma, Co-Chairman of the Bar Council of India

As India's arbitration regime continues to be shaped by important legislative reforms and judicial pronouncements, the **4th Arbitration in India Conclave, 2025,** commenced with an inaugural address by **Dr. Ved Prakash Sharma, Co-Chairman of the Bar Council of India.** He began his legal practice in 1978 as a trial court lawyer and has had a distinguished career spanning several decades. He has served as President of the Delhi Bar Association on multiple occasions and has been a continuous member of the Bar Council of Delhi since 2003, serving as its Chairman during 2009 -10. He was elected to the Bar Council of India in 2018 and became its Co-Chairman in 2019. He is also a member of the Executive Council of the National Law School of India University, Bengaluru, and National Law University, Delhi, and has played a significant role in advancing standards of legal education in India.

Following his felicitation, Dr. Ved Prakash Sharma delivered the inaugural address, welcoming the dignitaries, panelists, delegates and participants. He appreciated the efforts of IDRC in consistently providing a platform for dialogue, learning and collaboration in the field of dispute resolution. He highlighted the growing importance of arbitration in the contemporary legal landscape and emphasised that institutional arbitration was essential for balancing party autonomy with procedural accountability. He also noted that the partnership between the Bar Council of India and IDRC, now in its third year, had been instrumental in promoting awareness and reform in arbitration practice.

Dr. Ved Prakash Sharma spoke extensively on the theme **"Autonomy and Accountability in Arbitration: Institutional Arbitration is the Way Forward"**, stressing that while party autonomy is a cornerstone of arbitration, it must be supported by accountability to ensure fairness, neutrality and integrity. He highlighted that institutional arbitration provides necessary checks and balances, administrative discipline and ethical oversight, making it a credible mechanism for dispute resolution. He also referred to the **Draft Arbitration and Conciliation (Amendment) Bill, 2024**, noting its emphasis on institutional arbitration, emergency arbitration, digital integration, model rules and time-bound court processes.

He further referred to recent judicial developments, including a Constitution Bench decision of the Supreme Court concerning neutrality and independence of arbitrators, reiterating that unilateral appointments and conflict of interest undermine the foundations of arbitration. He concluded by emphasising the role of legal education institutions such as IIULER in nurturing future arbitration professionals.



Highlights

Panel Discussion on Autonomy and Accountability in Arbitration: Institutional Arbitration is the way forward

Panellists:

1. **Mr. S. D. Sanjay, Additional Solicitor General of India**
2. **Ms. Anuradha Dutt, Senior Partner, DMD Advocates**
3. **Mr. Aayush Agarwala, Partner, Bombay Law Chambers**
4. **Ms. Shruti Sabarwal, Partner, Shardul Amarchand Mangaldas**
5. **Dr. Shashwat Bajpai, Founding Partner, DRSB Law Chambers (Moderator)**



(L-R) Dr. Shashwat Bajpai, Founding Partner, DRSB Law Chambers, Mr. Ayush Agarwala, Partner, Bombay Law Chambers, Ms. Anuradha Dutt, Senior Partner, DMD Advocates, Mr. S.D. Sanjay, Additional Solicitor General of India, Ms. Shruti Sabharwal, Partner, Shardul Amarchand Mangaldas

Dr. Shashwat Bajpai to Ms. Shruti Sabarwal, Partner, Shardul Amarchand Mangaldas

Ques- How do institutional mechanisms like appointment of arbitrators and scrutiny of awards enhance transparency and quality assurance in institutional arbitration?

Ms. Shruti Sabarwal- A very important question, because there's no doubt that over the past decade everyone in India, particularly state entities, have come to realise that the more they go for institutional arbitration, the more likely the outcome will be one which is easy to digest for all parties, whether you're on the winning or the losing side.

Very often we saw, till about a decade, back that most arbitrations conducted domestically were ad hoc arbitrations. Where foreign parties were in arbitration with an Indian state entity, they often did not have bargaining power. We were also doing ad hoc arbitrations and some of those arbitrations are legacy issues that still continue.

But there is a change, and the change is because of institutions coming up with mechanisms for the way they appoint their arbitrators or scrutiny of an award, which does lead to increased accountability. There's no doubt that an award that comes from an institution is much more likely to be enforced than the one that is ad hoc.



Ms. Shruti Sabharwal, Partner, Shardul Amarchand Mangaldas

I sit as an arbitrator in ad hoc arbitration and the difference is so stark. There is nobody supervising what exactly is happening. While at an institutional level, if you are sitting as an arbitrator and you haven't written to the parties for four or five months, there will be someone nudging you to say listen arbitrator, you need to do your job. That accountability is something that is increased in institutions.

When institutions scrutinise awards and those awards are eventually challenged in courts, courts do take some comfort in knowing that somebody has looked at this award. Not on the reasoning or merits, but procedurally.

I'll give you an example. I know a gentleman who was sitting as a sole arbitrator in a matter seated in Doha. This was an ICC arbitration. The arbitration was concluded and the award was rendered and sent to the ICC Court for scrutiny. There was no comment on the award except that ICC pointed out that under the law in Doha, the award had to be signed while being in Doha, something which had been missed.

The gentleman had to take a flight from Geneva, reach Doha, sign the award at the airport and take a flight right back. Without that nudging from the institution, without that scrutiny, two to two-and-a-half years of work could potentially have gone down the drain. So steps like scrutiny of awards or appointing arbitrators from panels that have certain requirements do lead to increased accountability and transparency. And the way we're going, I would say in the next ten years I would be surprised if we do ad hoc arbitrations anymore.

Dr. Shashwat Bajpai to Ms. Anuradha Dutt, Senior Partner, DMD Advocates

Ques- Critics often argue that institutional arbitration limits party autonomy due to fixed rules and administrative control. What are your views on this?

Ms. Anuradha Dutt- Actually, I'm a little surprised that people say that party autonomy is affected by institutional arbitration, because I'm not sure what party autonomy really is. It's not that parties make the rules. It's the arbitrators who make the rules. I'm not sure in my forty-odd years of experience where parties have really had a say in the procedural rules in an ad hoc arbitration. It is really



Ms. Anuradha Dutt, Senior Partner, DMD Advocates

the arbitrators who sit down and decide how the arbitration will be conducted.

Therefore, to my mind, institutional arbitration actually gives more autonomy. When you have institutions, at least parties know who the arbitrators are, what their background is, how many arbitrations they have conducted, and what kind of experience they have. They have the freedom to choose from that panel.

The rules are known to the parties from the beginning. It's not that somebody will suddenly sit and say, 'This is how I will conduct the arbitration.' There are set rules. You can see the rules of different institutions, decide which institution you want to go to, which rules are more attractive, more efficient, more transparent, and where you think you will get justice.

So according to me, this really is not a debate anymore in today's times. Institutional arbitration should definitely be the rule. Now, having said that, merely having institutional arbitration will not make India a hub of arbitration. For India to become a hub, we need three things: a good and vibrant institutional arbitration system, a good and vibrant bar, and most importantly, a predictable judiciary.

If we continue to have judicial interference of the kind where proceedings are stayed mid-way, then no matter how good your institutions are, India will never become a hub of arbitration. We must learn from jurisdictions like Singapore, the UK and the US. They have already gone through this phase. We should learn from their positives and also from their mistakes and move forward. Institutional arbitration is the only way forward, but it has to be supported by a transparent bar and a judiciary that understands and respects the arbitration process."

Dr. Shashwat Bajpai to Mr. S.D. Sanjay, Additional Solicitor General of India

Ques- How can institutions strike a balance between tribunal flexibility and procedural discipline?

Mr. S.D. Sanjay, Additional Solicitor General of India- When we are talking about institutional arbitration, we are talking about party autonomy. It appears that they are antithesis to each other, but actually they are not antithesis.



Mr. S.D. Sanjay, Additional Solicitor General of India

Even party autonomy cannot be absolute, because party autonomy is for both the parties, and both parties have adverse interests. Therefore, there must be a line, there must be predictability. Unless and until there are set down rules and regulations in which the parties have to act and which they know from before, it becomes very difficult, particularly in ad hoc arbitration.

I want to give one example with respect to fees, which is one of the most critical aspects of arbitration. Exorbitant fees are being charged. I am not only talking about international arbitration but even in domestic arbitration, fees have become a major issue.

In an ad hoc arbitration conducted by a panel appointed for a public sector undertaking, on the very first day the arbitrators insisted that fees be fixed not as per the Fourth Schedule, but per sitting, and that too at a very high rate. Though the court order clearly mentioned that the appointment was under Schedule IV, it was recorded 'with consent of parties' that a different fee structure would apply.

This shows that where there are no fixed rules and regulations, arbitrators can sometimes become arbitrary because it suits their interest. That is why I am a strong critique of ad hoc arbitration in such situations.

In institutional arbitration, the rules, the procedure, the structure, and the fees are known to both parties beforehand. Parties choose the institution with full knowledge of how the arbitration will proceed. When the arbitration is structured, even small procedural aspects are scrutinised before the award is delivered.

Ultimately, when an arbitral award is challenged, there is far less scope for interference because the process itself has been fair and predictable. Therefore, institutional arbitration is flexible, it supports party autonomy, but at the same time it ensures fairness through procedural discipline.

Dr. Shashwat Bajpai to Mr. Aayush Agarwala, Partner, Bombay Law Chambers

Ques- What key features make institutional arbitration better equipped to ensure accountability and transparency as compared to ad hoc arbitration?



(L-R) Dr. Shashwat Bajpai, Founding Partner, DRSB Law Chambers, Mr. Ayush Agarwala, Partner, Bombay Law Chambers

Mr. Aayush Agarwala- I'll start with an example from a matter that I am currently doing. It is an ad hoc arbitration. We had the preliminary hearing, parties completed their pleadings, and after that the arbitrator has not been reachable for the last few months. I mean, okay, I am appearing for the respondent, so I'm quite happy, but that's exactly where the problem lies there is no accountability.

When you have institutional arbitration, there is administrative oversight. There is administrative control. When you have institutions like IDRC, DIAC, MCIA and others, there is someone who is constantly nudging the arbitrator to move the proceedings forward. An arbitrator is held accountable.

You will actually see that the same arbitrator, if appointed through an institution, automatically becomes more proactive, adheres to timelines and is sometimes even more efficient than the parties themselves. That is what institutional arbitration brings to the table.

The second aspect is the rules. Institutions have well-defined rules that are periodically revised. You now have emergency arbitration, fast-track procedures and expedited timelines. Some institutions even have streamlined procedures where arbitrations below a

certain value can be completed within a very short time frame. At the end of the day, quality control also plays a very important role. Institutions not only regulate the appointment of arbitrators but also ensure a certain quality of awards. This becomes extremely important at the enforcement stage.

When an award eventually goes for enforcement or execution, the institutional framework plays a crucial role in ensuring that the award is enforceable and meets procedural standards. These are the key reasons why institutional arbitration clearly has an edge over ad hoc arbitration.

Dr. Shashwat Bajpai to Mr. S.D. Sanjay, Additional Solicitor General of India

Ques- How has the concept of accountability changed with the increasing institutionalisation of arbitration which has happened in past few years?

Mr. S.D. Sanjay, Additional Solicitor General of India- When you talk about accountability, according to me, so far as the quality of the judgment or award is concerned, it cannot be said that there is much difference, because either the arbitrator is a Supreme Court judge, High Court judge, or mostly judges of different courts, or nowadays even some lawyers are also appointed or technical persons are appointed.

But then of course, so far as the mechanism is concerned, that is how the arbitration procedure is enabled. So it is basically now more justice-oriented procedure is adopted. So that is the only difference



Dr. Shashwat Bajpai, Founding Partner, DRSB Law Chambers

which enhances the quality of award, that it is also nudged before the final award comes.

Then further question arises that when it is to be challenged. Now the Supreme Court has settled that whenever even two views are possible, a view which has been taken by the arbitrator is a possible view, then it does not warrant interference.

So far as the quality of award is concerned, there is not much difference. But then how to reach to that quality, there the difference lies, that institutional arbitration, there is always a chance to get a better award because of the procedural betterment as compared to ad hoc.



(L-R) Dr. Shashwat Bajpai, Founding Partner, DRSB Law Chambers, Mr. Ayush Agarwala, Partner, Bombay Law Chambers, Ms. Anuradha Dutt, Senior Partner, DMD Advocates, Mr. S.D. Sanjay, Additional Solicitor General of India, Ms. Shruti Sabharwal, Partner, Shardul Amarchand Mangaldas

Dr. Shashwat Bajpai to Ms. Shruti Sabarwal, Partner, Shardul Amarchand Mangaldas

Ques- Is party autonomy sometimes used as a shield to avoid scrutiny of the arbitral process? Where should the line be drawn?

Ms. Shruti Sabarwal- That's a very interesting question. I think arbitration as an ecosystem does not start or stop with the arbitrators or with the award. It has a lot to do with the judiciary as well.

How efficient the arbitration process ultimately is depends on how quickly arbitrators are appointed, how interim reliefs are dealt with by courts, and how much interference there is. All of this contributes to the arbitration ecosystem.

When it comes to party autonomy, if you look at how things were earlier, before the Perkins and TRF line of judgments, party autonomy often meant that the party with greater bargaining power would choose the tribunal.

Courts stepped in and clearly said that this cannot be permitted. Even if you are the Government of India, you cannot unilaterally appoint the arbitrator. So there are checks and balances, and those checks and balances are necessary.

Another example is the PASL judgment , where two Indian parties were permitted to seat their arbitration outside India. Courts said that if that is what parties want, that is their autonomy, but they must accept the consequences, including enforcement under Part II of the Act.

So there is a line to be drawn, and that line is often drawn by courts. Without predictability, party autonomy can be misused as a shield, but with proper judicial oversight, autonomy and accountability can coexist."

Dr. Shashwat Bajpai to Mr. Aayush Agarwala, Partner, Bombay Law Chambers

Ques- How do innovations like expedited procedures, digital platforms and emergency arbitration impact the autonomy accountability equation?

Mr. Aayush Agarwala- I think it's more of efficiency and enforceability rather

than autonomy or accountability. Being efficient is also a part of being accountable. As an arbitrator and as an institution, you have to be accountable for the conduct of the arbitration, and efficiency is a very important part of it.

Take emergency arbitration for example. In an ad hoc situation, you would have to go to court. While some courts are good, there are certain courts that you would like to avoid. That may be possible in high-value or complex arbitrations, but not always. When we talk about digital platforms, something as simple as transcription platforms becomes very important. Everything that happens during the course of the arbitration is recorded somewhere. That is important for autonomy, important for accountability, and important for efficiency.

The same goes for expedited procedures. It's really about efficiency. That is what these innovations bring to the arbitration process.

Dr. Shashwat Bajpai to Ms. Shruti Sabarwal, Partner, Shardul Amarchand Mangaldas

Ques- What lessons can Indian arbitral institutions draw from international institutions such as ICC, LCIA, or SIAC, particularly in terms of accountability and autonomy?

Ms. Shruti Sabarwal- I think one thing is of course processes, such as whether an institution chooses to take the step of scrutinising awards, whether it chooses how it nominates its panel and who is on that panel.

If the panel is just people you know, then that's not an institution that is going to survive in the long run. And like we've seen in the draft bill, institutionalisation of arbitration, there is no escaping it. Having said that, I was looking at the IDRC rules themselves and they are fairly forward-looking. They have a rule in place for early disposal of matters. They have emergency arbitration. Even the disclosure requirements under the IDRC rules are fairly at par with international standards.

The idea really is not to stagnate. It is to keep yourself abreast of what is happening at an international level. We've seen institutions like MCIA revise their





(L-R) Dr. Shashwat Bajpai, Founding Partner, DRSB Law Chambers, Mr. Ayush Agarwala, Partner, Bombay Law Chambers, Ms. Anuradha Dutt, Senior Partner, DMD Advocates, Mr. S.D. Sanjay, Additional Solicitor General of India, Ms. Shruti Sabharwal, Partner, Shardul Amarchand Mangaldas

rules to bring themselves up to speed with international best practices, whether it was the introduction of emergency arbitration or other procedural reforms. So it doesn't always have to be innovation, but as long as Indian institutions continue to adopt international best practices, there is really nothing stopping them

Dr. Shashwat Bajpai to Ms. Anuradha Dutt, Senior Partner, DMD Advocates

Ques- Should there be a universal benchmark or accreditation for arbitral institutions to ensure uniformity, transparency and accountability?

Ms. Anuradha Dutt- I think it's a very good idea. I saw that there is a Section 43 which has been introduced and notified, but it has not yet come into effect. The only problem I have with that provision is that there is too much government interference, which I am not sure is the best practice.

But yes, if institutions put out who their arbitrators are, what their background is, what they have done in the past, it always helps. It actually enhances party autonomy because parties then have a right to choose from that panel depending on the kind of dispute they want to invoke arbitration for. Arbitration is an alternate method to get justice. Why do we go to courts? To get justice. Why are we now looking to arbitration? Because courts take a lot of time, there are too many cases and the population is unmanageable. Therefore, when we look at arbitration as an alternate justice delivery mechanism, it has to be extremely transparent so that people can choose what they want and get what they choose.

Today everyone is under scrutiny- judges, lawyers everything that happens in court is under scrutiny. Why should arbitrators not be under similar scrutiny? If institutions come out with details like who

the arbitrators are, how long arbitrations take and what happens to awards, it will actually boost confidence rather than reduce it."

Dr. Shashwat Bajpai to Mr. S.D. Sanjay, Additional Solicitor General of India

Ques- How can Indian courts support institutional arbitration without encroaching upon party autonomy, especially vis-à-vis ad hoc arbitration?

Mr. S.D. Sanjay, Additional Solicitor General of India- The very simple answer of mine will be that when an application is filed before the court under Section 11(6) for appointment of an arbitrator, instead of making appointment of an ad hoc arbitrator, the court should direct the parties to approach an institutional arbitration centre. Since institutional arbitration has its own advantages, there will be no encroachment upon party autonomy and at the same time institutional arbitration will be promoted. Nobody can raise a finger on that.

One fact which I want to add is that arbitration is not only happening in Delhi or Mumbai. It is happening across the country. In small towns and remote areas also, contracts are awarded and disputes arise. Normally in such places, ad hoc arbitration is resorted to. Now the problem arises when an award passed by a retired Supreme Court judge or a High Court judge is challenged before a Principal Civil Judge in a district court. The district judge does not have the courage either to interfere or not to interfere. As a result, proceedings remain pending for years till the judge gets transferred or promoted.

The consequence is that even though an award is passed, the party in whose favour the award is passed does not get the fruits of the award for a long time. If there is institutional arbitration with predictability and proper background checks of arbitrators, there will be lesser scope of interference. A message will percolate down that the Supreme Court has consistently held that there should be minimal interference in arbitral awards.

Therefore, courts can support institutional arbitration by encouraging it at the appointment stage itself and by ensuring early disposal of challenges, so that arbitration remains an effective alternative to court litigation.

Dr. Shashwat Bajpai to Mr. Aayush Agarwala, Partner, Bombay Law Chambers

Ques- How do we make institutional arbitration more accessible and affordable while maintaining its integrity, autonomy and accountability?

Mr. Aayush Agarwala- I think, like the learned ASG just mentioned some time back, a lot to do with institutional arbitration or arbitrations in general is cost. The moment costs are kept in check, it becomes more accessible. Accessibility is the first step. And I think at least Indian institutions are doing a good job of keeping costs under check. I don't think costs are really going overboard when an Indian institution is involved.

Another way of doing it is increasing diversity of arbitrators who are empanelled with institutions. When I say diversity, I also mean having more sector-

specific or technical arbitrators who can deal with specialised disputes. We also need to get younger lawyers involved. Some courts are already favouring the appointment of younger lawyers as arbitrators, even in ad hoc arbitrations. All of this makes arbitration more accessible.

Finally, institutions need to find a way to become more approachable. It's not that institutional arbitration is well known across the country. It is known largely in metros like Delhi and Mumbai. But what happens when disputes arise in smaller towns or far-reaching parts of the country? That's where institutions really need to reach out.

I recently had a matter where a client asked me, 'What ADR is? I'm sick of arbitration also. Can you give me an automated award?' That's the reality today. Institutions need to figure out a way to reach those users who actually need the process, especially in smaller towns, otherwise institutional arbitration will remain limited to a few pockets.

Dr. Shashwat Bajpai to Ms. Anuradha Dutt, Senior Partner, DMD Advocates

Ques- If you had to choose one reform to enhance accountability in institutional arbitration without sacrificing party autonomy, what would it be?

Ms. Anuradha Dutt- I think what you mean by accountability of arbitrators is probably their appointment process, their disclosure process, the way they conduct the arbitration and the award that comes out. These are four aspects which require us to concentrate on. But I will again say these are not sufficient. You need a bar which is far more vibrant and not part-time that I will do court in the morning and arbitration in the evening.

Secondly, I should not be misunderstood, but appointing arbitrators only from retired judges is not, in my view, the way forward. And lastly, as I said, we have to have a predictable judiciary. Judges have to be trained. You go anywhere in the world, in a developed country, you know whether your award will stand scrutiny or not. In India, you just can't say, because you don't know which judge you will get. That should not be the case.

We should not have knee-jerk reactions. What I see is that every two years there is an amendment. That is not the way to function. You have to sit down, think through all these aspects and legislate once and for all. Only then can India truly become a hub of arbitration.





Keynote Address

by Hon'ble Union Minister for Law and Justice, Shri Arjun Ram Meghwal

Hon'ble Union Minister for Law and Justice, Shri Arjun Ram Meghwal, delivered the keynote address emphasising that the Arbitration in India Conclave was an important step towards strengthening the Alternative Dispute Resolution (ADR) framework in the country. He noted that the increasing burden on courts and delays in disposal of cases make it imperative to develop robust alternative mechanisms such as arbitration, mediation and conciliation.

Referring to a recent online conference of Law and Justice Ministers under the Shanghai Cooperation Organisation (SCO), led by the Russian delegation, Shri Meghwal observed that a common concern across participating countries was ensuring legal aid for the poor, highlighting the universal need for accessible and efficient justice delivery systems.

He stated that arbitration and mediation are not new to India but are deeply rooted in its civilisational ethos. Drawing a cultural parallel, he remarked that "from Lord Krishna's mediation in the Mahabharata to modern institutional mechanisms, India has always valued resolution through dialogue, fairness and consensus." According to him, ADR mechanisms play a critical role in decongesting courts while simultaneously supporting economic growth.

Addressing frequent comparisons between arbitration in India and other global arbitration hubs such as Singapore, London and Dubai, Law Ministers acknowledged the need for continuous reform. He agreed that provisions like Section 34 of the Arbitration and Conciliation Act require careful reconsideration, as they raise important questions regarding the extent of judicial intervention in arbitral proceedings. He described this as an area that calls for balanced and thoughtful reform rather than excessive interference.

Highlighting the economic dimension of arbitration, Shri Meghwal stated that a strong arbitration ecosystem directly contributes to investor confidence and national growth. Referring to the 150th birth anniversary of Sardar Vallabhbhai Patel, he remarked that there is a difference between merely sustaining existing systems and creating a "new life" through reform. Observing that the 21st century belongs to Asia, he asserted that India must take the lead in shaping modern dispute resolution frameworks.

He further referred to the Mediation Act, 2023, the proposed amendments to the Arbitration and Conciliation Act, and the establishment of the Mediation Council of India, stating that these initiatives reflect the Government's commitment to making India a preferred seat for both domestic and



Shri Arjun Ram Meghwal, Hon'ble Union Minister for Law and Justice, Govt. of India

international arbitration. He emphasised that arbitral institutions must focus on accessibility, affordability and integrity, and reiterated that "judicial intervention should be limited, and efficiency must define India's dispute resolution landscape."

Concluding his address, Law Ministers reaffirmed the Government's vision of positioning India as a global hub for institutional arbitration and stated that the reforms being undertaken are intended to align India's ADR framework with international best practices while remaining sensitive to public expectations and stakeholder concerns.

Valedictory Address

Hon'ble Mr. Justice Manmohan, Supreme Court of India, in his valedictory address, emphasised the pressing need for institutional arbitration in India to evolve into a system that is transparent, predictable, and efficient. He highlighted that arbitration must serve as a genuine alternative to litigation rather than becoming a replica of court proceedings.

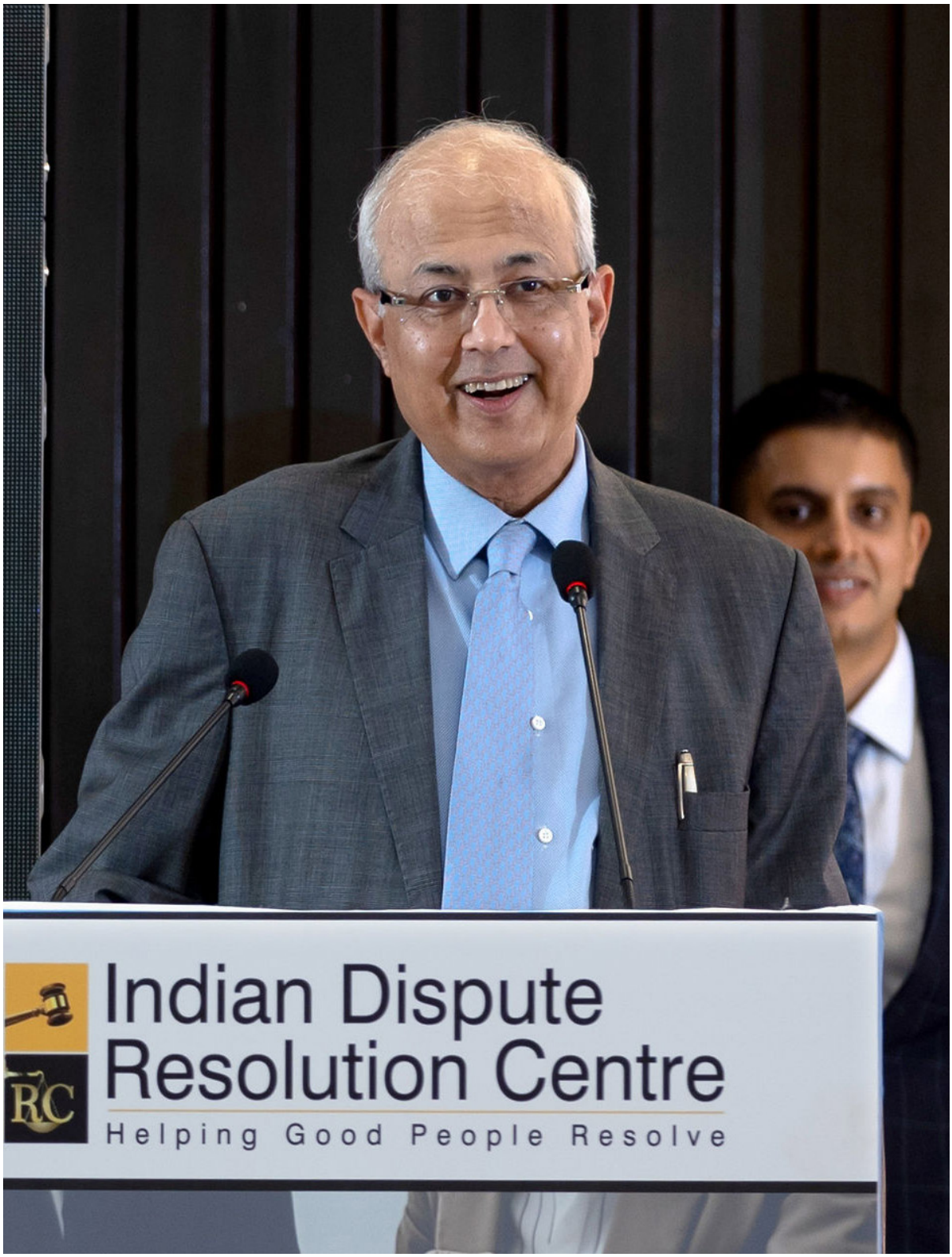
Reflecting on India's civilisational heritage, Justice Manmohan remarked that dispute resolution through consensus is deeply rooted in Indian traditions. Panchayats, he observed, historically exercised wide authority and delivered swift justice, even in serious matters. While courts were envisaged as structured mechanisms, he noted that they are today overburdened with litigation, with commercial disputes posing particular challenges that demand efficient alternatives.

Justice Manmohan observed that one of the core challenges in arbitration has been ensuring neutrality and fairness in the appointment of arbitrators. He noted that concerns relating to bias, especially in unilateral appointments, have been substantially addressed through judicial intervention. Referring to the recommendations of the **B.N. Srikrishna Committee**, he reiterated that **institutional arbitration is the answer** to achieving expeditious and credible dispute resolution. He explained that institutional arbitration offers built-in procedural safeguards, specialised administrative oversight, monitoring of timelines, and limited scrutiny of awards, which together enhance accountability and enforceability.

He cautioned that arbitration awards should not be interfered with "at the drop of a hat," stressing that excessive judicial intervention undermines the very purpose of alternative dispute resolution. In this context, he observed that *courts must act as facilitators, not barriers, to arbitration*. He strongly advocated for the introduction of strict timelines for challenges and enforcement proceedings under **Sections 34 and 37 of the Arbitration and Conciliation Act**, emphasising the need for time-bound disposal to prevent delays.

Justice Manmohan also flagged concerns regarding the Finance Ministry's circular restricting arbitration in disputes exceeding **Rs. 10 crore**. He urged the Government to re-examine this policy, observing that the Government must remain an active participant in the arbitration movement rather than distancing itself from it.

Concluding his address, Justice Manmohan stated that the arbitration movement in India cannot be ignored or diluted. He emphasised the need for many more robust arbitral institutions across the country to ensure that timely and affordable justice becomes a reality rather than a mere aspiration. Reaffirming that institutional arbitration is the way forward, he expressed confidence that sustained collaboration between the judiciary, legislature, legal profession, and arbitral institutions would firmly position India as a global hub for arbitration.



Hon'ble Mr. Justice Manmohan, Judge, Supreme Court of India

Closing Address

The Closing Address was delivered by **Mr. Divyansh H. Rathi, Advocate, Hony. Secretary, IDRC and Managing Partner, Lexidem & Rathi**.

In his closing remarks, Mr. Divyansh H. Rathi expressed his heartfelt gratitude to Shri Arjun Ram Meghwal, Hon'ble Union Minister for Law and Justice for delivering the keynote address and to Hon'ble Mr. Justice Manmohan, Judge of the Supreme Court of India for the insightful valedictory address. He thanked the Bar Council of India and the India International University of Legal Education and Research, Goa, for their guidance and association with the conclave. He also thanked the Vienna International Arbitration Centre, Austria.

Mr. Rathi conveyed his sincere appreciation to all the panellists and the moderator for their thought-provoking contributions and engaging discussions, which provided valuable perspectives on autonomy, accountability and the future of institutional arbitration in India. He also acknowledged the support of the conclave partners, knowledge partners, media partners and supporting organisations, whose cooperation was instrumental in the successful conduct of the event.

He placed on record his appreciation for the efforts of the IDRC team, advisors, arbitrators and staff members for their dedication and tireless work in organising the conclave. He also thanked the delegates and participants for their active participation and meaningful engagement throughout the sessions.

Concluding his address, Mr. Rathi reaffirmed that **IDRC remains steadfast in its commitment to advancing institutional arbitration and to positioning India as a global hub for credible, efficient and technology-driven dispute resolution.** With these remarks, he formally brought the conclave to a close and expressed hope of welcoming the participants at future editions of the IDRC's *Arbitrate in India Conclave*.

Key Takeaways

1. **Institutional Arbitration is the way forward :** There was a unanimous consensus that institutional arbitration is no longer a choice but a necessity. Ad hoc arbitration, though historically dominant, lacks structural discipline, predictability, and accountability. Institutional frameworks provide neutrality, procedural certainty, and enforceability, which are essential for India's aspiration to become a global arbitration hub.
2. **Party autonomy must be balanced with accountability :** While party autonomy remains a cornerstone of arbitration, speakers stressed that autonomy cannot operate unchecked. Excessive autonomy risks procedural abuse and dominance by stronger parties. Institutional arbitration strikes a balance by preserving party choice



Mr. Divyansh H. Rathi, Advocate, Hony. Secretary, IDRC and Managing Partner, Lexidem & Rathi

while embedding accountability through rules, disclosures, scrutiny, and neutral appointment mechanisms.

3. **Scrutiny of arbitral awards enhances enforceability :** Institutional scrutiny limited strictly to procedural compliance was recognised as a crucial safeguard. Courts take comfort in knowing that an award has undergone institutional vetting, thereby improving enforceability and reducing frivolous challenges under Sections 34 and 37 of the Arbitration and Conciliation Act, 1996.
4. **Ad Hoc Arbitration suffers from structural deficiencies :** The conclave highlighted systemic weaknesses of ad hoc arbitration, including lack of oversight, procedural stagnation, arbitrary fee structures, and delays. These deficiencies often defeat arbitration's objective of efficiency and finality, reinforcing the case for a gradual but decisive shift towards institutional arbitration.

5. **Judicial intervention should be minimal & principled with predictability :** Judicial intervention must remain exceptional, principled and predictable, otherwise arbitration risks becoming a mere extension of litigation. India cannot emerge as an arbitration hub without a predictable, arbitration-friendly judiciary. Inconsistent or excessive court intervention undermines confidence in arbitration. Courts must act as facilitators rather than supervisory appellate bodies.

6. **District-Level bottlenecks undermine arbitral outcomes :** A significant concern raised was that arbitral awards sometimes rendered by former Supreme Court or High Court judges are stalled before the district courts. Lack of decisiveness at this level leads to prolonged delays, depriving parties of the fruits of arbitration. Institutional arbitration, combined with judicial training and clarity of jurisdiction, can mitigate this issue.

7. **Time-bound disposal under sections 34 and 37 is essential :** Justice Manmohan strongly emphasised that the absence of strict timelines for challenges and appeals under Sections 34 and 37 severely undermines arbitration. Time-bound adjudication is necessary to preserve the finality and credibility of arbitral awards.

8. **Cost is the real barrier not institutions :** A key insight from the discussions was that institutional fees form only a small fraction of arbitration costs. The real cost drivers are legal fees, delays, and inefficiencies. Indian arbitral institutions have largely maintained cost discipline, making institutional arbitration both affordable and scalable.

9. **Innovation is central to efficiency and accountability :** Mechanisms such as emergency arbitration, expedited procedures, fast-track rules, and digital platforms were identified as vital tools. These innovations reduce court dependency, ensure continuity, and strengthen accountability through transparent, time-bound processes.

10. **Uniform standards for institutions are desirable with safeguards :** There was broad support for benchmarks or accreditation frameworks for arbitral institutions to ensure transparency and uniformity. However, speakers cautioned against excessive governmental control. Any regulatory mechanism must preserve institutional independence while promoting professionalism and disclosure.

11. **Arbitration reform is linked to economic growth :** Shri Arjun Ram Meghwal highlighted that a strong arbitration ecosystem directly contributes to investor confidence, economic development, and ease of doing business. Arbitration and mediation are integral to decongesting courts and supporting India's broader economic vision.

12. **India is moving towards a multi-door justice system :** The conclave reflected a clear shift towards institutionalised ADR, supported by legislative initiatives such as the proposed arbitration amendments and the Mediation Act, 2023. Together, these reforms signal India's commitment to a justice delivery system that is efficient, consensual, technology-driven, and globally aligned.

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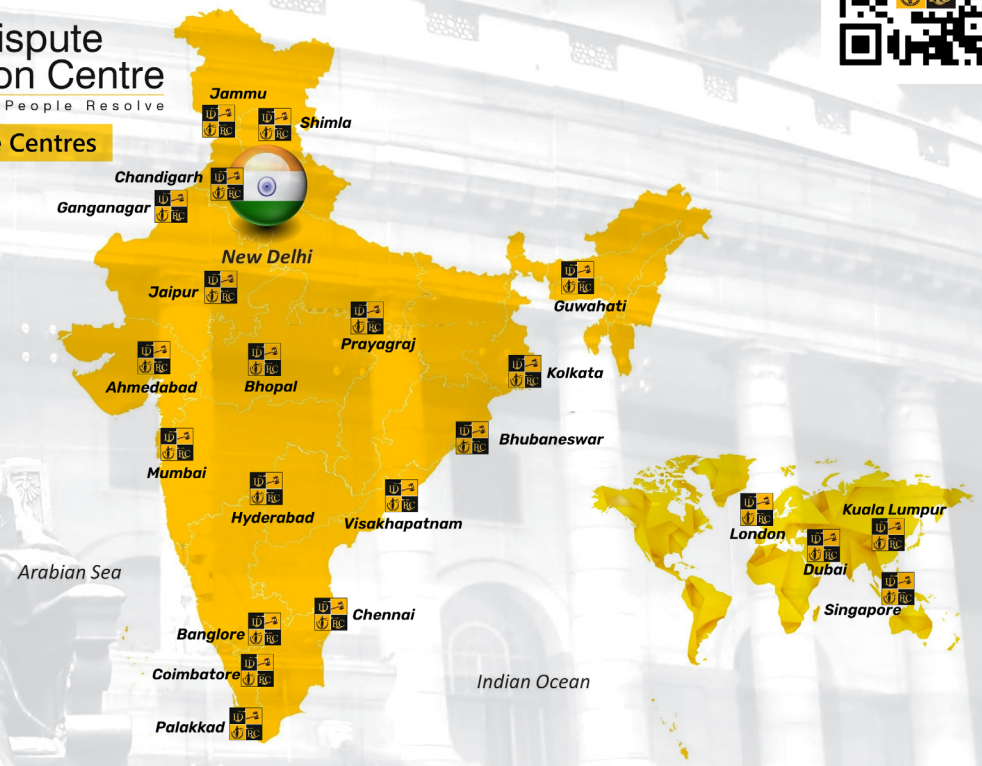
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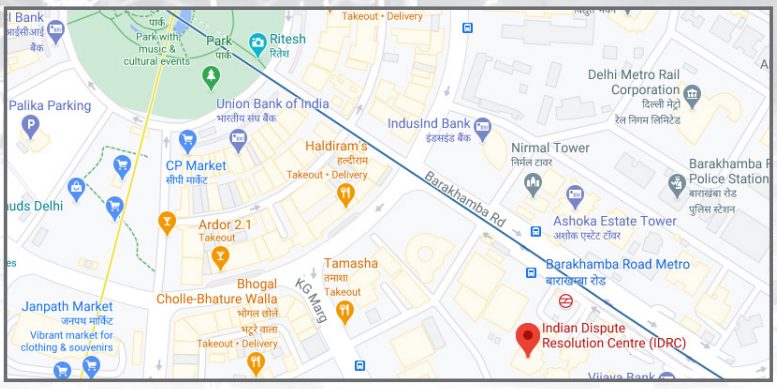
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