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Arbitration Dominance in Asia's Cross-Border Commercial Transactions: Institutional Growth, Enforcement, and Policy Reform

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ARTICLE INFO	ABSTRACT
Received: February 26, 2026 Revised: March 13, 2026 Accepted: March 28, 2026 Available Online: April 11, 2026 Keywords: <i>international commercial arbitration; Asia; New York Convention; UNCITRAL Model Law; enforcement; Section 34; institutional economics; judicial review</i> Corresponding Author: Fazli Mehmood Email: fazlimehmood27@gmail.com	International commercial arbitration has become a central mechanism for resolving cross-border business disputes in Asia, yet the region's rapid institutional growth has not produced uniform enforcement quality. This article examines the relationship between arbitral demand, statutory design, judicial enforcement, and policy reform across Singapore, Hong Kong, Mainland China, India, and Pakistan. It uses a qualitative doctrinal-comparative design supplemented by descriptive analysis of authoritative secondary quantitative data. The evidentiary base combines the New York Convention, the UNCITRAL Model Law, national arbitration legislation, institutional statistics through 2025, the 2025 International Arbitration Survey, Chinese judicial-review statistics for 2024, and a 2026 empirical study of Section 34 challenges in the Delhi High Court. The findings show three distinct patterns. First, arbitration demand is genuinely international: Singapore and Hong Kong remain among the world's preferred seats, while SIAC, HKIAC, and CIETAC report substantial cross-border activity. Second, formal legal harmonization is an incomplete predictor of enforcement performance. India has a Model Law-based statute but continues to exhibit delay and repeated setting-aside litigation in the studied cohort; Mainland China is not a conventional Model Law jurisdiction but combines a newly revised Arbitration Law with centralized judicial standardization and strong reported enforcement outcomes. Third, Pakistan remains in a transitional position because its domestic arbitration framework is still anchored in the Arbitration Act 1940 while foreign-award enforcement is governed separately and a comprehensive 2024 reform proposal has not yet displaced that structure. Drawing on New Institutional Economics, the article argues that arbitration dominance is best understood as an institutional feedback loop: credible enforcement reduces transaction uncertainty, which strengthens party confidence, institutional demand, and further legal investment. The article therefore shifts the policy focus from formal adoption of international templates to the quality, speed, and consistency of enforcement architecture.

Introduction

The substantive terms of a trade are not the only things that facilitate cross-border commerce; the credibility of the mechanism that exists if the trade goes wrong is also important. In Asia, the issue is especially significant as regional trade links legal systems with varying traditional proceeding practices, court configurations, language, statutory development and domestication of the rules of international arbitration. Arbitration meets this pluralism by providing neutral place, process,

decision-making, and legal system of support for the parties and also by limiting the extent to which they can review merits. However, the current Asian experience shows that preference for arbitration goes hand-in-hand, but not identical to, confidence in arbitration enforcement (Sulton & Fikri, 2025).

It's hard to say that this is a niche development because of the scale of demands. 87% of those surveyed in the 2025 International Arbitration Survey (2,402 respondents) stated that they preferred international arbitration alone or in conjunction with other forms of alternative dispute resolution. The five most popular seats in the world included Singapore, Hong Kong and Beijing, although the local court's support of arbitration, the neutrality of the legal system, the quality of national arbitration law, and the enforcement track record remained factors in seat choice (Queen Mary University of London & White & Case LLP, 2025). These findings are not only descriptive, but also have analytical value since they suggest that the users are not just happy with the arbitral process, but also with the institutional framework in which it takes place.

One of the key conundrums in the regional literature is the fact that, despite uneven enforcement and modernization, arbitration has grown in Asia. The current article advances this puzzle by separating three dimensions that frequently are combined into the notion of 'arbitration dominance' – contractual preference, institutional demand and enforcement credibility. A jurisdiction can do well on one dimension and not do so on another. For instance, India has a well-developed statute on the Model Law of UNCITRAL and empirical evidence shows that Section 34 proceedings in India are subject to considerable delay. Although the legislative history is different, the current situation of the legal system is now very low annulment rates and enforcement-friendly treatment of foreign awards in Mainland China, with a comprehensive revision of the Arbitration Law coming into force in March 2026 (Supreme People's Court of the People's Republic of China, 2026; National People's Congress of the People's Republic of China, 2025).

The legal framework is based on the Convention on the Recognition and Enforcement of Foreign Arbitral Awards 1958 (the New York Convention) and the UNCITRAL Model Law on International Commercial Arbitration. The Model Law provides a legal blueprint for the conduct of arbitration and judicial supervision of arbitration (United Nations Commission on International Trade Law [UNCITRAL], 2008, n.d.-a), and has limited grounds for refusing to enforce arbitration agreements and awards, whereas the Convention establishes a transnational enforcement framework for arbitration agreements and awards. The scope of the Model Law is wide - as of now, the UNCITRAL reports legislation based on or influenced by the Model Law in 93 States and 127 jurisdictions (UNCITRAL, n.d.-a). However, the actual implementation is still quite varied, as is reflected in comparative work on arbitration law in Asia (Bell, 2018).

The article explores why arbitration has been gaining so much traction in cross-border transactions in Asia, why formal convergence on international norms has not taken enforcement divergence away, and what reforms are most likely to improve the credibility of the jurisdiction in question. The analysis is limited to Singapore, Hong Kong, Mainland China, India and Pakistan. These jurisdictions are not considered to be representative of the whole of Asia as a whole but rather provide a structured juxtaposition between established international seats, a unique centralized enforcement framework, a large Model Law-based jurisdiction with judicial delay issues, and a South Asian jurisdiction which continues to work towards a full legislative modernization.

The article makes two contributions. On a substantive level, it advances the comparison chart as of August 2026 to reflect the scale of Model Law implementation, China's Convention status and the impact of China's revised Arbitration Law. It uses theoretically New Institutional Economics (NIE) to provide an explanation for arbitration beyond just a procedural choice to a market reaction to the anticipated costs of dispute resolution. The idea is that an effective arbitration system generates a virtuous circle: the better the enforcement, the less uncertain it is; the less uncertain it is, the more people will have confidence in the seat and institution; the more people will have confidence in the seat and institution, the more will want to use it; the more will want to use it, the more will invest in it; and the more will invest in it, the more the enforcement will improve. The loop is broken in these situations, where the court process is delayed, review is wide-ranging, or statutory fragmentation is an issue: arbitration can continue to be a contractually popular option even when it does not achieve the maximum transaction-cost benefit.

Research Objectives and Questions

There are three objectives of the study. Firstly, it assesses the developments in institutions and international use of arbitration in the major arbitration centres of Asia based on available institutional and survey data. Second, it examines the legal and judicial framework in Singapore, Hong Kong, Mainland China, India and in Pakistan relating to recognition, enforcement and setting aside. Third, it enumerates those policy changes that would help to increase the predictability of enforcement without converting judicial review into a second look at the merits of arbitral awards.

Consequently, the paper poses the following questions: (1) what evidence is there that international commercial arbitration is now the preferred way to resolve cross-border disputes in Asia; (2) how and why do enforcement results vary between jurisdictions that are all signatories to the New York Convention but are based on different legislative and judicial designs; and (3) which reforms are likely to pave the way to effective and efficient enforcement of formal legal commitments?

Literature Review

Arbitration as an Institutional Response to Cross-Border Risk

In the traditional view of international commercial arbitration, party autonomy, neutrality, flexible procedure, confidentiality, expert adjudication and the portability of the arbitral awards under the New York Convention are the hallmarks of the system. Sulton and Fikri (2025) consolidate these benefits, and also highlight ongoing issues of cost, delays, transparency, cyber-security, and inconsistent judicial involvement. This is significant: arbitration is not necessarily efficient because it is private. Its commercial value is based on the interplay between the arbitral procedure and the courts which are called to enforce interim measures, to enforce compliance with agreements, and to recognise and enforce the final awards.

An explanation of that interaction that goes beyond a procedural explanation is more likely to be offered by NIE. Hirschman (1946) defined institutions as the formal and informal restraints that influence the way actors interact and affect the costs of exchange. North (1990): Institutions are formal and informal mechanisms which regulate interaction and affect the costs of exchange. For impersonal exchange, credible third-party enforcement becomes even more crucial, as parties cannot count on repeated exchanges of personal relationships (North, 1992). This issue becomes even greater when contracts are negotiated between different countries. Parties face the challenges of forum, applicable law, rules of evidence, judges, and the ability of a final judgment to be enforced. Arbitration can help avoid those anticipated costs by pre-committing the parties to a forum and by linking the award into an international treaty network of enforcement.

This institutional approach is supported by Poon and Pouget's (2013) World Bank analysis which correlates the quality of commercial arbitration and mediation regimes with the conditions that foreign investors value, such as legal certainty and effective enforcement. The inference made is that it is not the arbitration per se that induces investment but the quality of arbitration is part of the institutional environment in which investment decisions are taken. This is also in line with the results of the 2025 International Arbitration Survey, which continued to show that judicial support and enforcement history were key factors in determining preferred seats (Queen Mary University of London & White & Case LLP, 2025).

Harmonization and Its Limits

Although the two were described as the twin pillars of the modern international arbitration system, they have different functions. The Convention also provides for obligations in the areas of arbitration agreements and recognition and enforcement of foreign and non-domestic awards. The Model Law offers a framework for national laws on topics like arbitration clauses, the jurisdiction of the tribunals, interim relief, setting, and court intervention (UNCITRAL, 2008, n.d.-b). They work together to decrease legal diversity, but neither can remove institutional diversity in judicial administration.

Bell (2018) demonstrates an extent of fidelity in implementing or adapting the Model Law in Asian jurisdictions. It is, therefore, crucial to differentiate formal adoption from operational convergence. A statute can have a familiar wording which is used throughout the world, but when interpreting the public policy, procedural irregularity or setting aside grounds, Courts can add to the cost and uncertainty. A jurisdiction, on the other hand, can obtain a high degree of enforcement uniformity without the institutional structure being a standard Model Law adaptation. It is especially useful to draw on Mainland China's experience since the judicial system was centralized, and the revision of the statute was passed in 2025, bringing the China closer to international practice without making it a textbook Model Law jurisdiction.

The annulment of awards is a good example of how doctrine is still divergent even under a common treaty. Article V(1)(e) of the New York Convention provides for refusal if the award was set aside or suspended by a competent authority at the seat; however, there have been differences between national courts as to the weight to be given to the decisions of the competent authorities and in exceptional cases about recognition (Zaheeruddin, 2023). This continued divergence supports the overall thesis of the present paper: When national institutions have a limited refusal logic and apply it consistently and predictably, transaction costs are reduced.

Research Gap

A wealth of literature exists on the merits of arbitration, the spread of the Model Law and doctrinal issues on the jurisdiction. The difference is an explanation for the possibility of strong institutional growth while the enforcement of such institutions can vary significantly across the same region. The assumption of uniform legal maturity in Asia, based on the growth of the caseload, risks minimizing convergence, while assuming uniform weak demand for arbitration, based on the statutes that diverge from one seat or institution to another, risks minimizing the commercial pull of the Asian seats and institutions.

This paper aims to fill this void by combining institutional demand indicators and enforcement evidence. It relies on the current load and questionnaires data to define the commercial aspect of the phenomenon and later compares its legal aspects that create the credibility of enforcement. This is not an attempt to create a league table of jurisdictions, but to recognize which combinations of institutions foster confidence and which bottlenecks impede the formal arbitration law from delivering efficient results.

Theoretical Framework

The analytical framework in this study is based on the notion of arbitration dominance as a consequence of institutional selection in cases of cross-border uncertainty. According to NIE, those institutional arrangements that minimize the potential costs of negotiating, monitoring, and enforcing transactions will be preferred by commercial parties (North, 1990, 1992). These are the costs that are expected in cases governed by arbitration; they involve the likelihood and time of court proceedings, the extent of the arbitration, the possibility of interim orders, enforcement of the arbitration decision, and the quality of the arbitral institution. It may be less preferable, then, for an individual to sit at a seat with a well-known institution yet an uncertain court practice than at a seat where the legal and judicial aspects are reinforcing.

Legal-transplant theory serves as a helpful additional prism. Watson (1974) has pointed out that legal rules often cross boundaries and then develop in the legal cultures to which they are transferred. The Asian arbitration scene provides many illustrations: common-law inheritance, adaptation of institutional rules, implementation of contracts, and influence of the Model Law. But legal-transplant theory is not as specific as to why some commercial users respond better to certain seats than others. It is through NIE that that behavioural mechanism is provided through attention to expected enforcement cost and credibility. The two views therefore complement each other and are not mutually incompatible, with the transplant theory helping to understand mechanisms through which rules come into being and change, and the NIE helping to understand why the operation of these rules is relevant to commercial decision.

Figure 1 summarizes the model. Cross-border commerce and legal pluralism create uncertainty; parties respond by selecting an arbitral seat and institution; enforcement quality then determines whether arbitration actually reduces transaction costs. Reliable enforcement strengthens commercial confidence and repeat use, which can support institutional investment and legal modernization. Delay, merits-like review, or fragmented enforcement weakens this feedback loop even where arbitration remains formally available.

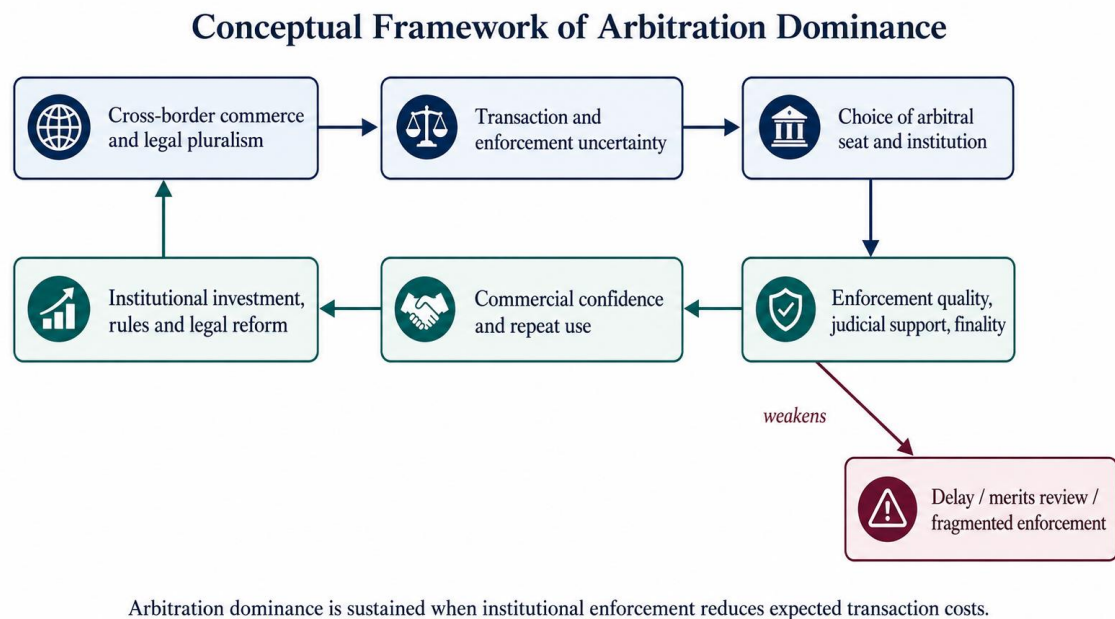


Figure 1 Institutional feedback loop for arbitration dominance under New Institutional Economics.

Note. Author's conceptualization based on North (1990, 1992), Pouget (2013), and the seat-choice findings reported by Queen Mary University of London and White & Case LLP (2025).

Methodology

Research Design

The study is a qualitative research in the type of doctrinal-comparative research with descriptive analysis of secondary quantitative data. Doctrinal analysis is appropriate as the main question is related to the substance, organization and use of arbitration statutes, international instruments and judicial enforcement procedures. No survey, interview program or original statistical test is performed. No causal statements regarding the impact of arbitration law on trade or investment are made by using quantitative material to describe the demand for arbitration and judicial outcomes.

The comparative units are Singapore, Hong Kong, Mainland China, India, and Pakistan. Selection is purposive. Singapore and Hong Kong are mature international seats with Model Law-based legislation and strong institutional demand; Mainland China represents a high-volume but structurally distinctive arbitration system that underwent major statutory reform in 2025; India provides a Model Law-based system with recent empirical evidence on setting-aside litigation; and Pakistan represents a transitional system where the domestic legal framework remains historically older and reform proposals seek greater alignment with international standards.

Sources, Time Frame, and Data Treatment

The primary and quasi-primary sources are the New York Convention, the UNCITRAL Model Law materials, the current legislation from India, Hong Kong, Singapore and China, the official reform materials and listings of Pakistan's parliamentary legislation, annual statistics from HKIAC and CIETAC, the annual-report release by SIAC in 2025, and the judicial-review report by the Supreme People's Court of China in 2024. The analysis is also based on the 2025 International Arbitration Survey and the empirical study by Yadav and Pathak and Ganesh (2026) on Section 34 litigation in the Delhi High Court, published by the arbitrators themselves and peer-reviewed. The historical and theoretical arguments are based on North (1990, 1992), Watson (1974), Bell (2018), Pouget (2013) and related literature.

Institutional statistics are analysed up to 2025 and legal developments are updated to 16 August 2026. Case data for each year and for domestic and foreign-related cases from 2018 to 2025 were downloaded from the official statistics page of CIETAC and plotted in Python. Yadav et al. (2026) provided the annual disposal rates and decided-case outcomes for India, which were depicted descriptively. There were no missing values and no inferential test was carried out.

The institutional caseload figures are treated uniformly throughout the document according to a central comparability rule, which is that the figures should not be directly interchangeable to be interpreted as market shares, because the definitions of the different types of institutional cases vary. Similarly, judicial-review statistics from various jurisdictions are not standardized to a common enforcement-rate ranking because different jurisdictions have different numbers of cases and different categories of proceedings. Rather, the analysis reads each dataset as it is reported and cross-references patterns of numbers to the controlling legal structure.

Reliability and Limitations

The reliability is enhanced by prioritizing official legal and institutional materials (where available) and source triangulation. However, there are some significant caveats to the study. Indian empirical evidence is for a particular group of Indian High Courts and cannot be mechanically extrapolated to all courts in India. Chinese national judicial statistics offer comprehensive information but fail to offer detailed information on all qualitative aspects of individual enforcement cases. A similar set of public and empirical data on the enforcement of commercial arbitration under Pakistani law does not exist that is as recent as the situation in Pakistan. Finally, the institutional reports are self-reported and classified in different ways. The use of these limitations does not prevent the study from being a comparative doctrinal and descriptive analysis, but it does mean that it is not a causal evaluation.

Results and Discussion

Regional Demand: Arbitration Is Commercially Entrenched, but Metrics Differ

The first research question is: Is it empirically plausible that the claim of arbitral dominance is correct? The 2025 International Arbitration Survey offers the most general user-preference metric in this study: 87% of respondents indicated that they preferred international arbitration, whether used alone or in combination with ADR, and three of the top five seats worldwide were in Asia—Singapore, Hong Kong and Beijing (Queen Mary University of London & White & Case LLP, 2025). This is not to say that, in every type of cross-border Asian commercial dispute, courts are being replaced by arbitration, but it does indicate that arbitration has become entrenched in the decision-making process of users of arbitration.

Institutional statistics are in a similar direction. HKIAC received 388 applications for arbitration in 2025, and 91% of the arbitrations administered by HKIAC were international. In 2025, SIAC had its second highest annual caseload of 886 cases, 89% of which were international, and came from 79 jurisdictions. In 2025, CIETAC received 5,736 cases, of which 806 were foreign-related cases, and had 97 countries and regions involved (China International Economic and Trade Arbitration Commission [CIETAC], 2026; Hong Kong International Arbitration Centre [HKIAC], 2026; Singapore International Arbitration Centre [SIAC], 2026). The indicators of scale and internationalisation are summarised in Table 1, but it must be stressed that the institutions do not report cases in the same manner, and that the numbers are not meant to represent a direct comparison.

Table 1 Latest institutional indicators used in this study (2025).

Institution	2025 reported activity	International dimension	Interpretive caution
HKIAC	388 arbitrations submitted; 582 total new matters when mediation and domain-name disputes are included	91% of administered cases were international	Administered-arbitration percentage should not be applied to all HKIAC matter types.
SIAC	886 new cases, including related cases; total sum in dispute reported at USD 14.53 billion	89% international; parties from 79 jurisdictions	The annual caseload includes administered cases and ad hoc appointment-related matters.

CIETAC	5,736 cases accepted; RMB 228.6 billion aggregate amount in dispute	806 foreign-related cases; matters involved 97 countries and regions	CIETAC reports a very large domestic caseload in addition to its foreign-related work.
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Note. Sources: HKIAC (2026), SIAC (2026), and CIETAC (2026). Reporting categories differ across institutions; the table is descriptive and should not be read as a market-share ranking.

Longitudinal Growth and the CIETAC Example

A cross-sectional analysis is useful for understanding institutional expansion better than a single year's analysis. According to the official data of CIETAC for 2018-2025, the number of cases it has received each year is presented in Figure 2. Total accepted cases rose from 2,962 in 2018 to 5,736 in 2025, an increase of approximately 93.7%. Foreign-related cases grew from 522 to 806 cases during the same time period, which represents an increase of approximately 54.4% (CIETAC, n.d.). It is not a straightforward upward trend: total cases peaked at 6,013 in 2024, decreasing by approximately 4.6% in 2025, and foreign-related cases grew by 6.3% in 2025. An analytical advantage of that divergence is that it illustrates why 'growth' shouldn't only be a total-caseload line.

The 2025 work report from CIETAC provides qualitative context. It documents 82 instances of non-Chinese nationality, English or bilingual language use, application of a variety of foreign laws and international conventions and growth of disputes in technology-driven industries. The developments lead to the inference that Asian institutions are not just managing more domestic business but also engaging in a more transnational dispute-resolution market (CIETAC, 2026). Meanwhile, the number of cases handled by CIETAC is still overwhelmingly larger than its foreign-related case share, and the internationalization of the institution should be assessed based on several indicators, not only foreign-related case share.

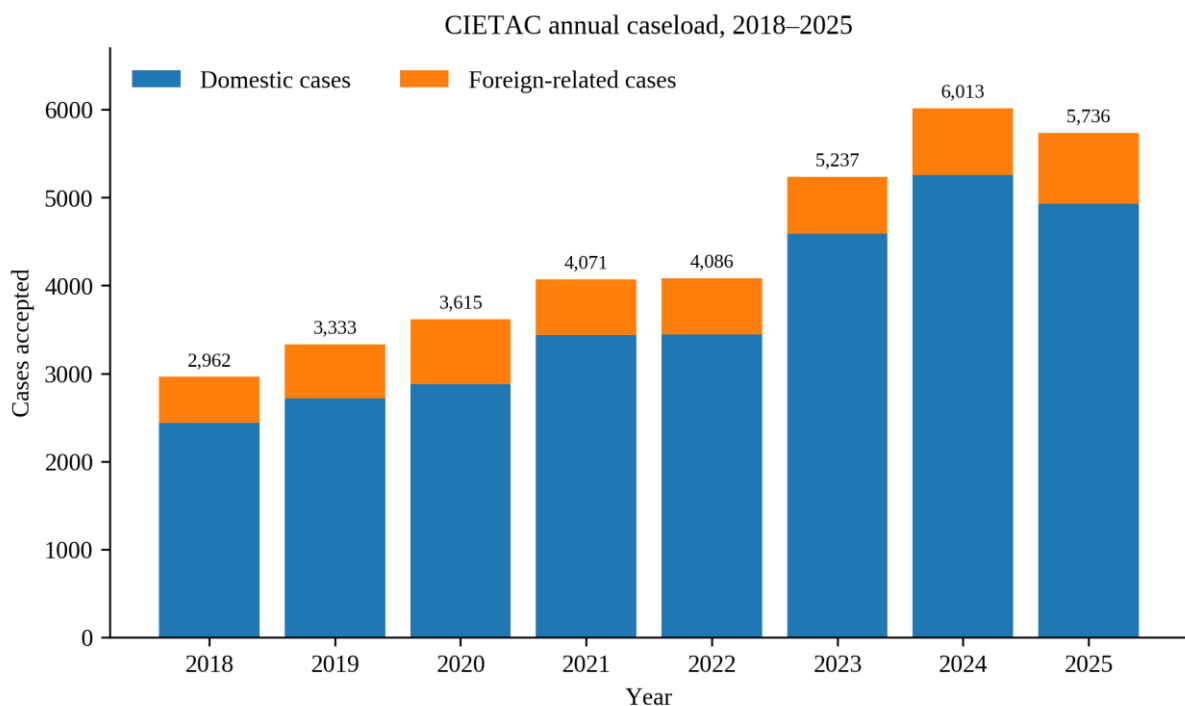


Figure 2 CIETAC annual caseload, 2018-2025

Note. Data from CIETAC (n.d.). Foreign-related cases are displayed as a component of the annual total; domestic cases are calculated as total minus foreign-related cases.

Formal Harmonization Does Not Produce a Single Enforcement Model

As demonstrated in Table 2, Asian arbitration systems are institutionally diverse, yet they share the same core in terms of enforceability. In Singapore and Hong Kong, the Model Law is well reflected in the current legislation. The Arbitration and

Conciliation Act 1996 of India is also inspired from the Model Law. Mainland China is not a Model Law jurisdiction per se, but the revision of the Law for the year 2025 added many new, internationally familiar, features, such as the development of a clearer notion of seat of arbitration, the extension of foreign-related provisions, the introduction of online arbitration, and the limited forms of ad hoc arbitration in certain circumstances. The domestic arbitration regime is still largely governed by the Arbitration Act 1940 and the foreign-award recognition regime is dealt with by the Recognition and Enforcement (Arbitration Agreements and Foreign Arbitral Awards) Act 2011 (Government of India, 1996; Hong Kong e-Legislation, n.d.; Law and Justice Commission of Pakistan, 2024; National People's Congress of the People's Republic of China, 2025; Singapore Statutes Online, 2026), which leaves Pakistan as the clearest case of statutory fragmentation.

Treaty status also requires careful treatment. China has been a Contracting State to the New York Convention since 1987. Pakistan acceded in 2005, Singapore in 1986, and India has long been a party, while the Convention applies in Hong Kong through China's territorial arrangements (UNCITRAL, n.d.-b). The relevant policy question is therefore not whether these jurisdictions are connected to the Convention, but how their domestic legal and judicial institutions give effect to that connection.

Table 2 Comparative arbitration and enforcement architecture.

Jurisdiction	Core statutory position	Relationship to international framework	Current enforcement issue
Singapore	International Arbitration Act 1994 (current consolidated text)	Model Law given statutory effect; New York Convention framework embedded in international arbitration regime	Mature court-support model; policy challenge is preserving speed, neutrality, and institutional competitiveness.
Hong Kong SAR	Arbitration Ordinance (Cap. 609)	Model Law provisions expressly given force of law; Convention applies through China	Strong judicial support and close procedural connectivity with Mainland China; high international case share.
Mainland China	Arbitration Law comprehensively revised in 2025; effective 1 March 2026	Not a conventional Model Law adoption, but revision aligns key concepts with international practice; China is a New York Convention party	Centralized judicial standardization plus major statutory modernization; implementation of new seat/ad hoc provisions will be important.
India	Arbitration and Conciliation Act 1996, as amended	Model Law-based statute; New York Convention awards enforced under Part II	Section 34 delay and repeated challenges create transaction costs despite formally narrow review grounds.
Pakistan	Arbitration Act 1940 for domestic arbitration; 2011 Act for foreign awards	New York Convention party; 2024 reform proposal seeks a more comprehensive modern framework	Fragmented statutory structure and limited recent public enforcement data; comprehensive modernization remains a policy priority.

Note. Sources: Government of India (1996), Hong Kong e-Legislation (n.d.), Singapore Statutes Online (2026), National People's Congress of the People's Republic of China (2025), Law and Justice Commission of Pakistan (2024), National Assembly of Pakistan (n.d.), and UNCITRAL (n.d.-a, n.d.-b).

India: The Main Cost Is Delay and Challenge Intensity, Not Merely Annulment

The most obvious example of India is the lack of the harmonization in law. The clear example for this is India, where the lack of harmonization in law is not equal to low transaction cost. The Arbitration and Conciliation Act 1996 was passed in the backdrop of the Model Law and has been subsequently amended to bolster arbitration and restrict court interference. But Yadav et al.

(2026) offer highly detailed empirical evidence for the persistence of the costs of the judicial stage after an award. They have a dataset of 2020 cases from the Delhi High Court that includes 2020 Section 34 challenges and a record of thousands of orders and hundreds of judges issued between 2021 and 2024.

The overall disposal rate was 38.66% in the cohort studied. Annual disposal rates fell from 56.04% in 2021 and 55.40% in 2022 to 33.08% in 2023 and 16.43% in 2024. This reduction is shown in figure 3. In decided cases, more than twelve months was required to finalize the cases in 48.91% of cases (Yadav et al., 2026). These numbers highlight the temporal nature of enforcement. Although such an award may eventually be sustained, extended litigation over setting aside is likely to cause uncertainty, tie up resources, and undermine the purpose of arbitration in the first place.

The results also make the widely held notion that the heart of the Indian issue is merely an unusually high success rate in annulment seem strained and suspect. 49.80% of the cases that were decided led to the award being upheld in full, while 12.55% led to the award being set aside in full, and 6.02% led to part of the award being modified. A further 17.16% were withdrawn and 9.86% settled (Yadav et al., 2026). The more convincing institutional diagnosis is therefore not that the courts routinely strike down most awards, but rather that there is a delay, a high frequency of challenges and a lack of certainty regarding the grounds for review.

This concern is increased by the role of government bodies. In the dataset analyzed, government bodies were involved in 62.28% of the Section 34 cases, and they were petitioners in 40.84% of the cases. Yadav et al. (2026) also found that issues with government parties were linked to a longer resolution time. The policy implication is large: Legislative change for private litigants to be the only ones to be protected against awards will be incomplete if public bodies continue to do so as a matter of routine risk management. Table 3 summarizes the key empirical indicators.

The doctrinal dimension also continues to be relevant, because the selection of the grounds will affect the incentives for litigation. Although 'patent illegality' was invoked in many of the cases studied, it was not a very effective tool, as it was invoked even though it failed to achieve a desired result. The same applied to public policy. The fact that there is a narrow statutory ground does not preclude it from creating litigation cost when parties think that courts are supposed to entertain broad arguments. To the NIE's perspective, the cost of a ground is dependent on the likelihood, time and cumbersomeness of litigation, rather than on the final probability of winning.

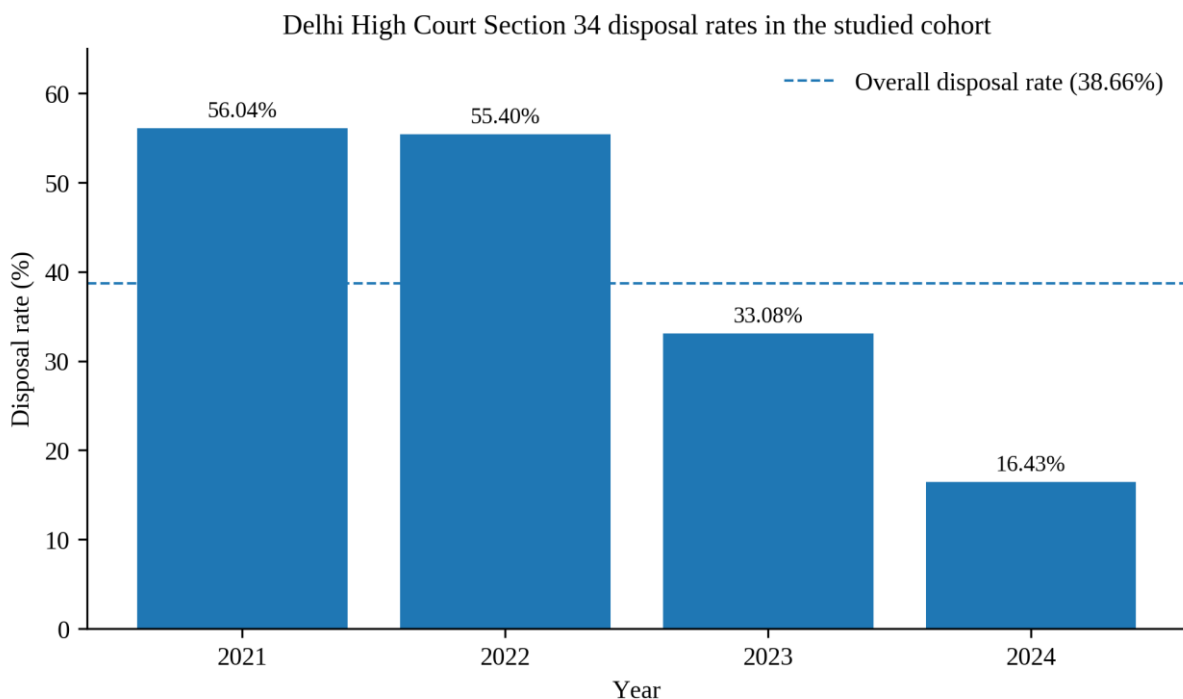


Figure 3 Annual disposal rates for Section 34 challenges in the Delhi High Court cohort.

Note. Data from Yadav et al. (2026). The dashed line shows the overall disposal rate for the studied cohort (38.66%).

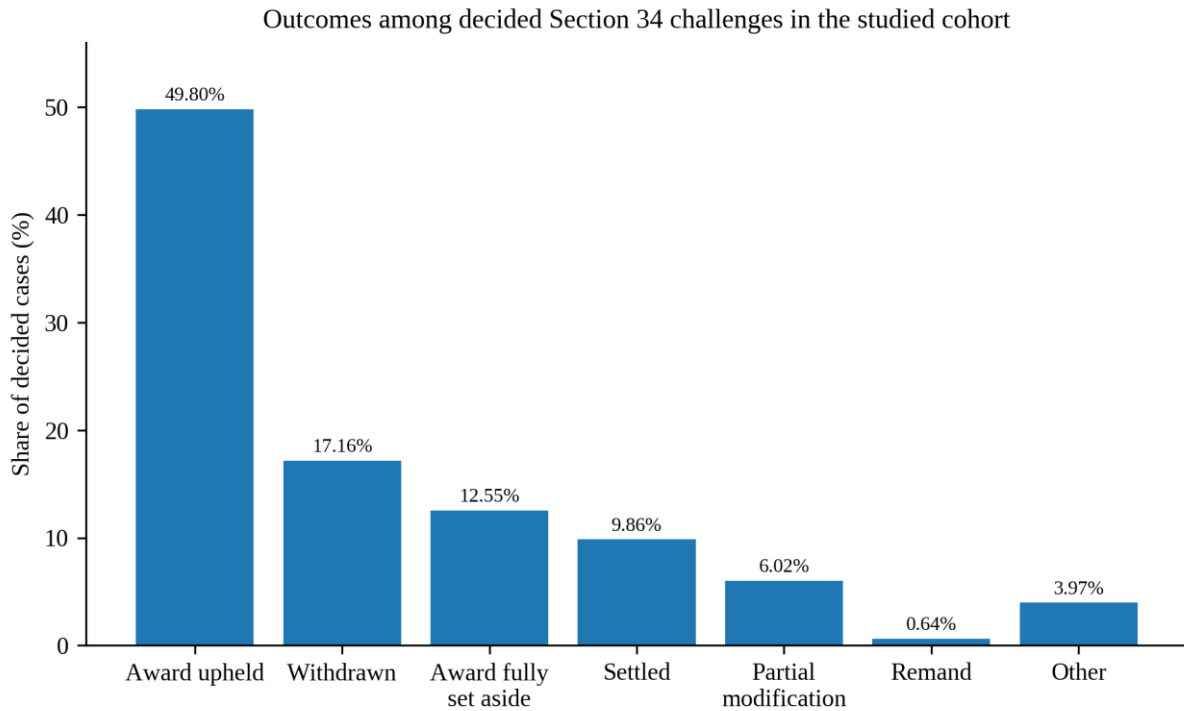


Figure 4 Outcomes among decided Section 34 challenges in the studied cohort

Note. Data from Yadav et al. (2026). “Other” aggregates residual outcome categories not shown separately in the figure; percentages are rounded.

Table 3 Selected empirical indicators from the Delhi High Court Section 34 study.

Indicator	Reported result	Institutional interpretation
Total Section 34 cases in dataset	2,020	Large enough to reveal procedural patterns within the studied High Court cohort, but not a national sample.
Overall disposal rate	38.66% (781 decided cases)	A substantial share remained unresolved during the observation window.
Decided cases taking more than 12 months	48.91%	Delay can erode arbitration’s transaction-cost advantage even where awards are ultimately upheld.
Award upheld entirely	49.80% of decided cases	Most decided challenges did not end in complete annulment.
Award fully set aside	12.55% of decided cases	Annulment risk is material but is not the only source of uncertainty.
Government involvement	62.28% of all cases	Public-sector challenge behavior is a major component of post-award litigation demand.
Government as petitioner	40.84% of all cases	Supports targeted policy attention to government litigation incentives and approval structures.

Note. Source: Yadav et al. (2026). Percentages refer to the authors’ reported cohort and should not be generalized automatically to all Indian courts.

Mainland China: A Distinct Route to Predictability

The strongest counterpoint to the idea that predictable enforcement requires the direct replication of the Model Law is the fact that while in Mainland China, enforcement does not require such direct replication. The history of China's arbitration system was their own statutory and institutional system, but two recent developments have shifted the comparative picture. On 12 September 2025, the NPCRC approved a comprehensive revision of the Arbitration Law which takes effect from 1 March 2026. The revision was the first comprehensive revision in about 30 years and added provisions on the seat of arbitration, online arbitration, more stringent foreign-related provisions, and limited ad hoc arbitration in certain foreign-related situations (National People's Congress of the People's Republic of China, 2025).

Second, national statistics on judicial-review show that arbitration enjoys high institutional support. The Supreme People's Court reported that it has heard 18,566 cases of judicial review in commercial arbitration in 2024. A total of 11,016 applications were made to set aside awards, with 245 (2.22%) reported cases of annulment, covering a full or partial annulment. All but 26,770 of 27,069 preservation applications related to arbitration were granted by courts. Courts granted 26,770 of 27,069 arbitration-related preservation applications, corresponding to 98.90%. Most significantly for cross-border enforcement, with respect to cross-border enforcement of foreign arbitral awards, the report states that courts have issued 42 judgments for the recognition and enforcement of foreign arbitral awards under the New York Convention without issuing a single refusal judgment (Supreme People's Court of the People's Republic of China, 2026).

The information provided here is not to be used as a guarantee that all foreign awards will be upheld or that central supervision is free of cost. They do, however, develop the idea that predictability can be achieved through hierarchical standardization and systematic judicial guidance than just judicial restraint at the grass roots. In the context of Figure 1, the Chinese model uses two mechanisms to reduce uncertainty: firstly, by limiting the freedom of lower-level decision makers to vary their decision-making, and secondly, by offering national guidance and review data. Indeed, the new provisions in the revised Arbitration Law could enhance such impact, provided they are applied uniformly.

A comparison with India is particularly illuminating. The legal framework is more palpably Model Law in nature in India and the enforcement system is more structurally centralized in China. However, the latest figures indicate that the Chinese system can achieve high support rates with low annulment figures. The finding does not indicate a normatively superior system but reveals that enforcement credibility is achieved by design of the institutions as well as the text of the law.

Singapore and Hong Kong: Mature Seats and the Value of Judicial Support

The positive feedback loop described by NIE is most pronounced in Singapore and Hong Kong. They have modern statutes that are based on Model Law, high percentages of international business in their institutions, and international arbitration experience in their courts. The Model Law is given effect in a specialised international arbitration regime under Singapore's International Arbitration Act and Hong Kong's Arbitration Ordinance expressly incorporates provisions of the Model Law (Hong Kong e-Legislation, n.d.; Singapore Statutes Online, 2026).

These features seem to be appreciated by the users as revealed by the 2025 survey data. Singapore and Hong Kong are still top preferred seats globally, and court support, neutrality, arbitration law and enforcement history are still key factors in seat selection (Queen Mary University of London & White & Case LLP, 2025). In line with that preference, Table 1 shows that the institutional statistics indicate that the caseloads of SIAC and HKIAC are both highly international. The policy issue for these jurisdictions is thus not about modernization of the basic legislative framework but about maintenance: sustaining the country's courts' restraint, efficiency, quality of appointments, security with digital files, and responsiveness to more complex caseloads.

The broader comparative lesson is that mature arbitration ecosystems are cumulative. Statutory quality creates a foundation, but credibility is reinforced through repeated court practice, institutional experience, published rules, experienced counsel, and a history of enforceable awards. These assets are path dependent and difficult to reproduce quickly. For emerging seats, copying statutory language without investing in judicial and institutional capability is unlikely to produce the same market response.

Pakistan: Legislative Modernization as a Necessary but Incomplete Reform

In the current context, Pakistan is the most distinctively transitional jurisdiction. It is a signatory to the New York Convention and has implemented the Recognition and Enforcement (Arbitration Agreements and Foreign Arbitral Awards) Act 2011 but domestic arbitration remains based on the Arbitration Act 1940. In 2024, the Law and Justice Commission of Pakistan (LJC)

submitted a proposal for a comprehensive modern arbitration framework that would encompass domestic and international arbitrations and significantly incorporate elements of modern international arbitration practices (LJC, 2024).

The proposed comprehensive arbitration reform of 2024 is not included in the current list of Acts of Parliament of the National Assembly (National Assembly of Pakistan, n.d.) while the 2011 recognition-and-enforcement law is. This status is important because it can lead to greater interpretation and procedural complexity for users due to the effect of statutory fragmentation. Foreign-award enforcement could be under the Convention-implementing legislation, a different one from the domestic procedure, which is more closely aligned to a much older Act, creating a less coherent legal framework than in Singapore, Hong Kong or India.

New laws are therefore required but the comparative evidence warns against the conclusion of the reform with the passage of new legislation. India shows that a Model Law-based statute can exist alongside of expensive post-award litigation and China illustrates the need for judicial standardization. The reform agenda in Pakistan should thus include a modern statute, with a clear demarcation of court functions, expertly trained judges, time limits, digital case-management systems, anonymisation of enforcement data and incentives to reduce routine merit-like challenges. Institutional investment is equally significant as textual modernization as the commercial parties not only consider the statute itself, but the entire enforcement pathway as well.

Comparative Synthesis: Dominance Is Institutional, Not Uniform

The evidence points to the conclusion that in Asia, the commercial dispute-resolution landscape is dominated by arbitration. Evidence of dominance can be found in user preference, the worldwide ranking of Asian seats, the makeup of top international institutional caseloads and ongoing investment in arbitration legislation. It is not however a finding that all jurisdictions in the Asian region have reached the same legal model or that arbitration operates in the same way.

Three patterns emerge. First, demand and enforcement credibility reinforce each other in more established seats like Singapore and Hong Kong. Second, Mainland China demonstrates that it is possible to achieve predictability with a different institutional architecture, one where judges are centrally directed and statutory law is evolving towards more internationally recognized concepts. Third, India and Pakistan show two types of tensions: the first is operational, India's tensions with its older domestic law versus Pakistan's newer foreign-award law; the second is more fundamental, as Pakistan's statutory basis is split between these two sources.

This splits up the NIE account. Arbitration clauses do not make for lower transaction costs. They are lowered if the expectation of enforceability is credible before the fact, and the ex post road to enforcement is fairly short and limited. Arbitration law, in turn, is not the unit of analysis, but the arbitration ecosystem (the law, arbitration courts, institutions, enforcement mechanisms, and the conduct of litigants before the courts).

Policy Implications and Recommendations

The goal of the policy should be to achieve a "credible finality" in the outcome, not maximal insulation from court. Judicial support is required for interim measures, evidence, recognition and enforcement in arbitration, but not for merits. Changes are needed, therefore, where legitimate supervision turns into delay or substantive reconsideration.

The case-management reforms in Section 34 proceedings, such as compliance with statutory time-limit, the manner of consideration of Review grounds and increased internal scrutiny of challenges by State bodies should be given importance in India. The empirical evidence confirms that most challenged awards are upheld and that there is significant representation of government entities in the group challenging the awards, which leads to the conclusion that a reduction in low probability repetitive challenges may bring about greater efficiency gains than ongoing narrowing of the statutory grounds (Yadav et al., 2026).

Pakistan needs to establish a clear modern arbitration system, combining home and international arbitration principles and mechanisms, but with provisions for implementing infrastructure as well. A statute that is modern should be supported by specialized judicial training, a clear division of court responsibilities, rules for expedient cases and relief in emergencies, transparent data collection, and a transition plan for the cases filed under the 1940 Act. The reform proposal for 2024 is a stepping stone to this modernization, but comparative experience indicates the quality of implementation will determine whether the new law alters commercial expectations or not (Law and Justice Commission of Pakistan, 2024).

Mainland China should drive further forward in the 2025 revision by harmonizing the interpretation of the new seat, online-arbitration and limited ad hoc provisions and persist in reporting on national judicial-review statistics. Singapore and Hong Kong, on the other hand, should work on maintaining the characteristics that users already appreciate for institutions: neutrality, support of the court, efficient administration, international appointments, cybersecurity and predictable enforcement. At the regional level, statistical information on public arbitration is not standardized to a great extent, which hinders comparative evaluation. The results of this research are presented in Table 4 as priorities for jurisdictions.

Table 4 Priority reforms derived from the comparative findings.

Jurisdiction / level	Priority action	Rationale from findings	Suggested implementation indicator
India	Reduce delay and routine Section 34 challenges, especially by public entities	Low disposal and long-duration proceedings weaken finality even where awards are upheld	Median/mean time to disposal; share decided within statutory target; state-entity challenge rate.
Pakistan	Enact and implement a coherent modern arbitration statute	Current domestic/foreign-award split raises complexity and weakens institutional coherence	Enactment status; specialist court allocation; published enforcement times; institutional caseload data.
Mainland China	Consolidate implementation of the 2025 revised Arbitration Law and maintain transparent judicial review	New seat/ad hoc/online provisions can deepen international compatibility if interpreted consistently	Annual annulment and foreign-award recognition data; published guidance on new provisions.
Singapore & Hong Kong	Preserve judicial restraint, institutional efficiency, and international user confidence	Mature legal ecosystems are a principal source of seat attractiveness	International case share; case duration; user survey preference; enforcement track record.
Regional	Standardize public reporting of arbitration and enforcement indicators	Current statistics use different definitions, limiting direct comparison	Common definitions for administered cases, foreign-related cases, enforcement applications, refusals, and duration.

Note. Recommendations are derived from the comparative analysis in Sections 5.3–5.8 and should be adapted to each jurisdiction’s procedural and constitutional context.

Conclusion

While international commercial arbitration is now firmly established as a fixture in Asian cross-border trade, it is not as easy as a straightforward tale of legal convergence. Singapore, Hong Kong and Beijing are at the forefront in this regard, as evidenced by current user preference; the 2025 evidence from SIAC, HKIAC and CIETAC indicates that there is a good amount of demand from around the world. These are sufficient grounds to speak of dominance of the language of arbitration in terms of the choice of language and the activity of institutions.

The enforcement evidence results in a more nuanced result. The Singapore and Hong Kong jurisdictions have integrated the law with strong judicial assistance, which is oriented towards models. The path taken by Mainland China is unique but the data and statistics from the national judicial review of arbitrations in 2024 and the anticipated statutory changes in 2025 show a strong push towards standardisation and enforcement. India has a modern Model Law based statute, however empirical evidence has recently indicated that litigation for Section 34 can cause delay and uncertainty, particularly when government institutions are the litigants. Pakistan is still in transition as its domestic arbitration law is still firmly rooted in the 1940 act, and the law governing the enforcement of foreign awards is distinct and comprehensive reform is yet to be completed.

The theoretical implication is that the success of arbitration cannot be inferred from treaty membership or legislative text alone. Under the NIE framework, arbitration lowers the cost of cross-border exchange only when the surrounding institutions make finality credible. That requires narrow and consistent review, timely courts, effective interim relief, reliable recognition, capable arbitral institutions, and predictable state behavior. Formal harmonization is therefore best understood as a necessary platform rather than a sufficient outcome.

For policymakers, the principal lesson is practical. Emerging arbitration jurisdictions should resist the assumption that importing Model Law language automatically creates an international seat. The more difficult work lies in implementation: assigning court functions clearly, training judges, controlling the duration and scope of challenges, publishing enforcement data, strengthening institutions, and ensuring that government bodies do not undermine arbitration through routine post-award litigation. Asia's leading seats show that these institutional investments can create a durable feedback loop between confidence and demand. The next stage of regional arbitration development will depend on extending that credibility beyond a small number of mature centers.

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