

Noesis

Vol. 1 Issue 1

The Student Law Review

Call for Papers

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Prefatory Note

Abounding cases, paucity of judges, inadequate infrastructure and inordinate delay in disposal of cases by courts were the primal reasons for the evolution of Alternative Dispute Resolution. It gained momentum with the advent of globalization, liberalization and commercialization. With high incidence of investment in the country, arbitration seems to be a feasible apparatus to settle disputes, so as to ward off the dilatory and cumbersome procedure of courts, and reap the fruits of speedy disposal of disputes. Moreover, speedy disposal of disputes ushers in certainty and bolsters the confidence of investors.

In recent years, Arbitration has been the cynosure of debate and discussion. However, it has had its own twists and turns. There are myriad reasons for it, such as usage of ambiguous language in the arbitration clause of the contract and uncertainty of law on the overlapping jurisdiction of courts and arbitral tribunals. Moreover, in the past few years, the Supreme Court of India has raised questions of seminal importance vis-à-vis Arbitration. Lately, in *Bharat Aluminium Co. v. Kaiser Aluminium Technical Services Inc.* [C.A. No. 7019/2005], the court categorically held that it would not invoke Part I of the *Arbitration and Conciliation Act, 1996* with respect to foreign arbitral awards. This case has set a new trend which is highly significant in the development of arbitration and commercial law jurisprudence in India. To arouse confidence in foreign investors, different countries have been entering into bilateral investment treaties. In this state of quandary, we cannot be oblivious to *White Industries Australia Limited v. The Republic of India*, *UNCITRAL* case which arose out of a dispute related to an investment made by White Industries Australia Limited under an AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF INDIA AND THE GOVERNMENT OF AUSTRALIA ON THE PROMOTION AND PROTECTION OF INVESTMENTS, a treaty entered into between India and Australia to foster investments.

The original award was already passed by the (ICC International Court of Arbitration) in 2001, but Coal India Limited had filed an application before the Calcutta High Court to set aside the foreign arbitral award, which was objected to by White Industries Ltd. The Calcutta High Court declined to accept the application of White Industries Ltd, which led it to appeal to the Supreme Court of India. In the meantime, White Industries Limited had also filed an application to the High Court of Delhi to enforce the foreign award. It will be appalling to learn that even after a decade had elapsed, the dispute was lingering on to be decided. Such an inordinate delay by the Indian Judiciary in enforcing foreign arbitral awards frustrates the objective of entering into bilateral investment treaty.

It would also be germane to note the recent decision of the Supreme Court in *Centre for Public Interest Litigation v. Union of India* [2012(1) CGBCLJ 209], wherein, all the licenses that were accorded to various investors in the telecommunications sector from various countries, had been quashed by the court. This has diluted the confidence of investors in the Indian market. Recently, India and Russia entered into one such treaty, namely, “AGREEMENT BETWEEN THE GOVERNMENT OF THE RUSSIAN FEDERATION AND THE GOVERNMENT OF THE REPUBLIC OF INDIA FOR THE PROMOTION AND MUTUAL PROTECTION OF INVESTMENTS.” According to Article 9 of the Treaty, all disputes that arise out of the investments are to be resolved amicably through arbitration. All such treaties have arbitration as the mechanism to settle disputes arising out of those investments. Following the Supreme Court’s verdict in the *Centre for Public Interest Litigation’s case*, the Russian telecommunications giant, *Sistema* has already initiated international commercial arbitration.

All these entangled issues raise a compelling and interesting area for the academia to research, deliberate and descant upon. Some of the core issues that need to be addressed are:

- Should it be justified on the part of Indian courts to consistently expand the scope of intervention of courts in arbitration proceedings?
- Whether the new stand taken by the Supreme Court in *Bharat Aluminium Company's case* is justified?
- Whether India has been able to meet its obligations under the bilateral investment treaties with special reference to enforcement of foreign arbitral awards (*White Industries case*)?
- Provision for arbitration has been inserted in most of the bilateral investment treaties with a view to foment confidence of investors, but will it achieve the desired end; keeping in view the recent *CPIL v. Union of India* case?
- How far the current regime of Arbitration is in conformity or at deviance with the law operative at the international level?
- Last, but not the least, it needs to be examined from a broader perspective, as to whether Arbitration in India has become the foremost step of litigation, and if yes, then what is the way out?

In the light of this prefatory remark, it becomes apt to critically examine the emerging issues in the law of Arbitration and come up with feasible perspectives in this regard.

NOESIS, VOLUME 1 ISSUE 1

The *National University of Study and Research in Law, Ranchi* is soliciting quality submissions from the student fraternity for the seminal issue of *NOESIS: The Student Law Review*.

THEME: The current issue shall be specifically dedicated to the “*Emerging Issues in the law of Arbitration*”.

GENERAL GUIDELINES FOR SUBMISSION & SELECTION PROCESS

The entire process shall involve three steps:

Firstly, the Author(s) are requested to submit a *Prototype of the Paper* delineating the key ideas and themes they intend to deliberate upon; in not more than 1000 words.

Secondly, the author(s) shall be duly informed regarding acceptance or rejection of their proposed article (Prototype).

Thirdly, the accepted articles shall be sent for blind peer review.

Finally, the author(s) shall be provided with a certificate of acceptance for publication of the article in *Noesis: The Student Law Review*.

SUBMISSION:

1. *Co-Authorship*: Co-authorship to a maximum of two authors is permitted.
2. The main body of the submission must not contain any identification of the author(s) or their institution.
3. The final manuscripts should strictly adhere to the word limit prescribed for each category.
4. All submissions must be made through our *E-Submission System*, available at www.slrnoesis.weebly.com.

Sub-themes

1. Excessive intervention of Judiciary in Arbitration proceedings.
2. Critique of BALCO v. Kaiser Aluminium Technical Services Inc.
3. India's obligation under bilateral investment treaties with special reference to enforcement of foreign arbitral awards.
4. International Commercial Arbitration- An apparatus to foster investments.
5. Current Indian regime of Arbitration vis-a-vis International law (Arbitration).
6. Arbitration: First step of Litigation.

CATEGORY

WORD LIMIT

A. Special Article	5,000-8,000
B. Essay	4,000-5,000
C. Book Review	2,000-3,000
D. Case Note	1,500-3,000

GUIDELINES: STYLE

1. FORMAT OF SUBMISSION:

- The main text of the submission should adhere to the Bookman Old Style, Font Size 12 with 1.5 line spacing. The whole text of the manuscript must be justified. Page numbers should appear at the bottom of each page in the centre.
- The footnotes should be in font size 10, Bookman Old Style, 1.0 line spacing.
- Speaking footnotes must be avoided. Use of more than one diacritical at one place is prohibited. The contributors are required to use only footnotes. Use of end-notes and References are strictly prohibited.
- The submissions must be made strictly through our *Electronic Submission System* (ESS) available at the Noesis Website (www.slrnoesis.weebly.com).

2. ABSTRACT:

- The selected authors are requested to submit their full papers along with an abstract not exceeding 300 words describing the relevant points of discussion and the conclusions drawn thereof.

3. HEADINGS:

- The Main title should be centred, typed in capitals (Book Title Format) and emphasized in bold with font size 15. The Sub-titles must be left indented, emphasized in *Italics* with font size 14.

4. CITATION:

- All the citations must conform to the *NUSRL Citation Manual*, which is available at www.slrnoesis.weebly.com.

TERMS AND CONDITIONS

1. Prototypes/Manuscripts submitted after the deadline shall not be entertained in any case whatsoever.
2. All manuscripts must be original work of the author(s). Plagiarism is strictly prohibited and any plagiarized work shall be out-rightly rejected. However, statements etc. borrowed in verbatim must be properly documented within quotes.
3. Previously published contributions or those which stands accepted for publication elsewhere must not be submitted.
4. It is the responsibility of the contributor(s) to ensure that all references, acknowledgments, citations are correct and that the submission does not contain any material that infringes copyright or any other right(s) of third party and that the manuscript does not contain any defamatory, obscene, racially prejudicial or otherwise unlawful or litigious material.
5. Copyright shall exclusively vest in Noesis Editorial Board over the accepted articles. The author(s) would not receive any royalty or share towards publication of their article in Noesis.

IMPORTANT DATES

Last Date for Submission of Prototype
30 May, 2013

Confirmation of Acceptance of Prototype
15 June, 2013

Submission of Full Paper
15 August, 2013

Confirmation of Publication
15 September, 2013

Contact Us

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