

# India's aviation arbitration cases will still fly off overseas

**The Bharatiya Vayuyan Adhiniyam, 2024 remains incomplete without arbitration reform**

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'India should look to jurisdictions such as Singapore and the United Kingdom, which have built strong and specialised arbitration systems catering to the aviation sector' | Photo Credit: Getty Images/iStockphoto

In 1934, India's skies were not its own. Under British colonial rule, the Aircraft Act of 1934 governed aviation in India, a law that was designed not to foster a burgeoning aviation sector but to ensure British control over airspace. The idea of ordinary Indians flying in commercial aircraft seemed like a far-fetched dream. Designed to control air traffic for military and administrative purposes, the Act soon showed that it was ill-equipped to handle rapid technological advancements, soaring passenger numbers, and

the rise of private sector participation in aviation. Despite India's growing aviation industry over the decades, the legal framework has remained stuck in the past.

This legal inertia has led to significant challenges for India's aviation sector. Private and public airlines faced bureaucratic delays that hampered their growth. New ventures struggled to enter the market due to the cumbersome licensing process. Air traffic management was inefficient, and even fundamental issues such as passenger compensation for flight delays or cancellations were not adequately addressed. It became painfully clear that the old laws were no longer fit for a nation whose aviation sector had evolved far beyond what the Aircraft Act anticipated.

Fast forward to 2024, where India has moved beyond its colonial past. The Bharatiya Vayuyan Adhiniyam, 2024 marks a new era, introducing reforms and replacing the 1934 Act, and promising a future where Indian aviation can truly take flight. However, there is one issue that remains: Will India's new aviation reforms also help its arbitration system align with global norms? Or will commercial aviation disputes continue to move to Singapore, London and Paris?

## **A forward step but still incomplete**

The Bharatiya Vayuyan Adhiniyam 2024 is a breath of fresh air for India's aviation industry. By streamlining licensing procedures and tackling the inefficiencies of air traffic management, it aims to position India as a global leader in aviation. Passengers also stand to benefit, with enhanced rights and compensation mechanisms for delays and cancellations.

However, despite these impressive reforms, there is one critical aspect that remains unaddressed: arbitration. While the Adhiniyam overhauls much of India's aviation infrastructure, it has done little to modernise the legal framework to resolve international disputes. So, with the lack of specialised aviation arbitration in India, will the country continue to lose aviation cases to global arbitration hubs?

India's current framework for commercial arbitration, governed by the Arbitration and Conciliation Act of 1996, does not address the unique needs of aviation disputes. These often involve specialised issues that range from technical matters to international treaties. India's courts and arbitration centres lack the expertise to handle such complex cases effectively without a dedicated aviation arbitration framework. This gap in expertise and specialisation means that aviation companies that deal with issues

such as cross-border regulations, airline contracts, and aviation safety standards are unlikely to look to India as a preferred venue for dispute resolution.

## India versus overseas centres

Despite establishing institutions such as the Delhi International Arbitration Centre and the Mumbai Centre for International Arbitration, India has yet to make a significant mark on the global arbitration stage. The Singapore International Arbitration Centre currently handles around 90% of corporate arbitration cases involving Indian parties, a statistic that highlights India's failure to build the necessary institutional support for high-stakes arbitration. This lack of infrastructure for specialised sectors such as aviation is why its arbitration sector remains underdeveloped. Without a dedicated focus on aviation disputes, cases will continue to move abroad. The issue is not about laws alone but about the right people, the systems and the infrastructure to handle complex international disputes.

If India is serious about becoming a global leader in aviation, it must make a concerted effort to develop a specialised aviation arbitration framework. This would involve establishing dedicated institutions with panels of experts in aviation law, technology and international treaties. It is not enough to have a generic arbitration framework. Aviation disputes require a deep understanding of the sector's unique challenges.

India should also look to jurisdictions such as Singapore and the United Kingdom, which have built strong and specialised arbitration systems catering to the aviation sector. India needs to adopt a similar approach by creating specialised arbitration panels, creating incentives for private sector involvement and focusing on building expertise in aviation law. Law schools can play an important role in this.

This arbitration exodus is a procedural economic and policy failure that affects India's global standing. Every case that moves abroad means lost revenue for Indian arbitrators, law firms and legal institutions. More importantly, it sends a troubling signal to foreign investors and aviation companies — that India lacks the confidence and the infrastructure to handle high-stakes disputes. However, with a robust aviation arbitration system, India could attract more aviation businesses, increasing investments, economic growth and having a more substantial global aviation presence.

India must ensure neutrality in arbitrator appointments. The government should appoint arbitrators only through mutual agreement or by an independent arbitration

body. This is standard practice in leading arbitration hubs, and India must follow suit if it wants to be taken seriously. Further, India must reduce judicial and executive interference in arbitration. Indian arbitration awards often get dragged into long court battles. A stable and predictable legal environment is essential if India wants to attract more arbitration cases.

## **Key areas to focus on**

The path forward is clear: India must prioritise neutrality, transparency, and institutional strength. It must align itself with the best global practices and eliminate provisions that create a perception of bias. The Bharatiya Vayuyan Adhinyam 2024 is a landmark step but remains incomplete without arbitration reform. The Arbitration and Conciliation Act, 1996 provides a general framework, but aviation disputes demand specialised expertise.

Unless India builds a dedicated aviation arbitration ecosystem with expert arbitrators, specialised institutions, and global credibility, disputes will keep flying off abroad, and investments may follow suit. The time for reform is now.

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