

EDITORIAL NOTE

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We are pleased to announce the release of the awaited Volume 2 Issue 2 of the *NUJS Journal on Dispute Resolution* ('JODR'). In furtherance of its foundational agenda, JODR continues to publish quality scholarship on recent national and international developments in the field of dispute resolution with the release of this issue.

The dispute resolution landscape in India has stood a witness to major reforms in the recent few years, with the judiciary as well as the legislature propelling a pro-arbitration regime in India. This has been reflected in the Indian parliament's proactive approach to amending the Arbitration and Conciliation Act, 1996 to advance the fostering of arbitration in India by removing obstacles towards the enforcement of arbitral awards. Further, the Supreme Court of India has pronounced rulings that allow Indian parties to select a foreign seat of arbitration by recognising party autonomy¹ and that enable the enforcement of emergency arbitration awards in India.² Such a welcome trajectory in resolving commercial disputes will potentially improve India's performance in the enforcement of contracts, thereby reducing the risks associated with investments in India.

In light of this emerging landscape for dispute resolution in India, this issue of JODR has been curated to provide scholarship on a variety of issues, ranging from emerging concerns related to blockchain-based arbitration to the complications regarding enforcing business and human rights in the Indian arbitration regime. This issue of JODR consists of four contributions which seek to provide critical discourse on different areas of dispute resolution.

In the first contribution, titled 'To consider or not? The Complicated Case of Business and Human Rights in Indian Arbitration Regime' authored by Aditya Misra, the author delves into discussing the minimal protection offered to the victims of human rights violations at the workplace and the role of business and human rights arbitration in remedying the matter. The author examines the potential roadblocks in the intersectionality of business, human rights and arbitration and makes a case for having a uniform international human rights treaty for applying uniform human rights standards to all parties and stakeholders involved.

In the next article, 'Legal and Policy concerns with Blockchain-based Arbitration', Ankit Kapoor writes about the challenges faced by emerging blockchain-based arbitration. Kapoor discusses that the fundamentals of blockchain, including decentralisation, pseudonymity and irreversibility, pose concerns over the validity of the arbitration agreement, enforcement procedure, due process and the independence of the arbitrator, among other challenges. The author argues that there are several structural limitations to the process of implementing blockchain-based arbitration, which further gives rise to several legal concerns as well, thereby necessitating the presence of human arbitrators.

In the next contribution, titled 'Online Dispute Resolution in India: Current position and the way ahead', authored by Ravitej Chilumuri, Mihika Jalan and Pranjali Agarwal, the authors trace the response of the legislature and judiciary in India to the shift from litigation to Online Dispute Resolution ('ODR'). Through the article, the authors discuss the rules on e-arbitration laid

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¹ *Pasl Wind Solution Private Limited v. GE Power Conversion India Private Limited*, 2021 SCC OnLine SC 331.

² *Amazon.com NV Investment Holdings LLC v. Future Retail Ltd.*, (2021) SCC Civil Appeal Nos. 4492-4493.

down by arbitral bodies, including the ICC, SIAC and LCIA and the international protocols on the matter. Further, the authors examine the potential of implementing ODR in India by analysing the issues and providing solutions to mitigate them.

Thereafter, Rishabha Meena and Amandeep Kaur Bajwain, in the last manuscript titled ‘Jurisdictional Limitations: Assessment of the International Investment Agreement Limiting Investor’s Access to the Investor-State Dispute Settlement Mechanism’ discuss the attempt to rectify the disequilibrium between the rights of the foreign investor and the Host State’s authority to regulate their actions by limiting investors’ access to Investor-State Dispute Settlement (‘ISDS’) mechanism under International Investment Agreements (‘IIAs’). The authors categorise such limitations into four categories, namely, limiting the scope of investment, conditional inclusion of legality, exhaustion of local remedies and the requirement of consent to initiate disputes before the ISDS. Thereafter, the authors analyse these limitations and their implications for restricting investors’ right to bring a claim before the ISDS tribunal.

This issue of the journal seeks to maintain the highest standards of academic literature that have been set by JODR from its initiation. The Editorial Board would like to express its immense gratitude to our esteemed Advisory Board, our Vice-Chancellor Prof (Dr) N.K. Chakrabarti and our Faculty Advisory, Mr Atul Alexander. We are extremely grateful to all the authors who have contributed their insightful manuscripts and have cooperated with us throughout the publication process. We hope that the readers find this issue of the journal stimulating and inspirational for pursuing similar and additional areas of research.