

# Dispute Resolution Hotline

April 15, 2021

## DEMYSTIFYING PUBLIC POLICY TO ENABLE ENFORCEMENT OF FOREIGN AWARDS – INDIAN PERSPECTIVE

This article was originally published in Indian Review of International Arbitration.

The open-textured and variable nature of 'public policy' has created much divergence in the international arbitration community on its meaning, applicability and limits. For some, public policy has played a savior of foreign awards; for others, it has set the arbitration proceedings and the outcome at naught. Most award creditors may have realized the fruits of their arbitration only after long arduous legal proceedings to establish non-contravention of public policy. This has created a cloud of uncertainty and unpredictability around public policy.

This present article attempts to demystify this uncertainty, and deduce situations in which the scope and ambit of public policy can be assertively ascertained. It examines 'public policy' as a ground for grant or refusal of enforcement of a foreign award in a jurisdiction that has one of the largest judicial caseload of international commercial disputes and international arbitration - India. While arriving at our deductions, we will analyze the context in which public policy is placed under the New York Convention; Indian law and its adoption of the New York Convention; the meaning of public policy and its realm of operation in law for purposes of enforcement of foreign awards; and judicial interpretation of public policy by Indian courts. In the end, based on the aforesaid analysis, we identify practical situations in which public policy can be raised as a ground to resist or defend resistance to enforcement of foreign awards.

The complete article can be accessed [here](#).

– Bhavana Sunder & Kshama A. Loya

You can direct your queries or comments to the authors

### DISCLAIMER

The contents of this hotline should not be construed as legal opinion. View detailed disclaimer.

This Hotline provides general information existing at the time of preparation. The Hotline is intended as a news update and Nishith Desai Associates neither assumes nor accepts any responsibility for any loss arising to any person acting or refraining from acting as a result of any material contained in this Hotline. It is recommended that professional advice be taken based on the specific facts and circumstances. This Hotline does not substitute the need to refer to the original pronouncements.

This is not a Spam mail. You have received this mail because you have either requested for it or someone must have suggested your name. Since India has no anti-spamming law, we refer to the US directive, which states that a mail cannot be considered Spam if it contains the sender's contact information, which this mail does. In case this mail doesn't concern you, please unsubscribe from mailing list.

## Research Papers

### Horizon Technologies

January 21, 2025

### Compendium of Research Papers

January 11, 2025

### FAQs on Setting Up of Offices in India

December 13, 2024

## Research Articles

### INDIA 2025: The Emerging Powerhouse for Private Equity and M&A Deals

January 15, 2025

### Key changes to Model Concession Agreements in the Road Sector

January 03, 2025

### The Revolution Realized: Bitcoin's Triumph

December 05, 2024

## Audio

### Securities Market Regulator's Continued Quest Against "Unfiltered" Financial Advice

December 18, 2024

### Digital Lending - Part 1 - What's New with NBFC P2Ps

November 19, 2024

### Renewable Roadmap: Budget 2024 and Beyond - Part I

August 26, 2024

## NDA Connect

Connect with us at events, conferences and seminars.

## NDA Hotline

[Click here to view Hotline archives.](#)

## Video

### "Investment return is not enough" Nishith Desai with Nikunj Dalmia (ET Now) at FI18 event in Riyadh

October 31, 2024

### Analysing SEBI's Consultation Paper

on Simplification of registration for  
FPIs

September 26, 2024

Scope of judicial interference and  
inquiry in an application for  
appointment of arbitrator under the  
(Indian) Arbitration and Conciliation  
Act, 1996

September 22, 2024