



INDIA ADR WEEKDAY 1: BANGALORE

SESSION 4

Strengthening Bengaluru as the Destination for Dispute Resolution

06:00 PM To 07:00 PM IST

Moderator – KG Raghavan, Senior Advocate, High Court of Karnataka

Speakers:

Harish Narasappa, Senior Advocate, High Court of Karnataka

Karan Joseph, Partner, Shardul Amarchand Mangaldas

Nishanth Kadur, Leader, Nishith Desai Associates

Poornima Hatti, Partner, SAMVAD Partners

Shreyas Jayasimha, Advocate Arbitrator Mediator, Aarna Law



1 **HOST:** Thank you very much for that insightful discussion. I will now like to invite upon stage
2 the panellists for the next session by MCIA on Strengthening Bengaluru as the Destination for
3 Dispute Resolution. I would like to invite on stage Mr. KG Raghavan, who's Senior Advocate
4 who's moderating the session along with Dr. Harish Narasappa, Senior Advocate. Mr. Karan
5 Joseph, Partner at Shardul Amarchand Mangaldas. Mr. Nishanth Kadur, Leader at Nishith
6 Desai Associates. Ms. Poornima Hatti, Partner at SAMVAD Partners and Mr. Shreyas
7 Jayasimha, from Aarna Law.

8
9 **KG RAGHAVAN:** Closing the domain everybody. I think we shall bring in this last session
10 on a very interesting subject -- Strengthening Bengaluru as a Destination for Dispute
11 Resolution. Many of us are hardcore Bangaloreans. So this subject has two aspects to it. One
12 is, of course, the practicality of doing it. The advantages of doing it in a very objective manner.
13 In other words, to objectively assess as to where Bangalore is in terms of being a destination
14 for arbitration. The second, and I think it's a very important aspect, because that contributes
15 the first is our emotional connect to the city. The moment we have this emotional connect with
16 this city, we will go all out to make it number one in anything. Today Bangalore is the IT capital
17 of the country. It is a very hospitable city. It is about joining [UNCLEAR]. You name the
18 facility, we have it. It is by and large a law and order city. All boxes are ticked. And now we
19 need to identify a few more boxes which need to be ticked for the purpose of making Bangalore
20 as the destination for Alternate Dispute Resolution.

21
22 I have with me my co-panellists who are all very experienced in the field of arbitration. They
23 have conducted arbitration not only in the city of Bangalore, but also in other cities in India.
24 They have travelled abroad, conducted arbitration there. So they will be able to give you a
25 perspective of what they see in this city which they don't see in other cities. What they see in
26 other cities which they don't see in this city. Therefore, you will have a complete perspective
27 of how to make Bangalore, the desired destination for arbitration. I have with me Mr. Harish
28 Narasappa, who is a Senior Advocate who has tremendous amount of experience in
29 arbitration. I have Karan Joseph from Shardul Amarchand Mangaldas. I have Nishanth from
30 Nishith Desai. I have Poornima from Samvad Partners and I have Shreyas Jayasimha from
31 Aarna Law. I now invite Harish Narasappa to share his thoughts on how to make Bengaluru
32 as a destination for dispute resolution. Over to you Harish.

33
34 **HARISH NARASAPPA:** Thank you, Mr. Raghavan. I think the question clearly identifies
35 that there is a problem, otherwise there won't be this question or this discussion. I think more
36 than trying to make it a destination for arbitration, which suggests that other people come here
37 and try and resolve their disputes, I feel the initial task is to retain the work that we're actually



1 generating in Bangalore. And there are enormous number of contracts that get signed in our
2 city across various subject matters. Technology, hardcore commercial matters, venture capital,
3 private equity and you name it. Because there are so many different kinds of businesses that
4 are now in the city. But what clauses are they choosing? Are they choosing Bangalore? And the
5 honest answer is, Bangalore is not the first choice, even for people who are in Bangalore and
6 for a number of reasons. So I think the discussion, at least in my view, should be about how do
7 we retain all the work that we're actually generating out of Bangalore and make sure that it
8 stays in Bangalore and gets resolved in Bangalore. So for that purpose, rather than trying to
9 make it as a destination, which I feel should be the next step after we retain the work that we
10 are generating here.

11
12 If we look at it, there are two, three factors which I feel are relevant. One, if you do a back of
13 the envelope calculation on the number of contracts that get signed on a daily basis in the city,
14 and you can do it in one of two ways. You can either count the number of businesses or actually
15 count the number of corporate lawyers that are in the city of Bangalore, and how many
16 contracts they're advising their clients to sign every day or every week. And then the numbers
17 runs into thousands, if not more, every month. But that's not the number of disputes that we
18 see in Bangalore. So what are the two or three factors that I feel we can make a change for the
19 positive to retain these matters when they reach a dispute stage in the city of Bangalore? One,
20 the biggest factor, which I hear when people are not choosing Bangalore is the lack of original
21 jurisdiction in our High Court. And even as Section 34 challenge or if it's a pure commercial
22 suit, it doesn't go to the High Court. It goes to the City Civil Court or the commercial division
23 of the City Civil Court. And if it's a Section 34 challenge, and it goes to the commercial division
24 of the City Civil Court and not the High Court, and that's a significant challenge. And that's
25 domestically, if you're comparing to Delhi or Mumbai or Chennai, then that's a drawback that
26 people talk about. So that's something I believe we can change, when I say the legislature needs
27 to change that maybe by bringing an amendment to the original jurisdiction of the High Court
28 and giving the High Court at least on some pecuniary basis that some matters go directly to
29 the High Court in a Section 34. So that's one thought process, I think we should pursue.

30
31 Second, just in terms of the ecosystem around dispute resolution. So there are two or three
32 sets of individuals and organizations that we need to focus on. One, the legal profession, and
33 we have seen an influx of talent into Bangalore primarily because of the expansion of law firms
34 in Bangalore. So that's something we have benefited from the expansion of business in
35 Bangalore to the number of law colleges in the city of Bangalore, I think is more than any other
36 city in India. I think there are about 89 law colleges in the city of Bangalore. And then if you
37 take Karnataka, there are a few more. So in terms of talent that is coming into the profession,



1 we have enough. But how does that translate into the adjudicators into the talent and pool of
2 adjudicators and that's something that we have to work on. And the third one is the institution.
3 What kind of institutions we have to support, both because the topic talks about Dispute
4 Resolution and not just ADR, but both in terms of the incoming talent, how do you prepare
5 them to address challenges that are beyond traditional kinds of dispute resolution and
6 traditional subject matters of dispute resolution. And in terms of ADR, what kind of
7 institutional support can you give to both adjudicators and the lawyers who are arguing the
8 matter. So I'll stop there with these comments and then come back in a bit.

9

10 **KG RAGHAVAN:** Thank you, Harish. I think you're given us a very broad perspective of the
11 issues that we need to address in order to make Bangalore as a destination for dispute
12 resolutions, and we shall take each of these as we get along with the other panellists. Poornima,
13 what do you think of Bangalore as a destination in terms of the availability of soft skills, more
14 importantly?

15

16 **POORNIMA HATTI:** Thank you, Mr. Raghavan. It's a pleasure to be here. I think the fact
17 that the India ADR week has at least one day in Bangalore demonstrates that we're on the map.
18 Neeti and me, were having a conversation outside in terms of how do we strengthen this more
19 and why is Bangalore getting just one day and Bombay and Delhi getting two days and what
20 more can we do? In the past ten years or so that I have been back in Bangalore, the number of
21 arbitration practitioners has definitely increased. Those of us who have chosen to make
22 Bangalore home, as Mr. Raghavan said, we're not relegating our practices only to Bangalore.
23 We're sitting in Bangalore with arbitrations in different parts of the world and the country. So
24 I think there has definitely been a movement towards that, and we then imbibe cross cultural
25 ideas to make sure that the competence of an arbitration that we run in Bangalore is equal to
26 anywhere else in the world. So I think that talent pool and the soft skills that we have brought
27 in through that definitely helps. Every day we get SEBI to say we want to practice only
28 international arbitration and be a part of your team. And we have to keep saying no, but you
29 still have run to that City Civil Court or you have to go to for your enforcement actions and it
30 just can't just be purely international arbitration. So I think in terms of that soft skill, we have
31 moved on. What we need, though, is capacity building if I may add to that. Harish mentioned
32 that only a High Court does not have original jurisdiction compared to Delhi. But I think while
33 we wait for that amendment, and that's a good place to say to everybody like Delhi or Bombay
34 or Chennai our High Court also has the original jurisdiction. I think we should start working
35 on capacity building for our Commercial Courts and for our City Civil Courts. If you've looked
36 after the commercial courts have come into play, the time taken by the commercial courts in
37 disposing Section 9s and Section 34s has decreased. They are beginning to understand what



1 arbitration means. They are beginning to understand what judicial support means. They are
2 beginning to understand that they do not have to intervene at all times. 15 years ago, I
3 remember I once went into the City Civil Court, and the judge was just overwhelmed with the
4 kind of investment that was coming into a private through private equity to a tech company.
5 That will be an aberration today. They do understand that the city is the Silicon Valley. It is
6 the tech capital. That there is a lot of money flowing in, and they are more interested in helping
7 strengthen the reputation of business in Bangalore. Of course, there is pressure from the
8 government. The government is watching in terms of doing ease of doing business indexes and
9 indices and all of that. So I think capacity building is really what I'm talking about has to also
10 happen. Lastly, we need a good pool of arbitrators. Recently, there was a pledge event in
11 Bangalore. A few women arbitrators and arbitration practitioners in Bangalore met up and all
12 of us said, what more can we do? Can we get the High Court to appoint counsel as arbitrators?
13 Why are we still relying on retired judges? Can we get them to talk more about women as
14 arbitrators and what more can we do? I think the fact that these conversations are now
15 happening on a regular basis and these conversations should then take some sort of fruition
16 to lead to a good pool of arbitrators I think the practitioners are already here. Thank you. I'll
17 stop there.

18

19 **KG RAGHAVAN:** Thank you, Poornima, I think that was a good insight. And, of course the
20 advantages of having original jurisdiction to the High Court to decide Section 9 or Section 34,
21 as opposed to having Commercial Courts is a debatable issue because the experience that one
22 has in Bombay with the delay in disposal of matters in the High Court is something that is
23 concerning, of course, but that's something that we have to debate in great depth. Shreyas, has
24 experience in dealing with arbitrations all across the world. In fact, he has represented India
25 in several Bilateral Investment Treaty arbitrations, and he has an office in Singapore. And it
26 will be useful to hear Shreyas's view on how Bangalore compares in terms of arbitration,
27 infrastructure, et cetera when compared with, say, what's happening in Singapore or London,
28 as the case may be. Over to you Shreyas.

29

30 **SHREYAS JAYASIMHA:** Thank you. Thank you, Mr. Raghavan, Namaskara. I've been
31 doing this, as you know, for 25 years and I'm glad I'm not the only person from Bengaluru
32 anymore. And but it still happens. It still happens in the Hague. It happens in other unlikely
33 areas, and it should not happen. So the first thing I would say, and I always address people in
34 the last row of any conference. So, all the people in the last row, is that spread your wings. You
35 have the skill sets. You should have the confidence to take on the world. And it is only in the
36 mind. Absolutely nowhere else. The infrastructure that is required for global competition is
37 internal. The external supports of an organization of public or private infrastructure can build.



1 But unless you unleash that determination to accept that you are globally competitive, and
2 that means you have the toolbox as an advocate that any international practitioner would be
3 expected to have in London wherever, New York, Singapore. You need to have that expectation
4 of yourself and then the world changes around you. So that's the first point I want to make.

5

6 Second, as you can see with more people making that choice, and I would say it's because of
7 that and not an external factor, you see the external environment changing. I applaud Nick,
8 who's here with us. Nick Peacock from London. But I also note the absence of almost every
9 other, and I'm sorry, there are a few others as well from outside India. Thank you. Sorry, I
10 didn't mention you by name. but the point I'm trying to make is that people are voting with
11 their feet even in India Arbitration ADR Week not to come to Bangalore. It's not just a number
12 of days. I have had so many emails come to me this week. I am coming to India, we'll be
13 delighted to see you in Delhi or Bombay. and those emails are flying in from all parts of the
14 world. So people are making a choice. How informed or not choice is a different matter. But
15 the reality is that Bangalore, forget being a destination for dispute resolution, is not even a
16 destination for a discussion on international arbitration. In fact, this gathering here is maybe
17 a fraction of some of the gatherings we've seen in the past. So there is a dwindling number,
18 and therefore we cannot take the early wins for granted. In terms of the infrastructure that can
19 actually facilitate the growth, I think in the last panel, and the feverish discussion around it. I
20 do not think you would have seen such a panel and the discussion in Delhi or Bombay. There
21 are some natural strengths, there are competitive, strong competitive advantages that
22 Bangalore has. I think it would be best for us to collectively choose to focus on those strong
23 competitive advantages. And it's typically in the knowledge economy. Knowledge, economy is
24 not limited to IT. It relates to pharma, it relates to cutting edge, bleeding edge technologies
25 space and there are several sectors where, as Harish said, the contracts are being written here,
26 but the clauses are elsewhere. But for that, we need to earn our spurs . We need to earn the
27 confidence of our clients that Bangalore can cater to their varied requirements.

28

29 And finally the point in infrastructure. I think if you look at the IDRC in London or you look
30 at the Paris Arbitration Centre, some of us are shareholders there. Nick is involved as Director
31 of IDRC. Those are all private initiatives. There is nothing stopping a set of billionaires,
32 trillionaires or humble crore-patis to conceive of a fractionally owned state of the art Dispute
33 Resolution Centre. You have seen examples of this happen in other domains in Bangalore.
34 Take, for example, Art and the Museum of Art and Photography. It just took Mr. Abhishek
35 Poddar and his family to be determined to build this. They were asking for land, they didn't
36 get it. They got it opposite the Venkatappa Art Gallery. but what they have built is globally
37 recognized as one of the best art museums in India. Now, this is the kind of quantum leap that



1 Bangalore should imagine and should create. And I think we have enough entrepreneurs and
2 entrepreneurial lawyers amongst us to come up with a business plan to have a fractionally
3 owned, privately owned dispute resolution space. And I do not think we need to look at
4 government or look at anyone with a sense of need. I think we know what the needs are. We
5 just have to go out and build it. And I think that way we solve the problems for ourselves. And
6 this is in the keeping with the spirit of the energy of Bangalore.

7

8 **KG RAGHAVAN:** Thank you, Shreyas. Now you have heard Harish tell us that in terms of
9 drafting a clause, Bangalore is not far behind. You have agreements drafted in Bangalore,
10 signed and settled in Bangalore, but having a clause for arbitration elsewhere. You heard
11 Poornima tell us that we have the soft skills in terms of Counsels and, of course, suggestions
12 as to who should be or who should not be an arbitrator that's a different issue. And we have
13 Shreyas who told us that we need to have a mindset. These are very encouraging thoughts. But
14 then, before we find a cure for the disease, we need to identify or diagnose the ailment. So I
15 want to ask Karan to tell us what are the ailments that afflict Bangalore to be a favourite
16 destination for Dispute Resolution? Over to you, Karan.

17

18 **KARAN JOSEPH:** Thank you, sir. To begin with, I think the biggest ailment Bangalore has
19 is that we're a young city. We've just started. All of this is fairly new to us, as opposed to
20 perhaps the traditional power centres of Delhi and Bombay. Now, of course, being a young
21 city, perhaps people don't want to come here as often as they go to Delhi and Bombay. But I
22 think the question that we must ask everyone who's perhaps looking forward to going to Delhi
23 and Bombay is how many of them who visit India at these conferences in Delhi and Bombay
24 have Indian seated arbitrations. I don't think there'll be many. So the task that we have here,
25 is to make sure that we are a suitable destination for arbitrations seated in India. Now, for
26 that, we need to have a conducive environment. To me, that is the legal ecosystem. Of course,
27 much has been said about courts. I think the fact that we now have our commercial courts who
28 are really good and we've made great strides. Of course, it means that there's one more level
29 because there's the Commercial Court, then the High Court, then the Supreme Court, as
30 opposed to perhaps if we went to the High Court directly. Right?

31

32 **KG RAGHAVAN:** Even with you go to the High court, you will have possibly a single judge
33 bench appeal within the High Court. So we are really not eliminating the number.

34

35 **KARAN JOSEPH:** So the second part that we will have to work on is institutions. People are
36 or they take great comfort in having arbitrations administered as per the ICC Rules for
37 instance, the LCIA rules, the SIAC rules. So we need to have a robust set of institutional rules.



1 Then there is the infrastructure, which you can split into physical and perhaps digital. I now
2 honestly think physical infrastructure is not as important as it used to be, given the advances
3 that we've made on the digital front. For instance, we have TERES here, which is transcribing
4 everything that we have said. TERES is being used by the Supreme Court for their
5 Constitutional Bench matters. But for some reason it's from Bangalore, but it's not being used
6 in Bangalore outside, I think of MCIA and perhaps a handful of arbitrations. So transcription,
7 for instance, there are, of course, several others is also something that we need to be focusing
8 on. We need to focus on security. What is the data security that we are having with these
9 institutions? There are, of course, two, three institutions in Bangalore. What security is there
10 when I send them pleadings? Arbitration, after all, is to be confidential. Then, of course, there's
11 e-filing, case management. Unfortunately it's still somewhat, very physical in that sense. The
12 other thing is the training of arbitrators and training of Counsels. I think we need to work
13 towards making sure that we're able to showcase Bangalore as having the talent, so that you
14 have, for instance, a CIR come to Bangalore and have a training program here right. How many
15 arbitrations in Bangalore have valuation experts, expert witnesses, hot tubbing? Barely any.
16 So I think all of these things we need to work towards to make sure that Bangalore is the
17 preferred destination for arbitration.

18

19 **KG RAGHAVAN:** That's a very good insight, Karan. Thank you very much. Nishanth, could
20 you just tell us about what you think are the factors which deter having Bangalore as a place
21 or a venue for arbitration, notwithstanding that today physical presence for arbitration might
22 have become or has become less important?

23

24 **NISHANTH KADUR:** Yeah. Thank you, Mr. Raghavan. I think some of these issues that I
25 will be talking about have been briefly touched upon by the other panellists. But like Mr.
26 Narasappa, was mentioning some time ago, a lot of contracts are made in Bangalore. A lot of
27 companies, and we have the kind of unicorns and really big companies operating out of
28 Bangalore, founded in Bangalore, entering into deals running into millions, if not billions. But
29 when it comes to drafting the arbitration clause, which is being done at the time, perhaps by a
30 corporate lawyer, or perhaps even with some advice from a disputes lawyer, we see that
31 Bangalore is often not even considered, and I have been guilty of giving this advice once or
32 twice. And I think one of the important reasons, right, and we did speak about, Poornima
33 spoke about how Commercial Courts are doing quite well with all the capacity building that's
34 going on and how disposals are very fast and how, in fact, they have taken the concept of
35 finality of awards very seriously. Sometimes, like a colleague at the bar was saying too
36 seriously. He was, of course, on the defending side of Section 34. But how they are taking these
37 concepts very seriously. I think the problem is awareness. I think a lot of people, especially



1 those not very well-versed with how commercial courts in Bangalore are dealing with matters,
2 would simply look at it as a black and white thing where, okay if the High Court has original
3 jurisdiction, it is very likely that I will have a better shot at getting what I want in the event of
4 a dispute rather than it being a lower court. And that mindset that trial court judges do not
5 understand commerce, trial court judges do not understand arbitration, unfortunately is there
6 quite a lot and that sort of needs to change.

7

8 The second thing, and this is also something that keeps coming up, is what we have noticed, is
9 on the appointment of arbitrators in a Section 11 petition, for example. We see that the High
10 Courts of Bombay and Delhi are a few steps ahead of us, that's at least my personal opinion,
11 when it comes to the pool of arbitrators they choose from. Right? So today we see that even
12 our High Court while deciding who should be the arbitrator in an ad hoc arbitration, often
13 relies on the list prepared by our arbitral institution in Bangalore which, to the best of my
14 understanding, does not have too many lawyers names, zero lawyers like. There's not much
15 choice, or rather discretion that is being exercised thinking about, okay, this Counsel perhaps
16 going to be good for this dispute. Why not appoint this Counsel, for a particular arbitration.
17 And we're seeing this happen slowly but gradually in other High Courts. And I think that's
18 something where we're lacking. In fact, we recently, all of us know that the Chief Justice of
19 India made a statement in court that he'd want young arbitrators to be appointed who could
20 then be considered as to be elevated to the bench. So I think that's one more area that we
21 should really looking at. I think I'll stop there, Mr. Raghavan.

22

23 **KG RAGHAVAN:** Harish, you mentioned that even though clauses Contracts are drafted
24 here, for some reason the arbitration clause does not prefer Bangalore. Why do you think it is
25 so in your experience? What is it that is deterring lawyers from promoting or pushing for
26 Bangalore?

27

28 **HARISH NARASAPPA:** Sir, I think there are two or three reasons from what I've gathered
29 over the last decade or so. And like Nishanth, I have been guilty of not choosing Bangalore
30 when I have advised clients and choosing or drafting commercial contracts. I think there are
31 three or four reasons. One, compared to other cities, and yes we have had a lot of history in
32 Bangalore of construction related arbitration, real estate related arbitration, even before the
33 liberalization era. But I think the initial set of businesses that came post-1991 in India, there
34 was a lot of focus on customers outside India, led by the IT industry, primarily, and then other
35 knowledge industries. So to say, a lot in a lot of cases, they were being dictated to. I mean, they
36 themselves were not in a bargaining position when it came to identifying governing laws and
37 venues for arbitration or seats for arbitration. So they didn't have a choice. And then when the



1 VC industry developed, really after 2008 onwards is when the VC industry became big and
2 that led to a new set of contracts and clauses being drafted. And again, there was no, if I may
3 add it, there was no combination or rather, there's no... the lawyers that were drafting clauses
4 were primarily corporate lawyers and their awareness of the dispute resolution ecosystem was
5 not, is not as great as it can be. As law firms have become bigger, the interaction between the
6 corporate department and dispute resolution department, it doesn't happen as often as it
7 should. And arbitration clauses are one of the last clauses that are included in the contract.
8 Normally, I was talking to somebody else and they said, oh, it's a 03:00 a.m. clause. You just
9 take the clause from the previous contract and you just add it in without really understanding
10 and analysing what are the issues involved in that contract and which city do you need to
11 choose, all of that. So that's the first two points that I wanted to make.

12

13 Third point is, I think we really don't know much, at least the people who are drafting the
14 contracts don't know much about the enormous advancement that people interacting between
15 technology at the intersection of law and technology have made with Bangalore as their centre.
16 Now there was an earlier panel discussion. I think, on ODR. All the companies are Bangalore
17 based and there are two or three more and all of them are the only companies I think of all the
18 ODR companies, organizations in India at the moment, I think there's only one that is not in
19 Bangalore. There are about five or six that are leading the charge on ODR. And about, I think,
20 except one, the rest are all in Bangalore. So there's no sort of embracing the advancements we
21 have made in technology and using of technology for dispute resolutions across the board. So
22 the traditional dispute resolution system, litigation and litigators and arbitrators have not
23 really combined forces with the technology, legal technology leaders. And partly because of
24 the cost and many of these legal tech platforms and legal tech solutions are sold to people
25 outside India because there's more money available there. So I think, somewhere I think
26 there's sort of a mismatch between availability of talent and ecosystem and embracing it and
27 adopting it in the proper fashion.

28

29 **KG RAGHAVAN:** There is one change which is perceptible between what it was, say, 15 years
30 ago and what it is today. Even though Bangalore had large business houses, for the purpose of
31 drafting contracts they would invariably look at Mumbai or Delhi. But today I think there is a
32 change because those large law firms have offices in Bangalore with, if I may say so, local
33 talent. And therefore Indian business houses, Bangalore based business houses, are now
34 looking at Bangalore lawyers, Bangalore firms to draft contracts. With that change do you
35 think, Poornima, we will have a better capability to include Bangalore as the venue for
36 arbitration? And that initial drawback that was there, where contracts were being drafted for
37 Bangalore businesses, outside Bangalore, I don't think any more exists?



1

2 **POORNIMA HATTI:** I think if we make a conscious effort, there's going to be change and I
3 think we do need to make that conscious effort. I mean, today, if I would take a considered
4 view, should we write in, I mean, for the first time, actually, yesterday we had a clause where
5 the businesses were not from Bangalore, but the seat was Bangalore. So we were very
6 pleasantly surprised. I made the team check again and the clients were, they didn't have a real
7 explanation as to why Bangalore was chosen? Nothing to do with Bangalore, but it was here.
8 So, I'm going to take that as a positive turn despite no clear explanation as to why it was here.
9 So I think with the maturing of the Bangalore legal market, whether outside from setting up
10 here or good homegrown talent in Bangalore, there is definitely going to be a change, and I
11 think we just have to consciously write it in. I don't see that we're behind in any way. If it means
12 that this results in more discussions, more conversations, we should definitely make it. Do we
13 need another institution in Bangalore? Shreyas talked about a certain kind of institution.
14 Karan also said a certain kind of institution. I know our court annexed arbitration centre has
15 many problems, both in terms of space, people, whole lot of things. But nothing prevents us
16 from writing in the SIAC, the MCIA, the LCIA, ICC wherever we want. So I don't think that is
17 holding us back and shouldn't hold us back.

18

19 The final thing is, why are we only comparing ourselves to Delhi and Bombay? Chennai and
20 Calcutta were sources of commerce with original jurisdiction. Nobody's writing Chennai in.
21 Nobody's writing Calcutta in. So we've made some progress. Let's acknowledge that and pat
22 ourselves on the back. We have moved. People are writing Bangalore in. Yes, we need to be
23 ambitious. I agree with that. And say, why Delhi or why Singapore? Let's do it here. I think
24 there is a lot of money that could come into Bangalore, which is going outside of India now
25 purely to make Singapore successful as a destination. There are specialist lawyers, specialist
26 experts all sitting in Singapore because they're adjudicating Indian arbitrations. Whether they
27 are writing an Indian law or not is a different question, but those arbitrations are sourced from
28 India. So I think there is definitely a market and that could move back here, and we should
29 definitely work towards making that happen. And perhaps at the end of this panel discussion,
30 if there is a sort of a resolution to do so, it will definitely move the bar a little bit. Thank you.

31

32 **KG RAGHAVAN:** You're right Poornima, but why do we compare ourselves with Mumbai or
33 Delhi? The reason is obvious. Delhi is a political capital. Mumbai is a financial capital. And if
34 there is any other city in this country which can claim to be a capital, it is Bangalore because
35 we are the IT capital of Bangalore, of India and we are the Silicon Valley of India. Now, having
36 said that, there is one other aspect that's very important, and I request Shreyas, to please
37 enlighten us on that subject, which is the financial services market, which is becoming a very



1 important area of operation for all businesses. And my experience tells me that the disputes
2 between investee companies and PEs has increased tremendously.

3

4 **SHREYAS JAYASIMHA:** So, thank you. There are two parts to the question that has been
5 posed to me, but let me take the opportunity to plug something in on the first part, which is
6 on financial services. This is the time I call your attention to a book that very few people might
7 have seen or picked up. It's a report of July 2024. It's a report of the expert committee for
8 drafting institutional arbitration rules for another new arbitration centre, God forbid, in the
9 IFSC, which is currently notified in Gift City. Now as part of that committee what we did was
10 we didn't listen to what the teacher asked us to do. While a client tells us to do something,
11 sometimes you feel as a professional, they need to hear something else. So if you were to turn,
12 if you're not distracted by the title of this report, you will find that inside it there are proposals
13 for a creation of a new international commercial court for an IFSC. There's no reason, in my
14 view, why IFSC should be restricted to the state of Gujrat. The current election has shown us
15 that India remains a very strong federation. There's no reason why Bangalore should not ask
16 for a designation of a busy area as a financial services area under the IFSC Act. In terms of
17 statutory reform, it has also been proposed to eliminate, for the purposes of the IFSC the
18 Section 37 appeal, so it will be shorter. And then there are sub phases, but I'll jump straight to
19 the most radical or perhaps the most commonsensical approach, which is to ask the question,
20 does India need a new High Court? Does India need a new High Court? Do we need an elevator
21 to advance our economic interest or are the stairs enough? And it has been now written in this
22 document that there is, in fact the constitutional amendments for somebody who wants to
23 critique it or somebody who wants to consider it. But where will the High Court be? I do not
24 know. Will it be Gujrat? Will it be here? Will it be anywhere else? The point I'm making is
25 simple that we need to tune into the moment that we have today in geo-economics. Last time
26 we saw it was perhaps in 2012. And we know what happened then. There's a couple of
27 sovereign instincts to say, let's exercise police power on taxation and a few other topics. But
28 now we need to see whether we want to seize this moment and create new governing law that
29 is fit for purpose. And that governing law can be India IFSC, which is delinked from India law
30 per se. Some sectors might demand it. There is such great competition in the financial services
31 sector, let's say in banking, even between London and New York till today. And there are, in
32 fact, instances in our neighbourhood, such as Singapore everybody talks about Singapore as a
33 seat. But years before that, Singapore developed the governing law project. The governing law
34 project was determined to make Singapore the governing law. Seat came next. The India
35 governing law project will be complicated, but perhaps the India IFSC governing law project
36 can be more directed. First point.

37



1 Second point, on your point about the PE disputes. I think that's separate from the financial
2 services, but I would just draw one link between the two, which is Fintech. Fintech shows the
3 lines blurring between traditional insurance, reinsurance, banking, finance, disputes and the
4 world of PE and the VC backed global plans. We all know that the innovators and the
5 entrepreneurs who are drawn to Bangalore are like the current designer do, is not for building
6 a next app for Bangaloreans. Each of these people are trying to build world beating business
7 plans. They are birthing businesses for the globe, but out of Bangalore. Therefore, just that
8 sheer ambition or that vision or the business plan will drive this bridge between Fintech
9 touching IFSC or financial services and the PE, VC world. Those disputes in the current
10 environment, will most likely go to Singapore, will most likely go to London. There's some
11 competition back between London few Indian senior counsel and thereby perhaps greater
12 people from India and Indian clients to perhaps choosing London as a seat, but in that,
13 Bangalore has opportunity. But I think it'll have to be creative, and it'll have to use tools that
14 are being provided, but it's for them to grasp it.

15

16 **KG RAGHAVAN:** You mentioned about governing law. That's an interesting aspect of this,
17 which I think we should look at it a little more. Now, compared to say the United States where
18 each state has different laws and your contract can say it's governed by the laws of New York,
19 governed by the laws of California, governed by the laws of Delaware, whatever. If we do not
20 have that type of an issue in this country, because we have a number of central enactments
21 which invariably govern many of these disputes excepting a few of these local statutes which
22 may have a role to play. Now, given that and the fact that we have such a robust business setup
23 in India, Karan, what do you think is the reason why people or companies do not prefer
24 Bangalore as a place for arbitration? Is it because the physical infrastructure generally is
25 brittle? Bangalore has been bashed right, left and centre for the traffic problem. Similarly, are
26 there other issues which stifle the growth of Bangalore? And is this Bangalore bashing
27 justified?

28

29 **KARAN JOSEPH:** My personal opinion is no.

30

31 **POORNIMA HATTI:** Can't find a solution to that problem.

32

33 **KG RAGHAVAN:** I told you, there is an emotional attachment to Bangalore.

34

35 **KARAN JOSEPH:** Sir, which is why I'm not as guilty as Harish and Nishanth because I have
36 never sent arbitration outside of Bangalore. All contracts, I insist are in Bangalore. At least
37 within India. Sir, I think that's really it gives us a bad reputation and if you look at it, perhaps



1 there are pockets that have these infrastructural issues within Bangalore, I think where we all
2 are, the centres of Bangalore, so to speak, don't really have those concerns. I think all of us
3 that we are fortunate enough to be in and around the courts and we don't deal with those
4 issues. In terms of, but I'd rather focus on the pluses. If you look at any large city all their
5 infrastructure is stressed. So there's nothing really spectacular or something that makes
6 Bangalore worse than another place. But what makes Bangalore better is, of course, the
7 connectivity that it offers, the facilities that it offers. The fact... there's also a cultural angle to
8 it. At the end of the day, Bangalore is a very cosmopolitan city. And if you look at all the other
9 centres, all the hubs, they are also cosmopolitan cities. So I think that does play a big role. In
10 terms of the last panel, anyone on that panel, could you imagine them as arbitrators on a tech
11 dispute? Absolutely, and I do not see you getting a better pool than those five people, perhaps
12 anywhere else. So there are strengths that we have, and instead of focusing on the weaknesses,
13 I'd rather that we advertise those strengths and show that we are a safe place to arbitrate. At
14 the end of the day, any party that wants an arbitration clause is concerned with only one thing,
15 enforcement. So as long as we're able to show that our courts are pro enforcement of course,
16 subject to exceptions, are pro enforcement, I think we will go a long way. So, for instance so
17 you brought out New York. New York has, apart from Section 10 of the FAA, the manifest
18 disregard. It's so, so remote that what you need to plead to get an award set aside. So I think
19 we need to move towards that sort of regime and I think we'll get there.

20
21 **KG RAGHAVAN:** I really like the point that Bangalore is a cosmopolitan city. Let's compare
22 Bangalore with say Chennai. I have nothing against any other city. But I'm making an objective
23 comparison between Bangalore on the one hand and Chennai on the other. Or, for that matter
24 take even Mumbai. In Bangalore, am I wedded to my language the way in which Chennai is
25 wedded to Tamil and Bombay is wedded to Marathi? I don't think so. You talk to an
26 autorickshaw driver in Bangalore in English, he will reply to you. You talk to him in Hindi, he
27 will reply to you in Hindi. Do you have the same experience in Chennai? I can tell you it's not
28 that way. Do you have the same experience in Bombay? I can tell you it's not that way.
29 Therefore, the strength of Bangalore is its cosmopolitan character. We are all embracing. Now,
30 how do you think Nishanth, we can capitalize on the point that Karan mentioned about the
31 cosmopolitan outlook of Bangaloreans?

32
33 **NISHANTH KADUR:** I think, so just before I answer that question, on a lighter note, I think
34 going back to what Poornima, was talking about on how they found an arbitration clause that
35 had no connection with Bangalore but had Bangalore as the seat, I'm just hoping it was not a
36 03:00 a.m. clause like Harish mentioned, just take copy paste from an earlier agreement. And
37 we do see quite a bit of that happening. 03:00 a.m. clauses, which I guess is another positive



1 development. But I think just to generally answer your question, there have been a lot of leaps
2 already taken, like Karan was mentioning, I think in terms of the judicial infrastructure.
3 There's been a lot that has been happening in terms of enforceability. Something we didn't see
4 five, six years ago we're seeing now where there's a clear demarcation made when it's an award,
5 as opposed to a judgment and how awards are being given that sort of deference, even in the
6 first hearing interim reliefs are being passed, et cetera. So I think we have come a little far in
7 terms of judicial infrastructure and talking about the cosmopolitan nature, something I
8 mentioned a while ago, I think we have the big businesses, big industries that are already there,
9 and contracts are already being drawn up. But what we really need to focus on is that last part
10 on how do we bring, how do we convince lawyers who may not be very well versed with how
11 courts function in Bangalore, that Bangalore is, in fact, a good arbitral destination.

12

13 **KG RAGHAVAN:** But Shreyas has mentioned that we should not look at government
14 support for the purpose of promoting Bangalore. But Bangalore has had continuously over
15 several years, international conferences, international meets to attract investment. We have
16 Invest Karnataka. That's a flagship program of the Government of Karnataka, inviting
17 business leaders from all across the world to come to Bangalore to invest. Now, don't you think,
18 I leave that question open to anybody who want to take it in the panel, don't you think that
19 Invest Karnataka should also promote Bangalore as a Dispute Resolution venue?

20

21 **SHREYAS JAYASIMHA:** I'd say yes, course. But we should understand that Invest
22 Karnataka in my view is not at all as aggressive as many other state investment programs that
23 I've observed from other states. And I don't think the orientation has yet arrived in any of the
24 state invest programs to say that the Dispute Resolution Centre, and its efficiency is a key part
25 of a business decision, when you look at the risk reward matrix while you choose to have a
26 location. So I think Invest Karnataka has got an opportunity but it has to be perhaps educated
27 that the opportunity exists. And I think that onus lies on all of the people in this room.

28

29 **HARISH NARASAPPA:** If we can add, I think there are certain subject matters or certain
30 sectors, I think, where we can certainly push it. I mean, there are certain not just government,
31 but industry bodies, for example, whether it's technology or biotechnology, those sectors
32 they're very active and very aggressive in luring people to the city. But they're also aware that
33 the legal knowledge in those sectors is better in Bangalore than most other parts of the world,
34 and not just other parts of India. You have people sitting in Bangalore who are very good in
35 law relating to technology, and they compare with anybody else in the world. So I think there
36 may be an opportunity for us to showcase these strengths that we have that don't exist in many
37 other parts even when it comes to dispute resolution. That may be one way forward.



1

2 **KG RAGHAVAN:** I know the monitor tells me time's up, but we started late. So I will take
3 the liberty of winding up this panel discussion in next five minutes. I just want to make two
4 points and I leave it to the panels to take it up. One, why is it that there is a perception that
5 judges sitting in Delhi or Mumbai are more commercially savvy than judges sitting in
6 Bangalore, point number one. Second, is that perception right?

7

8 **POORNIMA HATTI:** I'll take it at the risk of being contrarian. I think it's true. Let's not kid
9 ourselves when we say that a commercial bench of the Delhi High Court is more commercially
10 minded than Bangalore. I think it's changing, but the fact is that they are more commercially
11 minded. So also of Bombay, of course. Bombay has its delays, which it's taking away. Maybe
12 even in Chennai. I think the judges of the High Court are more commercially minded. Simply
13 because traditionally our judges have not practiced commercial law. We probably are the first
14 or second generation of commercial lawyers. Earlier, the focus was something else. Whether
15 it was land reform, tax, something else. If you haven't practiced and done that work, you
16 obviously cannot be expected to be commercial minded. Are they learning? Are they open to
17 ideas? Of course they are. So that's where when I said the commercial courts are doing a great
18 job. I think there is some investment in terms of their training. They're conscious that they're
19 being watched. Bangalore is one of the cities that is being watched by the government for ease
20 of doing business. So they do keep to their timelines. They are learning, they are open to ideas.
21 So I think it will change. But as of now, yes, that is something that is concerning. If our High
22 Court starts appointing non-judges as arbitrators, it will definitely be a step forward. I think
23 that's easy to achieve. They may, I mean, whoever they may maintain a list of non-judges as
24 arbitrators, maybe small matters start. If the Supreme Court is doing it why can't we do it?
25 Maybe they can then reach out to other institutions and start that. The second point that I
26 wanted to make is, of course, we need the government in my opinion. The SIAC has not arrived
27 on the scene without the support of the Singapore Government. The Singapore Government
28 has put in time, energy, money at every SIAC Conference. The Chief Justice of Singapore still
29 comes to India. The Minister for Law still comes to India. They will come wherever they need
30 to do to make sure that the SIAC continues to remain relevant and Singapore is a tiny city. So
31 if we want to have a patch of that, we must involve the government in whatever form whether
32 Invest Karnataka or somebody else, and take that buy in and say, look, we're building
33 something, be a part of it in whatever form you want to do that. So I'll stop there. Thank you.

34

35 **KG RAGHAVAN:** Do you think, I just want to put a last question, and then we'll leave it to
36 the audience to express their views. Do you think that Bangalore being deprived of offices like



1 the trademark registry, the patent office, the operating office for SEBI, decision making body
2 of the RBI in Bangalore, these are all contributing to making Bangalore less attractive?

3

4 **SHREYAS JAYASIMHA:** So, I think to expect Delhi and Bombay to suddenly defer space
5 to Bangalore is unrealistic, and it will not happen. Bangalore must realize its own place in the
6 world on its own feet, not relying either on the State or the Central Government. Our biggest
7 strength is our people, is the energy that we've attracted here. As you said, the cosmopolitan.
8 For 21 or 22 years, we were voted as the number one place for foreigners to live in India. This
9 is our strength. We don't need any of these, any governmental interference at all. In fact to
10 press home the point and to clarify what Poornima had thought I'd said, I'm not advocating
11 the creation of a new institution, God forbid, no. I'm saying create an ecosystem, even a
12 physical ecosystem. Like Pramod, here has been instrumental in bringing the permanent court
13 of arbitration into Delhi. International institutions when they're located in India, why not
14 Bangalore? Why not other places? We've had the ICJ India chapter here for the longest time.
15 Similarly, we need to create the infrastructure, create the ecosystem of ideas and the ambition
16 to take these to action and fruition. And that's where I think our strengths lie. Expecting
17 domestic bodies to be located here is going into the realm of politics, which is our weakness.
18 We are always contravening in our political outcomes.

19

20 **KG RAGHAVAN:** Thank you. I think that's opened up a wide range of issues which have a
21 positive impact on making Bangalore as a destination for dispute resolution. And now I invite
22 the very learned audience to have their views on this very important subject.

23

24 **HARISH NARASAPPA:** Neeti, is suggesting that we are out of time.

25

26 **KG RAGHAVAN:** Yes, sure. Any questions, or do you think we'll oblige Neeti?

27

28 **POORNIMA HATTI:** If there are no questions, maybe you can do a poll to say.

29

30 **KG RAGHAVAN:** Yeah, go ahead. Go ahead. Sure, sure. Yeah you can use that. Please.

31

32 **AUDIENCE1:** [INAUDIBLE] when you wanted an important matter to be argued, you would
33 get counsel from Chennai. Now it just doesn't work.

34

35 **KG RAGHAVAN:** It's the other way.

36



1 **AUDIENCE1:** Yes. [INAUDIBLE] and I don't see any way. Of course I do agree, that
2 [UNCLEAR] maiden office, [UNCLEAR] SEBI office, or all these that you said, these are huge
3 contributors for Bangalore not being the commercial hub in the nineties. That should have
4 happened in the nineties so that I think we did miss the bus. For example, I didn't practice
5 only because every time I had to go to either Chennai or Mumbai [UNCLEAR]. So, I know
6 many people like [UNCLEAR]. So, having said it, that we are on the high rise. It is only a matter
7 of time that we will be the number one dispute resolution centre in India.

8

9 **KG RAGHAVAN:** Very good. That's good to end on a very positive note. Thank you very
10 much everybody. I thank the panellists for the very valuable contribution they have made and
11 the insight that we have had into this very important subject. And I thank all of you for giving
12 us this very patient hearing. Thank you once again.

13

14

15

16

~~~~~**END OF SESSION 4**~~~~~

17

18