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RIGHTING A WRONG: THE CORRECTION OF ARBITRAL AWARDS

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Abstract

Post-award reliefs in the arbitral process include, inter alia, requests for correction, interpretation, and additional awards. These remedies have been conceptualised as a result of the understanding that even final awards may be contaminated by errors and oversights. The option to apply for correction of arbitral awards allows parties to side-step awards that are incongruous with their circumstances or intentions, and therefore, undesirable or unenforceable. Corrections may be warranted on several grounds, ranging from those purely technical or clerical to more serious mistakes and omissions. It can be argued that the significance of this particular post-award remedy has been underplayed. Accordingly, this editorial sheds light on the grounds on which correction can be sought, the practice across jurisdictions concerning time-periods for correction, the right to be heard in correction proceedings, and the appropriate authority for making corrections. By analysing all aspects of correction proceedings, the endeavour of this editorial is to propose a framework which ensures that the parties' right to seek correction of arbitral awards is most effectively realised.

I. Introduction

The arbitral process is now, more often than not, protracted and expensive. Consequently, there is no greater misfortune for parties than to find themselves with an incorrect or unenforceable award. Thus, the importance of the post-award stage and the remedies available to disputing parties dissatisfied with the contents of an award can never be over-emphasised. While contracting parties must acquaint themselves with the prevailing positions on recognition and enforcement of arbitral awards as well as on setting aside proceedings, it is equally important to be aware of the position of the law of the seat of arbitration on other post-award motions such as requests for correction of arbitral awards, interpretation of arbitral awards, and additional awards.[1] This is because disputes submitted to arbitration are now becoming increasingly complex, and mistakes in the award may not be grave enough to warrant setting aside on grounds of due process or public policy.[2] In any case, even where annulment is possible, it is best avoided, as restarting the arbitral process would be cumbersome and time-consuming for the parties. Given the significance of

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1 The law of the seat assumes particular importance, as it is largely undisputed that the power to correct an arbitral award is governed by the law of the seat. *See generally* GARY B. BORN, INTERNATIONAL COMMERCIAL ARBITRATION 3369 et seq. §24.03 (3d ed. 2021). In Part V of the article, the authors will also examine the relevance of the law governing correction of arbitral awards in enforcement jurisdictions.

2 Shalini Soopramanien, *Gauging the Tension Between Finality and Fairness in Arbitration: An Assessment of the Scope and Limits of "Correction" and "Interpretation" of Final Awards*, at ¶ 5.6.1, YOUNG ICCA BLOG (Oct. 17, 2011), *available at* https://youngicca-blog.com/gauging-the-tension-between-finality-and-fairness-in-arbitration-an-assessment-of-the-scope-and-limits-of-correction-and-interpretation-of-final-awards-by-shalini-soopramanien/.

correction as a post-award relief, it is surprising that less attention has been paid to it in academic discourse.[3]

It is important to note that despite the fact that most jurisdictions provide that a tribunal is "*functus officio*"[4] once an arbitral award is rendered[5] and recognise the *res judicata* effect of the final award,[6] almost all national legal systems give parties the opportunity to avail these post-award remedies.[7] Even where the statute does not provide parties the right to seek correction or interpretation of arbitral awards, courts have recognised these remedies as part of the tribunal's inherent powers.[8] This is because it is impractical to assume that awards will always be free from defects, ambiguities, or errors. While applications seeking interpretation require the tribunal to clarify the intent behind an award or order rendered by it, requests for additional awards are made to enjoin the tribunal to decide a claim that was omitted in the original award. On the other hand, requests for correction seek rectification of inadvertent mistakes in the arbitral award.[9]

Such mistakes may be clerical or typographical but assume importance because of their financial or commercial effects.[10] At the same time, the errors need not be significant or monumental, and even minor and insignificant mistakes may be corrected through this mechanism.[11] When an award is corrected, a purely technical review is undertaken, and the substance of the award is not interfered with in any manner.[12] In other words, the power to correct such defects in arbitral awards has been construed very narrowly and does not extend to permit rectification of errors of law or fact.[13] The idea behind this remedy is to ensure that parties do not find themselves bound by an award for reliefs they never sought or those the tribunal never intended to grant.[14]

With requests for correction being the most frequently made and often pivotal in the arbitral process, this article discusses the grounds on which correction can be sought **[Part II]**, the relevant time-periods for correction proceedings **[Part III]**, the right of parties to be heard in correction proceedings **[Part IV]**, and whether the tribunal alone has the power to make corrections or there is scope for judicial interference **[Part V]**. In Part V, the authors also provide suggestions for the most effective utilisation of correction as a post-award remedy. In the final part, the authors conclude **[Part VI]**.

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3 Stuart Isaacs, *Life after Death: The Arbitral Tribunal's Role Following Its Final Award*, *in* JURISDICTION, ADMISSIBILITY AND CHOICE OF LAW IN INTERNATIONAL ARBITRATION: LIBER AMICORUM MICHAEL PRYLES 357 (Neil Kaplan & Michael J. Moser eds., 2016).

4 "Functus officio" refers to a body whose mandate has been discharged, either by virtue of successful completion of the objective for which it was created or by reason of expiry of any time limits imposed.

5 CODE DE PROCÉDURE CIVILE [C.P.C.] [CIVIL PROCEDURE CODE] art. 1485(1) (Fr.); ZIVILPROZESSORDNUNG [ZPO] [CODE OF CIVIL PROCEDURE], §§ 1056, 1058, 1059 (Ger.); Arbitration and Conciliation Act, No. 26 of 1996, § 32 (India) [*hereinafter* "Arbitration Act"].

6 Soopramanien, *supra* note 2.

7 Arbitration Act, No. 26 of 1996, § 33 (India); BORN, *supra* note 1, §24.03.

8 Tribunale federale [TF] [Federal Supreme Court] Nov. 2, 2000, DFT 126 III 524 (Switz.).

9 Luiz Olavo Baptista, *Correction and Clarification of Arbitral Awards*, *in* ARBITRATION ADVOCACY IN CHANGING TIMES, 15 ICCA CONGRESS SERIES 280 (Albert Jan Van den Berg ed., 2011).

10 BORN, *supra* note 1, § 24.03.

11 *See infra* text accompanying notes 21, 22, 23, 24.

12 Isaacs, *supra* note 3, at 366.

13 Vanol Far E. Mktg Pte Ltd v. Hin Leong Trading Pte Ltd. [1996] SFHC 108 (Sing.) [*hereinafter* "Vanol"].

14 Isaacs, *supra* note 3, at 360–61; KLAUS PETER BERGER, PRIVATE DISPUTE RESOLUTION IN INTERNATIONAL BUSINESS: NEGOTIATION, MEDIATION, ARBITRATION 645 (3d ed. 2015) [*hereinafter* "Berger"].

II. Grounds for Correction

Most national legislations, institutional rules and other international laws and conventions governing arbitration, including the UNCITRAL Model Law and the ICSID Convention, allow for correction of only certain kinds of errors, namely computational errors, clerical or typographical errors, and other errors of similar nature.[15] As mentioned earlier, this scope of correction is extremely restricted and does not include within its ambit an erroneous understanding of established laws or facts.[16]

The three aforementioned types of errors are generally understood as being facile in nature – often characterised as "*noises in communication*",[17] "*slip of the pen*",[18] and "*petty errors*".[19] However, such characterisation does not do justice to the true scope and implications of such errors. Although seemingly insignificant in most cases,[20] a closer look reveals that such defects have ranged from minor heedless mistakes such as incorrect punctuation marks[21] or misprints[22] to more significant errors such as arithmetical miscalculations concerning damages or interests.[23] Left unchecked, these errors have the potential to manifest into greater cause for concern.[24]

For instance, in *Mutual Shipping Corporation* v. *Bayshore Shipping Co. (The Montan)*, the arbitral tribunal mistakenly transposed the names of the parties resulting in the award being made in favour of the losing party.[25] On the basis of the reasons provided by the arbitrator in the award, the Court could adjudge that the mistake was a clerical error which qualified for correction by the Tribunal.

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15 United Nations Commission on International Trade Law (UNCITRAL), Model Law on International Commercial Arbitration, art. 33, G.A. Res. 40/72, U.N. Doc. A/RES/40/72 (Dec. 11, 1985), as amended by G.A. Res. 61/33, U.N. Doc. A/RES/61/33 (Dec. 18, 2006) [*hereinafter* "UNCITRAL Model Law"]; Convention on the Settlement of Investment Disputes between States and Nationals of Other States, art. 49, Oct. 14, 1966, 575 U.N.T.S. 159; Arbitration Act 1996, c. 23, § 57 (Eng.) [*hereinafter* "English Arbitration Act"]; Arbitration Act, No. 26 of 1996, §33 (India); Federal Arbitration Act of 1925, 9 U.S.C. §11 (2018); Arbitration Act, No. 37 of 2001, § 43 (Sing.); Law on International Commercial Arbitration (Aug. 12, 1993), art. 33 (Russ.); London Court of International Arbitration (LCIA) Arbitration Rules 2020, art. 27 [*hereinafter* "LCIA Rules 2020"]; International Chamber of Commerce (ICC) Arbitration Rules 2017, art. 36 [*hereinafter* "ICC Rules 2017"]; Singapore International Arbitration Centre (SIAC) Rules 2016, r. 33 [*hereinafter* "SIAC Rules 2016"]; Hong Kong International Arbitration Centre (HKIAC) Administered Arbitration Rules 2018, art. 38 [*hereinafter* "HKIAC Rules 2018"]; International Centre for Dispute Resolution (ICDR) International Arbitration Rules 2009, art. 30 [*hereinafter* "ICDR Rules 2009"].

16 James M. Gatis, *International and Domestic Arbitration Procedure: The Need for a Rule Providing a Limited Opportunity for Arbitral Reconsideration of Reasoned Awards*, 15(1) AM. REV. INT'L ARB. 12 (2005).

17 Baptista, *supra* note 10, at 275–88.

18 SC v. OE1 & OE2 [2020] HKCFI 2065 (H.K.); *see also* Tribunale federale [TF] [Federal Supreme Court] Republic A._____ v. B._____ International, Oct. 6, 2015, 4A_34/2015, ATF 141 III 495 (Switz.) (wherein such a slip was termed as '*lapsus calami*').

19 Diego Brian Gosis, *Addressing and Redressing Errors in ICSID Arbitration*, *in* RESHAPING THE INVESTOR-STATE DISPUTE SETTLEMENT SYSTEM: JOURNEYS FOR THE 21ST CENTURY 864 (Jean E. Kalicki & Anna Joubin-Bret eds., 2015); JOHN TORREY MORSE, THE LAW OF ARBITRATION AND AWARD 329 (1872).

20 For example, in Fischer v. CGA Comput. Ass'n, Inc., 612 F. Supp. 1038, 1041 (S.D.N.Y. 1985), the Court held that the word "declares" must be substituted with "finds" in an award where the arbitrator had intended to provide a monetary relief distinct from a declaratory relief.

21 Brooks W. Daly, *Correction and Interpretation of Arbitral Awards under the ICC Rules of Arbitration*, 13(1) ICC INT'L CT. ARB. BULL. 63 (2002) citing ICC Case No. 10386, Addendum to Award, 13(1) ICC INT'L CT. ARB. BULL. 86-87 (2002).

22 X v. Y & Ors., CCIG Case No. 130, Decision (Feb. 10, 2000).

23 Zimbabwe Electricity Supply Commission v. Genius Joel Maposa, Judgment No. HH-231-98 (Mar. 29, 1998 and Dec. 9, 1998) (unpublished) cited in XXV Y.B. COMM. ARB. 546 (2000).

24 INTERNATIONAL COMMERCIAL ARBITRATION AND MEDIATION IN UNCITRAL MODEL LAW JURISDICTIONS 437 (Peter Binder ed., 4th ed. 2019).

25 Mutual Shipping Corporation v. Bayshore Shipping Co. (The Montan) [1985] 1 WLR 625 (Eng.) [*hereinafter* "The Montan"].

Accordingly, the Court remitted the award to the Tribunal for taking the necessary course of action.[26]

In *Doglemor Trade Ltd.* v. *Caledor Consulting Ltd.*, the Claimants brought a challenge against an LCIA award after the Tribunal refused to correct a computational error despite admitting that it added rather than subtracted certain amounts that resulted in the assessment of damages at USD 58 million as opposed to the contended figure of USD 4 million.[27] The Court found the existence of an error of such nature in an enforceable award capable of causing substantial injustice to the Claimants.[28] Since the award had otherwise conclusively determined the issues between the parties, the Court decided to remit only those paragraphs which were affected by the error to the Tribunal for correction.[29]

Similarly, in another dispute involving computational errors, *Railroad Development Corporation* v. *Republic of Guatemala*, an ICSID tribunal upheld the request for correction and proceeded to apply the correct discount rate to deliver a revised award.[30] The application of the correct rate ultimately led to an addition of USD 2 million towards the sum of the award.[31]

Evidently, the presence of such defects in an award may not only lead to situations of absurdity[32] but may also cause substantial injustice at the stage of enforcement.[33] In *Xstrata Coal Queensland Pty Ltd.* v. *Benxi Iron & Steel (Group) International Economic & Trading Co. Ltd.*, the Court remitted the arbitral award of a London-seated arbitration for correction after it had been refused enforcement in China.[34] In this case, the award creditor had earlier requested the arbitral tribunal to correct a typographical error in relation to the correct identity of one of the parties to the arbitration and the underlying sales contract.[35] Upon the refusal of its request, the Claimant challenged the award before the High Court under Section 68 of the Arbitration Act, 1996 ["**English Arbitration Act**"] on grounds of serious irregularity in the conduct of arbitration. Among other factors, the Court considered the judgment of the Shenyang Intermediate People's Court in China which refused enforcement of the impugned award in China.[36] In the said judgment, contrary to the findings of the Tribunal, the Chinese court declared that there was no contractual relationship between the Claimant and the Respondent and consequently, the Claimant could not be considered a party to the arbitration agreement or an award creditor to seek enforcement of the award.[37] Against this background and satisfied with its earlier assessment that such error falls into the category of 'errors

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26 *Id.* at 638; *see also* Gosis, *supra* note 21, at 864, 871–72.
27 Doglemor Trade Ltd v. Caledor Consulting Ltd. [2020] EWHC 3342 (Comm) [2] (Eng.) [*hereinafter* "Doglemor"].
28 *Id.* at [68].
29 *Id.* at [73], [78]–[79].
30 Railroad Development Corporation v. Republic of Guatemala, ICSID Case No. ARB/07/23, Decision on Claimant's Request for Rectification of Award (Jan. 18, 2013).
31 *Id.*
32 FOUCHARD GAILLARD GOLDMAN ON INTERNATIONAL COMMERCIAL ARBITRATION 777 (Emmanuel Gaillard & John Savage eds., 1999).
33 Doglemore, [2020] EWHC 3342 (Comm) [65] (Eng.); Mobile Telecomms. Co. KSC v. HRH Prince Hussam Bin Saud Bin Abdulaziz Al Saud [2019] EWHC 3109 (Comm) (Eng.) [*hereinafter* "Mobile Telecommunications"].
34 Xstrata Coal Queensland Pty Ltd (Co. 098156702) [now known as Rolleston Coal Holding Pty Ltd] v. Benxi Iron & Steel (Group) Int'l Econ. & Trading Co. Ltd. [2020] EWHC 324 (Comm) [59] (Eng.) [*hereinafter* "Xstrata 2020"].
35 LCIA Rules 2014, art. 27.
36 Xstrata 2020, [2020] EWHC 324 (Comm) [56], [59] (Eng.).
37 *Id.* [20].

of a similar nature',[38] the English High Court deemed it fit to remit the award to the Tribunal for necessary correction in the interest of justness and reasonableness lest the Claimant faces similar jurisdictional challenges during enforcement proceedings elsewhere.[39]

The 'any errors of similar nature' ground has emerged as a rather perplexing ground for correction over time. Due to gross ambiguity in its language and with no perceptible homogeneity underlying the terms 'computational', 'typographical', and 'clerical' for proper application of the *ejusdem generis* rule, it becomes difficult to construe the precise scope of this ground.[40] At times when parties attempt to abuse appellate arbitral processes to get a second bite at the cherry, such grounds allow parties to further misuse the correction provisions to reopen arbitral awards for review on merits or at the very least delay the enforcement process.[41]

Similar concerns have also been raised about other grounds for correction found in national legislations, most notably the English Arbitration Act and the United States Federal Arbitration Act ["**FAA**"]. Whereas the English Arbitration Act allows correction of "*accidental slip or omission*" in addition to the usual grounds for correction,[42] the FAA allows modifications and corrections by national courts in a number of instances including in cases where there exists an "*evident material mistake*" or where issues have been "*deliberately left open by an interim or partial final award*".[43] It is often argued that by allowing courts to take over the role of arbitral tribunals in the correction phase, the FAA has created an unnecessary affront to efficiency and expediency in obtaining legally correct awards in the U.S.[44] On the other hand, the accidental slip rule has extended the powers of the arbitrators to correct their unintentional oversight[45] or misunderstanding of relevant evidence(s)[46] as post-award remedial measures under the English law.[47] Regardless of such broad grounds, both jurisdictions require that a correction must not affect the merits of the award and should be limited to only "*effect the intent*" of the tribunal.[48] The very nature of the list of correctable errors demonstrates that correction should only be permitted to allow the award to reflect the intended expression of the tribunal.[49] Such interpretation is further buttressed by the fact that any decision regarding correction has to be compulsorily grounded exclusively on existing evidence and the satisfaction of the tribunal that there was indeed a mistake in the expression of its

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38 *Id.* [15] citing Xstrata Coal Queensland Pty Ltd (2) Sumisho Coal Australia Pty Ltd (3) Itochu Coal Resources Australia Pty Ltd (4) ICRA OC Pty Ltd v. Benxi Iron & Steel (Grp.) Int'l Econ. & Trading Co. Ltd. [2016] EWHC 2022 (Comm) [32] (Eng.) [*hereinafter* "Xstrata 2016"].

39 *Id.* [46]–[47]; *Cf.* Mobile Telecommunications, [2019] EWHC 3109 (Comm) (Eng.).

40 CNH Global NV v. PGN Logistics Ltd. [2009] EWHC 977 (Eng.).

41 Andrew N. Vollmer & Angela J. Bedford, *Post-Award Arbitral Proceedings*, 15(1) J. INT'L ARB. 37, 48-49 (1998).

42 English Arbitration Act, c. 23, § 57(3)(a); Born, *supra* note 1, §24.03; Arif Hyder Ali, Jane Wessel, Alexandre de Gramont & Ryan Mellske, THE INTERNATIONAL ARBITRATION RULEBOOK: A GUIDE TO ARBITRAL REGIMES 576 (2019) [*hereinafter* "Ali et al."].

43 9 U.S.C. § 11.

44 BORN, supra note 1, §24.03; Stephen A. Hochman, *Judicial Review to Correct Arbitral Error – An Option to Consider*, 13 OHIO ST. J. DISP. RESOL. 106 (1997); *see also* Stephen Wills Murphy, *Judicial Review of Arbitration Awards under State Law*, 96(1) VA. L. REV. 887-937, 935 (2010).

45 Rees v. Windsor-Clive [2020] EWHC 2986 (Ch) (Eng.).

46 Gannet Shipping Ltd v. Eastrade Commodities Inc. [2001] EWHC 483 (Comm) [19] (Eng.).

47 In X v. Y [2018] EWHC 741 (Comm) (Eng.), the Court held that Section 57(3)(1)(a) of the English Arbitration Act could also be used to provide further reasons in an award at the corrective stage.

48 BORN, *supra* note 1.

49 BORN, *supra note* 1, n.99.

decision.[50] However, it is hard to imagine that, for instance, a corrected misreading of evidence (albeit existing) – as allowed under the slip rule – would not affect the intent of the tribunal in any situation.[51] Moreover, in the absence of any standards or guidelines laid down for handling correction requests, if such a situation emerges, there is no certain answer as to how it would be resolved. Ideally, it seems reasonable to assume that in such a situation the tribunal would most likely deny the request claiming it to be a mistake of error of fact or law.[52]

Understandably, arbitral tribunals (and courts) have the discretion to correct an error upon request as long as their corrective measures do not have a bearing on the merits of the award. However, the indeterminacy of a general standard for such corrective measures should not be taken lightly. As illustrated above, it is not always easy to conclusively determine the nature of a request or, at times, even distinguish between an error of clerical, numerical, or similar kind and an error of fact or law.[53] An incorrect determination in either case may result in failure of administration of proper justice between the parties to the dispute, as explained earlier. In such cases, guidance can be sought from the decision on rectification in *Vivendi* v. *Argentina*, wherein the ad hoc committee was requested to correct seven errors in relation to the arguments advanced by the Respondent as presented in the award.[54] After reviewing a series of ICSID decisions on rectifications, the Committee laid down the appropriate standard for determining the fate of a request for correction. According to the Committee, the availability of this remedy depends on the satisfaction of the following two "factual conditions":[55]

> "*First, a clerical, arithmetical or similar error in an award or decision must be found to exist. Second, the requested rectification must concern an aspect of the impugned award or decision that is purely accessory to its merits.*"

Cumulatively, these two conditions ensure that the award can be rectified for minor mistakes without any alteration in the substantive findings of the tribunal or a reconsideration of the claims, arguments, and evidence advanced by the parties prior to the making of the award.[56] In other words, this standard prevents parties from pleading fresh arguments or presenting new evidence[57]

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50 D.W. Caldwell, Inc. v. W.G. Yates & Sons Constr. Co., 242 So.3d 92, ¶ 20 (Miss. May 10, 2018); *see also* Tribunale federale [TF] [Federal Supreme Court] Apr. 25, 2017, 4A_34/2016, ¶ 3.5.1 (Switz.).

51 No Curfew Ltd v. Feiges Properties Ltd. [2018] EWHC 744 (Ch) (Eng.). For a similar situation in the U.S., *see* T.Co. Metals L.L.C. v. Dempsey Pipe & Supply, Inc., 592 F.3d 329 (2d Cir. 2010). *See generally* Jennifer Kirby, *T.Co Metals, LLC v. Dempsey Pipe & Supply, Inc.: Are There Really No Limits on What an Arbitrator Can Do in Correcting an Award?*, 27(5) J. INT'L ARB. 524–28 (2010).

52 *See also* Janet Bignell QC, Not So Appealing? The Challenges of Challenging Awards and Determinations before the Court, Address at the Arbrix GP Open Conference 7 (Nov. 20, 2019).

53 Xstrata 2016, [2016] EWHC 2022 (Comm) [32] (Eng.).

54 Compañiá de Aguas del Aconquija S.A. & Vivendi Universal S.A. v. Arg. Republic, ICSID Case No. ARB/97/3, Decision of the ad hoc Committee on the Request for Supplementation and Rectification of its Decision concerning Annulment of the Award, ¶ 23 (May 28, 2003).

55 *Id.* ¶ 25.

56 This standard has been affirmed in more recent ICSID decisions: Victor Pey Casado & President Allende Found. v. Republic of Chile, ICSID Case No. ARB/98/2, Decision on Rectification of the Award, ¶ 50 (Oct. 6, 2017).

57 THE ICSID CONVENTION, REGULATIONS AND RULES: A PRACTICAL COMMENTARY 548 (Julien Fouret, Rémy Gerbay, Gloria M. Alvarez eds., 2019).

and thereby allows tribunals to approach correction as the restricted post-award remedy it is supposed to be.[58]

Lastly, it is important to correct a common misconception. Through the illustrations presented so far, it may appear that an amendable error originates only from the conduct of the arbitral tribunal. In reality, however, such errors are not restricted to arbitral tribunals alone; other stakeholders may also contribute to the making of erroneous awards. For example, in *Vanol Far East Marketing Private Limited* v. *Hin Leong Trading Private Limited*, the mistake of one of the parties to the dispute in not submitting a complete account of expenses led to computational errors that finally found place in the award.[59] In *Danella Construction Corp.* v. *MCI Telecommunications Corporation*, the mistake emanated from the conduct of the arbitral institution.[60] In this case, the arbitrator had forwarded his award to the American Arbitration Association ["**AAA**"] which erroneously transposed the name of the parties. The award was signed as such by all three arbitrators – a step that confirmed the erroneous award in favour of the wrong party. Interestingly, despite the presence of an evident mistake, the Court of Appeals refused to remit the award to the tribunal for correction or correct it itself on discussions based on the doctrine of *functus officio*.[61]

Thus, to conclude, when arbitral tribunals (and courts) are met with requests for corrections, it becomes important to emphasise that the power to correct an arbitral award is a careful exception carved out of the doctrines of *functus officio* and *res judicata*.[62] A revision of the decision of the tribunal would lie in direct contradiction to the rather complex finality of the arbitral process. Therefore, it is important to keep in mind that a correction must serve its limited purpose.

III. Requests for correction: The significance of time periods

The time-limit within which a request for correction of an award must be made varies across jurisdictions and institutional rules.

For instance, in Quebec, parties must request corrections within 30 days from the date of receipt of award, and the tribunal must make the corrections within two months from the date of request.[63] In contrast, under the Qatari Arbitration Law, parties can request correction/a tribunal can make *suo moto* corrections only within 7 days from the date of receipt of award/date of award respectively.[64] However, most UNCITRAL Model Law jurisdictions follow the time period mentioned under Article 33 of the Model Law.[65] For instance, in India, tribunals can *suo moto* make any corrections within 30 days from the date of the award.[66] Additionally, a request for correction

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58 *See*, *e.g.*, Philip Morris Brands Sàrl, Philip Morris Products S.A. & Abal Hermanos S.A. v. Oriental Republic of Uru., ICSID Case No. ARB/10/7, Decision on Rectification, ¶ 20 (Sept. 26, 2016).

59 Vanol, [1996] SGHC 108 (Sing.) cited in UNCITRAL 2012 Digest of Case Law on the Model Law on International Commercial Arbitration 131–32 (2012).

60 Danella Constr. Corp. v. MCI Telecomms. Corp., 512 U.S. 218 (1994) (unpublished).

61 R. Glenn Bauer, *Once a Catchy Phrase, Always Immutable Law – The Origins and Destiny of Three Famous Mantras: Functus Officio Once on Demurrage, Always on Demurrage Manifest Disregard of the Law*, 11(4) J. INT'L ARB. 44 (1994).

62 Rowan Platt, *The Appeal of Appeal Mechanisms in International Arbitration: Fairness over Finality?*, 30(5) J. INT'L ARB. 531, 534 (2013).

63 Code of Civil Procedure, C.Q.L.R., c C-25, § 643 (Can.).

64 Law No. 2 of 2017 promulgating the Civil and Commercial Arbitration Law, art. 32 (Qatar) [*hereinafter* "Law No. 2 of 2017"].

65 *See* Arbitration Act, No. 37 of 2001, § 43 (Sing.); CODE JUDICIAIRE [C.JUD.] arts. 1715(1)(a)–(b) (Belg.); Arbitration Law 60/2003 as amended by Laws 5/2011 and 11/2011, B.O.E. 2003, 309, art. XXXIX(V) (Spain).

66 Arbitration Act, No. 26 of 1996, § 33(3) (India).

can be made by a disputing party within 30 days from the receipt of the arbitral award.[67] Should the tribunal accept the request, the correction must be made within 30 days from the receipt of the same.[68] However, the tribunal has the power to extend this period of time if it considers it necessary.[69] On the other hand, in the U.K., unlike the Indian position, the right to extend time period for making corrections does not rest with the arbitral tribunal, but with the English courts.[70] Meanwhile, some jurisdictions did not provide time restrictions at all, such as Switzerland.[71] Earlier, the Swiss legislation did not provide for the power to correct, but the same was nevertheless understood as an inherent power of the tribunal, and therefore there were no statutory time-limits curbing its exercise.[72] Similarly, in Germany, while parties must submit a request for correction within 30 days of receipt of the award, there is no limitation period on the *suo moto* powers of correction of the tribunal.[73] Likewise, in the U.S., the FAA is silent as far as limitation is concerned.[74] It can be argued that absence of any limitations on time within which a request must be made can lead to disruptions and excessive delays in the arbitral process.

Institutional rules also have procedures in place for the correction of arbitral awards. For instance, the Swiss Rules and ICC Rules provide a period of 30 days to the parties to request correction.[75] Similarly, the LCIA Rules provide for a time-period of 28 days from the date of receipt of the award to make a request for correction.[76] This timeline has been shortened from the pre-2014 period of 30 days, but at the same time parties are no longer entitled to reduce this period. This amendment was made to safeguard parties' right to request corrections.[77]

Institutional rules also regulate the time taken by a tribunal to make or refuse to make corrections. For instance, under the LCIA Rules there is no provision for extension of time by the tribunal for correcting an award. On the other hand, the SIAC Rules as well as the ICC Rules expressly allow the Registrar/Court to extend the period of time within which the tribunal must make the correction beyond the prescribed period of 30 days.[78] Other rules like the UNCITRAL Arbitration Rules provide a slightly longer period of 45 days within which the tribunal may make the correction.[79] It is interesting to note that this period has been prescribed only after the 2010 revisions of the Rules, and the 1976 Rules did not require the tribunal to make corrections within any specific time-limit. The fact that this change was made is indicative of the need to avoid

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67 *Id.* § 33(1)(a).
68 *Id.* § 33(2).
69 *Id.* § 33(6).
70 Mobile Telecommunications, [2019] EWHC 3109 (Comm) (Eng.)
71 Switzerland now contains express provisions on correction of arbitral awards. *See* Loi fedrale sur le droit international privi [LDIP], Bundesgesetz uiber das Internationale Privatrecht [IPRG] [Federal Statute on Private International Law] Dec. 18, 1987, SR 291, RS 291, art. 189(a) (Switz.).
72 B. BERGER & F. KELLERHALS, INTERNATIONAL AND DOMESTIC ARBITRATION IN SWITZERLAND ¶ 1406 (2d ed. 2010)
73 Zivilprozessordnung [ZPO] [Code of Civil Procedure], § 1058 (Ger.).
74 9 U.S.C. §11.
75 Swiss Rules of International Arbitration 2012, art. 36 [*hereinafter* "Swiss Rules 2012"].
76 LCIA Rules 2020, art. 27.
77 MAXI SCHERER, LISA RICHMAN & REMY GERBAY, ARBITRATING UNDER THE 2014 LCIA RULES: A USER'S GUIDE 355 (2015).
78 SIAC Rules 2016, r.33; ICC Rules 2017, art. 36.
79 UNCITRAL Arbitration Rules 2010, art. 38; Cairo Regional Centre for International Commercial Arbitration (CRCICA) Rules, art. 38 (which also provide 45 days' time).

unnecessary delays in the arbitral process where corrections are concerned. Nevertheless, some rules continue to leave this issue unaddressed. For instance, the Swiss Rules do not provide any time period within which a tribunal must make corrections to the award after receiving a request from a party.[80] This can certainly prove problematic, as it could unnecessarily delay the enforcement of arbitral awards and leave parties in doubt about their rights and obligations thereunder. However, while extensive periods of time can jeopardise the principle of finality of arbitral awards, very stringent timelines can also be detrimental to the rights of parties. For instance, the period of three or five days in Bolivia and Argentina respectively,[81] ten days in Romania,[82] or even the period of 15 days under the Istanbul Chamber of Commerce Rules,[83] and 20 days provided under the AAA Rules[84] may be insufficient in complex disputes.

From the above, it can be concluded that the procedure and time limits prescribed for the correction of arbitral awards can have significant implications for the rights of the parties. An excessively limited period of time can prove disadvantageous where the error is minute and not easily discoverable. Additionally, some scholars have asserted that most errors can be identified only at the time of enforcement.[85] Thus, with short limitation periods, parties risk finding themselves on the brink of enforcement with an undesirable award. For this reason, it is often argued that limitation periods should either extend up to one-year, or be triggered only upon the discovery of an error.[86] However, if corrections are allowed – either at the instance of the parties or *suo moto* by the tribunal – at *any* stage after passage of the award, parties would be plagued by uncertainty and might even have taken steps towards implementing the award. Additionally, as some national legislations and institutional rules provide for extension of time periods for correction by the courts/secretariats, this can also contribute to delays in the arbitral process. Lastly, some legislations and rules are silent on the issue of correction, potentially leading to litigation on whether the inherent powers of the tribunal include powers of correction, and if so, what the applicable timelines will look like.

Thus, the ideal framework governing the correction of arbitral awards would involve clear and reasonable time periods for both initiation and implementation of requests for correction and be free from external interference by the judiciary/institutional administration in the interest of efficiency and finality.

IV. Corrections and the Right to be Heard

The right to be heard or present one's case in an arbitration is recognised by national legal systems and institutional rules as a fundamental procedural right.[87] Additionally, an award may be denied

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80 Swiss Rules 2012, art. 36. In fact, Article 38 of the Arbitration Rules of the Milan Chamber of Arbitration provides an even longer 60-day period for tribunals to make corrections requested by parties to the dispute.

81 Law No. 708, Conciliation and Arbitration Law 2015, art. 107 (Bol.); Julio César Rivera, *Arbitral Awards*, *in* ARBITRATION IN ARGENTINA 242 (Fabricio Fortese ed., 2020).

82 Stefan Dudas, *Setting Aside of Arbitral Awards*, *in* ARBITRATION IN ROMANIA: A PRACTITIONER'S GUIDE 213 (Crenguta Leaua & Flavius-Antoniu Baias eds., 2016).

83 Istanbul Chamber of Commerce Arbitration Centre (ITOTAM) Rules of Arbitration 2015, art. 39(1) [*hereinafter* "ITOTAM Rules"].

84 American Arbitration Association (AAA) Commercial Arbitration Rules 2013, r. 50.

85 JEAN FRANCOIS POUDRET & SEBASTIEN BESSON, COMPARATIVE LAW OF INTERNATIONAL ARBITRATION 692 (2007).

86 Soopramanien, *supra* note 2.

87 BORN, *supra* note 1, at § 15.04.

recognition and enforcement under the New York Convention if it appears that a party did not have the opportunity to be heard.[88] The question therefore arises whether this right is guaranteed in correction proceedings as well.

Several jurisdictions and institutional rules require that if a party makes a request for correction, notice of the same must be given to the opposing party.[89] The requirement to deliver notice must be understood as an endeavour to enable the other party to comment on the request for correction, and in other words, "*be heard*" on the issue of correction. The time to respond to requests for correction must also be reasonable, in order for the right to be heard to be respected in spirit.[90]

Some legislations and institutional rules safeguard the right of parties to be heard in correction proceedings by creating express obligations on the tribunal to consult with parties and/or allow them to make representations with regard to requests for correction/*suo moto* corrections.[91] However, others are silent on this matter.[92] For instance, Section 643 of the Quebec Code of Civil Procedure provides that consent of the opposing party is necessary when making a request for interpretation, but does not prescribe any such requirement for requests for correction.[93] Similarly, even the CIETAC Arbitration Rules do not mandate notice or consultation with the parties in correction proceedings.[94] Omissions of this nature have given rise to a debate on whether parties must be heard in correction proceedings even where the applicable law does not provide for the same.

One view is that despite there being no express obligation, the right to receive notice/ be consulted is implicit in correction proceedings, as correction is an essential part of the arbitration proceedings.[95] However, it has also been argued that if the correction made by the tribunal is so technical and mechanical that it has no bearing on the rights of the parties, even if notice is not given, it is inconsequential.[96] On the other hand, in some cases, *suo moto* corrections have been distinguished from party initiated corrections, and a German court has held that where the tribunal initiates *suo moto* corrections, it does not need to consult or give notice to the disputing parties.[97] However, scholars have argued that even *suo moto* correction proceedings affect party interests, and

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88 United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards, art. V(1)(b), June 10, 1958, 330 U.N.T.S. 38.

89 UNCITRAL Model Law, *supra* note 17; ITOTAM Rules 2015, art. 39(2); ICDR Rules 2009, art. 33.1; HKIAC Rules 2018, art. 38; Arbitration Act, No. 26 of 1996, § 33(1)(a) (India); ALLGEMEINES BÜRGERLICHES GESETZBUCH [ABGB] [CIVIL CODE] § 610(2) (Austria).

90 L W Infrastructure Pte Ltd v. Lim Chin San Contractors Pte Ltd & anr. appeal [2012] SGCA 57 (Sing.).

91 English Arbitration Act, c. 23 §57(3) (Eng.); Arbitration Rules of the Milan Chamber of Arbitration 2020, art. 38; LCIA Rules 2020, art. 27; SIAC Rules 2016, r. 33; Rules of the Arbitration Institute of the Stockholm Chamber of Commerce (SCC) 2017, art. 37; ICC Rules 2017, art. 36.

92 *See*, *e.g.*, Ricardo Ma. P.G. Ongkiko, *Quick Answers on Arbitral Institutions – Philippine Dispute Resolution Center, Inc.* (PDRCI), in QUICK ANSWERS ON ARBITRAL INSTITUTIONS (2020).

93 Code of Civil Procedure, C.Q.L.R., c C-25, § 643 (Can.).

94 China International Economic and Trade Arbitration Commission (CIETAC) Arbitration Rules 2015, art. 53.

95 BERGER, *supra* note 14, at 677.

96 *Id.*

97 Oberlandesgericht Frankfurt am Main [OLG Frankfurt am Main] [Higher Regional Court of Frankfurt am Main] May 17, 2005, 2 Sch 2/03, SchiedsVZ 2005, 311 (Ger.).

therefore, good practice would be for tribunals to inform and consult the parties regarding any corrections.[98]

From the above discussion, it is logical to conclude that while the right to be heard is implicit in both *suo moto*/party-initiated correction proceedings, a failure to give notice for minute corrections would not serve as grounds for setting aside the arbitral award. Nevertheless, to minimise potential challenges to the arbitral award and prevent unnecessary prolongation of the arbitral process, notice to or consultation with parties seems to be the way forward.[99]

V. The power to correct: a battle of jurisdiction

There has been a debate regarding the most appropriate authority to make corrections to the arbitral award i.e. whether it is the tribunal itself, or the courts at the seat, or even the enforcement courts. As earlier mentioned, most legislations and institutional rules empower the tribunal to correct errors in the final award.[100] However, there are some jurisdictions which vest this power in the courts at the seat. For instance, Section 11 of the FAA provides that the court in the district where the arbitral award was made may make corrections to the same on the request of a party. Similarly, in Libya, Qatar, Bahrain, United Arab Emirates, and Yemen, only courts have the power to make corrections to arbitral awards.[101]

It appears that the most ideal approach would be to entrust the tribunal with the responsibility to consider and make corrections. This is because the arbitrators themselves are the most familiar with the award, the case of the parties, as well as their own intentions. Additionally, the regulation of the arbitral process has always been aimed at minimising judicial interference. Thus, there have been instances where courts have remitted the matter back to the tribunal where a case for correction has been made out.[102] However, where it is impossible to reconvene the tribunal (as may be in certain unique circumstances),[103] parties should have the option of approaching the courts at the seat.[104]

Despite the fact that time-limits are provided for correction proceedings with the sole purpose of ensuring that such requests do not interfere with enforcement proceedings,[105] it has been brought to light that most errors are identified only at the time of enforcement.[106] The question, therefore, arises whether enforcement courts should have the power to make corrections to arbitral awards. In the recent case of *Government of India* v. *Vedanta Limited*, the Indian Supreme Court has held that

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98 Fabian von Schlabrendorff & Anke Sessler, *§ 1058 – Correction and Interpretation of Award; Additional Award*, *in* ARBITRATION IN GERMANY: THE MODEL LAW IN PRACTICE 378–82 (Karl-Heinz Böckstiegel, Stefan Michael Kröll & Patricia Nacimiento eds., 2d ed. 2015).

99 Soopramanien, *supra* note 2; UNCITRAL, Rep. of Working Group on Int'l Contract Practices on the Work of its Seventh Session, U.N. Doc. A/CN.9/246, ¶ 124 (Mar. 6, 1984).

100 UNCITRAL Model Law, *supra* note 17, art. 33; ZIVILPROZESSORDNUNG [ZPO] [CODE OF CIVIL PROCEDURE], § 1058 (Ger.); ICC Rules 2017, art. 35.

101 Law No. 4 of 2010, art. 764 (Lib.); Abdul Hamid El-Ahdab, *The Post-arbitral Phase*, *in International Arbitration in a Changing World*, 6 ICCA CONGRESS SERIES 193–94 (Albert Jan Van den Berg ed., 1994).

102 Xstrata 2020, [2020] EWHC 324 (Comm) [59] (Eng.).

103 These circumstances may include situations where it is impossible to contact an arbitrator, where an arbitrator refuses to devote time from his/her schedule, or death or serious illness of arbitrator amongst others.

104 This is the position in France. *See* Code de procédure civile [C.P.C.] [Civil Procedure Code] art. 1475 (Fr.).

105 ALI ET AL., *supra* note 44.

106 Poudret & Besson, *supra* note 85.

enforcement courts do not have the jurisdiction to correct errors in arbitral awards.[107] Similarly, in Canada, where an application for correction was pending before the arbitral tribunal, the enforcement Court refused to recognise the award as final and dismissed the application for enforcement.[108] Since the Court did not make the correction on its own, despite acknowledging the modification required as minimal, it is logical to conclude that it considered correction to be within the arbitrator's exclusive domain. In Istanbul, the enforcement Court deemed an award enforceable despite a pending request for correction before the arbitral tribunal, on the grounds that Article V of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards ["**New York Convention**"] does not list correction proceedings as a ground to refuse enforcement.[109] Thus, once again, the court did not take matters of correction into its own hands.

On the other hand, some jurisdictions, such as Bolivia, provide that minor errors may be corrected at the time of enforcement.[110] This power of enforcement courts to make corrections in certain circumstances has also been recognised by German courts.[111] Such an approach appears favourable, as in many instances, parties may not discover errors in the award until the time for enforcement comes, and by such time, statutory/institutional time limits for making requests for correction may have expired. Instead of rendering the award unenforceable, enforcement Courts can easily correct minute errors themselves, or in fact, remit the matter back to the tribunal for the correction to be made.

A parallel can be drawn from the approach taken by a Chinese court in the case of *Granlit* v. *Kyoritsu Industries.* Herein, an application for annulment was made, and the initiating party indicated that it would withdraw the same if the Tribunal could correct the mistake in the award. In response, the Tribunal corrected the errors in the award so as to terminate the need for a setting aside application.[112] The Court held that such a correction by the Tribunal must be upheld notwithstanding the expiry of the statutory time limit of 30 days.[113] Likewise, where an arbitral award was challenged under Section 68 of the English Arbitration and Conciliation Act, the Court remitted the matter back to the arbitral tribunal for correction of errors leading to ambiguity in the award.[114] This approach reflects acceptance of the principle enshrined in Article 34(4) of the UNCITRAL Model Law, as per which Courts may take any necessary action to eliminate the grounds for setting aside an arbitral award. Similarly, even in a case where the Tribunal heard the application seeking correction but refused to correct a material error, an English court under Section 68 remitted the matter back to the Tribunal, acknowledging that had the error been

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107 Gov't of India v. Vedanta Ltd. (formerly Cairn India Limited), (2020) 10 SCC 1, ¶ 83.14 (India).

108 Relais Nordik Inc. v. Secunda Marine Servs. Ltd., 1990 CarswellNat 1320 (Can. F.C.T.D.) (WL).

109 Ismail G. Esin & Stephan Wilske, *X v. Y, Regional Court of Istanbul, 14th Civil Chamber, 2018/1042, 11 October 2018*, *in* A CONTRIBUTION BY THE ITA BOARD OF REPORTERS (2018).

110 Law No. 708, Conciliation and Arbitration Law 2015, art. 107 (Bol.).

111 Obelandersgericht [OLG Karlsruhe] [Higher Regional Court of Karlsruhe] July 3, 2006, 9 Sch 01/06 (Ger.) *reprinted in* XXXII Y.B. COMM. ARB. 359, 361–62 (Albert Jan Van den Berg ed., 2007).

112 Beijing Granlit Membrane Structure Tech. Co. Ltd, Kyoritsu Indus. Co. Ltd. (**北京光翌膜**结构建筑有限公司, 协立工业株式会社), **二中民特字第**8456**号**(Beijing No. 2 Intermediate People's Ct. Dec. 13, 2004) (China) *reprinted in* WunschARB, *Granlit v. Kyoritsu Industries (2004), Second Intermediate People's Court of Beijing, [2004]**二中民特字第**8456**号** (Beijing No. 2 IPC), 13 December 2004, in* CHINESE COURT DECISION SUMMARIES ON ARBITRATION (2004).

113 *Id.*

114 Xstrata 2020, [2020] EWHC 324 (Comm) [59] (Eng.).

corrected, the award would have had a completely different effect.[115] Additionally, English courts have also granted applications seeking retro-active extensions of time-limit to apply to the tribunal for correction.[116]

Applying the approach discussed above, if enforcement is opposed on grounds that would not exist save for an error in the award, enforcement courts (like courts at the seat deciding setting aside applications) should also be able to direct tribunals to correct the same, irrespective of applicable limitation periods, thereby ensuring that parties do not end up with an unenforceable award[117] or are not forced to accept enforcement of an incorrect award which is contrary to the intentions of the parties/incongruous with their situation. However, this approach does not yet have wide-spread acceptance. For instance, in Zimbabwe, while the High Court held that an error related to computation could easily be corrected by remitting the matter back to the tribunal, the Supreme Court disagreed and set aside the award for being contrary to public policy.[118]

From the above, it becomes clear that there is no consensus across jurisdictions regarding the powers of tribunals and/or courts at the seat/enforcement courts when it comes to corrections. The authors believe that the following framework would serve as ideal for disputing parties:

i. The arbitral tribunal should correct any errors in the award if the time-period for the same has not expired;
ii. In case it is impossible for the tribunal to reconvene[119] despite the request being made within time-period, the courts of the seat may entertain applications and correct any errors.[120] To assuage concerns of unnecessary judicial interference and pendency related delays, another option would be for the seat court to respond to requests for correction by appointing a sole arbitrator or a tribunal to decide the same.[121]
iii. Alternatively, if errors are identified at the time of enforcement, enforcement courts must remit the matter back to the tribunal for the correction to be made, despite expiry of statutory/institutional time limits;
iv. Where it is impossible to reconvene the tribunal, or the error is minute, the enforcement court may make the correction itself.[122]

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115 Doglemor, [2020] EWHC 3342 (Comm) (Eng.).
116 Xstrata 2016, [2016] EWHC 2022 (Comm) (Eng.); The Montan, [1985] 1 WLR 625 (Eng.).
117 For instance, in the case of *Xstrata 2020*, an award was refused enforcement in China because the identity of a party was erroneously mentioned. The Chinese Court did not remit the matter back to the tribunal for correction, and thus the parties had to resort to challenging the award before the English Courts i.e. the process of dispute resolution became drawn out, expensive, and complicated.
118 Michael Hwang & Amy Lai, *Do Egregious Errors Amount to a Breach of Public Policy?*, 71(1) INT'L J. ARB., MEDIATION & DISP. MGMT. 4 (2005).
119 *See* note 103.
120 *See* CODE DE PROCÉDURE CIVILE [C.P.C.] [CIVIL PROCEDURE CODE] art. 1475 (Fr.); Law No. 93-42 of 1993 related to the promulgation of the Arbitration Code, art. 37 (Tunis.); Law No. 2 of 2017, art. 32 (Qatar).
121 *See* Arbitration Rules of the Common Court of Justice and Arbitration (CCJA) 2017, r. 26.
122 *See generally* Carlos Henrique de C. Froes, *Correction and Interpretation of Arbitral Awards*, *in* GLOBAL REFLECTIONS ON INTERNATIONAL LAW, COMMERCE AND DISPUTE RESOLUTION: LIBER AMICORUM IN HONOUR OF ROBERT BRINER 285–96 (Gerald Asken, Karl Heinz Böckstiegel, Paolo Michele Patocchi & Anne Marie Whitesell eds., 2005).

In the opinion of the authors, adopting the aforementioned approach reduces the risk of unenforceable, unintended awards being enforced, delays, and disadvantage to parties due to prolonged litigation.

VI. Conclusion

In this editorial, the authors, acknowledging the significance of correction proceedings, have analysed the various aspects of correction of arbitration awards. The authors have sought to provide a holistic perspective on correction as a post-award remedy, by shedding light on the grounds on which correction can be sought, the variance in time limits for initiating correction proceedings, the scope of due process in correction proceedings, and the role of courts at the seat/enforcement courts as far as correction is concerned.

From the analysis of legislations, rules, and decisions of courts and tribunals, it has become clear that there is no singular approach to correction proceedings across jurisdictions, and therefore parties would do well to acquaint themselves with the position of the law of the chosen seat and institutional rules on this remedy. By being aware of the nuances of correction proceedings in the relevant jurisdiction, parties will be able to act in a timely manner and seek rectification of errors and omissions, thereby avoiding unenforceable awards riddled with errors. Additionally, the authors have recommended that parties and tribunals both pay heed to the due process aspects of correction proceedings, to safeguard against the possibility of challenges to the arbitral award and consequent protracted litigation. Further, the authors have suggested that in the absence of a uniform standard in international commercial arbitration, reference to the test in *Vivendi* v. *Argentina* can help arbitral tribunals ensure that they do not allow parties to interfere with the merits of the award.[123]

Lastly, by examining current practice across jurisdictions, the authors have recommended a step-by-step framework demarcating the role of arbitral tribunals and courts, to ensure that parties are able to effectually obtain correction of errors/omissions in arbitral awards. The authors have recommended that, where it is impossible to reconvene the tribunal, courts at the seat should have the power to either constitute a new tribunal or correct minor errors. Similarly, the authors propose that enforcement courts must also be empowered to remit the matter back to the tribunal, and where impossible, make the correction themselves. The authors believe that if this model is adopted, it will boost enforceability of awards, prevent unnecessary delays, and save time and costs in the arbitral process.

[123] *See supra* text accompanying notes 53–57.