

***Title: Public Policy Exception under Section 13  
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**Abstract**

*The recognition and enforcement of foreign judgments are essential components of **Private International Law**, facilitating cross-border legal cooperation and ensuring certainty in international commercial and personal relations. In India, this framework is primarily governed by the **Code of Civil Procedure, 1908**, particularly **Section 13 of the Code of Civil Procedure, 1908**, which declares that foreign judgments shall be conclusive between the parties except in specific circumstances. Among these exceptions, the **public policy exception** plays a significant role by enabling Indian courts to refuse recognition of foreign judgments that conflict with the fundamental principles of justice, morality, or statutory law in India.*

*This research paper critically examines the scope and application of the public policy exception under Section 13 CPC. It explores the conceptual foundations of the doctrine and analyses how Indian courts have interpreted it in practice. Judicial decisions of the **Supreme Court of India**, including **Satya v. Teja Singh**, **Y. Narasimha Rao v. Y. Venkata Lakshmi**, and **Renusagar Power Co. Ltd. v. General Electric Co.**, demonstrate the evolving judicial approach toward defining the limits of public policy in cross-border disputes. The paper also examines contemporary developments in international dispute resolution and highlights how recent cases such as **Government of India v. Vedanta Ltd.** and the **Devas Multimedia Private Limited v. Antrix Corporation Limited** dispute have revived debates regarding the appropriate scope of the doctrine.*

*Further, the study undertakes a comparative analysis with jurisdictions such as the United Kingdom and the United States, as well as international frameworks like the **Hague Convention on Choice of Court Agreements**, to evaluate global trends in limiting the public policy exception in the enforcement of foreign judgments. The paper argues that while the doctrine serves as an important*

*safeguard for protecting fundamental domestic values, its broad and undefined nature may create uncertainty in cross-border legal relations.*

*The study concludes that a clearer legislative framework and a consistent judicial approach are necessary to ensure that the public policy exception is applied only in exceptional circumstances. Such reforms would help strengthen India's credibility in international dispute resolution while maintaining the integrity of its legal system.*

**Keywords:** *Public Policy, Foreign Judgments, Section 13 CPC, Private International Law, Enforcement of Foreign Judgments.*

### **I. Introduction:**

The rapid expansion of international trade, migration, and cross-border transactions has significantly increased disputes involving parties from different jurisdictions. In such situations, courts frequently encounter the question of whether a judgment delivered by a foreign court should be recognized or enforced within their own legal system. The recognition and enforcement of foreign judgments is therefore a crucial component of Private International Law, ensuring stability, predictability, and respect for judicial decisions across national borders.

In India, the legal framework governing the recognition and enforcement of foreign judgments is primarily provided under the Code of Civil Procedure, 1908. Specifically, Section 13 of CPC, 1908 lays down the circumstances under which a foreign judgment shall be considered conclusive between the parties. While the provision generally promotes recognition of foreign judicial decisions, it also lists several exceptions where such judgments may not be enforced in India. One of the most significant among these is the exception where the judgment is considered to be opposed to the public policy of India.

The public policy exception, contained in clause (f) of Section 13, acts as a safeguard allowing Indian courts to refuse recognition of foreign judgments that conflict with the fundamental principles of justice, morality, or statutory law in India. However, the concept of public policy has long been criticized for its **ambiguity and elasticity**. Courts often interpret the doctrine differently depending on the circumstances of each case, which may create uncertainty in cross-border legal relations.

Judicial decisions of the **Supreme Court of India** have played a central role in shaping the contours of the public policy exception. Landmark rulings such as **Satya v. Teja Singh** and **Y. Narasimha Rao v. Y. Venkata Lakshmi** demonstrate how Indian courts have refused recognition of foreign judgments when they were found to violate fundamental legal principles<sup>1</sup>. At the same time, later decisions like **Renusagar Power Co. Ltd. v. General Electric Co.** have attempted to narrow the scope of public policy to prevent excessive judicial intervention.

Despite these developments, the doctrine continues to generate debate, particularly in the context of globalization and increasing cross-border disputes. The broad and sometimes inconsistent application of the public policy exception may undermine international legal cooperation and discourage foreign parties from relying on Indian courts for enforcement.

Against this background, this research paper critically reassesses the **public policy exception under Section 13 CPC**, examining its doctrinal foundations, judicial interpretation, and contemporary relevance. The study further evaluates whether the current approach adopted by Indian courts strikes an appropriate

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<sup>1</sup><https://indiankanoon.org/doc/1774034/#:~:text=%22That%20plaintiff%2C%20Teja%20Singh%2C,.....> "That plaintiff, Teja Singh, be and he hereby is, given and granted a final and absolute divorce from defendant, Satya Singh on the ground of their having lived separate and apart for more than three (3) consecutive years without cohabitation. there being no possibility of reconciliation between them....."

balance between protecting domestic legal principles and promoting international comity.

## **II. Legal Framework Governing Foreign Judgments under the CPC**

The recognition and enforcement of foreign judgments in India are primarily governed by the **Code of Civil Procedure, 1908**, which establishes the legal principles that determine whether a judgment delivered by a foreign court can be accepted as binding within the Indian legal system. The statutory scheme aims to balance the need for international judicial cooperation with the protection of domestic legal principles and sovereignty.

The central provision in this framework is **Section 13 of the Code of Civil Procedure, 1908**, which declares that a foreign judgment shall be conclusive as to any matter directly adjudicated upon between the same parties. In other words, once a competent foreign court has delivered a judgment on a dispute, Indian courts generally recognize that decision as binding and final. This principle reflects the doctrine of **comity of courts**, which encourages mutual respect and recognition between judicial systems of different nations.<sup>2</sup>

However, Section 13 does not grant unconditional recognition to foreign judgments. The provision contains six specific exceptions under which a foreign judgment will not be considered conclusive in India. These include situations where the judgment:<sup>3</sup>

1. has not been pronounced by a court of competent jurisdiction;
2. has not been given on the merits of the case;

<sup>2</sup><https://indiankanoon.org/doc/84779192/#:~:text=When%20foreign%20judgment%20not%20conclusive,law%20in%20force%20in%20India>. - **13. When foreign judgment not conclusive-**

A foreign judgment shall be conclusive as to any matter thereby directly adjudicated upon between the same parties or between parties under whom they or any of them claim litigating under the same title except-  
(a) where it has not been pronounced by a Court of competent jurisdiction;(b) where it has not been given on the merits of the case;(c) where it appears on the face of the proceedings to be founded on an incorrect view of international law or a refusal to recognise the law of [India] in cases in which such law is applicable;(d) where the proceedings in which the judgment was obtained are opposed to natural justice;(e) where it has been obtained by fraud;(f) where it sustains a claim founded on a breach of any law in force in India.

3. appears on the face of the proceedings to be founded on an incorrect view of international law or refusal to recognize Indian law where applicable;
4. is opposed to the principles of natural justice;
5. has been obtained by fraud; or
6. sustains a claim founded on a breach of any law in force in India.

The sixth exception is particularly significant because it embodies the **public policy limitation**, allowing Indian courts to refuse recognition of foreign judgments that conflict with the fundamental legal values of the country. Through this provision, the legislature ensured that foreign decisions cannot override essential principles of justice or statutory mandates in India.

In addition to Section 13, the procedural mechanism for enforcing certain foreign judgments is provided under **Section 44A of the Code of Civil Procedure, 1908**. This provision allows judgments from courts located in **reciprocating territories** (countries notified by the Government of India) to be executed directly in India as if they were decrees passed by an Indian court. The purpose of Section 44A is to simplify and expedite the enforcement process for judgments originating from jurisdictions that maintain reciprocal enforcement arrangements with India.

Where a judgment originates from a non-reciprocating territory, the successful party cannot directly execute the decree in India. Instead, they must file a fresh civil suit in an Indian court based on the foreign judgment. In such cases, the foreign judgment serves as evidence of the claim, and its enforceability will be examined under the conditions laid down in Section 13.<sup>4</sup>

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<sup>4</sup><https://www.lexology.com/library/detail.aspx?g=681612a7-f920-4ad5-8fbb-c37912bb8644#:~:text=Section%2044A%20of%20the%20code%20provides%20that%20the%20court%20can,enforcement%20of%20a%20foreign%20judgment?> - Section 44A of the code provides that the court can refuse the execution of the foreign judgment from a reciprocating territory if it is inconclusive in terms of Section 13. In terms of Section 13, a foreign judgment is considered inconclusive where it:

- has not been pronounced by a court of competent jurisdiction;
- has not been given on the merits of the case;

Together, Sections 13 and 44A form the backbone of India's legal regime for recognizing and enforcing foreign judgments. While the framework broadly supports the principle of international judicial cooperation, the presence of exceptions (particularly those related to public policy) ensures that Indian courts retain the authority to safeguard fundamental domestic legal principles.

### III. The Public Policy Exception under Section 13 CPC

Among the various limitations imposed on the recognition of foreign judgments in India, the **public policy exception** occupies a particularly significant position. Although **Section 13 of the Code of Civil Procedure, 1908** generally treats foreign judgments as conclusive between the parties, clause (f) of the provision allows Indian courts to refuse recognition when the judgment sustains a claim founded on a breach of any law in force in India. This exception is closely associated with the broader doctrine of **public policy**, which enables courts to prevent the enforcement of foreign decisions that contradict fundamental principles of justice, morality, or statutory law within the domestic legal system.<sup>5</sup>

The concept of public policy has historically been regarded as one of the most **ambiguous and flexible doctrines** in legal jurisprudence. Courts have often described it as an evolving principle that reflects the fundamental values and interests of society at a given time. Because of its broad and undefined nature,

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- is against international law or based on non-recognition of Indian law;
  - is granted in proceedings opposed to natural justice;
  - has been obtained by fraud; or
  - is founded on breach of Indian law.

<sup>5</sup>[https://www.legal500.com/developments/thought-leadership/enforcement-of-foreign-judgments-and-awards-in-india-emerging-issues-in-recognition-reciprocity-and-public-policy-exceptions/#:~:text=According%20to%20section%2013%20\(CPC,more%20difficult%20and%20less%20predictable](https://www.legal500.com/developments/thought-leadership/enforcement-of-foreign-judgments-and-awards-in-india-emerging-issues-in-recognition-reciprocity-and-public-policy-exceptions/#:~:text=According%20to%20section%2013%20(CPC,more%20difficult%20and%20less%20predictable). - According to section 13 (CPC), the judgement made in foreign countries cannot be challenged unless one of the six things occurs: (i) the court lacks the right to hear the case; (ii) the judgement is not made on the merits of the case; (iii) the misuse of international law; (iv) the breach of natural justice; (v) fraud; or (vi) contravention of Indian law. [4] Section 14 is based on the assumption that the court is permitted to make a decision, but the mentioned exceptions make judging creditors more difficult and less predictable.

the doctrine allows courts considerable discretion in determining whether a particular foreign judgment should be recognized or rejected. While such flexibility is useful in protecting essential legal norms, it may also create uncertainty in cross-border legal relations.

In the context of Private International Law, the public policy exception operates as a **protective mechanism** that preserves the sovereignty of domestic legal systems. Even though nations recognize the importance of enforcing foreign judgments to facilitate international trade and cooperation, they are not willing to enforce decisions that undermine their basic legal principles. Accordingly, the doctrine acts as a safeguard ensuring that international comity does not override the core values of the forum state.

Indian courts have generally attempted to interpret the doctrine cautiously in order to avoid unnecessary interference with foreign judicial decisions. The **Supreme Court of India** has repeatedly emphasized that the public policy exception should not be applied merely because the foreign judgment differs from Indian law. Instead, the judgment must violate the **fundamental principles of Indian law**, the interests of justice, or basic notions of morality.

In Private International Law, scholars and courts often distinguish between **domestic public policy** and **international public policy**. Domestic public policy refers to the internal legal standards that govern purely domestic disputes, whereas international public policy is a narrower concept applied when dealing with cross-border matters such as foreign judgments or arbitral awards. Many jurisdictions adopt this narrower approach to ensure that foreign judgments are not rejected too easily on broad or subjective grounds.

Despite this cautious approach, the application of the public policy exception in India has sometimes been inconsistent. The absence of a clear statutory definition leaves considerable room for judicial interpretation, which may vary

depending on the facts of each case. As a result, litigants may face uncertainty regarding whether a foreign judgment will ultimately be recognized and enforced by Indian courts.

The increasing globalization of commerce and mobility of individuals has further intensified this debate. Cross-border matrimonial disputes, commercial litigation, and international arbitration frequently raise questions regarding the compatibility of foreign judgments with Indian public policy. Consequently, the doctrine continues to play a central role in shaping the interaction between domestic legal norms and international judicial cooperation.<sup>6</sup>

In this context, a careful reassessment of the public policy exception under Section 13 CPC becomes necessary. Such an analysis requires examining how Indian courts have interpreted and applied the doctrine in practice, particularly through landmark judicial decisions that have defined its scope and limitations.

#### **IV. Judicial Interpretation by Indian Courts**

The scope and application of the public policy exception under **Section 13 of the Code of Civil Procedure, 1908** have largely been shaped through judicial interpretation. Indian courts, particularly the **Supreme Court of India**, have played a crucial role in defining the contours of the doctrine and determining when a foreign judgment may be refused recognition on the ground of public

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<sup>6</sup>[https://www.ibanet.org/local-public-policy-india#:~:text=However%2C%20the%20public%20policy%20test,FEMA%20Regulations'\)%20made%20thereunder](https://www.ibanet.org/local-public-policy-india#:~:text=However%2C%20the%20public%20policy%20test,FEMA%20Regulations')%20made%20thereunder). - However, the public policy test for the enforcement of foreign awards as stated under Article V(2)(b) of the New York Convention and section 48(2)(b) of the Arbitration and Conciliation Act is contentious as neither defines the term 'public policy'. As per former Supreme Court Judge, Justice Indu Malhotra, an exhaustive definition of public policy is neither feasible nor desirable. Even though the concept is open-ended, courts in India have rarely invoked this exception to refuse the enforcement of a foreign award.<sup>11</sup> The Indian judiciary's role has been crucial in narrowing the public policy exception. Recently, in *Aircon Beibars FZE v Heligo Charters Private Limited*,<sup>12</sup> the Bombay High Court held that only instances wherein the most basic notions of morality and justice are tampered with (eg, bribery and fraud) can rise up to the level of violating the fundamental public policy of India.

The most common objection against the enforcement of foreign awards is that the award or agreement contravenes the provisions of the Foreign Exchange Management Act, 1999 and the Rules and Regulations ('FEMA Regulations') made thereunder.

policy. Over time, the judiciary has attempted to strike a balance between protecting fundamental legal principles and promoting international judicial cooperation.

One of the earliest and most significant decisions in this regard is **Satya v. Teja Singh**. In this case, the Supreme Court refused to recognize a divorce decree granted by a court in the United States. The husband had obtained the decree by misrepresenting his domicile to the foreign court. The Indian court held that the judgment was obtained by fraud and was contrary to Indian matrimonial law. The Court emphasized that a foreign judgment cannot be enforced in India if it violates fundamental legal principles or is obtained through deceptive means. This decision established an important precedent that foreign judgments conflicting with the core legal values of the country would not be recognized.<sup>7</sup>

Another landmark decision is **Y. Narasimha Rao v. Y. Venkata Lakshmi**, which dealt with the recognition of foreign matrimonial decrees. In this case, the Court examined whether a foreign divorce decree granted by a United States court could be recognized in India. The Supreme Court laid down specific conditions under which foreign matrimonial judgments would be considered valid. The Court held that a foreign judgment must be delivered by a court of competent jurisdiction and must be based on grounds recognized under Indian matrimonial law. If the judgment fails to meet these conditions, it may be refused recognition on the basis of public policy and principles of natural justice. This ruling significantly clarified the application of Section 13 CPC in matrimonial disputes involving foreign judgments.<sup>8</sup>

<sup>7</sup><https://indiankanoon.org/doc/1774034/#:~:text=%22That%20plaintiff%2C%20Teja%20Singh%2C,.....> - "That plaintiff, Teja Singh, be and he hereby is, given and granted a final and absolute divorce from defendant, Satya Singh on the ground of their having lived separate and apart for more than three (3) consecutive years without cohabitation. there being no possibility of reconciliation between them....."

<sup>8</sup><https://indiankanoon.org/doc/989920/> - From the aforesaid discussion the following rule can be deduced for recognising foreign matrimonial judgment in this country. The jurisdiction assumed by the foreign court as well

The interpretation of public policy was further refined in the landmark commercial dispute **Renusagar Power Co. Ltd. v. General Electric Co.** Although the case primarily concerned the enforcement of a foreign arbitral award, the Court's observations regarding public policy have had a profound influence on the interpretation of the doctrine in cross-border disputes. The Supreme Court adopted a **narrow interpretation of public policy**, holding that enforcement should only be refused when it is contrary to the fundamental policy of Indian law, the interests of India, or basic notions of morality and justice. This restrictive approach was intended to prevent courts from using public policy as a broad and unpredictable ground to refuse enforcement of foreign decisions.<sup>9</sup>

The restrictive interpretation of the doctrine was reaffirmed in **Shri Lal Mahal Ltd. v. Progetto Grano Spa**. In this case, the Supreme Court clarified that the broader interpretation of public policy used in domestic arbitration cases should not apply to the enforcement of foreign arbitral awards. Instead, the Court reaffirmed the narrow standard established in the *Renusagar* decision. This judgment reinforced the idea that international disputes require a more limited application of public policy in order to maintain confidence in India's legal system as a reliable forum for enforcing foreign decisions.<sup>10</sup>

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as the grounds on which the relief is granted must be in accordance with the matrimonial law under which the parties are married.

<sup>9</sup><https://indiakanon.org/doc/86594/> - the enforcement of a foreign award would be refused on the ground that it is contrary to public policy if such enforcement would be contrary to (i) fundamental policy of Indian law; or (ii) the interests of India; or (iii) justice or morality.

<sup>10</sup><https://www.penningtonslaw.com/insights/supreme-court-of-india-restricts-scope-for-avoiding-interference-in-implementation-of-foreign-awards/#:~:text=of%20foreign%20awards-,Supreme%20Court%20of%20India%20restricts%20scope%20for,in%20implementation%20of%20foreign%20awards&text=The%20Supreme%20Court%20of%20India,justice%20and%20morality> - The Supreme Court of India, in the recent decision of *Shri Lal Mahal Ltd v Progetto Grano Spa*, has overruled its earlier decision in *Phulchand Exports Limited v OOO Patriot* and declined to consider the merits of a foreign arbitral award in an enforcement proceeding. The judgment in *Shri Lal Mahal* represents another significant pro-arbitration step by the Indian Supreme Court. It has affirmed that while considering the enforceability of foreign awards, it does not exercise appellate jurisdiction – nor does it enquire as to whether, while rendering foreign awards,

More recently, the Supreme Court further strengthened the pro-enforcement approach in **Government of India v. Vedanta Ltd.** The Court emphasized that challenges to foreign awards or judgments on the ground of public policy should be interpreted narrowly and applied only in exceptional circumstances. The ruling highlighted the importance of ensuring that India remains an arbitration-friendly jurisdiction and respects international legal commitments.<sup>11</sup> The debate surrounding public policy has also emerged in the context of high-profile international disputes such as the **Devas Multimedia Private Limited v. Antrix Corporation Limited** dispute. In this case, the Indian government challenged the enforcement of arbitration awards arising from the cancellation of a satellite agreement between Antrix Corporation and Devas Multimedia. The government argued that enforcement of the award would violate Indian public policy because the underlying contract had been annulled on grounds involving fraud and national interest considerations. The dispute illustrates how public policy continues to be invoked in complex international commercial conflicts, particularly when issues of state interest and alleged illegality are involved.<sup>12</sup>

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any errors have been committed. The court has followed the decision in *Renusagar Power Plant Co Ltd v General Electric* and held that enforcement can only be opposed on grounds of public policy where it is contrary to:

- fundamental policy of Indian law
- the interests of India or
- justice and morality

<sup>11</sup>[https://www.ibanet.org/article/7CC3CF19-09D7-474C-A2CE-8B8227CD92DE#:~:text=Vedanta%20\(above\).-Conclusion,as%20an%20arbitration%20friendly%20jurisdiction](https://www.ibanet.org/article/7CC3CF19-09D7-474C-A2CE-8B8227CD92DE#:~:text=Vedanta%20(above).-Conclusion,as%20an%20arbitration%20friendly%20jurisdiction). - Through the collaborative efforts of the Judiciary and the Legislature over the last half a decade, India has shaken off its poor reputation regarding the enforcement of foreign arbitral awards. The courts have stepped in to prevent enforcement only on limited grounds and in a select few cases. The recent decisions of the Supreme Court in the *Vijay Karia* and *Vedanta* cases are perhaps the most significant. These rulings provide clarity on the limited and narrow scope that is available to a party for raising objections to a foreign arbitral award under section 48 of the Act. In addition, the practice of litigating parties sanctioning multiple attempts to thwart the enforcement of foreign awards will get minimised to the maximum extent possible, especially in light of heavy costs imposed on the infringing parties in *Vijay Karia*. Finally, the Supreme Court, by holding that courts have discretion to enforce a foreign arbitral award even if certain grounds for resisting enforcement are made out, has further strengthened India's reputation as an arbitration-friendly jurisdiction

<sup>12</sup>[https://www.orfonline.org/research/devas-v-antrix-lessons-for-india-in-navigating-bilateral-investment-treaty-disputes#:~:text=Introduction,Space%20Research%20Organisation%20\(ISRO\)](https://www.orfonline.org/research/devas-v-antrix-lessons-for-india-in-navigating-bilateral-investment-treaty-disputes#:~:text=Introduction,Space%20Research%20Organisation%20(ISRO)). - In the case of *Devas*

Collectively, these judicial decisions demonstrate the evolving nature of the public policy doctrine in Indian law. While earlier cases emphasized the protection of domestic legal principles, more recent decisions have attempted to limit the scope of the doctrine in order to facilitate the enforcement of foreign judgments and arbitral awards. Nevertheless, the absence of a precise statutory definition continues to leave room for interpretative flexibility, which may lead to uncertainty in certain cases. Consequently, the judicial development of the doctrine highlights the ongoing need for a clearer and more consistent approach to the public policy exception under Section 13 CPC.

### V. Comparative Perspective

The application of the public policy exception in the recognition and enforcement of foreign judgments is not unique to India. Most legal systems incorporate similar safeguards to ensure that foreign judicial decisions do not undermine the fundamental principles of the forum state. However, the scope and interpretation of the doctrine vary significantly across jurisdictions. A comparative analysis helps to understand how different legal systems balance the objectives of **international comity** and **domestic legal protection**, thereby providing useful insights for reassessing the Indian approach under **Section 13 of the Code of Civil Procedure, 1908**.

In the United Kingdom, the recognition and enforcement of foreign judgments are governed primarily by common law principles and statutory frameworks. British courts generally adopt a **restrictive interpretation of public policy**, refusing recognition only in exceptional circumstances where enforcement would clearly violate fundamental moral or legal principles. The doctrine is

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*Multimedia Private Limited v. Antrix Corporation Limited*,<sup>[4]</sup> the Supreme Court of India in January 2022 upheld the decision of the National Company Law Appellate Tribunal (NCLAT) to wind up Devas Multimedia (or Devas, an Indian multimedia services provider), finding that it was incorporated fraudulently and for unlawful purposes. In 2021, the NCLAT had ordered the liquidation of Devas on the ground of fraud, under Sections 271 and 272 of the Companies Act, 2013, in response to a petition filed by Antrix, the commercial and marketing arm of the Indian Space Research Organisation (ISRO).

applied sparingly, and courts emphasize the importance of respecting foreign judicial decisions in order to promote international cooperation and legal certainty. This cautious approach minimizes the risk of arbitrary refusal to enforce foreign judgments.<sup>13</sup>

Similarly, the United States recognizes foreign judgments through the principle of comity and statutory instruments such as the **Uniform Foreign-Country Money Judgments Recognition Act**. Under this framework, foreign judgments are typically recognized unless they fall within specific exceptions, including judgments that are contrary to the public policy of the recognizing state. However, American courts have consistently held that the public policy exception must be applied **narrowly**. Mere differences between foreign law and domestic law are not sufficient to deny enforcement. Instead, the foreign judgment must be fundamentally incompatible with the essential principles of justice in the United States.<sup>14</sup>

At the international level, efforts have been made to harmonize the recognition of foreign judgments through multilateral conventions. One notable example is

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<sup>13</sup><https://iclg.com/practice-areas/enforcement-of-foreign-judgments-laws-and-regulations/england-and-wales#:~:text=As%20noted%20above%2C%20for%20a,the%20outcome%20of%20that%20appeal>. - As noted above, for a foreign judgment to be recognised and enforced at common law, it must be final, binding and conclusive. A foreign judgment is only considered final and binding where it would have precluded the unsuccessful party from bringing fresh proceedings in that foreign jurisdiction. If a foreign judgment is the subject of appeal in that jurisdiction, the English courts are likely to grant a stay on enforcement proceedings pending the outcome of that appeal.

<sup>14</sup>[https://iclg.com/practice-areas/enforcement-of-foreign-judgments-laws-and-regulations/usa#:~:text=The%201962%20Uniform%20Act%20does,%C2%A7%20211\(b\)](https://iclg.com/practice-areas/enforcement-of-foreign-judgments-laws-and-regulations/usa#:~:text=The%201962%20Uniform%20Act%20does,%C2%A7%20211(b)). - The 1962 Uniform Act does not specify a statute of limitations; states adopting this act typically apply either the state's general statute of limitations or the statute of limitations for enforcing domestic judgments. In contrast, the 2005 Uniform Act includes a statute of limitations, indicating that a party seeking recognition of a foreign judgment must initiate legal proceedings within the earlier of either: (a) the period during which the foreign judgment is effective in the foreign country; or (b) 15 years from the date it becomes effective there. Some states that have adopted the 2005 Uniform Act impose different time constraints. For example, California mandates that "[a]n action to recognize a foreign-country judgment shall be commenced within the earlier of the time during which the foreign-country judgment is effective in the foreign country or 10 years from the date that the foreign-country judgment became effective in the foreign country" (Cal. Civ. Proc. Code § 1721). Recent amendments in New York specify that if there is no enforcement limitation in the country of origin, recognition must be sought within 20 years from the date the judgment became effective in the foreign country. N.Y. C.P.L.R. § 211(b).

the Hague Convention on Choice of Court Agreements, which seeks to ensure the effectiveness of exclusive jurisdiction agreements and the enforcement of resulting judgments across contracting states. The Convention also recognizes a limited public policy exception, allowing states to refuse enforcement only when recognition would be manifestly incompatible with the public policy of the requested state. The use of the term “manifestly incompatible” reflects the intention to restrict the application of the doctrine to **exceptional cases**.<sup>15</sup>

These comparative frameworks reveal a common trend toward **narrowing the scope of the public policy exception** in cross-border disputes. Many jurisdictions recognize that excessive reliance on public policy can undermine international legal cooperation and discourage foreign investment and commercial transactions. By limiting the doctrine to cases involving serious violations of fundamental principles, courts can maintain a balance between protecting domestic legal values and facilitating the smooth functioning of international legal relations.

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<sup>15</sup><https://www.lexology.com/library/detail.aspx?g=699088a9-e24f-4d6f-9527-703aedde71a1#:~:text=This%20is%20broader%20than%20under,inconsistent%20with%20a%20previous%20judgment>. - This is broader than under the 2007 Lugano Convention.

A judgment includes the merits as well as any determination costs or expenses of the proceedings by the court, article 4(1) 2005 Hague Convention.

The courts of the contracting states are obliged to dismiss proceedings where an exclusive jurisdiction agreement applies in favour of another contracting state, article 6 2005 Hague Convention. There are limited exceptions to this principle, such as the existence of a manifest injustice to the public policy of a state, article 6(c) 2005 Hague Convention.

The key principle of the 2005 Hague Convention is that if a judgment is enforceable in the state of origin, it is enforceable in a contracting state so long as there is a valid exclusive choice of court agreement. There are limited exceptions to this principle, article 9 2005 Hague Convention:

- The exclusive jurisdiction agreement is null and void;
- A party lacks capacity;
- The claim form was not correctly served upon the defendant;
- The foreign judgment was obtained by fraud;
- Enforcement would be manifestly incompatible with the public policy of the state;
- The foreign judgment is inconsistent with a previous judgment.

In contrast, the Indian legal framework under the **Code of Civil Procedure, 1908** does not provide a detailed statutory definition of public policy. As a result, the interpretation of the doctrine largely depends on judicial discretion. While Indian courts have increasingly adopted a restrictive approach similar to other jurisdictions, the absence of clear legislative guidance may still create uncertainty in certain cases.

Therefore, examining the practices of other jurisdictions highlights the potential benefits of **clarifying and refining the public policy doctrine** in India. A more precise and internationally aligned approach could strengthen the credibility of the Indian legal system in handling cross-border disputes and promote greater confidence in the enforcement of foreign judgments.

## **VI. Contemporary Challenges and the Need for Reassessment**

The increasing globalization of commerce, migration, and cross-border transactions has significantly expanded the relevance of foreign judgments in domestic legal systems. In India, the framework governing the recognition of such judgments under the **Code of Civil Procedure, 1908**, particularly **Section 13 of the Code of Civil Procedure, 1908**, has played a crucial role in facilitating international legal cooperation. However, despite the statutory framework and evolving judicial interpretation, several contemporary challenges continue to arise in the application of the public policy exception.

One of the primary concerns is the **vagueness and indeterminate scope of the public policy doctrine**. The absence of a clear statutory definition leaves the determination of public policy largely within the discretion of the judiciary. While courts have attempted to interpret the doctrine cautiously, the lack of legislative guidance may lead to inconsistent application in different cases. Such uncertainty can undermine predictability in cross-border legal relations and

create difficulties for parties seeking enforcement of foreign judgments in India.<sup>16</sup>

Another challenge arises from the tension between **national sovereignty and international legal cooperation**. On one hand, Indian courts must ensure that foreign judgments do not violate fundamental principles of Indian law, morality, or justice. On the other hand, excessive reliance on public policy as a ground for refusing enforcement may weaken the principle of comity and discourage international parties from engaging with the Indian legal system. In an era of global commerce and investment, maintaining a balanced approach is essential for preserving India's credibility as a jurisdiction that respects international legal obligations.<sup>17</sup>

The growing importance of **international arbitration and cross-border commercial disputes** has further intensified this debate. Courts have increasingly emphasized the need to adopt a **pro-enforcement approach**, particularly in cases involving foreign arbitral awards and international commercial agreements. Judicial decisions of the **Supreme Court of India**, such as **Government of India v. Vedanta Ltd.**, reflect a growing recognition

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<sup>16</sup><https://www.ijllr.com/post/the-public-policy-exception-in-indian-private-international-law-guarding-sovereignty-or-hindering-#:~:text=The%20study%20contends%20that%20although,Download%20%E2%80%A2%20302KB> - The study contends that although public policy is an essential safeguard for sovereign legal identity, its overuse in India has resulted in judicial overreach, unpredictability, and barriers to the acceptance of valid foreign legal rulings. The paper concludes with a proposal for doctrinal reform, calling for a codified framework of Private International Law that strikes a balance between domestic values and the demands of globalization and cross-border justice, as well as a refined, dual-level interpretation of public policy.

<sup>17</sup><https://www.mondaq.com/india/trials-amp-appeals-amp-compensation/958028/tracing-the-journey-of-the-public-policy-exception-to-enforcement-of-arbitral-award#:~:text=Public%20Policy%2D%20Distinction%20in%20the,public%20policy%20of%20the%20state.> - Public Policy- Distinction in the context of Domestic and Foreign Arbitrations  
The term public policy appears twice in the Arbitration and Conciliation Act, 1996 ("Arbitration Act"). One is in the context of a domestic arbitration- under Section 34 where an arbitration award can be set aside if it contravenes the public policy. The other is in the context of a foreign arbitration- under Section 48 where the enforcement of a foreign arbitral award can be refused if it is in contravention of the public policy of the state.

that the public policy exception should be interpreted narrowly to avoid unnecessary interference with international dispute resolution mechanisms.

Additionally, high-profile disputes like **Devas Multimedia Private Limited v. Antrix Corporation Limited** demonstrate how the invocation of public policy may become controversial when issues of national interest, allegations of fraud, or governmental actions are involved. Such cases highlight the complexity of balancing state interests with the need to uphold international legal commitments.

These challenges indicate that a **critical reassessment of the public policy exception** is necessary. Legislative clarification regarding the scope of international public policy, combined with consistent judicial standards, could significantly enhance legal certainty. Aligning Indian practice with internationally accepted principles would also strengthen the country's position as a reliable forum for the recognition and enforcement of foreign judgments.

## **VII. Conclusion and Recommendations**

The recognition and enforcement of foreign judgments play a vital role in maintaining stability and predictability in international legal relations. In India, this framework is primarily governed by the **Code of Civil Procedure, 1908**, particularly **Section 13 of the Code of Civil Procedure, 1908**, which establishes the circumstances under which foreign judgments may be considered conclusive. While the provision generally promotes the recognition of foreign judicial decisions, the inclusion of exceptions (especially the public policy exception (ensures that Indian courts retain the authority to protect fundamental domestic legal principles.

Judicial interpretation by the **Supreme Court of India** has played a significant role in shaping the scope of the public policy doctrine. Decisions such as **Satya v. Teja Singh** and **Y. Narasimha Rao v. Y. Venkata Lakshmi** demonstrate the

willingness of Indian courts to refuse recognition of foreign judgments that violate essential legal norms. At the same time, later rulings including **Renusagar Power Co. Ltd. v. General Electric Co.** and **Government of India v. Vedanta Ltd.** have emphasized a narrower interpretation of public policy, particularly in the context of international commercial disputes.

Despite these judicial developments, the public policy exception continues to present challenges due to its **vague and flexible nature**. The absence of a clear statutory definition allows significant room for judicial discretion, which may result in inconsistent outcomes in different cases. In an increasingly interconnected world, such uncertainty may affect international confidence in the Indian legal system and discourage cross-border dispute resolution involving Indian courts.

In light of these concerns, a reassessment of the doctrine becomes necessary. First, the legislature may consider providing **clearer guidelines on the scope of international public policy**, distinguishing it from broader domestic public policy. Second, courts should continue to adopt a **restrictive interpretation**, limiting the application of the exception to cases involving serious violations of fundamental legal principles. Third, aligning the Indian framework with international standards and conventions could strengthen India's position as a reliable jurisdiction for the recognition and enforcement of foreign judgments. Ultimately, a balanced and clearly defined approach to the public policy exception would help reconcile two important objectives: safeguarding the fundamental values of the Indian legal system while promoting greater cooperation and certainty in international legal relations.

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