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“EMERGING TRENDS IN ARBITRATION LAW: RECENT DEVELOPMENTS AND COMPARATIVE ANALYSIS ACROSS JURISDICTIONS”

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ABSTRACT

Arbitration law has changed a lot over the years. This is because countries and businesses have had to adapt to global and economic developments. There have been big changes in arbitration law. For example some organisations have changed their rules. There is something called emergency arbitration. The way countries settle disputes with investors is also changing. More people are using third-party finance, and technology is making things happen faster. This includes the use of intelligence and virtual hearings. This Research Topic is going to take a look at these new developments in arbitration law. Big organisations like ICSID and UNCITRAL, and countries like the United States, Singapore, India, England and Wales are changing the way arbitration works. We will talk about how to write agreements, make decisions and deal with enforcement issues. We will also talk about the role of technology and finance in arbitration law.

Arbitration law is still fair. Gives people a lot of control. It is also becoming more modern and efficient. Countries and organisations are working together to make arbitration law more consistent and to use technology to improve it. Arbitration law is still a way to solve disputes, and it can be enforced all around the world. It is entering a new phase where it will be more organised and modern. This will make it more efficient and easier to use.

Keywords: UNCITRAL, ICSID, Arbitration, Jurisdictions, Party Autonomy, Investor- state, Third party.

INTRODUCTION

Arbitration has been a way to resolve international disputes because it is flexible, neutral and has a strong system to enforce its decisions under the New York Convention. However, things have

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changed over time. The field of arbitration has changed over time. Arbitration institutions and national legal systems have had to update their rules because of globalisation changes in geopolitics and different expectations from commercial parties. New technologies in areas like artificial intelligence, e-discovery and virtual hearings have completely changed arbitration. At the time there are discussions about third-party finance and investor-state arbitration that have led to reviews of regulations and suggestions for reform.

This article looks at how different countries and arbitration institutions are responding to the latest developments in arbitration law. It shows how arbitration is changing to fix problems with cost, delay, legitimacy, transparency and access to justice. The article also looks at the effects of these changes for lawyers, arbitrators and parties involved in contracts.

RESEARCH QUESTIONS

1. How are the latest reforms in arbitration countries like England, Singapore, India and the United States affecting the global movement towards modernisation and making arbitration procedures more efficient?
2. How much have developments like virtual hearings, digital evidence and tools supported by artificial intelligence changed the way arbitration is done and what challenges do these new technologies pose for due process and confidentiality?
3. How do different countries. Apply key principles for enforcing arbitration decisions under the New York Convention and what trends can be seen in how courts handle objections based on public policy and procedural irregularities?

RESEARCH OBJECTIVES

1. To look at how recent reforms in leading arbitration countries contribute to making arbitration procedures more efficient, consistent and predictable.
2. To assess the impact of innovations on arbitration and identify the practical, ethical and procedural challenges that come with increased use of digital technology.
3. To analyse how global practices for enforcing arbitration decisions under the New York Convention are shaping trends that favour enforcement and to determine how courts in countries are contributing to these trends.

1. MAJOR RECENT DEVELOPMENTS IN ARBITRATION

1.1 INSTITUTIONAL RULE REFORMS

In the few years some big arbitration institutions have changed their rules to make things faster and more efficient. They want to use tools more and make the process better for everyone. The Singapore International Arbitration Centre is an example. It updated its rules to make things move faster and be more transparent. This is what people want: results and a process that uses technology. Singapore wants to stay a place for arbitration in Asia.

Other institutions like the International Centre for Settlement of Investment Disputes have also changed their rules. They now allow filings and virtual hearings. They want to make the process faster and cheaper. They also want to make sure that everyone is transparent. Other institutions like the ICC, LCIA and HKIAC have done the thing. They have made it easier to submit documents online and have meetings.

1.2 INVESTOR–STATE DISPUTE SETTLEMENT REFORM

There are a lot of efforts to reform Investor–State Dispute Settlement. Governments and institutions are trying to fix problems like secrecy and high costs. The United Nations Commission on International Trade Law is leading the charge. They are trying to make a court for investment disputes and an appeals body. They also want to make sure that arbitrators are ethical and do not have conflicts of interest. Some countries are also changing their investment treaties to make things clearer and to encourage mediation.

All of these changes are trying to make the system better. They want to make it more transparent and accountable. They also want to make it faster and more efficient. This is a change and it is going to make the system more credible.

1.3 DIGITALIZATION AND ARTIFICIAL INTELLIGENCE

The pandemic made everyone use tools more. Now things like cloud storage and virtual hearings are normal. Institutions have made guidelines for things like data privacy and cybersecurity. Artificial Intelligence is also being used more. It is being used for things like document review and predictive analytics.

Some people are using Artificial Intelligence to help with their cases.. There are problems with this. We do not know how these systems work. We are worried about biases. We are also worried about keeping information safe. These are questions and we need to figure out the answers.

We need to think about:

1. Do people have to say if they used Artificial Intelligence to help with their case?
2. How do we keep information safe when we use Artificial Intelligence?
3. Can using Artificial Intelligence make the process unfair?

1.4 GROWTH OF THIRD-PARTY FUNDING

Third-party funding is becoming more popular in arbitration. This is because costs are going up, and people are more aware of it. Some places, like Singapore and Hong Kong, have made rules for this. England has a system that works well. Now tribunals have to think about things like disclosure and conflicts of interest. This is helping more people get involved in arbitration, but there are still concerns about transparency and control.

1.5 ENFORCEMENT TRENDS UNDER THE NEW YORK CONVENTION

Courts are now more likely to enforce arbitration awards. They are being stricter about when they can say no. They are also allowing signatures and virtual hearings. This is making the process faster and more predictable. Sometimes there are still problems with things like sovereignty and fraud. Overall, courts are supporting the enforcement of arbitration awards. The New York Convention is a part of this. It helps make sure that arbitration awards are enforced around the world. Arbitration institutions, like the Singapore International Arbitration Centre, are also playing a role in this. They are helping to make the process faster and more efficient.

COMPARATIVE ANALYSIS ACROSS JURISDICTIONS

The way arbitration works is different around the world because of variations in the way people think about law, the rules that are in place and what judges think. A study that compared arbitration in important places found this out. Some places, like Singapore and the United Kingdom, are really good at arbitration because they make sure that decisions are enforced, do not get involved much and let the people involved make their own decisions. Their courts usually support arbitration, especially when it comes to upholding decisions and agreements made under the New York Convention. On

the hand countries like India have changed a lot in recent years. They used to have policies that got in the way of arbitration. Now they are more open to it. This is because of changes like the Arbitration and Conciliation Amendment Acts of 2015 and 2019. Places like France and Switzerland have flexible arbitration procedures. This makes their decisions final. They do not have reasons to cancel a decision. In some countries, people who invest money might lose trust if things take too long, if the rules are not clear or if courts interpret things in different ways. With these differences, arbitration is becoming more similar everywhere. More and more places are using the UNCITRAL Model Law principles. Arbitration is also becoming more institutionalised. People are recognising that procedures should be centred around the people involved.

When you look at all of these things together you can see how the little differences between places and the way things are coming together are still shaping the way arbitration works around the world.

ANALYSIS

Some trends in arbitration law show how things are changing globally. Arbitration is becoming more modern, transparent and efficient. One big change is that the arbitration rules are becoming more similar everywhere. For example, the ICC and LCIA have updated their rules to make things faster and cheaper. They are using technology like hearings and digital filings.

Many places, like Singapore and the United Kingdom, are also using technology to make arbitration better. They are having hearings and presenting evidence electronically. The COVID-19 pandemic has made this happen faster.

Another trend is that people are using third-party funding often. This is when someone else pays for the costs of arbitration. Places like Singapore and Hong Kong have made rules that make it clear how this can be used. There are also discussions about how to settle disputes between investors and states. Some people think there should be a court to handle these disputes. When you compare places, you can see that the good places, at arbitration, are trying new things, and the places that are still developing are making sure that decisions are enforced.

Overall, it seems like arbitration is becoming more transparent, predictable and centred around the people involved.

CONCLUSION

Arbitration law is changing fast. There are a lot of reforms happening like making institutions better using technology and changing how we fund cases. All of these changes are making arbitration more efficient, accessible and legitimate. With all these new tools and ways of doing things the basic principles of arbitration, like giving parties control, being neutral and making sure decisions are enforced, are still the foundation of arbitration around the world. For people who work with arbitration and those who are involved in disputes, it is necessary to keep up with these changes to manage disputes effectively in today's world.

This change is also changing what people expect from arbitration institutions, judges and users. Institutions like SIAC, ICC, LCIA and ICSID are constantly updating their rules to use technology better be more transparent and make proceedings faster. Things like hearings, hybrid submissions, emergency judges and faster procedures are now a central part of arbitration around the world. As these tools become normal they make it easier for people to get justice reduce costs and make sure disputes are handled consistently across borders, which makes arbitration more appealing to countries, companies and investors.

At the time, courts in different countries are supporting arbitration, limiting when they can intervene and making sure awards are enforced under the New York Convention. This makes it more predictable, which is very important in a time of uncertainty and global trade. Funding from parties, which was once controversial, is now widely accepted and regulated, allowing weaker parties to pursue good cases and making arbitration available to more people.

Changes in how we settle disputes between countries and investors show that the system is listening to concerns about legitimacy with emphasis on being ethical, transparent and fair. All of these developments show that arbitration is not just changing. It is actually becoming better at meeting the needs of modern dispute resolution. In the end, arbitration is moving towards a more adaptable system, uses technology well and is consistent, around the world, while still upholding the values that have made it the preferred way to settle international disputes.

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