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The Rise of International Commercial Arbitration: Benefits and Challenges for Global Business

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Abstract
This paper explores the rapid growth of international commercial arbitration (ICA) as the primary method of resolving cross-border business disputes. It traces the historical evolution of arbitration, highlighting how institutions like the ICC, LCIA, and SIAC have shaped modern practices. The research examines why businesses increasingly favor arbitration over litigation, emphasizing factors such as party autonomy, confidentiality, flexibility, and the enforceability of arbitral awards under the New York Convention. At the same time, the paper critically analyzes the drawbacks and challenges inherent in ICA, including difficulties with enforcement, limited appeal rights, procedural opacity, and complexities in multi-party disputes. Emerging trends such as mass arbitration, climate-related claims, arbitration involving crypto assets, and the growing role of third-party funding are also discussed, illustrating how global business and technological change are reshaping the arbitration landscape. The study concludes that while ICA offers significant benefits—especially speed, neutrality, and expertise—it requires procedural reforms, greater transparency, and adaptation to new commercial realities to remain a reliable dispute resolution mechanism for international commerce.

Keywords
International Commercial Arbitration, Cross-Border Disputes, Arbitration Institutions (ICC, LCIA, SIAC), New York Convention, Enforcement of Arbitral Awards, Party Autonomy, Procedural Fairness, Mass Arbitration, Third-Party Funding, Climate Change Disputes, Crypto Assets Arbitration, Emerging Trends in Arbitration, Alternative Dispute Resolution (ADR)

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1. Introduction

The increasing prevalence of international commercial arbitration as a preferred means of resolving disputes in cross-border business transactions is the subject of this paper. This kind of dispute settlement has gained widespread acceptance across jurisdictions and languages. It is important to assess its procedural fairness and if there are enough protections for both parties because there are still issues about the possibility of misuse. Weighing concerns about procedural fairness in commercial arbitration is vital since international law is soft law and does not have the same legally binding impact as hard law, like that of local courts and countries.[1]

In standard practice, two approaches are used to appropriately characterize international arbitration. It all starts with looking at a certain transaction and seeing if it involves a transaction that's happening in two or more states, or in a state other than the arbitration site. The second approach takes the Parties into account; it checks to determine if the Parties are from different states.[2] In order to provide a correct definition of this notion, it is necessary to address a number of relevant issues here. When it comes to arbitration involving natural people, it is well understood that two individuals from separate states are treated as being from distinct

[1] Moses, Margaret L. *The Principles and Practice of International Commercial Arbitration.* Cambridge University Press, 2017.

[2] Gary Born, *International Commercial Arbitration: Commentary and Materials* (BRILL, 2021).

states. The terms "International" and "Commercial" provide further difficulties, and the lack of a universally accepted definition of arbitration does not help matters.[3] The UNICITRAL Model on International Commercial Arbitration is one source of legislation that could be considered, however it only presents one side of the argument.[4] In reality, arbitration must strike a compromise between procedural issues and efficiency considerations.

Since the speed, efficiency, and cost-saving character of arbitration—its main selling point—would be lost if there were too many procedural protections, the procedure would become no different from a regular court proceeding. It is thus important to investigate the real-world challenges associated with enforcing Arbitral Awards and the efficiency of the existing system.[5] In order to illustrate the present trend in international arbitration, we will look at the evolution of the arbitration system in a few different nations and how it was assisted there. After then, the paper delves into the difficulties of international commercial arbitration, focusing on the issues surrounding the recognition and execution of arbitral rulings. Before wrapping off the debate on the reform possibilities for International Arbitration, we will take a look at the specific downsides and problems of arbitration.

1.1 Evolution of ICA

In contrast to modern times, international commercial arbitration was the go-to method for mediating conflicts amongst marketplace vendors throughout the Middle Ages. Throughout Europe, and notably in England, this practice was widespread. Mediterranean and Baltic Sea trade routes commonly used arbitration as a means of resolving commercial conflicts.[6]

The use of arbitration ceased immediately upon the establishment of courts. In 1889, England passed the English Arbitration Act, which was later revised and consolidated into the English Arbitration Act, 1950, making it the country with the oldest legislation enforcing international commercial arbitration.[7] Following this, the majority of the other member states of the British Commonwealth codified the newly enacted legislation. Following this, in 1925, the United States of America passed its own arbitration law, the Federal Arbitration Act.[8]

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[3] Ilias Bantekas, "Equal treatment of parties in international commercial arbitration," *International & Comparative Law Quarterly* 69, no. 4 (2020).

[4] Jair Gevaerd, "Internationality and commerciality in the Uncitral Model Law: a functional and integrative analysis," *Revista Brasileira de Alternative Dispute Resolution-Brazilian Journal of Alternative Dispute Resolution-RBADR* 1, no. 2 (2019).

[5] Jennifer Kirby, "What is an award, anyway?," (2014).

[6] Alec Stone Sweet and Florian Grisel, *The evolution of international arbitration: judicialization, governance, legitimacy* (Oxford University Press, 2017).

[7] Lucas Clover Alcolea, "The arbitration of internal trust disputes in English law: Legal challenges and pathways," (2021).

[8] Imre Stephen Szalai, "Exploring the Federal Arbitration Act Through the Lens of History," *J. Disp. Resol.* (2016).

International trade followed the path of international borders as the globe became more globalized. As a result of its rapid globalization, some nations' economic position skyrocketed.[9] After a brief surge in prominence with the establishment of courts in Europe, arbitration once again emerged as a prominent method of resolving commercial disputes, driven by the high demand for international exchange of capital, goods, and services, which in turn increased various needs and wants.[10]

2. Institutions

2.1 The International Chamber of Commerce (ICC)

It has been a frontrunner in the fields of international trade and conflict settlement since its founding in 1919. Its arbitration arm, the ICC Court, is well-known for its dedication to openness and impartiality, as well as its skilled arbitrators and strict procedural framework. The gold standard in international arbitration is the ICC Rules, which are constantly updated to reflect evolving commercial trends. The ICC's global reach and commitment to harmonizing international trade rules have made it a pioneer in commercial dispute settlement.[11]

ICC's four primary governing bodies are World Council, Executive Board, International Secretariat, and Finance Committee. Together, these organizations assure the ICC's strategic direction, operational efficiency, and financial oversight. The ICC's main functions include advocacy, rule-making, and dispute resolution.[12] It encourages international investment and trade, creates detailed rules for doing business across borders, and offers its members the International Court of Arbitration and other ADR methods to resolve disputes.[13] Overall, the ICC's promotion of positive policies, standards, and dispute-resolution services shape international business.[14]

2.2 The London Court of International Arbitration (LCIA)

Founded in 1892, is a respected international conflict resolution institution. A Board of Directors and Arbitration Court monitor the LCIA's activities and ensure compliance with legislation and practices.[15] The LCIA administers arbitrations using its 2020 Rules and UNCITRAL's Rules.[16] Flexibility is a hallmark of the 2020 Rules.

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[9] Marc Levinson, "Outside the box: How globalization changed from moving stuff to spreading ideas," (2020).

[10] Levinson, "Outside the box: How globalization changed from moving stuff to spreading ideas."

[11] Executive Board, "International Chamber of Commerce–ICC," *Organization* (2020).

[12] Thomas David and Pierre Eichenberger, "'A world parliament of business'? The International Chamber of Commerce and its presidents in the twentieth century," *Business History* 65, no. 2 (2023).

[13] Board, "International Chamber of Commerce–ICC."

[14] David and Eichenberger, "'A world parliament of business'? The International Chamber of Commerce and its presidents in the twentieth century."

[15] JacomiJn J Van Haersolte-van Hof, "London Court of International Arbitration: Current Challenges and Opportunities" (paper presented at the Новые горизонты международного арбитража, 2015).

[16] Gevaerd, "Internationality and commerciality in the Uncitral Model Law: a functional and integrative analysis."

The London Court of worldwide Arbitration (LCIA) maintains its worldwide dispute resolution leadership. It provides several services to assist commercial disputes be resolved quickly and equitably.[17] The LCIA's main responsibility is to carefully identify and nominate unbiased arbitrators to ensure impartiality and competency. The LCIA resolves complaints concerning arbitrators' independence and impartiality to maintain arbitration credibility and protect equality and due process.[18] The LCIA manages arbitration expenses effectively and publicly, promoting efficiency and predictability.[19]

2.3 Singapore International Arbitration Centre

The Singapore International Arbitration Centre (SIAC), a non-profit international arbitration institution, helps global companies resolve disputes.[20] UNCITRAL Arbitration Rules and SIAC arbitration processes are utilized for arbitrations.[21] From the selection of arbitrators—always prominent attorneys and members of the international business community—through the announcement of a final ruling, all procedures are governed by SIAC norms. When it comes to international commercial conflicts, they lay forth a comprehensive structure for resolution.[22]

3. ICA as the Preferred Method

International commercial arbitration is often chosen for two main reasons: the first is more general and pertains to business in general, while the second is more specialized to international arbitrations. The most important overall factor is the arbitrator's discretion.[23] A neutral third party with extensive expertise in the area where the disagreement arose can be selected by the parties involved. Receiving an award from a knowledgeable individual boosts their faith in the judging process. When it comes to one particular area, state judges' expertise is lacking. They oversee the court's general officers and consider cases involving a wider range of issues. Unlike the arbitrator selected, who could be an expert in the area of the dispute.[24] An example of an appropriate arbitrator would be a highly accomplished investment banker or a lauded

[17] Jacomijn van Haersolte-van Hof and Romilly Holland, "What makes for Effective Arbitration? A Case Study of the London Court of International Arbitration Rules," in *International Organizations and the Promotion of Effective Dispute Resolution* (Brill Nijhoff, 2019).

[18] van Haersolte-van Hof and Holland, "What makes for Effective Arbitration? A Case Study of the London Court of International Arbitration Rules."

[19] Van Haersolte-van Hof, "London Court of International Arbitration: Current Challenges and Opportunities."

[20] Johannes Landbrecht, "The Singapore international commercial court (SICC)-an alternative to international arbitration?," *ASA Bull.* 34 (2016).

[21] Gloria Lim, "International commercial mediation: The Singapore model," *Singapore Academy of Law Journal* 31 (2019).

[22] Lim, "International commercial mediation: The Singapore model."

[23] Stacie I Strong, "Beyond international commercial arbitration-the promise of international commercial mediation," *Wash. UJL & Pol'y* 45 (2014).

[24] Leon E Trakman, "Confidentiality in international commercial arbitration," *Arbitration International* 18, no. 1 (2014).

accountant in the event of a disagreement over a financial transaction. On the other hand, this is illegal in many states, which mandate that only lawyers can serve as arbitrators.[25]

Reason number two is that parties to a dispute can choose their own arbiter. Until an award or settlement is reached, the panel of arbitrators or a single arbitrator will continue to oversee the case. This ensures that the arbitrators are fully informed on the matter at hand, which increases the likelihood that they will be knowledgeable about the subject matter and, consequently, the likelihood that they will provide more favorable verdicts.[26] This is in contrast to the judicial system, where judges often deal with complex conflicts and cases can be moved around from judge to judge. Their understanding of the full extent of the conflict is therefore diminished. The regulations may be easily adjusted to accommodate the evolving situation and the terms of the agreement. Some standard norms, as stated in the Model Law, must be present; for example, the principle of audi alteram partem and the need of equality.[27] Everything else is in accordance with the agreement, which can be amended to meet the changing requirements and updates on the dispute.

Another very practical reason is that there is no merits-based appeal to the Arbitration. As a result, the Parties may easily accept the judgment and adjust their plans in light of it, and the associated expenses are reduced. They end up saving a ton of time because of this. Arbitration is also typically less expensive and takes far less time than litigation and the courts. This fact, however, is debatable as there is no solid proof of it in some cases.[28] We can't take into account all of the factors at play. As mentioned before, the rules are flexible, so the procedure may be adjusted to suit the parties' interests. This means that if the parties choose, they can have a reasonably fast arbitration at lesser expenses.[29] For claims with a value of less than one million Swiss francs, for instance, the Swiss Rules of International Arbitration provide for a streamlined procedure; this is just one example of how certain arbitration rules cater to lesser claims. Controversy, on the other hand, can be just as complicated and expensive as legal action. This occurs when the parties exhaust all available procedural avenues in their attempt to delay resolution of the dispute.[30]

4. Challenges in ICA

4.1 Enforcement of Foreign Arbitral Awards

When a specific arbitral tribunal's hearings in international commercial arbitration conclude, the result is an award. The majority of the time, one party will voluntarily comply with this award. When this isn't the case and the award is challenged, however, it's not uncommon for courts in other countries to have to rule on the

[25] David and Eichenberger, "'A world parliament of business'? The International Chamber of Commerce and its presidents in the twentieth century."

[26] Peter Binder, *International commercial arbitration and mediation in UNCITRAL Model Law jurisdictions* (Kluwer Law International BV, 2019).

[27] Jyotsana Singh and Pratyasha Sahu, "Audi Alteram Partem: A Fundamental Principle of Natural Justice," *Part 2 Indian J. Integrated Rsch. L.* 2 (2022).

[28] Binder, *International commercial arbitration and mediation in UNCITRAL Model Law jurisdictions*.

[29] Strong, "Beyond international commercial arbitration-the promise of international commercial mediation."

[30] David and Eichenberger, "'A world parliament of business'? The International Chamber of Commerce and its presidents in the twentieth century."

legitimacy and efficacy of the award.[31] For example, in order to collect the amounts gained in the award, the creditor may decide to start enforcement procedures in states where the debtor is presumed to have assets. Conversely, if an award is unsatisfactory, the award debtor has the option to have it annulled. Commonly referred to as "award-judgements," these are the rulings that result from these situations.[32]

Although there is a wide variety of "award-judgements," the following four are typically used in practice: (i) If an award is to be set aside because it is based on an allegation of a breach of the arbitration process's basic principles or any laws controlling it, the party seeking to do so may approach the national court located at the arbitration's seat.[33] (ii) if the arbitration was held in a jurisdiction that does not recognize international arbitration, the award may be subject to review by national courts to determine its validity and enforceability. (iii) Cases brought before national courts for enforcement if the award is not willingly followed. (iv) Judgments concerning recognition—those that deal with the consequences of awards rather than their efficient enforcement.[34] The question that remains in all of these cases is, after an Award judgement is obtained, how does a foreign judgement impact the execution of arbitral awards?

Foreign recognition and enforcement decisions may be given preclusive effect by national courts in some countries that follow the principles of foreign judgments, such as res judicata or estoppel.[35] The applicable standard for res judicata and claim estoppel differs among jurisdictions. As an example, when it comes to the acceptance and execution of award judgments abroad, UK courts have adopted the notion of estoppel in judgment. Surprisingly, there doesn't appear to be any precedent in US case law regarding this matter, although the present US Restatement on International Commercial Arbitration takes a similar tack. The similarity in the application of principles between these two separate jurisdictions suggests that they may be more effective when compared side by side.[36]

4.2 Drawbacks of International Commercial Arbitration

One of the most important factors in determining how effective arbitration techniques are is transparency. While there are numerous benefits to adopting international commercial arbitration as a conflict procedure, such as cost-effectiveness and dispute-focused adjudication, there are also some disadvantages.[37] Some of the major problems with the arbitration process are as follows: (i) Finality: When disagreements are extremely close, the consequences of the parties' inability to reopen the case through arbitration might be

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[31] Andrey Ryabinin and Tibor Varady, *Procedural Public Policy: In Regard to the Enforcement and Recognition of Foreign Arbitral Awards* (Lap Lambert Academic Publishing, 2018).

[32] George A Bermann, "Recognition and Enforcement of Foreign Arbitral Awards" (paper presented at the The Interpretation and Application of the New York Convention by National Courts, E [2017], 2017).

[33] Bermann, "Recognition and Enforcement of Foreign Arbitral Awards."

[34] Bermann, "Recognition and Enforcement of Foreign Arbitral Awards."

[35] Renato Nazzini, "Enforcement of international arbitral awards: Res judicata, issue estoppel, and abuse of process in a transnational context," *The American Journal of Comparative Law* 66, no. 3 (2018).

[36] Nazzini, "Enforcement of international arbitral awards: Res judicata, issue estoppel, and abuse of process in a transnational context."

[37] Guy Robin, "The advantages and disadvantages of international commercial arbitration," *Int'l Bus. LJ* (2014).

devastating.[38] (ii) The inaccessibility of summary remedy: In contrast to court processes, arbitration does not typically offer summary relief, which allows for the rapid resolution of one-sided conflicts through mechanisms like strike-out or summary judgment. (iii) Difficulty in enforcing interim relief: While tribunals may have the authority to issue injunctions and other forms of interim relief, it may be difficult to enforce these orders in other jurisdictions without the backing of a local court ruling.[39] (iv) Disputes Involving many Parties: Unless correctly designed, it would be very difficult to add or impose a party to an ongoing arbitration process, merge two arbitrations into one, or handle disputes involving many parties in a single arbitration. However, it is far simpler to join parties in ongoing lawsuit procedures. (v) Lack of Determination: Tribunals dread having their verdict reversed if they implement their own institutional standards or procedural directions.[40]

5. The Role of Arbitration Institutions & Rules

The international arbitration regime relies on arbitration institutions to resolve cross-border disputes quickly, impartially, and cheaply. The International Chamber of Commerce (ICC) is proud of its International Court of Arbitration and extensive dispute settlement techniques.[41] The International Chamber of Commerce's (ICC) stringent Arbitration Rules and massive legal network provide assured and fair dispute resolution. ICC committees and working groups respond to the evolving world of international trade to improve its procedures.[42]

The London Court of International Arbitration (LCIA) is known for its party-centric, flexible approach. The LCIA's administrative framework and large panel of arbitrators ensure access to unequaled knowledge and allow parties to customize proceedings.[43] The LCIA's regular rule revisions to reflect worldwide arbitration practices and future developments demonstrate its commitment to innovation. These institutions' rules, methods, and administrative help underpin international arbitration's conflict resolution and trade management.[44]

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[38] Margaret L Moses, *The principles and practice of international commercial arbitration* (Cambridge University Press, 2017).

[39] Robert J Sharpe, "Interim remedies and constitutional rights," *University of Toronto Law Journal* 69 (2019).

[40] Robin, "The advantages and disadvantages of international commercial arbitration."

[41] Haneen Mansour Almansour and Mahmoud Ismail, "RESOLVING BUSINESS CONFLICTS UNDER ARBITRATION PROCEDURES AT THE INTERNATIONAL CHAMBER OF COMMERCE," *Corporate Law & Governance Review* 6, no. 2 (2024).

[42] Born, *International Commercial Arbitration: Commentary and Materials*.

[43] Agnessa Inchakova and Svetlana Kazachenok, "To principles in the jurisprudence of international commercial arbitration: A comparative study of the London Court of International Arbitration and the International Commercial Arbitration Court at the Chamber of Commerce and Industry of the Russian Federation," *J. Legal Ethical & Regul. Isses* 21 (2018).

[44] Inchakova and Kazachenok, "To principles in the jurisprudence of international commercial arbitration: A comparative study of the London Court of International Arbitration and the International Commercial Arbitration Court at the Chamber of Commerce and Industry of the Russian Federation."

5.1 Roles and Functions of Arbitration Institutions

Arbitration institutions guide arbitral proceedings with their standards and expertise, making them vital to conflict settlement. These institutions strive to promote impartiality, procedural accuracy, and speedy adjudication outside of court. They must protect arbitration agreements and apply law in conflict settlement.[45]

- Administration of Arbitral Proceedings: Arbitration institutions regulate the process and provide a framework for rapid conflict resolution. They monitor process details to ensure compliance with laws and timelines. Institutions coordinate arbitrator appointments, procedural submissions, and hearings and rulings according to norms to enable smooth arbitrations.[46]
- Appointment of Arbitrators: These bodies must choose unbiased arbitrators. They keep lists of qualified and experienced arbitrators to match cases. To guarantee fair adjudication, this approach ensures arbitrators have the requisite experience, neutrality, and independence.[47]
- Promulgation of Arbitration Rules and Procedures: Arbitration organizations' extensive rules and procedures control all elements of arbitration proceedings. These well-written regulations include process, hearings, and award distribution. They give a fair, efficient, and predictable framework for dispute resolution.[48]
- Support and Guidance to Arbitrators: Arbitrators get administrative, legal, logistical, and other help from institutions. They may offer training and development to help arbitrators enhance their skills and decision-making.[49]
- Ensuring Compliance and Enforcing Awards: Arbitration bodies ensure lawful execution of arbitral judgments. They may help parties in enforcement by supplying documents and arguing for award acceptance across jurisdictions.[50]
- Facilitating International Arbitration: International arbitration institutions provide a neutral forum and promote international arbitral standards to decide conflicts across borders. They can assist settle international issues by interpreting papers, communicating with local authorities, and handling complex logistical preparations according to global best practices.
- Promoting Arbitration Advocacy and Development: These institutes support and develop arbitration as a preferred conflict resolution option. Advocating for arbitration's benefits advances arbitration norms and procedures.[51]

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[45] Thomas J Stipanowich and Amy J Schmitz, *Arbitration* (Aspen Publishing, 2022).

[46] AR Sharipova, "Adversarial procedures in criminal, civil, arbitration and administrative proceedings: the search for unreasonable differences," *Juridical Journal of Samara University* 9, no. 1 (2023).

[47] Sarah Rudolph Cole, "Arbitrator diversity: Can it be achieved?," *Wash. UL Rev.* 98 (2020).

[48] David Horton, "The arbitration rules: procedural rulemaking by arbitration providers," *MInn. l. rev.* 105 (2020).

[49] Thomas A Telesca, Elizabeth S Sy, and Briana Enck, "Must Arbitrators Follow the Law?," *Franchise Law Journal* 41, no. 3 (2022).

[50] Telesca, Sy, and Enck, "Must Arbitrators Follow the Law?."

[51] Thomas Granier, Jacob Grierson, and Sacha Karsenti, "Is arbitration helping or hindering the protection of the environment and public health?," *Journal of International Arbitration* 38, no. 3 (2021).

6. Emerging Trends in International Arbitration

6.1 Increase in Life Sciences Arbitration

Recent statistics from major arbitral organizations show that more health sciences disputes are being resolved through arbitration than the courts. The rise seems to be a reflection of the industry's inventive and ever-changing character, along with the benefits that arbitration offers to life sciences businesses involved in a dispute, such as the capacity to maintain secrecy, adapt to new circumstances, have commercial certainty, and defend their rights across borders.[52]

6.2 Mass Arbitration

In light of the recent uptick in class action lawsuits filed by impacted individuals throughout the world, companies may be eager to see if arbitration, rather than litigation, provides a practical solution to handle these massive conflicts.[53] A growing number of companies in the United States are using "class action waivers" that mandate arbitration as the exclusive forum for resolving disputes of this kind, capitalizing on the widespread acceptance of mass arbitration in the country.[54]

6.3 Climate Change and Investment Treaty Arbitration

The greatest problem we face today is preventing or reducing the effects of climate change, and this urgent matter demands investment, especially investment from countries throughout the world. Investment protection, such as the utilization of BITs and MITs to offer foreign investors the security they need to encourage their investment, should be supported by states that are genuinely motivated to promote the clean energy transition and climate change mitigation.[55]

A number of member nations, including the United Kingdom and a few in the European Union, have chosen to withdraw from the Energy Charter Treaty (ECT), making it one of the most well-known MITs; nevertheless, other member states remain committed to its modernization.[56] Climate change arbitration is likely to rise regardless of the result, and states may increasingly employ counterclaims in investor-state arbitrations to bring climate change-related claims.[57]

6.4 Arbitration Involving Crypto Assets

Since many crypto companies incorporate arbitration clauses into their contracts, the number of arbitrations involving crypto assets is likewise growing. Nevertheless, there will likely be a number of obstacles that the parties engaged in such situations must overcome. Although the subjects at issue here are not new (claims of

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[52] YURII Prytyka, IRYNA Izarova, and S Kravtsov, "Towards effective dispute resolution: A long way of mediation development in Ukraine," *Asia Life Sciences* 29, no. 1 (2020).

[53] J Maria Glover, "Mass arbitration," *Stan. L. Rev.* 74 (2022).

[54] Andrew B Nissensohn, "Mass Arbitration 2.0," *Wash. & Lee L. Rev.* 79 (2022).

[55] Seungjun Kim, "Protecting home: how firms' investment plans affect the formation of bilateral investment treaties," *The Review of International Organizations* 18, no. 4 (2023).

[56] Agata Daszko, "The Energy Charter Treaty at a critical juncture: of knowns, unknowns, and lasting significance," *Journal of International Economic Law* 26, no. 4 (2023).

[57] Prytyka, Izarova, and Kravtsov, "Towards effective dispute resolution: A long way of mediation development in Ukraine."

fraud and mis-selling, breaches of contract, agreements for the provision of services), new questions of law will certainly be explored and tested.[58]

6.5 Third Party Funding

Monetization of awards, in which a financing provider lends money to the creditor of an award in exchange for a share or assignment of the award, and the usage of third party funding (TPF) to prosecute arbitration claims have both grown in popularity over the past five years.[59] To prevent their financing arrangements from being declared unenforceable by national courts, parties and funders must carefully consider the varied regulations and problems related to TPF in each country. The many phases of market growth and the distinct difficulties that parties and financiers may encounter in various jurisdictions are demonstrated by recent events in Ireland, the European Union, Nigeria, and India.[60]

6.6 Post – M & A Disputes

Unpredictable market circumstances, geopolitical volatility, and the residual repercussions of the COVID-19 epidemic are increasing the number of disputes that arise after mergers and acquisitions (M&A). Recent figures given by many major arbitral organizations reveal that these issues are increasingly being submitted to arbitration. Arbitration is frequently the best venue for resolving these types of disputes, however this does depend on the specifics of the deal and the remedies that are sought.

6.7 Geopolitical Impact on Energy and Infrastructure Disputes

War, pandemics, oil price volatility, climate danger, and inflation surges are all unusual geopolitical circumstances that have had an influence on global markets. Disputes are anticipated to escalate as a result of the domino effect that market volatility has on energy and infrastructure projects, the global mining and commodities markets, and other related industries.[61]

7. International Arbitration and National Courts

An important component of international commercial arbitration is the function of the national court when one of the parties to the contract seeks to have the matter heard by the national court rather than the arbitral tribunal, as was agreed upon by both parties. For the purpose of fairness, national courts step in when this happens. The connection between national courts and arbitrators might be likened to a relay race, according to an English judge named Lord Mustill [i]. Once the arbitration process starts, the responsibility for implementing the arbitration agreement shifts to the national courts. But when an arbitrator steps in, he or she retains control of the process until an award is handed out.[62] The following are the three stages that make up the function of national courts:

1) At the start of the arbitration;
2) During the arbitration; and

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[58] Yigit Efe Dincer, "Arbitration in the age of blockchain," (2024).

[59] Khaldoun S Qtiashat and Ali K Qtaishat, "Third party funding in Arbitration: Questions and justifications," *International Journal for the Semiotics of Law-Revue internationale de Sémiotique juridique* 34 (2021).

[60] Qtiashat and Qtaishat, "Third party funding in Arbitration: Questions and justifications."

[61] Granier, Grierson, and Karsenti, "Is arbitration helping or hindering the protection of the environment and public health?."

[62] Prytyka, Izarova, and Kravtsov, "Towards effective dispute resolution: A long way of mediation development in Ukraine."

3) At the end of the arbitration.

7.1 At the Start

Arbitration is one of the alternative dispute mechanisms that parties are increasingly include in contracts to ensure that disputes may be settled outside of court. The goal is to save time and money, both of which are significantly lower in arbitration than in litigation. There are at least three critical points in an arbitration case when the involvement of the court becomes paramount. Among them are:

- Implementation of the arbitration agreement,
- Formation of the arbitral tribunal/appointment of arbitrators, and
- Challenges to the jurisdiction.

7.2 During Arbitration Proceedings

Now that the onus has been placed on the arbitrators, it is their duty to carry out the arbitration procedures. The importance of national court intervention in ensuring effective and fair arbitration hearings cannot be overstated. When it comes time to record evidence or issue an order to preserve property during an arbitration case, national courts play a vital role. Section 9 of the A&C Act, which is entitled "Interim Measures of Courts," acknowledges the same.

7.3 At the End of Arbitration Proceedings

At this point, the national courts once again have the responsibility, as this arbitration procedure is its ultimate step. It is possible for an aggrieved party to arise in arbitrations, just as in litigation, and the A&C Act allows for the setting aside of the arbitral award under Section 34 of the same Act in order to give justice to the aggrieved party. This happens after the arbitrators have completed their duties by passing an arbitral award following a fair and proper arbitration proceeding. At the enforcement stage of the arbitral rulings, national courts also have a vital role, as allowed for in Section 48 of the A&C Act.[63]

In addition to the responsibilities mentioned before, the A&C Act specifies in Section 33 that the national courts also play a crucial role in the processes pertaining to corrections. At this point, the national courts' responsibilities terminate, and the appellate court, in accordance with the provisions of the aforementioned Act, takes full responsibility in the event that an appeal is necessary.

8. Case Studies

To illustrate the effectiveness and conformity of international commercial arbitration, it is relevant to touch on a particular example of a case study. International arbitration is becoming more popular as a means of resolving disputes between investors and host countries, and the study under consideration examines Egypt's experience in this area, focusing on investment disputes within a larger regional and international framework. A common definition of an investment dispute is an issue that arises when one party to an investment contract violates the rights of the other party or the obligations laid out in the contract, leading to a disagreement between the host country and the foreign investor (a citizen of another state). The fundamental unfairness in these arguments is that the state, as a subject of public internal law, has sovereign powers that the private foreign subject, often seen as a matter of private law, does not.[64]

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[63] Prytyka, Izarova, and Kravtsov, "Towards effective dispute resolution: A long way of mediation development in Ukraine."

[64] Abdualla Hamza and Miomir Todorovic, "PEACEFUL SETTLEMENT OF DISPUTES," *Global Journal of Commerce & Management Perspective* 6 (02/28 2017), https://doi.org/10.24105/gjcmp.6.1.1702.

Therefore, a peaceful resolution is necessary because of the inherent imbalance in such disagreements. Diplomatic, adjudicative, and institutional approaches are the three main ways that conflicts can be peacefully resolved. Disputes can be resolved diplomatically by the parties' own efforts or with the assistance of neutral third parties. Courts, arbitral tribunals, or judicial bodies are all examples of possible adjudicative processes. Disputes can be resolved through institutional approaches by bringing them to the attention of the United Nations or comparable regional organizations. Using Egypt as an example, it is clear that the country has worked to make the most of its extensive background in international arbitration by enacting policies that attract foreign investment and streamline the process of bringing disputes to international arbitration. The duration of the processes and the reliability of national litigation systems are both put to rest, which is good news for investors. Following its ratification of the 1958 New York Convention, Egypt passed a slew of regulations meant to reassure investors that conducting business in the country would be easy in return for Egypt's promises to be a welcoming and conducive environment.[65] Whereas arbitration as a means of conflict settlement was absent from earlier statutes. Despite Egypt's signing of the agreement, the country's investment law, No. 2108 of 1960, did not include a provision requiring the parties to resolve any issues that may emerge from its application through arbitration. Law No. 65 of 1971, which dealt with Arab and free zone investments, is commonly said to have been the first step toward Egypt's official adoption of arbitration as a means of resolving investment disputes between the country and its investors. The relevant sections of Law Nos. 2, 38, 39, 40, and 41 make this quite clear. This was followed by the most significant improvement in the state of international commercial As an integral part of Egypt's dedication to arbitration as a dispute resolution process involving commercial transactions, the Egyptian Arbitration Law was issued by Law No. 27 of 1994, marking its origins in arbitration in Egypt. This legislation's two main characteristics are that(1) it allows the parties to pick whose law will govern the arbitration agreement and(2) it subjects the arbitration to the law of the parties. In addition, the two cornerstones of written consent and accessibility are neither at conflict with one another or with the 1958 New York Convention.[66]

As a result, the Case Study of Egypt shows that international commercial arbitration is becoming more important, and commercial arbitration is developing and becoming stronger in reality. There are alternatives and workarounds that do not detract from the overall attractiveness and usefulness of Commercial Arbitration, even from a practical standpoint, despite the practical barriers it encounters in practice linked to actually having verdicts implemented.

9. The Future of ICA

One of the most practical ways to settle disputes between private parties is through international commercial arbitration. There is still a lot of space for improvement to assure procedural fairness, but there are a lot of pros to this method, such being able to pick the operative legislation or arbitrators. Modifications to the arbitration system's underlying structure will be required to keep the system's efficiency at a minimum. Among the numerous prospective improvements, reducing the prices, increasing openness, and paying particular attention to consumer protection appear to require immediate attention.[67]

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[65] Ibraheem Saeed Al-Baidhani, *US Policy Toward Syria-1949 to 1958* (2014).

[66] Al-Baidhani, *US Policy Toward Syria-1949 to 1958*.

[67] Bantekas, "Equal treatment of parties in international commercial arbitration."

Since it is private, impartial, cost-effective, and non-invasive, international commercial arbitration is better than litigation. In addition, unlike local courts, arbitrators have substantial authority over the course of the arbitration process, which protects the parties from prejudice and makes it a specialized form of conflict resolution in a particular area.[68] Arbitration is becoming more popular as a means of resolving disputes across all sectors, according to a new report from the international bar association's committee on arbitration. Consequently, the forthcoming overhaul of Arbitration will be an intriguing spectacle.[69]

It is generally believed that government backing plays a major role in the growth of arbitration in Asia-Pacific, especially in Hong Kong and Singapore, and more recently in Malaysia and South Korea. This perception turns to legislative reforms focused on the areas. New laws in Italy, Belgium, and Finland were also seen to be a factor in the increase of arbitrations in those countries. The following jurisdictions were highlighted by practitioners in the IBA survey as having the potential for substantial legislative reform: Qatar, UAE, Pakistan, India, South Africa, Myanmar, Colombia, Argentina, Brazil, China, and California in the US, which serves as a main center for international commercial arbitration.[70]

Utilization of technology in arbitration is a crucial component of the changes. It is still developing, despite the global acclaim it has received for its efficacy. Interim relief, emergency arbitration, third party finance, issue conflicts, and the use of technology in arbitration practice are just a few areas where it has lately advanced. Some examples of international regulations that employ these methods include the ICDR (2006) and the LCLA (2014). Technologically speaking, it helps with things like video conferencing and electronic document filing and sorting. However, because large enterprises will have greater resources to comply with the same, this might lead to the formation of monopolies.[71] Although there are obstacles to improving the technological competency of arbitration processes, doing so would undoubtedly lead to more efficient and effective decision-making. Innovations like the ones we've been talking about will undoubtedly fortify the current legal framework of alternative dispute resolution mechanisms, making them more appealing as a safe and effective way to settle business disputes. This, in turn, will impact the economy by boosting investor confidence.

10. Conclusion

International Commercial Arbitration (ICA) is now the primary option for cross-border disputes. Businesses globally like it for its unbiased venue, expert decision-makers, and enforceable rewards. ICA has many benefits, but its drawbacks must be acknowledged. Enforcement issues, restricted appeal alternatives, and procedural unfairness might affect its efficacy. We must tighten procedures, boost openness, and adapt to global trends to meet these issues. ICA will remain essential for businesses as the global economy integrates

[68] Gevaerd, "Internationality and commerciality in the Uncitral Model Law: a functional and integrative analysis."

[69] Tom Cummins, "The IBA Guidelines on Party Representation in International Arbitration - Levelling the Playing Field?," *Arbitration International* 30, no. 3 (2015), https://doi.org/10.1093/arbitration/30.3.429, https://doi.org/10.1093/arbitration/30.3.429.

[70] Cummins, "The IBA Guidelines on Party Representation in International Arbitration - Levelling the Playing Field?."

[71] Cummins, "The IBA Guidelines on Party Representation in International Arbitration - Levelling the Playing Field?."

and complications develop. Understand its strengths, flaws, and future tendencies to use this mechanism to safeguard your interests and manage international trade.

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