

Retrial in Arbitration: A Critique of the International Commercial Arbitration Act and a Draft Comprehensive Arbitration Bill with Proposals for Process Improvement

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Abstract

With the expansion of international trade, arbitration has emerged as an effective and swift method for resolving disputes. To ensure justice in arbitration, the retrial mechanism can be used as a means for reviewing arbitration awards. The International Commercial Arbitration Act and the Draft Comprehensive Arbitration Bill include provisions for retrials that need thorough review. This research, conducted using a descriptive-analytical method, aims to identify the issues in the arbitration retrial process under these laws and provide solutions for improving this process. The research findings indicate that by determining the types of awards eligible for retrial, distinguishing the regulations for objection and nullification of the award from the method of retrial, and setting appropriate grounds and deadlines, the arbitration retrial process can be improved. Additionally, more effective mechanisms can be employed to manage the retrial process, and the Model Law approach in paragraph 4 of Article 34 can replace the current retrial method. Ultimately, the proposed solutions can form the basis for designing a Draft Comprehensive Arbitration Bill and reducing the challenges of retrials.

Keywords: retrial; arbitration review; justice in arbitration; International Commercial Arbitration Act; Draft Comprehensive Arbitration Bill.

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