

## Arbitration from Today towards Tomorrow

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Today, in the world of international trade, devising a method whereby disputes could be settled peacefully without disrupting trade between the two parties is, if not the most important feature of an international contract, no less significant than other terms included therein. Among different dispute resolution means, judicial adjudication is no doubt the most prevalent. However, in recent years, arbitration has gone a long way in replacing more traditional modes by providing a friendly atmosphere based on expertise and accommodating fairness as well as commercial practices. Further, arbitration knows no geographical borders and is, therefore, considered flexible, reliable and practical in most countries in the world. Important advantages of arbitration, just to name a few, include the role of parties in the choice of arbitrators, language and place of the arbitration and the applicable law.

It is worth mentioning that very much like a contract, consent is the corner stone of referral of a case to arbitration. This value placed on the voluntary nature of arbitration means that the parties maturely select a mechanism to resolve disputes as they consent to have a commercial relationship through drafting a contract.

In developed countries, arbitration and other alternative dispute resolution mechanisms such as mediation have a stronger footing and are better introduced not only among lawyers but also among business people. "*Tahkim*" which is the traditional equivalent to arbitration was a regularly used method and "*Hakam*" were in many cases said the final word in a dispute in older time in Iran. However, with the rise of modern judiciary in the country, "*Tahkim*" has gradually lost its relevance with people preferring to resort to lawyers and courts. In this sense,

arbitration is a product of modern law and it lies with universities, institutes of higher education and bar associations to familiarize the current generation of lawyers with its benefits.

This is part of the reason why, International Chamber of Commerce (ICC), which is itself an arbitration institution, has established Young Arbitrators Forum to introduce arbitration through young lawyers in five geographical locations in the world including the Middle East. Young lawyers selected by ICC hold national and international seminars to extend the culture of arbitration in their regions.

In the summer of 2011, Iran was for the first time able to have a representative in ICC Young Arbitrators Forum. This appointment allowed young enthusiasts and lawyers interested in arbitration to benefit from seminars and conferences. The significance of this is put in better perspective if we consider that arbitration is not taught in most law schools of the country. Thus, such seminars and workshops have served an important function.

In October 2011, ICC Young Arbitrators Forum, held its first seminar in the office of one of the most prominent professors of International Trade Law in the country. This seminar, whose main theme was the growth of arbitration mechanisms in Iran, provided an ideal context for lawyers and students to get together with some of the best known Iranian professors in the field. In less than a Year, in August 2012, the second seminar was held in Iran Central Bar Association Conference Hall. The seminar, which focused on a comparative study of arbitration rules, included lectures by a prominent faculty member of Tehran University School of Law and two members of Iran ICC YAF. These two conferences paved the way for the establishment of a group of young lawyers and students. Following the seminars, many young lawyers and students became members of the group and put more

efforts and time into learning more about arbitration as a modern method of dispute resolution.

In February 2014, the third Seminar was held in Central Bar Association with the participation of two foreign experts including the representative of ICC in Paris and a prominent German lawyer and in the presence of several professors and experts from Tehran University, Iran Center of Arbitration and the Iranian judiciary. After this seminar, Young Arbitrators Forum has proceeded with its activities through monthly sessions during which arbitration awards are reviewed and discussed. It aims to expand the culture of arbitration through holding regular workshops.

Considering the importance of speed in trade and in particular international trade, and of course the specialized nature of arbitration and the ever-growing tendency towards arbitration, due attention must be paid to elevating the standing of this institution in Iran by encouraging academic discussions.

Besides, foreign investment which is an important drive for economic growth in developing countries, requires the existence of a favorable climate with little legal risk. In this regard, arbitration is a safety valve. Fortunately, Iran has acceded to New York Convention on enforcement of foreign arbitral awards which is a huge step worth acclaim. Having said this, the quality of enforcement is still very much in the hands of the judiciary system.

While Young Arbitrator's Forum of Iran has been very active in educating the community of Iranian lawyers on the standing and importance of this dispute resolution mechanism in domestic and international disputes, the ICC has refrained from appointing a new representative for the new term (2014-2015) due to reasons not known. This has naturally resulted in frustration and

disappointment in the claimed objectives of the International Chamber of Commerce.

Despite this, given the will of the members and their enthusiasm, the group continues to fulfill its mission and hopes to achieve more with the assistance of experts and active institutions in the field of arbitration in Iran and abroad.