

# CULTURAL AND RELIGIOUS MANIPULATION IN INTERNATIONAL COMMERCIAL ARBITRATION AWARDS

## Abstract

Cross-border dispute resolution through international commercial arbitration has gained popularity. However, questions have been expressed about the impact of culture and religion on the implementation of arbitration rulings. The impact of cultural and religious variables on international commercial arbitration awards is examined in this chapter, with a focus on the manipulation that can occur in these circumstances. This chapter underlines the issues caused by cultural and religious biases, discusses the potential repercussions, and presents ideas for tackling this issue by analyzing pertinent case studies, scholarly research, and the existing legal framework.

**Keywords:** Cultural manipulation; international commercial arbitration; religious manipulation, arbitration award etc.

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## I. INTRODUCTION

International commercial arbitration has emerged as a prominent method for resolving cross-border disputes, offering parties a flexible and neutral forum for reaching binding decisions. With the adding globalization of commerce, the significance of arbitration in international trade cannot be exaggerated. However, a significant challenge arises when cultural and religious factors come into play, potentially influencing the enforcement of arbitration awards. Culture and religion are deeply ingrained in human societies, shaping individual beliefs, norms and practices. In the context of multinational commercial arbitration, cultural and religious influences can significantly influence the decision-making process, the enforceability of awards, and the perception of fairness in disagreement resolution.

Cultural biases, stemming from diverse traditions, customs, and values, can affect the attitudes and behavior of parties, arbitrators, and enforcement authorities involved in arbitration proceedings. These biases may manifest in different ways, such as preference for local practices, mistrust of foreign customs, or prejudices based on stereotypes. Similarly, religious considerations, deeply rooted in personal faith and moral frameworks, can present challenges when they conflict with the principles and procedures of international arbitration. The manipulation of culture and religion in the enforcement of international commercial arbitration awards raises serious concerns. Parties may seek to exploit cultural or religious factors strategically to influence the outcome of a dispute or undermine the enforceability of an unfavorable award. Manipulation tactics may include selectively interpreting religious doctrines, invoking cultural practices to delay or obstruct proceedings, or exerting pressure through religious authorities or community influence.

This article aims to explore the impact of cultural and religious manipulation on international commercial arbitration awards. By examining relevant case studies, scholarly research, and the existing legal framework, we will shed light on the challenges posed by cultural and religious biases.

Likewise, we will dissect the implicit consequences of manipulation for the parties involved and the veracity of the arbitration process.

In addition, this article will provide recommendations to address cultural and religious manipulation in international commercial arbitration. These recommendations will focus on promoting transparency, diversity, impartiality, and neutrality throughout the arbitration process. This will also highlight the want for cultural acuteness, respect for religious principles, and collaboration among stakeholders to guarantee the attractiveness and conclusiveness of multinational arbitration. It's essential to manipulate the conclusion of cultural and religious manipulation in international commercial arbitration to preserve the credibility of this disagreement resolution procedure and assure equal treatment of parties, regardless of their cultural or religious backdrops. By understanding the dynamics of cultural and religious influences, identifying manipulation tactics, and implementing appropriate safeguards, the international arbitration community can strive towards a more equitable and reliable system of resolving cross-border commercial disputes.

## II. CULTURAL BIASES IN ARBITRATION

The boundaries of Contract law are the foundation on which the procedure of arbitration is rested. Arbitration is a process of award of disputations by an independent and unprejudiced third person who's designated by an independent and nonpartisan third person who's designated by the parties to the dispute to determine the rights of these parties. In the realm of international commercial arbitration, the interplay between diverse cultures and legal systems introduces a dynamic yet complex landscape. As a favored method for resolving cross-border disputes, arbitration offers parties the benefit of elasticity, impartiality and enforceability. However, underneath its ostensibly objective frontage, arbitration is not immune to the influence of cultural biases. The recognition and management of these biases within the arbitration process are crucial for ensuring fairness, equity, and maintaining the integrity of arbitration awards. Cultural biases, stemming from deeply ingrained societal norms, values and perceptions can significantly impact the attitudes and decisions of various stakeholders involved in arbitration proceedings. The arbitrators, parties, legal representatives, and even enforcement authorities may unknowingly be influenced by their own cultural backgrounds, leading to potential deviations from an impartial and neutral arbitration process. These biases can manifest in the selection of arbitrators, the evaluation of evidence, the interpretation of contractual terms, and even in the enforceability of arbitration awards.

- 1. Cultural Biases in Arbitrator Selection:** Arbitrator selection can be influenced by unconscious preferences for individuals from the same or similar cultural backgrounds. This affinity may inadvertently affect the perceived neutrality of the tribunal. Cultural stereotypes can shape expectations about the behavior, credibility, and reliability of parties and witnesses, impacting the decision-making process. Arbitrators may unintentionally interpret legal concepts, evidence, or arguments based on their own cultural reference points, potentially leading to unjust outcomes.
- 2. Cultural Biases in Evidentiary Assessment:** Cross-cultural differences in communication styles, non-verbal cues, and demeanor can affect how arbitrators evaluate witness credibility. Arbitrators may inadvertently apply their own cultural norms when interpreting documentary evidence, leading to a skewed understanding of the facts. Language nuances and cultural context can result in misunderstandings or misinterpretations of critical information, affecting the outcome.
- 3. Cultural Biases in Decision-Making:** Cultural biases can unconsciously affect how arbitrators interpret and apply the law, potentially leading to decisions that favor one party over the other. The cultural background of arbitrators may impact the framing and calculation of damages, leading to awards that may not accurately reflect the parties' intentions.
- 4. Mitigating Cultural Biases:** Diversity in Arbitral Tribunals: Promoting diverse arbitrator appointments can counteract cultural biases by bringing a variety of perspectives to the decision-making process. Raising awareness about cultural biases and providing training to arbitrators can help them recognize and mitigate their influence. Implementing procedures that allow parties to present their case and cultural nuances effectively can reduce the impact of biases.

### III. RELIGIOUS MANIPULATION IN ARBITRATION

Religion, as a deeply ingrained aspect of human identity and society, has the power to influence and shape various aspects of life, including legal and dispute resolution processes. In the context of international commercial arbitration awards, religious manipulation refers to the deliberate and strategic exploitation of religious principles, beliefs, or authorities to achieve specific outcomes or advantages within arbitration proceedings and the enforcement of arbitration awards. This manipulation can have significant implications for the fairness, integrity, and credibility of the arbitration process.

- 1. Manipulation of Religious Norms and Beliefs:** Religious manipulation can manifest through the intentional misinterpretation or selective application of religious norms, values, or doctrines. Parties may attempt to influence arbitrators or other stakeholders by presenting arguments that appeal to religious beliefs or principles, even if these arguments are tangential to the actual merits of the dispute. Such manipulation seeks to leverage the emotional and moral weight associated with religious considerations to sway decisions in favor of one party.
- 2. Exploiting Cultural and Religious Practices:** Parties involved in international commercial arbitration may seek to exploit cultural and religious practices for strategic gain. This could involve intentionally prolonging arbitration proceedings by invoking religious rituals, practices, or observances that lead to delays or disruptions. Alternatively, parties might use religious practices as a means to undermine the arbitration process by questioning the legitimacy of certain procedures or decisions based on perceived conflicts with religious values.
- 3. Influencing Religious Authorities:** Religious leaders and institutions hold significant sway over the beliefs and actions of their followers. In some cases, parties may attempt to manipulate the arbitration process by seeking endorsements or interventions from religious authorities. This could involve obtaining religious opinions or fatwas that support a particular interpretation of the dispute or award. By doing so, parties aim to lend a sense of religious legitimacy to their arguments or positions.
- 4. Introducing Moral or Ethical Dimensions:** Religious manipulation may also introduce moral or ethical dimensions to the arbitration process that extend beyond legal considerations. Parties could argue that a particular outcome aligns with higher moral or ethical principles, as dictated by their religious beliefs. This approach aims to influence arbitrators' decisions by appealing to a broader sense of justice rooted in religious doctrine.
- 5. Undermining Neutrality and Impartiality:** The impartiality and neutrality of arbitration proceedings are paramount to their legitimacy. Religious manipulation can compromise these principles by introducing bias or partiality based on religious affiliations or beliefs. If arbitrators are perceived to be influenced by religious factors rather than strictly adhering to legal and contractual obligations, the integrity of the entire arbitration process may be called into question.

- 6. Addressing Religious Manipulation:** Mitigating religious manipulation in international commercial arbitration awards requires a multifaceted approach. This includes ensuring the selection of impartial and culturally sensitive arbitrators, establishing clear guidelines for addressing religious arguments, and promoting transparency in the arbitration process. Arbitral institutions and practitioners must be vigilant in upholding the principles of neutrality and impartiality while respecting parties' legitimate religious beliefs and practices.

#### IV. CONCLUSION

In conclusion, religious manipulation in international commercial arbitration awards highlights the complex interplay between legal, cultural, and religious factors. It underscores the importance of maintaining the integrity and fairness of arbitration proceedings, while recognizing the potential for parties to exploit religious considerations for strategic advantage. By addressing these challenges and promoting a balanced approach to religious diversity, the international arbitration community can uphold the credibility of the process and ensure equitable outcomes for all parties involved. Moreover, it is crucial for the international arbitration community to acknowledge and address the vulnerabilities that can arise from the exploitation of cultural and religious factors. This includes advocating for clear guidelines and best practices those arbitrators, parties, and arbitral institutions can follow to prevent manipulation and ensure transparent proceedings. Recognizing the significance of impartiality and neutrality in arbitration, stakeholders must remain vigilant against the potential erosion of these principles due to cultural or religious manipulation. The preservation of the integrity of the arbitration process requires the careful selection of arbitrators who are not only well-versed in the legal intricacies but also culturally sensitive and impartial. Striking a balance between respecting parties' cultural and religious backgrounds while upholding the rule of law is essential to maintaining the trust of all parties involved.