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Arbitration Proceedings in Yemen - Part I

This series of posts shall respond to frequently asked questions related to arbitration and related proceedings in Yemen. This post shall deal with the legislative framework for arbitration in Yemen.

1. Please identify by title and date the principal laws and regulations governing (i) domestic and (ii) international arbitration in Yemen and provide an overview of these laws and regulations and whether they are based on the UNCITRAL Model Arbitration Law.

In 1981, Yemen was the first Arab country to establish a modern arbitration law, conciliating the Islamic Shari’a and modern legislation. Following the unification of North and South Yemen in 1990, the 1981 law was repealed.

Currently, arbitration in Yemen is governed by Law No (22) of 1992, as amended (the “Arbitration Law”). This Arbitration Law is a modern law that adopts the UNCITRAL Model and distinguishes between domestic and international arbitration.

According to the Arbitration Law, domestic arbitration is arbitration where all parties are nationals of the Republic of Yemen. International arbitration is an arbitration where parties have different nationalities or their domicile or headquarters are located in different countries, or where an arbitration takes place before an international arbitration centre.

2. Is there a special court in Yemen which looks into arbitration cases on an exclusive basis?

There is no exclusive court for arbitration cases. However, the Commercial Court of Appeal has exclusive jurisdiction to examine cases involving arbitration, unless otherwise agreed by the arbitrating parties.

3. Please identify by name the principal arbitration institutions in Yemen.

The Yemen Centre for Conciliation and Arbitration in Sana’a, established in 1998 is the only institute in Yemen. There are no other local or regional representatives of international/regional bodies concerned with arbitration.

4. Are there any public policy issues within Yemen which (i) exclude arbitration from determining certain subject matters (e.g. land title, inheritance, matrimonial disputes)?

According to Article (5) of the Arbitration Law, the following matters are excluded from arbitration:

a) Sharia punishments and termination of marriage contracts;
b) Dismissing and suing judges;
c) Disputes relating to involuntary executions;
d) All issues where no settlement is permitted;
e) Issues involving public rights, or relating to public order where local prosecution is involved;
f) Disputes related to land in Yemen;
g) Commercial agency disputes; and
h) Issues exclusive to Yemeni courts.

5. Is there a prohibition against agreements to arbitrate future disputes?

No. Article (15) of the Arbitration Law provides that arbitration agreement can be concluded before or during a dispute, or even if a dispute is already being examined by a court, if the parties agreed so.
The second post will be discussing the steps required to initiate arbitration proceedings in Yemen.

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