

SIGNIFICANCE OF NEW GENERATION OF INTERNATIONAL ADJUDICATION

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ABSTRACT

The analysis of whether the development of the second-generation tribunals shall have important prescription on the future international tribunals can be determined through implications of international adjudication today. Unlike the conventional courts, the decisions of the second generation tribunals are enforceable in a decentralized process under universally applicable conventions such as the New York Convention and the ICSID Convention.

Keywords: Tribunals, International Affairs and Law.

INTRODUCTION

Under this process all the states shall have power to enforce international decisions against the assets of a foreign state. In many cases it is difficult to enforce arbitral awards because states take recourse to concealing their assets or use political and economic measures to prevent enforcement. As there is very limited scope available to review the commercial and investor state awards, in most countries it is in fact comparatively more enforceable than domestic court judgements. These decisions help in exemplifying the fact that the rules of international law must be abided through state's conduct and any deviation shall be redress effectively. [1]

THE SUCCESS OF INTERNATIONAL ADJUDICATION: CASELOADS OF NEW GENERATION TRIBUNALS

Roughly three hundred international commercial arbitrations are filed every year and around forty new investment arbitrations are filed each year around the world. When it comes to foreign sovereign immunity litigation in national courts, approximately 250 suits are filed each year against foreign states which all in all exceeds the total number of PCA, ICJ, and ITLOS cases filed

each year by almost sixty times. “If the WTO’s twenty-seven cases 65 per year, the Iran-U.S. Claims Tribunal’s 3900 total cases, and the UNCC’s 2.6 million claims are added to the balance, the volume of disputes in second-generation adjudication is even more significant, and the quantitative difference between first- and second- generation adjudication is even more marked.” The total number of PCA, ICJ, and ITLOS cases have remained stagnant since the late twentieth century, hence it simply means that the use of second generation adjudicatory bodies is robustly increasing.[2]

RELEVANCE OF NEW GENERATION TRIBUNALS TO CONTEMPORARY INTERNATIONAL AFFAIRS AND LAW

For modern day trade and investment to flourish second generation tribunals are essential to resolve disputes with minimum risk and difficulty. It can be seen that investment arbitration and WTO decisions determine the compatibility of domestic laws with the prevailing international standards, which includes prohibitions against expropriatory conduct, and discriminatory treatment. Commercial arbitrations and national court litigation having foreign states as parties frequently tackle significant issues of international law, national regulatory policy, and government conduct which in turn have contributed to the development of laws essential to contemporary international trade and investment law. As has already been discussed in the article, states rarely use traditional first generation tribunals for dispute resolution mechanisms, and even when they submitted to jurisdictions of such mechanisms the resultant decisions frequently did not have any practical effect. Proceedings before the ICJ such as the La Grand Case, Legality of Use of Force, Oil Platforms, Military and Paramilitary Activities in and Against Nicaragua, and Application of the International Convention on the Elimination of All Forms of Racial Discrimination have generated media attention but have had limited impacts on the actual conduct of states.[3]

CONCLUSION

Over the last forty odd years, these second generation tribunals have successfully applied international law in international investment arbitration tribunals and International commercial arbitration tribunals.

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