



An Overview of an Arbitral Award in Libya: An Analytical Study

Murad Idris Omar Nayed¹

¹*Ahmad Ibrahim Kulliyyah of Laws (AIKOL), International Islamic University Malaysia (IIUM)*

Corresponding Author: Murad Idris Omar Nayed, **Email:** murad.nayed@yahoo.com

Received: 09th April 2023

Accepted: 20th May 2023

Published: 3rd June 2023

ABSTRACT

Arbitration has become the most popular dispute resolution mechanism all over the world because of the finality of the arbitral award. In the context of this article, the legal approaches distinguishing between domestic and foreign arbitral award are very important and these legal approaches differ from one arbitration law to another. By using doctrinal legal research methodology, this paper aims to comprehensively analyse the arbitral award in Libya. Data collected through library-based approach and both types of data are analytically examined. This article found that the Libyan law of Civil and Commercial Procedures of 1953 has several legal gaps that need to be addressed in order to bring it in line with modern arbitration laws globally. The article then goes on to make several recommendations for improving the Libyan law.

Keywords: arbitration, arbitral award, Dispute resolution, Libya.

INTRODUCTION

Most of legal systems and international agreements around the world pay especial attention in their legislation to arbitration due to the great importance it plays in settling disputes, especially in relation to trade and investment. Some of these systems regulate arbitration in a specific law while others include it inside other laws such as, law of procedures. Arbitral award does not have a concise and uniform definition (Lew, Mistelis & Kroll, 2003) because arriving at definition is done by jurists and scholars (Abdiljalil, 2012) and not as it is often the case by the lawmakers. However, the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards 1958 in its article 1 (2) provides what seems to be a definition of arbitration in the international level. Article 1 (2) states that “the term arbitral awards “shall include not only awards made by arbitrators appointed for each case but also those made by permanent arbitral bodies to which the parties have submitted” (The New York Convention, article 1 (2)). However, article 1 (2) cannot be considered as a definition of arbitral awards, rather, it determines the commissions and individuals who are authorised to issue arbitral awards. If it is supposed that the Convention provides a definition of the term arbitral awards, there will be a problematic issue because arbitral awards that do not accord with this definition should be rejected, and this is the cause of omitting a specific definition of arbitration from the international agreements relating to execution (Alenezi, 2010). According to this, the New York Convention left the issue of the definition to the law of the contracting states and their jurists. In this regard, it is worthy to mention that there was a suggested definition provided by the committee of the Model Law Commission, but the Commission deleted that suggested definition because of an opposition by some countries (Lew, Mistelis & Kroll, 2003). The suggested definition reads,

The arbitral awards means the final decision that settles all cases that have been referred to the arbitration court and any other decision of the court that finally settles any substantive issue or the issue of its jurisdiction or any other issue related to the procedures, provided that the arbitration court describes in the last case what it has reached as a judgment (Lew, Mistelis & Kroll, 2003, pp, 628).

The silence of national and international arbitration laws about the meaning of arbitral award opens the door for jurists and the judiciary to look for a clear definition of arbitral awards. This paper discusses and analyses approaches that attempt to define the arbitral award, the types of the arbitral award, and the procedures of rendering the arbitral award.

Approaches to Defining the Arbitral Award

The first approach provides a broad definition to the notion of the arbitral award and extends its scope to awards that wholly or partially solve disputes. This approach is advocated by E. Gaillard (Ogniah, 2009). In its a broad meaning, an arbitral award is seen “as a final decision by the arbitrators on all or part of the dispute submitted to them, whether it concerns the merits of the dispute, jurisdiction, or a procedural issue leading them to end the proceedings” (Pointing, 2009). Moreover, this approach was also proposed by the Paris Court of Appeal (*Société Sardisud v Société Technip* [1994] Rev Arb 391) and then confirmed by the French Supreme Court in 2011 (*Groupe Antoine Tabet v République du Congo*, Z 09-72.439) when it defined the arbitral award as,

Decisions made by the arbitrators which resolve in a definitive manner all or part of the dispute that is submitted to them on the merits, jurisdiction or a procedural matter which leads them to put an end to the proceedings (Deringer LLP, 2022).

As opposed to the first approach, the second approach attempted to narrow the arbitral award definition by excluding decisions made by the arbitration tribunal that do not solve a specific application unless such decisions ended with solving the arbitration dispute (Ogniah, 2009). Based on this, they argue that all decisions that pertain to issues related to validity of the original contract are not considered arbitral awards and instead these matters are merely preliminary preparatory provisions (Ogniah, 2009). In the view of the present research, the broad definition is suitable and better for several reasons, including easing recognition and enforcement of arbitral awards and not limiting execution to awards based on specific provisions, which contradicts the general policy of arbitration which seeks to facilitate the implementation of arbitral awards that represent the title of truth and the final fruit of the arbitration process.

Bearing in mind the aforesaid discussion and the attempts to define the arbitral award, there are several elements to be considered. Firstly, the arbitral award is rendered by the chosen arbitrators whether sole or a panel of them. Furthermore, the arbitral award has the element of finality and binding force. In other words, the arbitral award essentially intends to solve the dispute between the parties, partially or wholly, so that the parties do not seek further arbitration. Finally, the arbitral award ought to be written either in the form of soft copy or printed one.

In a similar vein, the Libyan law is rather silent on this matter or in other words, there is no definition to arbitral awards in the provisions of the Libyan Commercial and Civil Procedures Law of 1953, which is the main relevant law to the issue. This, in turn, demonstrates that the legal gap has existed in the Libyan law which failed to define the term arbitral award leaving this issue to be considered by the judiciary and jurists. Due to the absence of a definition of an arbitral award in Libyan law, this paper proposes defining it as a written, binding, and final decision rendered by a human-arbitrator or a panel of arbitration (three or more arbitrators of an odd number) in a private and confidential dispute resolution mechanism known as arbitration.

METHODOLOGY

Since the article aimed to evaluate arbitral award in Lybia, the article adopted the doctrinal legal research methodology. The data were examined using analytical-critical approach.

DISCUSSION AND ANALYSIS

Types of the Arbitral Award

The proceeding of arbitration is conducted with an aim to reach a final decision known as an arbitral award, and it can be rendered by a sole arbitrator or a panel of arbitrators working together within the form of an arbitral tribunal. The decision of an arbitral tribunal is known as an arbitral award (Adeleke, & Adewole, 2019). There are several types of arbitral awards that could be given by the arbitral tribunal. The following sections elaborate on types of arbitral awards.

Final Arbitral Award

One of the common types of arbitral awards is known as a final award. The term of ‘final award’ indicates two diverse situations (Lew, Mistelis & Kroll, 2003): firstly, it refers to an award that puts end to the proceeding of arbitration (Rajoo, 2003). By rendering final award, the arbitral tribunal has fulfilled its task (Al-Awa, 2007). Secondly, the final award settles all claims among disputants and achieves the intended result with a binding decision on the disputation (Lew, Mistelis & Kroll, 2003). An arbitral award is described as a final if it produces *res judicate* effect on the disputants, and only upon rendering final award it can be challenged (al-Jaghair, 2009) or recognised and enforced in a voluntary way or through national court (Sami, 2010) where the losing party has assets. The final award has been recognised in article 32 (1) of the UNCITRAL Model Law of 2006. It states that “the arbitral proceedings are terminated by final

award” (UNCITRAL Model Law on International Commercial Arbitration 2006, article 32 (1)). Therefore, the conclusion of the process of arbitration comes with the rendering a final award which exhaustively completes the arbitration proceedings and determines the dispute between parties. Regarding the Libyan law, it can be said that the Libyan Civil and Commercial law of Procedures of 1953 indirectly pointed to the terminology of a “final” in two articles namely, article 408 and Article 769. While article 408 stated that “arbitrators’ awards issued in a foreign country can be ordered to be executed if it’s final...”, article 769 indicated that “situations of demanding nullification of arbitrator’s award – it is permitted to ask for nullifying the final award of arbitrators...”. Based on the above facts, it is obvious that the Libyan law was clear in adopting this type of arbitral awards.

Partial Arbitral Award

Another type of arbitral award is named a partial award. As its name implies, the partial award is an effective way to partially determine matters that are able to be determined in an initial phase of arbitration proceedings (Lew, Mistelis & Kroll, 2003). This type of award specifically concerns financial disputes, and it often requires urgent settlement (Al-Ahdab, 2008). The power to make a partial award is a very useful means under the authority of an arbitral tribunal. The jurisdiction of an arbitrator(s) to render such an award derives from an applicable law or from arbitration agreement. This approach is widely accepted in many domestic arbitration laws, which give an authority to the tribunal of arbitration to issue the partial award. So far, it is worth noting that there is not an arbitration law or institutional rule defining a partial award (Lew, Mistelis & Kroll, 2003). In the same vein, the Libyan Law of Civil and Commercial Procedures Law of 1953 is silent on this matter, contrary to the UNCITRAL Model Law on International Commercial Arbitration of 2006. Specifically, article 32 (1) of the UNCITRAL Model Law on International Commercial Arbitration of 2006 states that “in addition to making a final award, the arbitral tribunal shall be entitled to make interim interlocutory, or a partial award” (UNCITRAL Rules, article 32 (1)).

Along these lines, the final award is comparable to a partial award in terms of the power of enforceability and its binding nature on the disputants, but the main difference is in the fact that the final award is rendered at the end of arbitral proceedings to solve the whole matter (Al-Ahdab, 2008), whereas the partial award is rendered at an early stage and it only solves part of the claims. Since partial arbitral award addresses certain types of disputes in a piecemeal fashion, there is an obvious need for other kinds of awards, such as an interim arbitral award.

Interim Arbitral Award

Interim award is comparable to the partial award as it can also be issued at the beginning or in the middle of an arbitration process to determine some issues which are susceptible to determination during the course of the arbitral proceedings, particularly if they cannot be postponed to the end of the arbitral proceedings, and the settlement of which can save significant amount of time and money for all parties (Adeleke, & Adewole, 2019). According to the group drafting the UNCITRAL Model Law on International Commercial Arbitration 2006 (Lew, Mistelis & Kroll, 2003), there was an attempt to define the interim award, but the definition was not adopted in the final text of the UNCITRAL Model Law on International Commercial Arbitration 2006. Instead of a comprehensive definition, it was only referred to as "...an award which does not definitively determine an issue before the tribunal" (Lew, Mistelis & Kroll, 2003). However, the suggested reference is sufficiently in line with the general meaning of the term 'interim' as opposed to the term 'final'. Notwithstanding, this reference to the interim award was not adopted in the final text of the UNCITRAL Model Law on International Commercial Arbitration 2006. The reason behind the omission stems from the fact that the definition may, in practice, lead to confusion between the interim award and the partial award. From the partial and temporary nature of the partial and interim awards, another type of arbitral award involves more pro-active approach by the parties themselves.

Arbitral Award On Agreed Terms

As in the litigation, disputants to an international arbitration frequently arrive at a settlement of their dispute (Ismail, 2012) in a middle of the arbitral proceeding by themselves. If it happens, it can simply implement the settlement, this, in turn, means ending the dispute. In such situation the arbitral tribunal renders an arbitral award with agreed terms which is mutually accepted by the concerned parties (Al-Haddad, 2010), and the parties may accept that arbitral award as it is final. Many arbitration laws and rules around the world have specific provisions regulating an award on agreement or consent. However, the Libyan Law of Commercial and Civil Procedural of 1953 does not recognise such type of award.

Default Arbitral Award

Default award is another type of arbitral award. It can be rendered by an arbitral tribunal in proceedings where one-party fails to appear and desists from stating their defence as required by law (Adeleke, & Adewole, 2019). This category of arbitral award is widely acceptable in a modern arbitration system provided that every party is given a full opportunity to present their

defence to the arbitral tribunal and to reply to the claims of the opposite party. In this situation, the task of the arbitral tribunal will be more complicated. Consequently, if a default party is given proper notice and submission were send to the default, and the defaulting party ignores and refuses to attend and present their case, the arbitral tribunal would hereby issue the default award which will be final and enforceable (Lew, Mistelis & Kroll, 2003).

In light of the Libyan law, it is discovered that the Libyan Civil and Commercial law of Procedures of 1953 in article 756 recognises the default award. It stated that “arbitrators issue an award in dispute based on what is provided to them by the opponents. Arbitrators are to give them an appointment for submitting documents, memos and defences. It is allowed to issue an award based on demands and documents provided by one party, if the other party does not submit their documents in the specifically designated time”.

Based on the previously mentioned facts, it is obvious that article 756 allows the arbitral tribunal to render a default award if one of the parties to the arbitration case fails or hesitates to present his defences and proofs to the arbitral tribunal. In this case, the arbitral tribunal might continue the arbitration procedures and issue a ruling to settle the dispute based on the evidence available to it.

Additional Arbitral Award

An arbitral tribunal may be requested to render an additional award along with the final arbitral award only if some claims have been omitted in the initial arbitral award (Al-Jaghairi, 2009) or the arbitral tribunal failed to cover such issue during the deliberation. Regarding this matter, the UNCITRAL Model Law on International Commercial Arbitration 2006 states in Article 33 paragraph 3 that:

Unless otherwise agreed by the parties, a party with notice to the other party, may request, within thirty days of receipt of an award, arbitral tribunal to make an additional award as to claim presented in the arbitral proceedings but omitted from the award if the arbitral tribunal considers the request to be justified, it shall make the additional award within sixty days.

Based on the above Article, the UNCITRAL Model Law on International Commercial Arbitration of 2006 enables the parties to request the arbitral tribunal to issue an additional arbitral award during thirty days from the date of issuing the first arbitral award. That is in the case where the arbitral tribunal neglected to decide on the claims submitted by the party requesting the additional ruling. It is left to the discretion of the arbitral tribunal if such claims are justified. The arbitral tribunal is to issue an additional arbitral award within a period of sixty

days, and if necessary, extend the time period. On the other hand, some national arbitration laws may restrict them to limited issue (Adeleke, & Adewole, 2019). Furthermore, other national laws do not accept an additional arbitral award. In the context of Libya, the existing law does not recognise an additional award. In contrast, the Egyptian Law (No. 27) of 1994 enables the arbitral tribunal to issue an additional arbitral award as stated in article 51 which is in line with UNCITRAL Model Law on International Commercial Arbitration 2006. Moreover, it is worth noting that the Egyptian lawmakers imposed several specific regulations in order to avoid any misuse by the parties. The first of these regulations is overlooking issuance of a decision in some of the requests submitted during the procedures by the arbitral tribunal. Second, making a request by a party who wants that within thirty (30) days from issuing the previous arbitral award. Third, informing the other party before proceeding with the application.

From the abovementioned arguments, it is argued that the modern arbitration laws, including the UNCUTRAL Model Law 2006, acknowledge the additional arbitral award. Therefore, the Libyan legislator is recommended to follow the same approach. Doing so would play a vital role in modernising the Libyan Civil and Commercial Procedures Law of 1953 and making it relevant to the present-day needs.

Corrective Arbitral Awards

The arbitral tribunal could issue an award containing some material errors whether they are written or arithmetic, whose corrections do not affect the content of the arbitral award. In this issue, some opine that the intended error is a mistake in expression, not a mistake in terms of the analogy of the arbitral award (Al-Jaghairi, 2009). The most important matter to be mentioned here is relating to the question of which body has the legal authority to correct material errors within the arbitral award. Is it the arbitral tribunal that issued the arbitral award or the national court of the place of enforcement? In fact, arbitration laws have followed two main approaches in dealing with this matter. The first approach granted this right to the arbitral tribunal with some legal precautions as demonstrated under article 50 (1) and (2) of the Egyptian Arbitration Law (No. 27 Of 1994). First, it gave the arbitral tribunal the right to correct any error on its ruling by itself or based on the request of one of the parties. The corrected arbitral award is issued by the arbitral tribunal in writing and without pleading within thirty (30) days starting from the issuance of the arbitral award or the request of one of the parties. It is also allowed the arbitral tribunal to extend that period (if necessary).

It is argued that the above approach followed by the Egyptian Arbitration Law (No. 27 Of 1994) is modern and aims to facilitate and provides the arbitral tribunal with a wide authority in correcting errors occurring in its arbitral award. In contrast to that, the approach followed by the Libyan Civil and Commercial Procedures Law of 1953 does not give the authority of corrections to the arbitral tribunal. Instead, it authorises the national court of the place of enforcement to carry out the task of correction of the arbitral award only based on the request of the interested party. Based on this, it is argued that the Libyan approach is quite difficult and increases the national court interference in the process of arbitration. Therefore, it is recommended that the Libyan legislator should think out of the box and provide the arbitral tribunal with the authority to correct errors occurred within the arbitral award. Doing so would help in enhancing the reputation of the arbitration in Libya as a friendly seat of arbitration.

Interpretive Arbitral Awards

The arbitral tribunal sometimes issue an unclear and ambiguous arbitral award that needs to be clarified. Article 33 of the UNCITRAL Model Law on International Commercial Arbitration of 2006 regulates this issue by allowing both of the parties to request the arbitral tribunal to clarify and overcome any ambiguity within the arbitral award. This can be achieved when the interested party requests that from the arbitral tribunal that should clarify and interpret the arbitral award within a thirty (30) days starting from submitting the request. Then the clarified and interpreted arbitral award becomes a part of the main arbitral award taking into account the provisions stipulated in article (31) of the Model Law 2006 in terms of the form and contents of the arbitral award. From the Libyan perspective, the Law of Commercial and Civil Procedures of 1953 does not highlight or regulate the interpretative arbitral award, unlike article 49 of the Egyptian Law (No. 27) of 1994.

The Procedural Stages of Issuing an Arbitral Award

The arbitral award is the wanted result of the arbitration procedures and it constitutes the last stage of the arbitration procedures. Therefore, it is critical to explain the procedural stages before rendering the arbitral award.

Closing the Door of pleading

Various comparative laws stipulated how to proceed with the pleading in front of the arbitral tribunal, but they did stipulate or clarify how the pleading is closed (Al-Thalayaa, 2014). If the arbitrator is one, he issues the arbitral award after giving both of the parties a fair and equal opportunity to present their case (Sami, 2010). Then the arbitrator starts to analyse both parties'

arguments and then he/she will render the arbitral award. However, in case of the arbitral tribunal consists of three (3) arbitrators or more, they must initiate a deliberation among them before issuing the arbitral award (Sami, 2010).

Deliberation

Deliberation is one of the vital duties of the arbitrators in the arbitral process (Derains, 2011). Deliberation defined as an act of carefully considering issues and options before making a decision or taking some actions, the process by which a jury reaches a verdict, as by analysing, discussion, and weighing the evidence. Furthermore, deliberation is the exchange of opinions between arbitrators in the event of several of them so that the award is the result of their cooperation (Al-Awa, 2007). In fact, deliberation is usually taken place after completing of hearings and before the render of arbitral award (Althubyani, 2017), and it must be fulfilled whether the applicable law mentioned it or not. In other words, deliberation is an obligatory duty (Althubyani, 2017). Based on what is mentioned above, the deliberation is a discussion between the members of the arbitral tribunal to agree on the arbitral award (Al-Sanuri, 2005). Moreover, it is worth noting that the deliberation is secretly done by the arbitrators, and it is limited to arbitrators who heard the arguments and no other persons like experts and advisors can attend with the arbitral tribunal (Sami, 2010). All arbitrators who attended the pleading have to participate in the deliberation, otherwise the award is invalid because its opposition of the public order. In this regard, article 760 of the Libyan Civil and Commercial Procedures Law of 1953 insists on the deliberation stage among the arbitrators otherwise the arbitral award would be invalid.

Issuance of the Arbitral Award by the Majority Opinion

There is no difficulty in issuing the arbitral award by one arbitrator, but the difficulty arose if the arbitral tribunal consists of several arbitrators as the arbitral award should always be issued after a deliberation between them. They may have different opinions on the arbitral award and fail to solve the issue the arbitral award by majority of their opinions (Chadli & Yacine, 2021). To avoid this matter, the arbitral tribunal shall consist of a single arbitrator or of several arbitrators with an odd number of arbitrators such as three, five, seven arbitrators and such like (Althubyani, 2017).

This text is establishment to the rule of odd number in the formation of the arbitral tribunal to achieve goals wanted from going to arbitration. Though the freedom given to the parties in appointing arbitrators, the number of the arbitrators must be odd. This is confirmed by article

744 of the Libyan Law of Civil and Commercial Procedures of 1953, but the same article excluded the case of arbitration between the spouses as stipulated by the Islamic principles. It is noticed here that the Libya legislator gave one exception to the rule of the odd number of the arbitral tribunal, that is the case of arbitration between spouses, and it is based on the Islamic principles. It is also clear that article 760 of the Law of Civil and Commercial Procedures of 1953 explained the legal quorum for the validity of the issuance of the arbitral award by stipulating that the arbitrators' award is issued by the majority of opinions after deliberation among them collectively. It also affirmed that the arbitral award should be in a written form. In addition, it must include the following: firstly, a copy of the arbitration agreement; secondly, a summary of the disputing parties' statements and documents; thirdly, the reasons for the arbitral award, and finally the place of arbitration (the place where it was issued), the date of its issuance, and the hand-written signatures of the arbitrators. It also dealt with the issue of the reluctance of one of the arbitrators to sign the arbitral award and considered the ruling valid as long as it was signed by the majority of the arbitrators (Wali, 2007).

Writing an Arbitral Award

Writing an arbitral award is obligatory whether it is issued by an arbitral tribunal or a single arbitrator. As an illustration, article 769 (1) of the Libyan Law of Civil and Commercial Procedures of 1953 obliges the arbitral members to issue the arbitral award in a writing-form. Therefore, it is argued that the requirement of writing is a prerequisite for its existence, not for proving the arbitral award. In addition to that, some opine that an oral arbitral award does not have the power of judgment and it cannot be executed (al-Awwa, 2007) because when requesting execution, all laws require depositing a certified or original documented copy of the arbitral award otherwise the arbitral award cannot be enforced by the national court of the enforcing state (Wali, 2007).

Reasoning an Arbitral Award

Reasoning arbitral awards of arbitrators is mentioning the factual and legal arguments and the evidence behind the arbitrators' decision. Some consider reasoning of an arbitral award is one of the most important guarantees of litigation (Wali, 2007). The reasoned arbitral award is an essential element because it shows how the arbitral tribunal reached its decision. National arbitration laws varied in the issue of reasoning of arbitral awards (Al-Jeghebr, 2009) and were divided into several views. The first view is represented by the English arbitration system which does not oblige reasoning the arbitral award for various reasons related to the nature of

this system and also to free the arbitral system from the commandments of the judiciary and the supervision of the courts (Al-Alahdab, 2008). The second approach requires the reasoning of the arbitral award otherwise it would be invalid as indicated under article 760 and article 769 (2) of the Libyan Law of Commercial and Civil Procedures of 1953.

The third approach is representing conciliation between the first and second approach as it made reasoning as a backup complementary rule (Al-Alahdab, 2008) and it can be bypassed and this exclusion depends on the agreement of the parties not to cause the arbitral award, and that not mentioning any reference to reasoning is considered that the will of the parties has tended not to oblige the arbitrator or the arbitral tribunal to reason (Al-Alahdab, 2008). It is noticed that this opinion gave freedom to the will of the parties to agree on reasoning the arbitral award or not reasoning it. This view adopted by article 31 (2) of the UNCITRAL Model Law on International Commercial Arbitration of 2006 and article 43 (2) of the Egyptian Arbitration Law no 27 of 1994.

The fourth approach requires for the validity of the issuance of the arbitral award by the arbitral tribunal that it must be reasoned or subject to invalidation. Among those laws are the Libyan Law of Commercial and Civil Procedures of 1953 which mentioned that in article 760 and article 769 (2) which stipulates cases of requesting invalidation of an award of arbitrators even if the opponents stipulated otherwise.

It is worth to mention here that the current Libyan law adopted the principle of reasoning without respecting the parties' well (Dwidar, 2009). The established rule in the Libyan Law of Civil and Commercial Procedures of 1953 is obligatory of the reasoning otherwise the arbitral award is invalid. The approach adopted by the Libyan law is not in line with the UNCITRAL Model Law on International Commercial Arbitration of 2006. This, in turn, would negatively affect the principle of autonomy that is globally recognised in several arbitration laws.

CONCLUSION

The Libyan Law of Civil and Commercial Procedures of 1953 devoted its fourth chapter to arbitration and there have not been any amendments to this law since its enactment. Therefore, there is a need for amending this law or enacting a separate law that regulates arbitration in a comprehensive manner, and it should be in line with UNCITRAL Model Law on International Commercial Arbitration of 1985 and its amendments adopted in 2006.

This article found that the Libyan Law of Civil and Commercial Procedures of 1953 is not sufficient to regulate arbitration in a modern era because it does not cover all arbitration rulings adopted by modern laws of arbitration such as the UNCITRAL Model Law on International Commercial Arbitration of 2006 and the Egyptian arbitration law. For instance, there is not any article within the Libyan Law of Civil and Commercial Procedures of 1953 regulating an interpretative, provisional arbitral award, additional arbitral award, and arbitral award on agreed terms. This is considered among the legal deficiencies within the current Libyan law.

Regarding the issue of final arbitral awards, it is discovered that the Libyan Law of Civil and Commercial Procedures of 1953 is unclear regarding the final arbitral award because it mentioned the term “final” in two places, the first can be seen under Article 408 while the second is under Article 769. For the correction of arbitral awards, the Libyan Law did not grant the arbitral tribunal an authority of correcting the material errors contained in the arbitral award, but it granted the competent court such authority. The competent court is the enforcing court. The Libyan Law of Civil and Commercial Procedures of 1953 gave this court an authority to correct mistakes. However, the law restricted its authority as it does not allow it to do the correction on its own, but only through a request of an interested party. This reflects the strict circumstance adopted by the Libyan Law of Civil and Commercial Procedures of 1953, unlike the Egyptian law of 1994 on Arbitration, and the UNCITRAL Model Law on International Commercial Arbitration of 2006, which granted the arbitral tribunal the power to correct arithmetic errors contained in the arbitral award, whether on its own or through a request from an interested party.

Moreover, it is evident that the Libyan Law of Civil and Commercial Procedures of 1953 insisted that the arbitral award should be issued by the majority of arbitrators after deliberation. Additionally, it confirmed that the arbitral award should come in a written form. Regarding the issue of reasoning, the established principle under the Libyan Law is that it is compulsory that the arbitrators should issue a reasoning arbitral award otherwise the arbitral award would be invalid. This is not in line with the UNCITRAL Model Law of 2006. This, in turn, would negatively affect the principle of autonomy that is globally recognised in several arbitration laws. As a result, several recommendations as indicated in this paper need to be taken into consideration by the lawmakers in Libya. This would help in modernising the arbitration law ease its practice in Libya.

REFERENCES

- Adeleke, M. & Adewole, O.A. (2019). Nature of Arbitral Awards in Nigeria: An Overview. *Canadian Social Science*, 15(6),79-99.
- Al-Alahdab, A.M. (2008). *Mowsoat al-Tahkim al-Dawli*. Beirut: Manshorat al-Halabi al-Huquqiyah.
- Al-Awa, M.S. (2007). *Dirasat fi al-Qanun al-Tahkim al-Misri wa al-Muqarn*. al-Qahera: al-Markaz al-Arabi li al-Tahkim.
- Alenezi, A. M. (2010). "An Analytical Study of Recognition and Enforcement of Foreign Arbitral Award in the GCC State," (Ph.D. thesis, Stirling University, 2010).
- Al-Haddad, H.S. (2010). *Al-Mujaz fi al-Naghariyah al-Ammah fi al-Tahkim al-Dawli al-Tijari*. Lebanon, Beirut: Manshorat al-Halabi al-Qanuniyyah.
- Al-Jeghebr, I.R. (2009). *Butlan Hukum al-Tahkim*. Amman: Dar al-Taqaavah li- al-Nashr wa al-Tawzi.
- Al-Sanuri, M. A. (2005). *Dawru al-Muhakkim fi Khusumat al-Tahkim al-Dawli al-Khas Dirasah Muqarinah li Ahkam al-Rahkim al-Tijari al-Dawli fi ghalibiyat al-Tashriat al-Arabiyah wa al-Ajnabiyah wa al-Attifaqiyat wa al-Marakz al-Dawliyah*. Jordan: Dar alThaqavah li al-Nashr wa al-Tawzi'.
- Al-Thalayaa, A.K.A.(2014). *Ahkam al-Muhakimin al-Ajnabiyah fi Munaza'at Uqud al-Istithmar: Dirasah Muqaranah*. Alexandria: Dar al-Jami'ah al-Jadidah.
- Althubyani, B. (2017). "Study of commercial arbitral awards and their legal implications in Saudi Arabia." (Ph.D. thesis, International Islamic university Malaysia.
- Chadli, Z & Yacine, B. (2021). "Legal guarantees of the arbitral tribunal A comparative study" *Tobna Journal for Academic Scientific Studies*,4(1), 386-410.
- Derains, Y. (2011). "The Arbitrator's Deliberation." *Am. U. Int'l L. Rev.* 27(1), 911-924.
- Deringer LLP. (2020). "Defining 'Arbitral Awards': Supreme Court" Lexology. Retrieved from <https://www.lexology.com/library/detail.aspx?g=ad516f19-3a48-419c-b142-48c0a6940913#1>.
- Dwidar, T.M. (2009). *Damanat al-Taqadi fi Khusumat al-Tahkim*. (Manshorat al-Halabi al-Huquqiyah.
- Ismail,H. (2012). *Al-Himaya al-Dawliyah li-Ahkam al-Tahkim al-Ajnabiyah: Dirasah Muqarinah*. (Cairo: Dar an-Nahdha al-Aribiyah.
- Julian Lew, Lou kas A. Mistelis and Stefan M Kroll, *comparative international commercial arbitration*, (Netherlands: Kluwer law international,2003),628.
- Ogniah, J.O. (2009). *Enforcement of Foreign Arbitration Award Comparative Study*. Cairo: DAR al Nahdah

- Pointing, R. (2009). *French Arbitration Law and Practice: A Dynamic Civil Law Approach to International Arbitration*. Kluwer Law International.
- Rajoo, S. (2003). *Law, Practice and Procedure of Arbitration*. Kuala Lumpur: Print & Co Sdn Bhd
- Sami, F. M. (2010). *Al-Tahkim al-Tijari al-Dawli: Dirasah Muqaranah l-Ahkam al-Tahkim al-Tijari al-Dawli*. Jordan: Dar al-Thaqafah for Publication and Distribution.