

Thesis Title : Disclosure in Impartiality and Independence of Arbitrator
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Degree : Master of Laws (Program Business Law)
Academic Year : 2011
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ABSTRACT

Arbitration is an alternative disputes resolution arising from the voluntary of the parties which the parties agreed by the contract. The parties are expected that the arbitrator shall be impartial and independence. In particular, the arbitrator is a person who has gained the confidence of the parties in procedure and making an award. The great measure for the parties to have a feeling that they have been made of fairness from the arbitral tribunal and to examine the arbitral tribunal is, disclosure in impartiality and independence of arbitrator. However, the Arbitration Act of B.E 2545 and the rules of arbitration institution are not only inadequacy but also vagueness. This thesis aims to study on such problems for the benefits of the academic and practicable guidelines in arbitration.

The study reveals that the laws, the rules and the code of ethics on disclosure in impartiality and independence of the arbitrator in foreign countries, have set clearly guidelines for the disclosure of arbitrator. Due to that process, the arbitration procedure shall be proceeded with justice and fairness, the person appointed as the arbitrator shall know details or guidelines for disclosing the circumstances that likely to give rise to justifiable doubts as to his impartiality or independence to the parties, arbitral tribunal or arbitration institution.

Therefore, the suggestion from this thesis is to amend the Arbitration Act of B.E 2545, by scoping of the disclosure in impartiality and independence of the arbitrator for clarifying: relationship in business, professional, financial and family, including any concerning persons which the arbitrator shall inform such facts for the opportunity to challenge or examine the arbitrator. In addition, the arbitrator has a duty to find the facts about the relationship or conflict of interests as well.

Moreover, the author suggests that the Courts of Justice and the Administrative Court should adopt guidelines on conflict of interest of international arbitration, the International Bar Association or IBA for trial and making decision relating to the disclosure in impartiality and independence of arbitrator's case.

