

Independent Study Title : The Power of Arbitrator in Respect of Types of Dispute
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ABSTRACT

The overall objective of this research is to focus on the power of arbitrator in respect of type of disputes in order to discover what type of disputes can or cannot be arbitrated.

The method that was used for the research is the comparison between foreigner's cases and law versus Thai's cases and laws.

The research found that, in the past foreigner's courts strongly restricted the powers of the arbitrator. In stark contrast, currently, the Courts have broaden the power allowed to the arbitrator; although, the wording of the laws have never been altered.

Secondly, because of the Arbitration Act B.E. 2545 section 40(2), 44 does not clarify what kind of dispute cannot reach settlement by arbitration under the law of contrary to public policy. The duty of the Court is to decide case by case if the particular case that has not reached the Supreme Court decision. Then, it is going to be the problem of parties and that of the arbitrator, the decision is left to them to resolve the dispute.

To analyze the cases that evolved in Thailand and foreign countries, it helps us to predict the future decisions of the Supreme Court; the line that separates what the dispute can or cannot be arbitration. If parties know that the dispute cannot be arbitrated, they will not invest their time and expenses in arbitration. But, if their dispute can be arbitrated, they will be give confidence to the parties. This will result in positive readings for the arbitration institution. The parties will accept and choose the arbitration to resolve their disputes. The arbitration institution of Thailand will become the center point of this region.