



Cultural Sensitivity and International Arbitration

by

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- **What is the culture of International Arbitration?**
- **What are the cultural considerations which International Arbitration should be sensitive towards?**
- **Is change necessary? If so, how can change be brought about?**

Background

International Arbitration is viewed by many international commercial parties as the dispute resolution process of choice. Whether undertaken through the rules of an institution (such as the ICC, LCIA, DIAC) or on an ad hoc basis, the key advantages of International Arbitration are considered to be cost, speed, finality, confidentiality, neutrality and informality¹.

Conferences in New York and Dublin recently marked the 50th anniversary of the New York Convention 1958 (“NYC”) which was intended to reduce the scope for Arbitral Awards to become the subject of lengthy legal battles in domestic Courts at the enforcement/execution stage². For parties in certain parts of the world (where the NYC is not being given the effect that many believe it should), this “end game” is the most frustrating part of the process³.

After all, there is little point in pursuing an arbitral process (which many see nowadays as being at risk of becoming no more than a slow/costly and cumbersome alternative to Courts) if financial recovery is unlikely. Much attention is therefore presently being focused upon cost, delay and reducing the scope for Domestic Courts to be deployed for the purposes of de-railing the arbitral process and its result.

¹ The first recorded reference to arbitration in the Muslim world is contained in the Treaty of Medina of 622 AD which nominated the Prophet Mohammad as the arbitrator of any disputes arising thereunder.

² See also the IBA/UNCITRAL Joint Report (June 2008) based upon a 10 year survey of State practice vis enforcement of arbitration awards pursuant to the NYC.

³ For the Qatar context, see the very recently published article by Talal Al-Emadi Qatar Arbitration Law: some central issues (2008) Int. A.L.R 69.