

The Convention of Culture: A Comprehensive Study on Dispute Resolution Pertaining to Heritage and Related Issues

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Abstract : In recent years, there has been a lot of discussion about ethnic imbalance and diversity in the international context. Arbitration is now subject to the hegemony of a small number of people who are constantly reappointed. When a court system becomes exclusionary, the quality of adjudication suffers significantly. In such a framework, there is a misalignment between adjudicators' preconceived views and the interests of the parties, resulting in a biased view of the proceedings. The world is currently witnessing a slew of intellectual property battles around cultural appropriation. The term "cultural appropriation" refers to the industrial west's theft of indigenous culture, usually for fashion, aesthetic, or dramatic purposes. Selena Gomez exemplifies cultural appropriation by commercially using the "bindi," which is sacred to Hinduism, as a fashion symbol. In another case, Victoria's Secret insulted indigenous peoples' genocide by stealing native Indian headdresses. In the case of yoga, a similar process can be witnessed, with Vedic philosophy being reduced to a type of physical practice. Such a viewpoint is problematic since indigenous groups have worked hard for generations to ensure the survival of their culture, and its appropriation by the western world for purely aesthetic and theatrical purposes is upsetting to those who practise such cultures. Because such conflicts involve numerous jurisdictions, they must be resolved through international arbitration. However, these conflicts are already being litigated, and the aggrieved parties, namely developing nations, do not believe it prudent to use the World Intellectual Property Organization's (WIPO) already established arbitration procedure. This practise, it is suggested in this study, is the outcome of Europe's exclusionary arbitral system, which fails to recognise the non-legal and non-commercial nature of indigenous culture issues. This research paper proposes a more comprehensive, inclusive approach that recognises the non-legal and non-commercial aspects of IP disputes involving cultural appropriation, which can only be achieved through an ethnically balanced arbitration structure. This paper also aspires to expound upon the benefits of arbitration and other means of alternative dispute resolution (ADR) in the context of disputes pertaining to cultural issues; positing that inclusivity is a solution to the existing discord between international practices and localised cultural points of dispute. This paper also hopes to explicate measures that will facilitate ensuring inclusion and ideal practices in the domain of arbitration law, particularly pertaining to cultural heritage and indigenous expression.

Keywords : arbitration law, cultural appropriation, dispute resolution, heritage, intellectual property

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