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THE APPLICABILITY OF NEW YORK CONVENTION OF 1958 ON ARTIFICIAL INTELLIGENCE ARBITRAL AWARD: EXPLORING CONTROVERSIES THROUGH MAPPING AND SEEKING INTERPRETATION TO ENHANCE COORDINATION

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ABSTRACT

This study explores the intersection between AI-generated arbitral awards and the applicability of Article I of the 1958 New York Convention. It offers a reinterpretation of the article to accommodate the evolving role of artificial intelligence in international arbitration. The objective is to propose a conceptual framework that aligns AI-generated decisions with the recognition and enforcement mechanisms established by the Convention. The analysis emphasizes the importance of identifying both the place where the AI award is rendered and the jurisdiction where enforcement is sought. Recognition under the Convention requires that both jurisdictions be contracting states. While the Convention does not directly address the unique nature or geographical ambiguity of AI-generated awards, the paper argues that such awards, when situated within the Convention's procedural framework, are nonetheless eligible for recognition and enforcement.

1. INTRODUCTION

1.1. Theoretical Framework

Artificial Intelligence (AI) is rapidly transforming the way we live and work. With its ability to simulate human reasoning and perform complex tasks, AI is becoming an integral part of modern industries, including the legal sector. As these technologies continue to evolve, questions are emerging around how AI can be integrated into legal frameworks and processes, particularly in the field of arbitration.

AI is already being used to assist in a variety of legal functions such as document review, contract analysis, due diligence, and predictive analytics. Arbitration institutions are beginning to adopt AI-driven tools to streamline their operations, improve efficiency, and enhance the quality of decision-making.

As arbitration becomes increasingly complex and globalized, the need for innovative, technology-based solutions is growing. AI offers promising capabilities in this area, particularly when it comes to handling large volumes of legal documents. AI systems can quickly and accurately analyze contracts, identify important clauses, flag potential risks, and even suggest solutions for resolving disputes.

One of the most intriguing developments is the potential use of AI to assist or even autonomously issue arbitral decisions. As AI becomes more sophisticated, it raises the possibility of AI-generated arbitral awards. This, in turn, brings up important legal and ethical questions about the recognition and enforcement of such awards under international instruments like the New York Convention.

Exploring how AI can align with arbitration objectives is essential to ensure that technological progress supports, rather than undermines, core legal principles. In particular, there is a growing need to assess whether existing legal frameworks are equipped to handle AI-influenced arbitration processes and outcomes.

The integration of AI into arbitration represents a significant opportunity to reshape dispute resolution. However, it also demands careful consideration of how to balance innovation with legal certainty, fairness, and enforceability on a global scale.

1.2. Research Questions

Article 1, paragraph 1 of the New York Convention stipulates that the Convention governs the recognition and enforcement of arbitral awards rendered in a State other than the one in which the recognition and enforcement are sought. This provision applies to disputes between both natural and legal persons and encompasses arbitral awards that are not considered domestic in the State where enforcement is pursued. The scope of this article explicitly applies to awards issued within the territory of a Contracting State to the Convention. However, where the nationality or territorial origin of the award cannot be ascertained such as in the case of arbitral awards generated by artificial intelligence the applicability of Article 1(1) becomes uncertain. The inability to definitively determine the place of arbitration renders the application of the New York Convention to AI-generated awards problematic under this provision.

Notwithstanding this limitation, Article 1, paragraph 2 of the New York Convention may offer a more flexible framework for the recognition and enforcement of arbitral awards involving artificial intelligence. This provision expressly applies to awards that are not categorized as domestic under the laws of the State in which recognition and enforcement are sought, thus broadening the potential for enforcement, irrespective of the jurisdictional origin of the award. Consequently, under Article 1(2), it may be feasible to recognize and enforce AI arbitral awards.

At the domestic level, the recognition and enforcement of AI-generated awards remains a contentious issue. Some national courts may resist the enforcement of such awards, particularly due to the absence of a fixed jurisdictional seat for the arbitration, which could lead to the characterization of the award as a "floating" award. This concept, in turn, may undermine the enforceability of AI-generated awards within domestic legal systems. Nonetheless, certain domestic arbitration laws provide for the recognition and enforcement of awards even when the seat of arbitration is indeterminate or situated outside the State's territory. These legal provisions may therefore support the enforcement of arbitral awards generated by artificial intelligence.

In this context, the Cairo Court of Appeal offers a relevant example. The court rejected a challenge to an arbitral award on the grounds that it did not specify the location of its issuance (Abbas & Matouk, 2018). This decision indicates that the absence of a designated arbitration venue, which is a characteristic feature of many AI-generated arbitral awards, does not necessarily invalidate the award. Furthermore, numerous arbitration laws allow the parties to agree on the form of the arbitral award, permitting its issuance in various formats, including

written form, coded language, or even as a digital or smart contract. This flexibility within arbitration law could facilitate the integration of AI-generated awards within existing frameworks of dispute resolution.

1.3. Research Contribution

This paper presents an overview of the impact of the New York Convention on arbitral awards involving artificial intelligence (AI), drawing on an extensive literature review. It examines the key challenges associated with the recognition and enforcement of AI-generated awards and proposes potential recommendations for the successful implementation of such awards. This research makes a significant contribution to the existing body of knowledge by enhancing the understanding of the difficulties associated with AI awards within the framework of the New York Convention, while offering a novel interpretation of Article 1 of the Convention. Furthermore, as this study addresses the disruptive nature of AI awards in relation to the core principles of the New York Convention, it also offers an analysis of the criteria for applying the Convention to AI awards, representing its primary contribution to the development of new practices in the application of the Convention's provisions.

1.4. Research Objectives

This study seeks to examine the core principles governing the recognition and enforcement of arbitral awards under the New York Convention (NYC), with particular emphasis on the evolving significance of these principles in the context of Artificial Intelligence (AI)-generated awards. The research aims to demonstrate that AI-generated awards may represent an emerging model compatible with the NYC framework, and that the Convention's inherent flexibility could allow for the formal recognition and enforcement of such awards.

Research Justification: The growing relevance of AI in arbitral processes has underscored the need to reassess existing legal frameworks. This research is driven by the imperative to explore practical and legal strategies for addressing the challenges posed by the recognition and enforcement of AI-generated awards, thereby contributing to the development of effective regulatory responses.

1.5. Research Hypothesis

The study hypothesizes that the current application of the New York Convention may present significant complexities when applied to AI-generated arbitral awards. These complexities raise

critical questions regarding the validity of such awards under the Convention, the scope of its application, and whether AI-generated decisions are afforded undue advantages. The research intends to critically assess the position of AI awards within the provisions of the Convention particularly Article I to determine whether they can be interpreted in a manner that accommodates such awards. This examination aims to identify potential risks and inform discussions on prospective reforms to the Convention in light of AI developments.

1.6. Research Methodology

This study adopts a doctrinal research approach, primarily based on an extensive literature review and analytical examination of academic writings, legal instruments, and case law. The objective is to assess the implications of AI-generated arbitral awards on the application of the New York Convention and to formulate a substantiated response to the central research question.

1.7. Research Structure

The research begins with an introductory discussion on the enforceability of AI-generated arbitral awards under the New York Convention. The second chapter focuses on a comparative analysis of the rendering place and the forum of AI awards. Following this, the study evaluates the legal implications associated with both the rendering and forum jurisdictions. The fourth section investigates the influence of territorial laws on the recognition and enforcement of AI awards. The final chapter presents recommendations, with a particular focus on the successful implementation of Article I of the New York Convention in the context of AI arbitration.

2. ANALYZING THE SELECTION CRITERIA AND VENUE OF THE ARTIFICIAL INTELLIGENCE AWARDS FORUM

This section aims to examine the selection criteria utilized in the evaluation of entries for the Artificial Intelligence (AI) Awards, as well as the characteristics of the forum venue in which the awards are presented. It further seeks to explore the associated challenges and opportunities that emerge when implementing these criteria in the context of recognizing excellence in AI.

2.1. The Determination of the Rendering Place in AI Arbitration Awards

The determination of the rendering place of an artificial intelligence (AI) arbitration award remains

a contentious issue, largely due to the multiplicity of criteria that may be employed to establish the locus of the award's issuance. Traditionally, it is presumed that the place at which the award is rendered coincides with the formal seat of arbitration (Mann, 1992; Baker & Davis, 1992; Verbist, 1996; Chukwumerije, 1992). For instance, Article 16(4) of the 1976 UNCITRAL Arbitration Rules stipulates that "the award shall be made at the place of arbitration."

In practice, however, the seat of AI arbitration is often determined either by mutual agreement between the disputing parties or pursuant to the applicable arbitration rules (Tweeddale, 1999). Parties may explicitly select the location where the AI-generated arbitral award will be issued or may delegate this decision to the arbitral tribunal. [1] It is generally advisable that the parties themselves designate the seat of arbitration in AI contexts to mitigate potential legal uncertainties (Rogers, 2017).

Disputes surrounding the rendering place also arise from the lack of standardized norms across arbitration frameworks. The applicable arbitration rules do not uniformly prescribe a method for determining the award's rendering place, leading to reliance on varied interpretive criteria. Such criteria typically fall into two categories: geographic and legal (Pryles, 1993).

Under the geographic criterion, the rendering place is determined by the physical location where the award is made. For example, if an AI award is issued in Jordan, Jordan is deemed the rendering place, irrespective of whether Jordanian or foreign procedural law governs the arbitration. [2] In contrast, the legal criterion designates the rendering place based on the procedural law governing the arbitration. Hence, an AI award rendered under French procedural law would be considered to have been issued in France, regardless of its physical place of issuance. This latter approach is often regarded as more conducive to legal certainty and the promotion of investment in AI-based arbitration systems.

Nevertheless, both criteria raise significant concerns regarding the recognition and enforcement of AI arbitration awards. This is particularly critical when parties fail to designate a seat of arbitration,

leaving the award vulnerable to jurisdictional challenges. Such issues were highlighted during the drafting of the New York Convention. Initially, Article I of the Convention proposed a territorial criterion to distinguish between domestic and foreign awards. However, delegates from Italy, West Germany, France, and Turkey raised objections, asserting that territorial criteria alone were inadequate for such determinations and could often reflect arbitrary or logistical considerations (Contini, 1959).

To address this, the final version of the New York Convention (1958) incorporated a broader framework that recognized arbitral awards irrespective of their geographical origin, provided they were not domestic awards in the state where recognition and enforcement were sought. [3] This flexible approach was further reinforced by the UNCITRAL Model Law, which established a more comprehensive set of rules governing the recognition and enforcement of arbitral awards, independent of the rendering place. [4]

Therefore, the prevailing interpretive stance supports the recognition and enforceability of AI-generated arbitral awards, contingent upon their compliance with the substantive legal requirements of the relevant jurisdiction. As such, under the framework of the New York Convention, AI arbitration awards are capable of being recognized and enforced internationally, irrespective of the specific location in which they are rendered.

2.2. *The Forum for AI Arbitration Awards*

The selection of the forum for AI arbitration is generally determined by the agreement of the disputing parties. In choosing an appropriate forum, two key considerations are especially pertinent. First, the geographic location of the assets held by the losing party; and second, the legal enforceability of the AI-generated arbitral award within the jurisdiction of the selected forum (Redfern et al., 2004).

AI-based arbitration proceedings frequently utilize emerging technologies such as Distributed Ledger Technology (DLT) and artificial intelligence

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[1] For example, when the parties choose to arbitrate under the auspices of the International Centre for Settlement of Investment Disputes (ICSID), the place of arbitration is determined in accordance with the provisions set forth in Sections 2, 62, and 63 of the 1965 Washington Convention.

[2] This standard is codified in Article 1 of the 1958 New York Convention, which provides that the recognition and enforcement of an arbitral award must occur in the territory of a State other than that in which the award was rendered. A similar provision appears in Article 1 of the 1927 Geneva Convention, which stipulates that the award must have been issued within

the territory of a Contracting State. The earliest articulation of this principle can be found in Article 3 of the 1923 Geneva Protocol, which required that arbitral awards be rendered within the territory of the contracting parties. Likewise, the Riyadh Arab Agreement for Judicial Cooperation incorporates this standard in Article 37, emphasizing the recognition and enforcement of arbitral awards rendered in the territories of member States.

[3] Art (1) of the New York Convention.

[4] S 35 of UNCITRAL Model Law.

itself. These technological frameworks provide enhanced procedural control to the parties whether investors, entrepreneurs, or other stakeholders who often express a desire for autonomy over the arbitral process. However, despite such preferences, there remains a lack of consensus on shared procedural norms or factual foundations (Rogers, 2017). Consequently, in cases involving AI arbitration, the losing party's assets are often dispersed across multiple financial institutions in various jurisdictions.

Given this scenario, parties may engage in what is known as "forum shopping," selecting a forum where the intersection of the losing party's assets and the legal system's criteria for enforceability align most favorably. This strategic selection enhances the likelihood of successful recognition and enforcement of the arbitral award.

The second critical consideration involves the legal framework of the chosen forum, which may or may not recognize the validity of an AI-generated arbitral award. Jurisdictions differ significantly in terms of the procedural and substantive requirements for enforcement, as well as the grounds on which recognition may be denied. Therefore, it is strongly recommended that the forum be explicitly identified in advance within the AI arbitration agreement. This preemptive designation helps ensure that the arbitral award will be recognized and enforced in accordance with the local legal standards of the selected forum.

3. LEGAL CONSEQUENCES OF THE RENDERING AND FORUM PLACES OF AI ARBITRATION AWARDS

In the context of AI arbitration, several factors must be considered when determining the locations for the recognition and enforcement of awards. One of the primary considerations is whether the venue for both the forum and the rendering place is a signatory to the 1958 New York Convention (Delaume, 1995; Sammartano, 1990). It is essential that the rendering location is perceived as neutral, in order to prevent any potential political or national bias that could arise in AI arbitration proceedings.

The specification of both the rendering place and the forum is critical to ensuring the effective recognition and enforcement of AI arbitration awards. In the absence of clear designations, inconsistency may arise between the two locations in terms of their respective legal decisions. For instance, it is necessary to compare the approach of the courts in both the rendering place and the forum. In jurisdictions like Egypt and Jordan, courts have issued numerous rulings on the grounds for challenging arbitral awards, underscoring the importance of understanding the procedural and legal context in both locations. [5]

The challenge to an AI award differs depending on whether it is raised in the rendering place or the forum. In the rendering place, the challenge typically concerns the validity and finality of the award, while in the forum place, the issue is focused on whether the award should be recognized and enforced. The applicable rules also differ based on whether the court is considering recognition and enforcement or reviewing the validity of the AI award itself (Reymond, 1992).

To promote the efficacy of AI arbitration, it is crucial to establish both the location of the arbitration proceedings and the jurisdiction under which the arbitration is conducted (Verbist, 1996). This is vital because the jurisdiction where the arbitration occurs may not recognize or enforce awards issued in a different location. Furthermore, AI arbitration helps to circumvent political challenges that may impede the enforcement of arbitral awards in certain states, particularly due to political reasons or reservations. Since AI arbitration does not have a fixed geographical location for the award's issuance, such political obstacles are less likely to affect the enforcement of AI-based awards.

Moreover, determining the location of the arbitration is essential for identifying the nationality of AI arbitral awards in international arbitration (Mann, 1992; Lew, 1978). This specification allows for

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[5]For example, in the case of *Bassem Youssef*, the Cairo Court of Appeal rendered a judgment on 6 January 2016 in Case Nos. 11, 12, and 14/132 Judicial Year (JY). This was subsequently challenged before the Court of Cassation in Challenge No. 2698 of 86 JY, decided on 13 March 2018. Prior to this, Challenge No. 78 of 131 JY had also been brought before the Cairo Court of Appeal on 4 May 2015.Other notable rulings include the following:
Court of Cassation, Challenge No. 10132 of 78 JY, session held on 11 May 2010.
Cairo Court of Appeal, Case No. 2 of 132 JY, judgment issued on 3 February 2016.
Court of Cassation, Challenges Nos. 4715 and 4868 of 86 JY, session held on 18 January 2017.

Cairo Court of Appeal, Circuit (8), Challenge No. 48 of 134 JY, session held on 19 September 2018.
Cairo Court of Appeal, Challenge No. 39 of 130 JY, session held on 5 February 2014.
Court of Cassation, Challenge No. 6065 of 84 JY, session held on 4 November 2015.
Cairo Court of Appeal, Circuit (62), Challenge No. 39 of 130 JY, session held on 6 August 2018.
Supreme Constitutional Court, Challenge No. 95 of 20 JY, session held on 11 May 2003.
Jordanian Court of Cassation, Decision No. 1879 of 2018.
Jordanian Court of Cassation, Decision No. 1449 of 2017.

the application of appropriate recognition and enforcement procedures and the invocation of relevant conventions. For instance, to apply the 1958 New York Convention to AI arbitration, it is necessary to designate the rendering place to enforce Article V of the Convention, which underscores the importance of the law of the jurisdiction in which the award is issued.

In particular, specifying the rendering place is crucial for the application of Article V (1)(a) of the New York Convention, which governs the validity of arbitration agreements where the parties have not agreed on a governing law. Additionally, the determination of the rendering place is vital for the application of Article V (1)(e), as it establishes the jurisdictional authority of national courts to annul or suspend the AI award. [6]

The determination of the seat of AI arbitration is equally significant for the application of Article I(3) of the New York Convention. Some countries have territorial reservations concerning the application of the Convention, stating that it applies only to awards made within the territory of another contracting state. However, such reservations cannot be applied to AI arbitration, given that the location of the award's issuance is inherently indeterminate in the context of AI arbitration.

4. THE IMPACT OF TERRITORIAL LAWS ON THE RECOGNITION AND ENFORCEMENT OF AI-BASED ARBITRAL AWARDS

This section seeks to examine the legal frameworks relevant to the recognition and enforcement of arbitral awards rendered by artificial intelligence (AI), with a particular focus on the territorial implications of such laws.

4.1. The Concept of Territorial Effect in the Laws Governing AI-Based Arbitral Awards

The recognition and enforcement of AI-generated arbitral awards present a legal dynamic that diverges from the traditional territorial model of arbitration (James & Gould, 1996). In contrast to conventional arbitration where territorial sovereignty dictates the applicable legal framework AI arbitration primarily relies on the principle of party autonomy, whereby the parties designate the governing law of the arbitration process (Castel, 1991; Domke, 1999). This approach represents a marked departure from classical territoriality, which posits that sovereign

states possess exclusive jurisdiction within their borders to legislate and adjudicate (Goode, 2001).

International conventions governing arbitral enforcement do not uniformly preempt domestic procedural laws. For instance, the New York Convention stipulates minimal conditions, such as provisions regarding arbitration-related fees, while deferring other procedural matters to national legal systems. Likewise, the Washington Convention, specifically Article 54(3), affirms that the enforcement of arbitral awards must conform to the execution laws of the state where enforcement is sought (Sanders, 1999; Quigley, 1961).

Consequently, the legal effect of regulations governing the recognition and enforcement of AI-based arbitral awards is inherently confined to the territorial jurisdiction chosen by the disputing parties. These regulations exert no influence beyond the selected forum, nor are they subject to interference from the regulatory regimes of other jurisdictions (Hill, 1998).

4.2. Consequences of the Territorial Effect of Laws on AI-Based Arbitral Awards

The territorial nature of laws governing AI arbitral awards implies that the refusal to recognize or enforce such an award in one jurisdiction does not preclude its recognition and enforcement in another (Hill, 1998). This reality enables a strategic practice known as "forum shopping," whereby parties may seek enforcement in jurisdictions perceived to be more favorable (Redfern et al., 2004).

For example, when enforcement is sought in State A, the competent court will evaluate the enforceability of the AI arbitral award under either domestic legislation or the New York Convention. If the award satisfies local legal requirements, it will be enforced under national rules. Alternatively, if enforcement is sought pursuant to the New York Convention, the court will consider whether the award originates from a contracting state or qualifies as a non-domestic award under its domestic arbitration law.

The applicability of the New York Convention is, however, contingent upon the legal status of the foreign law involved. If the law in question emanates from a contracting state, enforcement may proceed. Conversely, if the relevant law derives from a non-contracting or domestic jurisdiction, the Convention cannot be invoked even if the award itself was issued

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[6]The same can also be applied to all laws related to recognition and enforcement.

in a contracting state based on geographic considerations.

Where jurisdictions apply identical legal criteria for the recognition and enforcement of arbitral awards, consistency in outcomes can be anticipated. However, variations in national legal standards may yield divergent results: an AI-generated arbitral award may be recognized in one jurisdiction but denied in another.

5. CONCLUSION

This research has examined the concept of AI arbitral awards within the framework of relevant legal principles, aiming to delineate which AI awards are eligible for recognition and enforcement. A key question addressed is whether all AI awards qualify for such recognition, or whether only specific categories of AI awards are eligible. The answer to this question depends largely on the interplay between the seat of arbitration theory and the implementation of the New York Convention.

Two primary criteria emerge in determining the seat of arbitration for a given award: the geographical criterion and the applicable law criterion. The geographical criterion asserts that an award is considered to be rendered in the country where the arbitration took place, irrespective of the applicable law. In contrast, the applicable law criterion holds that an award is deemed to have been made in a country whose law governs the arbitration, regardless of the physical location of the award's issuance.

In applying these criteria to AI-generated awards, it becomes evident that, under the first criterion, an AI award would not qualify as an award made within a specific country if the arbitration did not physically take place in that jurisdiction. However, under the second criterion, an AI award can be recognized as originating from a particular country if the governing law of the award aligns with the law of that jurisdiction, regardless of where the award was physically generated.

In the context of the 1958 New York Convention, a foreign award is defined as one that is not considered domestic within the jurisdiction where recognition and enforcement are sought. Therefore, an AI award that is not regarded as domestic within the jurisdiction of recognition and enforcement would fall within the purview of the New York Convention.

To reconcile the application of the New York Convention with the unique characteristics of AI awards, it can be concluded that an AI award eligible for recognition and enforcement is one that is either deemed to have been issued within the jurisdiction of State A, provided that State A's law governs the award, or one that is not classified as a domestic award within the State where enforcement is sought. This framework may help bridge the gap between AI arbitration and the conventional mechanisms for enforcing foreign arbitral awards under the New York Convention.

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