

# INTRODUCING INTERNATIONAL COMMERCIAL ARBITRATION AND ITS LAWLESSNESS, BY WAY OF THE DISSENTING OPINION

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## ABSTRACT

*The arbitration method of dispute resolution is similar to, and also differs from, adjudication and judgment in the courts. Practitioners more acquainted with resolution of commercial disputes in the judiciary will find some aspects of arbitration to be troubling, or worse. In addition, some commentators have described arbitration, especially that involving international commercial disputes, to be (quite bluntly) lawless. This article discusses (i) the salient differences between the arbitration and court adjudication methods and (ii) those features of arbitration characterized as lawless – through the vehicle of the dissenting opinion. Seen most frequently in the decisions of appellate courts in common law jurisdictions, the dissenting opinion provides for an opportunity to highlight the differences between the two methods of dispute resolution. The separate dissenting opinion is seen less often in most civil law systems, and arbitrators from those jurisdictions as a group disapprove of such opinions in arbitral tribunal decisions. Such disapproval may be seen by others (usually from the common law setting) as one example of the lawlessness in international commercial arbitration.*

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