THE LEGITIMACY OF SOFT LAW IN INTERNATIONAL DISPUTES SETTLEMENT – THE IMPORTANCE OF NON-BINDING INSTRUMENTS IN INTERNATIONAL SPACE LAW

Mr. Parthik Choudhury, Junior Associate, Office of the Public Prosecutor of Assam, Guwahati, Assam

ABSTRACT

There has been a growth in Arbitration and other alternative dispute resolution mechanisms for the resolution of disputes on an International Level. The decisions by the arbitrators, tribunals and other dispute settlement bodies are often binding on the parties to the dispute but their authority does not extend beyond that. The paper will primarily focus on International Arbitration which has come under a lot of scrutiny in the recent times. The development of a soft law in such a case is pivotal as it will allow the existence of a legitimate source to resolve conflict. There is always a question about the legitimacy of the decisions and their impact. This paper evaluates the soft law and its legitimacy when it comes to the resolution of conflicts in a manner that is efficient and fair. It is essential to understand their impact since the area of dispute resolution has been a major one when it comes to International Disputes Settlement. This has been discussed in the article in a cumulative comprehensive sense. The current paper also analyses the article and substantiates separately the research done by the author alongwith striking harmony with laws pertaining to outer space since the same are increasingly having an impact on domestic and international policy making. Guidelines, codes of conduct, and principles produced by the European Space Agency and, in particular, the United Nations have a substantial impact on the way operations are carried out in outer space, but they are not in the form of rigid legislation. This paper will also examine the relevance and efficacy of space law in the last frontier. Put space law in its environmental perspective and see how effective the "Principles on the Use of NPS" and the Space Mitigation Guidelines have been at encouraging the

sustainable expansion of space exploration[1].

Keywords: Arbitration, Dispute(s), Conflict and Resolution, Non-Binding Instruments, Space Law.

Introduction

Conflict is an integral part of human nature. There is no existence of a human community or culture without the presence of conflict. Disagreements, different opinions and views are integral to the human evolution. It is the main driving force behind development and progress. It also helps in development of cognitive abilities and allows for the evolution of human as a race which leads to the building of a better society. However, there are situations in which conflicts tend to go out of hand and escalate to the level where external intervention is needed in order to resolve the conflicts in an amiable manner. This led to the development of the courts system, which was earlier run by kings and their advisors. In the modern times, there is a development of proper legal system in the form of Courts. However, as time continued, even the courts became overburdened and people looked for ways to solve their issues in a more efficient manner without judicial intervention which led to the development of a new tool of conflict management, Alternate Dispute Resolution (ADR). It helps in reducing the amount of pending litigation before the courts and has proved to be a success in a number of jurisdictions. They are also a prerequisite before litigation in some cases.

The success has driven more people towards it. However, the method is not immune to failure and there is always a scope that certain grey areas in the process are debated upon and seen as potential hindrances. One of the primary criticisms of ADR methods has been the lack of transparency, codification and the impartiality and fairness of the arbitrators. The parties are agreeing to be bound by the soft law being developed in ADR, therefore, it is of great importance. The process suffers if one of the parties is not willing to be bound by soft law and then the process is heavily criticized. There, the development of an understanding about soft law and its application in International Disputes Settlements[2] is quintessential to make any further discussion related to its legitimacy and acceptance.

[1] Steer C, "Sources and Law-Making Processes Relating to Space Activities" [2016] Routledge Handbook of Space Law 23

[2] Marcel Brus, "Soft Law in Public International Law: A Pragmatic or a Principled Choice?" in Pauline Westerman and others (eds), Legal validity and Soft Law (Springer 2018), 250; Fabio Tronchetti, "Soft Law" in

Theme of the Article

The article illustrates upon the development of ADR as a mode of International Disputes Settlement. It delves upon the key challenges the field of ADR faces with regards to legitimacy and enforcement and evaluates the importance of the development of soft law[3]. It uses the elucidation to examine its legitimacy and role in the dispute settlement process.

Arguments of the Article

Soft law are the instruments which are not binding upon the court and tribunals under International Law.[4] Their binding effect is weaker than the traditional law.[5] It is not present in a codified form like traditional law and can be found in guide, notes, rules, codes, protocols, techniques, guidelines, recommendations etc. They are of a general nature and are not considered to be positive sources of law, which leads to a considerably lesser binding effect. However, they still act as a guide to arbitration panel and are referred to by them in order to make a fair decision.[6] The panels may be willing to even consider them as legitimate sources of International Law.

In the field of International Arbitration, they are classified as substantive and procedural soft laws. The procedural soft laws assist with the process and guide the arbitrators when they face difficulties. There are guidelines that have been developed by the "International Bar Association" (IBA) called "IBA Guidelines on Conflicts of Interest in International Commercial Arbitration" and "IBA Rules on the Taking of Evidence in International Commercial Arbitration". There are other rules as well developed by other International Institutions and Legal bodies like "ICC Arbitration Rules" and "UNCITRAL Arbitration Rules." The substantive soft laws include "Lando Principles on European Contract Law" (PECL), "OCED Principles of Corporate Governance" and the "UNIDROIT Principles of

Brünner Christian and Alexander Soucek (eds), Outer Space in society, politics and law (Springer-Verlag 2011), 632. 3 Christ

[3] Brus M, "Soft Law in Public International Law: A Pragmatic or a Principled Choice? Comparing the Sustainable Development Goals and the Paris Agreement" in Pauline Westerman and others (eds.), Legal validity and Soft Law (Springer 2018)

[4] B.H. Druzin, Why does Soft Law have any Power anyway?, Asian Journal of International Law, 7, pp. 361-378 (2017).

[5] Anna Di Robilant, Genealogies of Soft Law, The American Journal of Comparative Law, Vol. 54, No. 3 pp. 499- 554. (Summer, 2006).

[6] G. Kauffman-Kohler, Soft Law in International Arbitration: Codification and Normativity, Journal of International Dispute Settlement, pp. 1-17 (2010); Available at https://lk-k.com/wp-content/uploads/Soft-Law-in-Intemational-Arbitration-Codification-and-Normativity.pdf

International Commercial Contracts." The procedural laws are more used; however, the substantive laws are also important. For example, the "UNIDRIOT Principles" are one of the most relied upon source while resolving the dispute.[7]

There has been a rise in the application of substantial and procedural soft law over the recent times. They have offered some sort of predictability and provided consistency to International Dispute Resolution. It is not developed like the traditional law sources and is developed mostly as an academic piece of work[8]. However, it also gains in this manner as it does not need ratification and years of enforcement to be applied. It can be accepted on a voluntary basis and provides a platform for the parties to resolve their disputes through mutual agreement. It helps in promotion of justice and fairness while still ensuring a fair trial.

There are instances when soft law can also come into existence through codification and legislation such as the "UNCITRAL Model Law International Commercial Arbitration" which has a wide acceptance at the global level. The parties play a key role as they can mutually agree to the application of a soft law and be bound by it. They are also applied in arbitration practice. There arises a conflict between institutional and ad-hoc types of arbitration. Institutional form of arbitration usually provides for the broadest manner of discretion to the arbitral tribunal in adjudicating the matter. For example, Article 14.5 of the "London Court of International Arbitration Rules, 2014" states:

"The Arbitral Tribunal shall have the widest discretion to discharge the general duties conferred upon them by the above said articles."[9]

On the contrary, Article 17.1 of "UNCITRAL Arbitration Rules, 2010" provides for limited discretion in comparison to institutional arbitration rules:

"Subject to the Rules, the arbitral tribunal may conduct the arbitration in a fashion as it finds suitable, provided the parties are treated with equality and is given a reasonable opportunity of

[7] Mayer, The Principles in ICC arbitration practice; UNIDROIT Principles: New Developments and Applications, ICC Int'l. Court Arb. Bull. 2005, Special Supplement, No. 662. For a generalized view, See. M.J. Bonell, An International Restatement of Contract Law: The UNIDROIT Principles of International Commercial Contracts, Ed. 3, ISBN: 97890-04-19469-4.
[8] Boyle A, "Soft Law in International Law-Making" in Malcolm D Evans (ed), International law (Oxford University Press 2018)
[9] LCIA Rules, Art. 14.5 (2014).

presenting its case."[10]

We can thus see, that despite some grey areas, soft laws still find application in various forms and ends up becoming positive law through continued application. There are cases where the conflict arises between impartiality and independence of arbitrator and not all rules demand that it be declared. However, there is still a need for justice and fairness in the field of dispute management.

Legitimacy in case of International Arbitration can have a number of meanings. There has been a lot of criticism regarding the legitimacy of soft law in arbitration. One of the main criticisms being that it creates a set of strict and duty-bound obligation.[11] There has been an increased involvement of governmental and sub-governmental bodies which has led to a decrease in the application of the soft law instrument. One of the key reasons behind the questions over the legitimacy of soft law is that, it is produced in an unplanned manner.

At the end of the day, the decision of the application of soft law rests with the parties. They must agree upon the use so that there is a fair and equitable decision. The arbitrators also face a dilemma between fairness and efficiency sometimes as the process of arbitration should be relatively quicker while the careful application of principles takes time which can lead to extra costs and delay in the award. A report published by a "120-member subcommittee" of the "IBA Arbitration Committee" in 2016 found that, "IBA Guidelines on Conflicts of Interest in International Commercial Arbitration and IBA Rules on the Taking of Evidence in International Commercial Arbitration are referred in 69-93% of the cases."[12] This shows that the usage has increased and there is an increased level of arbitration.

However, the conflict still lies in the bias of the arbitrators where they may be used to apply different domestic and institutional laws while carrying out the proceedings and are reluctant to abide by the soft law instruments. This too is countered as arbitration is not a process where over-regulation is needed as it will result in its judicialization which will leave little difference between it and traditional courts. Moreover, the confidentiality of arbitration proceedings leads to further disputes over the issue.

[10] UNCITRAL Arbitration Rules, Art. 17.1 (2010).
[11] P.M. Dupuy, Soft Law and the International Law of the Environment, 12 Mich. J. Int'l L. 420 (1991).
[12] A. Ross, How are IBA soft law instruments received worldwide?, Global Arb Rev, Sept 22, 2016, www.globalarbitrationreview.com

Analysis of the Article

It can be understood that ADR is still under development and finds a wide application in modern days. Countries have even chosen to negotiate through ADR in Bilateral Investment Treaties (BITs). There have been some awards like the *Cairns* case where India felt that the process was unfair and also pointed out the grey areas. The questions about the impartiality of arbitrators still withstanding. However, despite all of those, ADR has emerged as an effective alternative to the traditional judicial system. The primary question that is discussed is the legitimacy of the soft law that develops as a result of the ADR processes. The development of soft law has been discussed in an elaborate manner and the limitations as well as the benefits have been portrayed. The development of soft law has given a major boost to ADR processes and has helped in legitimizing the process and ensuring justice and fairness. It has also made sure that there is a choice before the parties and the arbitrators and the efficiency of the process is not compromised. The work that still needs to be done has also been highlighted.

What is Space Law?

"Space Law" is used in this essay to refer to regulations that aim to influence the behaviour and conduct of states by producing recommendations and guidelines but do not include consequences that can be applied in case of infractions. Article 38 of the ICJ Statute states that "Space Law" is not one of the traditional sources of international public law. This might be interpreted as a purposeful choice, given that the intention behind the space law is for it to be non-binding. The five basic binding treaties of space law have been supplemented by a number of space law measures. These instruments of space law are geared toward the development of regulations for specific space endeavors[13].

Importance of Space Law

One major flaw is that those who break space law cannot be held to account in a court of law. However, there are a number of upsides, and some of them might even imply a preference for space law instruments in the field of space law. The goal of space law is to make space exploration as safe and ecologically benign as feasible by establishing basic criteria and/or

[13]Haager AG, "What Is Soft Law? - Austria in Space" (*Austria.in*) <https://austria-in-space.at/resources/pdf/news/npoc-space-law-essay-competition-sumbmission-haager-importance-of-soft-law.pdf>

technical guidance by experts. For example, the "Recommendations for the Safe Use of Nuclear Power Sources" and the "Guideline for the Mitigation of Space Debris" are two instances of technologically based guidelines that aim to regulate by imposing safety criteria.

There is a greater chance of adherence from governments because they avoid material that could be perceived as problematic on economic, military, or political fronts. Therefore, the scope of space exploration is neither widened nor reduced by the use of these principles, as they are consistent with the Outer Space Treaty (OST)[14][15].

The Space Debris Mitigation Guidelines

So there is no need to renegotiate the groundwork on how to handle safety concerns. Due to the importance of international cooperation in driving forward technological advancements and maintaining momentum in space exploration, this is of the utmost importance. The widespread adoption of the "Space Debris Mitigation Guidelines"[16] is indicative of this trend.[17] This is due to the fact that many countries are prepared to incur expenses and enhance national standards in order to facilitate collaboration by aligning themselves with international standards. Thus, the regulation of space might enhance the potential for cooperation technical endeavors, which in turn can strengthen international relations. Cooperation, goodwill, and open lines of communication among states will become increasingly important as time goes on, especially if more divisive issues emerge, such as the division of space resources and mining for those resources.

Another approach to increasing compliance is the establishment of a conference system through which governments can share information on their levels of development and control their levels of reciprocal commitment. This does not make the decisions made at these conferences legally binding, but keeping track of them does encourage countries to follow the advice they are given in order to avoid being probed. These conferences have the potential to

[14] Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies (opened for signature 27 January 1967, entered into force 10 October 1967) 610 UNTS 205 (OST)
[15] Statute of the International Court of Justice 1945
[16] Space Debris Mitigation Guidelines of the Committee on the Peaceful Uses of Outer Space, UNGA Res (22 Dec 2007) UN Doc A/RES/62/217.
[17]Soucek A, "'Meet ECSL Members' Series: Alexander Soucek, Head of International Law Division at ESA"(*ESA*)<https://www.esa.int/About_Us/ECSL__European_Centre_for_Space_Law/Meet_ECSL_Members_Series_Alexander_Soucek_Head_of_International_Law_Division_at_ESA>

be a useful tool for encouraging the compliance of the norms since they provide a platform for the dissemination of information and scientific achievements. It's possible that less developed states could benefit from the exchange of legal and technological information that occurs in these venues. If a state consistently ignores or flat-out rejects essential safety regulations, it may be a reflection of carelessness and irresponsibility on its side. As a result, other countries are hesitant to continue cooperating with them since they are perceived as an unreliable partner. Trust can be eroded, ties to other countries can be damaged, and foreign policy can be influenced in ways unrelated to space law.

This potential disadvantage may be enough to induce compliance with space law, even though there are no legally binding consequences that may be implemented[18]. China destroyed its own Feng Yun 1-C satellite in 2007, releasing hundreds of pieces into space. States have looked into this dangerous behaviour despite the fact that there are no consequences they can apply; this is because the guideline for the mitigation of space debris is nothing more than a piece of paper carrying space legislation[19]. Establishing a supervisory authority, a procedural system, and a competent court are also necessary for the implementation of sanctions. This would require extensive negotiations to reach a compromise and would incur substantial costs.[20]

The consequences of breaking these norms extend far beyond the realm of international affairs, as they often indicate the proper and essential behaviour to be operating in good faith. An act that violates the norms of space law may be seen as carelessness or evidence of fault, which would therefore give rise to international liability.

Article III of the OST establishes that nations are "internationally liable for damage to another State Party," which is reiterated in Article VII. Article III of the OST provides that states "shall be accountable only if the loss is attributable to its fault." This establishes a liability for states for damage not inflicted on Earth, but only once fault has been established[21]. Therefore, these space law concepts could be useful in figuring out what the international community and other experts think is the appropriate level of behaviour. Whenever conduct deviates from these norms, a state may be held liable for the ensuing harm, and this responsibility may encompass

[18] JM Hutagalung and others, "Space Debris as Environmental Threat and the Requirement of Indonesia's Prevention Regulation" (2020) 456 IOP Conference Series: Earth and Environmental Science, 5.
[19] Francis Lyall and Paul Larsen, Space Law: A Treatise (Routledge 2020), 52.
[20] Lyall F and Larsen PB, "Sources of Space Law" [2017] Space Law 27
[21] Declaration of Legal Principles Governing the Activities of States in the Exploration and Use of Outer Space, UNGA Res 1962 (XVIII) (13 Dec 1963) UN Doc A/AC.105/572/Rev 1.

financial compensation. These guidelines at least show where additional precautions should be taken. Commercial space exploration efforts must be approved and regulated by the relevant governments[22].

Private Enterprises in Space Law

Many countries, including the United States and Japan, require private enterprises who want to participate in space activities to first seek a license in order to safeguard governments against legal action. Private actors are often required to pay insurance in order to qualify for this license, with the understanding that the insurer will be responsible for covering any resulting financial losses. In order to qualify for a license in Austria, private actors must get insurance with a minimum coverage value of 60.000.000 EUR, as stipulated in Section 4 Abs. 4 of the Weltraumgesetz[23]. States who choose to disregard these principles of Space law in the case of an accident expose themselves to financial loss due to the need to compensate victims and cover the costs of international dispute settlement. If nations chose to disobey the rules of Space law, they will have to pay compensation to anyone who was harmed as a result. As a result, space law offers some degree of stability and predictability without mandating that all governments strictly conform to any one norm. For governments, this could be crucial since they are less inclined to agree to principles that could limit their future possibilities. Space law is able to find a middle ground between the priority of security and the freedom to adopt principles that are in keeping with national interests. There is still a significant degree of ambiguity surrounding potential future breakthroughs in the area of space law and the difficulties that need to be resolved[24]. It's possible that this is another cause for governments to be wary. If restrictions are not mandated by law, there is a much greater chance that countries will agree on a common set of limits.

Way Ahead

The solution's adaptability and, by extension, its feasibility, will rise as it becomes easier to

[22] Jean-François Mayence, "The European Union's Initiative for a Code of Conduct on Space Activities" in Irmgard Marboe (ed), Soft law in Outer Space: The function of non-binding norms in International Space Law (Böhlau Verlag 2012), 358.
[23] https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=20007598
[24] Steven Freeland, "The Role of Soft Law in Public International Law and Its Relevance to the International Regulation of Outer Space," in Marboe I Soft law in Outer Space: The function of nonbinding norms in International Space Law (Böhlau Verlag 2012), 29; Francis von der Dunk, "Customary International Law and Outer Space" in Brian Lepard (ed), Re-examining customary international law (Cambridge University Press 2018), 359.

handle changes in the law, technology, and environment. This is crucial for standards based in technology, as they can more easily accommodate new scientific findings and meet the needs of space-faring nations. There is a significant amount of uncertainty regarding future developments, scientific complexity, and the move from state players to private actors. As a result of these variables, there needs to be a certain amount of flexibility to adjust to the varying concerns of the many stakeholders, while yet having an authoritative framework to rely on. Space law may serve as a prototype for other types of laws. The guidelines can be tested in real life and, if proven useful and widely accepted, could be formalised as a treaty. To further strengthen the willingness of states to be bound, this "trial run" would also allow states to assess their practical ability to implement the regulations[25]. The General Assembly (GA) also contributed to the development of Space legal documents in the area of environmental law by passing a resolution on the conservation of nature in 1979. The evolution of environmental law has been helped along by these resolutions. This article's arguments had a significant impact on the Brundtland report and the Rio Declaration[26]. As a starting point for the development of treaties recognised as binding international law, these guidelines for space law can be quite useful[27].

The familiarity benefit arises from the fact that many of these principles are already founded on activities that are currently undertaken by many governments, but not to a degree that would establish customary international law. The many concepts described in these instruments have this benefit as well (CIL). Similar to how the Declaration of Legal Principles Governing the Activities of States in the Exploration and Use of Outer Space paved the way for the Outer Space Treaty, the "Goals and Principles of Environmental Impact Assessment" did the same thing for the legally binding "UN ECE Convention on Environmental Impact Assessment" in the field of environmental law.[28] Both of these works take their cue from the "Declaration of Legal Principles Governing the Activities of States in the Exploration and Use of Outer[29]."

[25] Bohlmann UM and Petrovici G, "Developing Planetary Sustainability: Legal Challenges of Space 4.0" (2019) 2 Global Sustainability
[26] Perrez FX, "The Role of the United Nations Environment Assembly in Emerging Issues of International Environmental Law" (2020) 12 Sustainability 5680
[27] Freeland SR, "The Crystallisation of General Assembly Space Declarations into Customary International Law" 54th International Astronautical Congress of the International Astronautical Federation, the International Academy of Astronautics, and the International Institute of Space Law (2003)
[28] Steer C, "Sources and Law-Making Processes Relating to Space Activities" [2016] Routledge Handbook of Space Law 23
[29] Declaration of Legal Principles Governing the Activities of States in the Exploration and Use of Outer Space, UNGA Res 1962 (XVIII) (13 Dec 1963) UN Doc A/AC.105/572/Rev 1

Some argue that a consensual space law instrument developed by a credible organization should be given greater weight and authority than other legal texts. Although General Assembly resolutions are not legally binding, they are still given considerable weight because they are unanimously supported by all UN member states.

Concluding Remarks - Non-Binding Instruments - Through the Lens of United Nations

The UDHR adds to our knowledge of human rights, notwithstanding the fact that it is largely aspirational. The UDHR is instructive as *lex ferenda* since it indicates the direction in which governments would wish the law to develop.

It created a benchmark for human rights, which states were encouraged to conform to. That's what they say, anyway. South Africa's government was able to influence public opinion and establish itself as a moral authority in the international community as a result of the human rights abuses committed during the apartheid era. The highest level of space law is represented by resolutions adopted by the United Nations General Assembly (UNGA) that establish fundamental principles and acquire sufficient support and authority to be put into reality. However, the agreement's lack of legal force would remain unchanged even if it were adopted by all states. This is because states' voting patterns are not always indicative of their policy on the advancement of CIL. Not all jurisdictions will agree to be legally bound even if they acknowledge the correctness of these tenets. There are other space law instruments, such as the "Space Debris Mitigation Guidelines[30]," that are more significant; however, these meet the same criteria in that they identify the problems, declare fundamental principles that aim to improve the issue, and have reached sufficient practice by the international community. For example, "awareness of the hazard presented by such objects" is one of the phrases used to describe the gravity of the space debris problem in Guideline 1 of the Space Debris Mitigation Guideline. The document first recognizes the space debris problem before proposing a solution: "systems should be designed not to release debris during regular operation." Many countries that actively participate in space exploration have adopted these standards as part of their own national space legislation. These countries include France, Japan, the United States of America, the United Kingdom, and others. As a result, space practices among these countries are quite uniform. The political difficulties of formulating and ratifying international treaties at the level

[30] Space Debris Mitigation Guidelines of the Committee on the Peaceful Uses of Outer Space, UNGA Res (22 Dec 2007) UN Doc A/RES/62/217

of individual nations are sidestepped by the instruments of space law. The treaty's stated goal is threatened by politics, and it is made more difficult to reach an agreement on sensitive topics. A space law instrument that imposes the same standards is far easier to negotiate than a hard law treaty that all parties are committed to. Hard law treaty negotiations need significantly more time and money than treaty negotiations based on Space law.[31] The speed with which instruments of space law can be produced and put into effect is a major advantage when compared to the lengthy process of ratification. Finding solutions to important problems, like decreasing the amount of space trash in the universe, can be greatly aided by this.

Concluding Remarks – Soft Law Legitimate?

Soft law in the field on ICA has been a force to reckon with despite its formation arising primarily out of non-state entities. It has been successful in providing guiding principles related to procedure as well as substance and has contributed greatly to a number of fields of ICA.[32] The soft law has also been used in national legislation which puts a greater responsibility over the drafters to ensure that the focus stays away from their generalization since they are made to be applicable to specific circumstances.[33] They should also ensure that the law is actually able to achieve its objective and have a "fair" impact upon the parties. However, it still must be noted that all the debate around its application is dependent mainly upon the ethics of the creators, arbitral panels, practitioners, the parties and the dependence of it is upon these parties in a more formal way of "veil of ignorance". If the soft laws are channelized in a proper manner it can lead to the harmonization of trade and commerce at an International Level. This can be traced back to the time of *lex mercatoria* and can prove to be pivotal in the future particularly in the context of increased interaction between different states and corporations across the globe. There are instances where state interference may not even be required, as has been the case, and the dispute gets settled at the organizational level itself saving time and costs. It must be ensured that in the quest for legitimacy or harmonization we do not end up jeopardizing

[31]Haager AG, "What Is Soft Law? - Austria in Space" (*Austria.in*) <https://austria-in-space.at/resources/pdf/news/npoc-space-law-essay-competition-sumbmission-haager-importance-of-soft-law.pdf>

[32] L. Parsons, Independent, Impartiality and Conflicts of Interest in Arbitration, 2 IPBA ASIA-PAC Arbitration Day Conference, 8 Sept. 2016. https://www.quadrantchambers.com/images/uploads/documents/Luke Parsons QC-IPBA paper.pdf

[33] M. Sharmila, Translating Legal Norms into Quantitative Indicators: Lessons from the Global Water, Sanitation, and Hygiene Sector, William & Mary Environmental Law and Policy Review, Vol. 42, No. 2, 2018. https://ssrn.com/abstract=3148130

International Arbitration.[34] There needs to be a balance between both to ensure that the process stays effective.

[34] F. Luth, Dr. P.K. Wagner, supra 9. See also. M. Erdem, Soft Law in International Arbitration, http://www.mondaa.com/turkev/x/575696/Arbitration+Dispute+Resolution/Soft+Law+in+International+Arbitration