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Review Article

Ethical Conflicts in Compulsory Arbitration with the Right to Action and Judicial Justice

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Abstract

Introduction: Arbitration has a contractual nature and is subject to the sovereignty of the will of the parties, but in some cases, the legislator imposed the referral of claims to arbitration on the will of the parties and caused the contractual nature of the arbitration clause to disappear or be limited. By doing this, he has placed the arbitration outside the will of the parties. This issue causes some moral conflicts in the discussion of compulsory arbitration. Therefore, this research has been done with the purpose of examining the position of compulsory arbitration in Iran's legal system and the ethical challenges in it with a descriptive-analytical approach.
Material and Methods: The research was a review method, in order to achieve the goal of the research, in addition to electronic education books and virtual education in this field, articles related to the research keywords from 2004 to 2022 from the databases of Civilica, Magiran, Sid, Researchgate, Science direct, was reviewed
Conclusion: Based on the findings of the research, it can be concluded that compulsory arbitration in Iran has ethical challenges in the field of implementation and interpretation, the most important of which is the issue of the right to action and judicial justice. In the context of ambiguities in mandatory arbitration, even if the method of arbitration becomes ambiguous, the arbitrator has the duty to find out the will of the legislator with the principles and rules of interpretation, which creates a moral conflict for the arbitrator.
Keywords: *Ethics, Compulsory arbitration, Arbitrary arbitration, Code of ethics.*

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INTRODUCTION

The increase in disputes between people is one of the important issues that requires the need to speed up its resolution. Increasing the speed of settling disputes and lawsuits is one of the signs of the development of the judicial system. Arbitration has been welcomed as a parallel procedure in courts in legal systems. In Iran's legal system, the legislator has used arbitration as an arm of the justice system. Arbitration is usually written in brief and general terms, therefore, at the time of its execution, due to silence in details or different perceptions and different inferences that the litigants have from those words, there may be a difference of opinion in the interpretation between the parties. If the arbitrator is faced with the necessity of interpreting this condition in order to implement the arbitration clause, he is bound to interpret the arbitration clause [1]. In fact, arbitration is a process by which the parties' disputes regarding their legal rights and duties are resolved through

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the judgment of people who replace the court. Therefore, the philosophy of the establishment of the arbitration institution is to prevent the delay of the proceedings, quick and easy access, providing amicable resolution of disputes and saving costs and benefiting from specialized forces. In the civil procedure, the term arbitration is used without definition like other terms in the laws and regulations, and it is enough to express the cases, conditions and quality that people are able to resolve their disputes by referring to arbitration. Therefore, arbitration should be defined by referring to other laws. The international commercial arbitration law specifies that arbitration is the settlement of disputes between litigants outside the court by a natural or legal person or persons appointed by the parties. Therefore, in the arbitration of the hostility season, the proceedings are carried out by a person or persons who are not judges and without observing the formalities of the proceedings. The person who is chosen to conduct arbitration is called an arbitrator [2]. In the matter of conducting arbitration, there is a term called appointing an arbitrator, which means appointing a specific person or persons to conduct arbitration, the person or persons who appoint the arbitrator are called the appointing authority of the arbitrator [3]. In a series of areas, the legislator has clearly specified the appointing authority so that there is no confusion in these cases. For example, according to Article 37 of the Securities Law, the selection of arbitrators to resolve disputes is under the jurisdiction of this board. In such a situation, the parties do not have any authority in the field of appointing an arbitrator, hence this type of arbitration is called mandatory arbitration because the law has designated a person or persons as an arbitrator and the parties are obliged to resolve their claims through that. Article 36 of the Securities and Exchange Market Law approved in 2014 and Article 20 of the Building Presale Law approved in 2019 refer to mandatory arbitration, which may conflict with the right to sue and freedom in some cases. But the analysis of moral conflicts is also important in arbitration because every lawsuit that is raised in a court has a moral aspect [4]. For this reason, in order to guide and control the behavior of judges, recommendation letters, code of ethics and collections containing ethical rules for judges have been compiled. One of the most important moral threats of referees is impartiality, independence and not disclosing relationships, but it is not limited to these issues and requires responsibility, expertise and moral effort. Therefore, this research has been conducted with the aim of investigating ethical conflicts in mandatory arbitration in Iran's legal system and the challenges in it in relation to the right to sue and judicial justice and in a descriptive-analytical way.

MATERIAL AND METHODS

The research was a review method, in order to achieve the goal of the research, in addition to electronic education books and virtual education in this field, articles related to the research keywords from 2004 to 2022 from the databases of Civilica, Magiran, Sid, Researchgate, Science direct, was reviewed.

DISCUSSION

What does arbitration mean?

In Persian culture, arbitrator means a ruler, a judge or someone who decides between good and bad, and someone who is chosen to decide and settle disputes between two or more people [5]. In another definition, an arbitrator means a justice, a judge, a special ruling, a common ruling, and someone who makes a ruling and a lawsuit between people. In the Persian language, arbitration is equivalent to arbitration, and its meaning is mediation, arbitration between two or more people, dealing with an issue and ending the matter outside the court under certain conditions

[6]. In the English language, the words Arbitrator and Arbitration are used in cases where the parties are satisfied with a solution to solve their problem, and the arbitrator is a person who helps them in this way [7]. In Iran, although arbitration is a very deep-rooted institution, the Civil Procedure Law approved in 2000 does not provide a definition of it, and only the conditions of its implementation and the rulings and aspects that invalidate it are considered. However, the legislator defines arbitration in Article 1 of International Commercial Arbitration approved in 1998 and considers arbitration to be the settlement of disputes between litigants outside the court by a person or natural and legal persons appointed or at the will of the parties. It should be noted that the opinions issued by arbitration are not the same as the opinions issued by the court and have differences in various aspects [8].

Types of arbitration

Arbitration can be internal or external. The criterion for this division is the nationality of the parties involved in the arbitration. Based on paragraph b of article 1 of the Civil Code, international arbitration means that one of the parties does not have Iranian citizenship at the time of concluding the agreement. Therefore, the international commercial arbitration law considers that type of arbitration as domestic if the nationality of the parties at the time of concluding the agreement is Iranian. Therefore, citizenship is important at the time of arbitration. It is inferred from the text of the law that if the nationality of one of the parties changes after the conclusion of the arbitration, the arbitration mechanism will change. Clause D of Article 1 of the Regulations on the Provision of Services of the Arbitration Center of the Iran Chamber defines domestic commercial arbitration as disputes and lawsuits regarding commercial relations and transactions between legal or natural persons who are one of the Iranian parties at the time of concluding the contract. Although this definition is useful, it does not always solve the problem because there is no reference to the cases where there is no arbitration agreement and the parties refer to arbitration through the opinion of the court. Therefore, basically, the fixed criterion for determining the types of arbitration is the subordination of time at the time of referral to the arbitrator. In addition to the citizenship of individuals, the citizenship of companies is also very important. According to Article 1 of the Companies Registration Law and Article 591 of the Trade Law, the main criterion for the citizenship of companies is their residence. That is, companies have the citizenship of the country where their main center is located [9]. Therefore, in the arbitration of a natural person, the nationality of the individual is important, but in the case of legal entities, the residence of the company plays the main role, even if all the employees or all the managers do not have the citizenship of that country. In this respect, Iran's rights are based on Article 2 of the English Arbitration Law approved in 1996 and Article 1492 of the French Civil Code.

Compulsory arbitration

The reason for dividing arbitration into compulsory and arbitrary is the role of will and discretion in referring to arbitration; Therefore, in compulsory arbitration, if the parties refer to the arbitration while agreeing with each other and out of free will, the form of arbitration is optional, and if the parties refer to the arbitrator without agreement and based on the lawmaker's decree, the arbitration will be compulsory. Article 454 of the Civil Procedure Law states that all persons who have the right to file a lawsuit can refer their disputes to arbitration with mutual consent. Or that the parties can be required to agree to refer to arbitration in the event of a dispute between them by means of a separate contract. It should be noted that although the principle of consensus

is very important in the formation of arbitration, there are other types of arbitration in which the principle of consensus is less important in referring disputes to arbitration. The lack of agreement in referring the case to the arbitrator and the lack of authority to appoint the arbitrator in these cases are not the same and, in each case, it is different according to the prevailing situation and conditions; For this reason, the inability to appoint an arbitrator or to refer the case to arbitration has led to the introduction of a different process called mandatory arbitration. Therefore, when the legislator has considered the referral of a dispute to arbitration for a specific issue and the parties to the dispute are obligated to this type of proceedings, whether they have the ability to choose an arbitrator in this type of arbitration or this ability and competence has been denied to them, compulsory arbitration is proposed. Although the legislator has not provided a specific and specific definition of compulsory arbitration in the civil procedure law, this law of the legislator only determines the system governing arbitration to deal with that issue, although the definition of compulsory arbitration has also been avoided [10].

Types of compulsory arbitration in Iranian law

Compulsory arbitration is shown in two ways in Iranian law. In the following, explanations are provided about each one

A] Contractual compulsory arbitration

In this case, coercion shows itself in the form of a contract, and compulsory arbitration shows itself as an annex to the contract, in this case, the reference to the arbitrator is included at the time of concluding the contract, so the parties are forced to comply with these conditions. In the contractual compulsory arbitration, the will and authority of the parties may appear on the surface, but on the inside, there is coercion in such a way that its non-acceptance can affect the validity or invalidity of the contract. Therefore, the agreement and authority in contractual arbitration has a secondary aspect in reference to arbitration. For this reason, such arbitrations, which have a contractual basis, and the arbitration agreement or condition is signed by the parties [even if this is apparently based on discretion], referring to arbitration in the event of a dispute will be compulsory.

This is clearly seen in the contract between the government and its subordinate organizations with legal entities. Contracts between government institutions and private contractors are an example of contractual compulsory arbitration. In Article 53, these agreements have the condition to refer disputes that occur in the future to the Supreme Technical Council. Another example is Article 20 of the Third Law of Development, during which the arbitration board is responsible for handling and commenting and making decisions regarding the complaints of natural and legal persons about each of these decisions, and this issue is considered in the share transfer contracts. and is signed by the parties.

Another example of contractual compulsory arbitration is Article 20 of the Apartment Presale Law. According to that, the disputes arising from the interpretation and implementation of the provisions of the pre-sale contracts are handled by the arbitrator, which consists of an arbitrator from the buyer's side, an arbitrator from the seller's side, and an arbitrator satisfied by the parties. If there is no agreement on an arbitrator, an arbitrator will be nominated by the chief justice of the city. If necessary, these arbitrators can use the opinion of an official expert, and the arbitration of the subject of this law will be subject to the rules of procedure of public and revolutionary courts. Article 2 of the Apartment Presale Law also mentions the minimums that should be considered in the apartment presale contract, and in paragraph 10, the parties are required to enter arbitration.

The arbitration board in share transfer contracts is also one of the examples of compulsory arbitration. Based on Article 21 of the Third Development Plan Law approved in 2019, the legislator introduced the "Arbitration Board" as the authority to deal with complaints related to shares to deal with claims related to the transfer of shares. According to Article 22 of this law, the legislator has personally determined the composition of the members of the arbitration board and has established the procedure based on specific regulations.

This method, in the form of "arbitration condition" and at the time of concluding the share transfer contracts, should be considered and observed. In terms of their nature, these contracts are contractual and an example of additional contracts, so not accepting the arbitration clause leads to not concluding the contract. Although the condition of this arbitration has a contractual nature and people are forced to accept the arbitration condition when concluding the contract, it should be noted that determining the provisions of the arbitration conditions is beyond his will. And its conditions are determined based on Articles 22, 23 and 24 of the Third Development Program Law as well as the regulation of Article 22. For this reason, this authority is called "compulsory contractual arbitration" and the legislator has practically made it mandatory to refer to arbitration [11].

By examining the position and role of people's will in determining the terms and content of the arbitration clause, although the term "arbitration" is used in the title used for this legal reference, but this term lacks the conditions and characteristics of arbitration; Therefore, when interpreting the arbitration clause, the rules interpretation tool should be used. The title of arbitration and the condition of arbitration, and this way of dealing with claims, will not be considered a term of arbitration, and this authority is not an example of an arbitration institution. Compulsory arbitration should be considered as an example of "contractual compulsory arbitration" and subject to the rules and regulations of arbitration and the method of interpretation of contracts. Although the principle of referring the dispute to the arbitration authority and the principle of accepting the arbitration clause is mandatory, determining the contents and effects of this clause is in the realm of the will and agreement of the parties. Based on this, it can be said that when the determination of the arbitrator and the limits of his authority and the procedure of arbitration are not subject to the opinion and will of the parties, talking about the interpretation of the provisions and effects of arbitration and discovering the common intention of the parties is also against the end of the issue [12].

B] Compulsory arbitration outside the contract

Obligatory arbitration outside the contract is a clear example of compulsory and legal arbitration in which the reference to arbitration is beyond the authority and will of the parties to the contract and is specified by the legislator. Regardless of whether the parties have mentioned this issue in the contract or not. In such a case, in any situation where there is a dispute, the referee should be referred. For example, according to Article 36 of the Securities Market Law, dealing with all disputes arising from the professional activity of market participants, if there is no compromise in the relevant centers, the dispute will be resolved only in the arbitration board. Based on this article, the dispute between brokers, market managers, investment advisors, publishers and investors and all related persons will be handled by the arbitration board.

Another example of non-contractual arbitration is Articles 27 and 28 of the Family Protection Law approved in 2013 regarding divorce arbitration. It should be noted that arbitration in these articles does not have the characteristics and nature of an arbitration institution, and it is not correct to interpret it as arbitration in the conventional

form. In this context, the legislator used the word "arbitration" in Article 27 of the Family Protection Law, in the event that this arbitration does not have the powers of the Civil Procedure Law in hearing and issuing a decision, so here the arbitrator has more of a mediator role than arbitration. In Article 36 of the Securities Market Law, the method of dispute resolution is non-contractual mandatory arbitration, and this issue should be taken into account in its interpretation. In case of a dispute, the law interpretation method should be used to discover the will and opinion of the legislator. Explanations should be provided regarding the word interpretation and how to do it, because one of the most important challenges in the assignment of judgment is the correct interpretation of words. The word interpretation means discovering and recognizing the meaning of a law or contract or any other written document, during which an effort is made to infer the correct meaning" [13]. In the science of law, interpreting the contract means determining the provisions of the contract in cases where the meaning and concept is not clear due to ambiguity or silence or even contradiction, and the judge or arbitrator must discover the true will and intention of the parties; Here, the arbitrator must be familiar with considering the purpose and purpose of the interpretation and know that interpreting the contract in law means recognizing the nature and provisions of the contract based on the common will of its authors and the legal provisions and the main purpose. In the same way, the interpretation of the law also means inferring the will of the legislator from the legal expressions [14].

The interpretation of the contract can be aimed at identifying the content of the conditions included in the contract. If there is a need for arbitration interpretation, the arbitral authority must first separate the concept and purpose of the contract from the concept and purpose of "interpretation of laws" and in the next step, use the situation, evidence and clues in the interpretation of the contract [15]. On the other hand, the contract interpretation tool is also different from the law interpretation because the contract interpretation is more detailed than the law interpretation [16]. Although the contract interpretation rules are absent in Iran's civil law, the use of this tool in the laws of countries such as Iraq and Egypt should be considered by the arbitrator [17]. In Articles 36, 34 and 43 of the Securities Market Law, the legislator established a special authority to deal with disputes in the stock market and named it the Arbitration Board. According to Article 36, the competence of this authority was approved by the legislator. And in Articles 5 and 15 of the law on the development of financial instruments and institutions, it was also stipulated that all disputes arising from investment in the subject of Article 2 of that law, as well as disputes between the members of the fund, should be reviewed by the arbitration panel in the Securities Market Law of the Islamic Republic of Iran. One of the cases of ambiguity in the legal rules governing this board is the "Arbitration Board" from the legislator because it causes ambiguity and misunderstanding in understanding the rules and its relationship with arbitration. Basically, this authority cannot be considered an arbitration authority because arbitration is contractual in nature and the establishment of an institution called an arbitration board is considered artificial, and on this basis, the authority for resolving disputes in the stock market should be called a "dispute handling board"[18]. And it should be noted that such a reference is not in the domain of the parties' will and the acceptance or non-acceptance of their arbitral award is negated. In this case, the legislator created a hearing authority and chose the title "Arbitration Board" for it, and did not pay attention to the fact that the mere use of the name of the arbitration board does not mean compliance with the arbitration institution. Therefore, if this hearing authority is known as

non-contractual arbitration, if interpretation is necessary, the hearing authority must use the interpretation of laws to verify the will and purpose of the legislator.

Ethical obligations of referees

In the first paragraph of Article 12 of Iran's International Commercial Arbitration Law and national and organizational regulations, it is specified that the main obligation of arbitrators is impartiality and independence. In addition to that, ethical issues such as disclosure of information, confidentiality, calculation of fees, and effort and perseverance are among the moral obligations of judges. In this context, the International Bar Association has prepared ethical rules for arbitrators, and in addition to that, it has compiled a document called the Recommendation of the International Association of Bar Associations regarding conflict of interest in international arbitration, in order to provide a standard for judging arbitrators. The purpose of this recommendation letter is to eliminate the ambiguity regarding the emphasis on the issue of disclosure in addition to the independence, impartiality and ethical confidentiality of judges. Based on this, judges are given guidelines not to disclose what kind of information. The recommendation letter has two main discourses, one of which deals with general criteria related to impartiality, independence and disclosure, and the other provides practical solutions for general criteria.

The origin of duty judgment and moral conflicts

The question that arises is what is the origin of this compulsion and what moral conflicts result from it? To answer this question, it should be said that the source of coercion in non-contractual arbitration is coercion due to law, coercion due to the will of the other party, and coercion due to contract.

Compulsion due to the law is one of the important sources of compulsory arbitration in Iranian law. In some cases, due to the consideration of certain interests, the law requires that lawsuits be settled in a non-judicial manner, and if the efforts of the arbitrators do not lead to results, the court has the authority to appear in the lawsuits. One of these cases is Note 2 of Article 5 of the Civil Court Bill, in which the requirement for arbitration is inferred in divorce petitions. Based on this, in cases where the husband requests a divorce based on Article 1133 of the Civil Code, the court of first instance refers the matter to an arbitrator, and if no compromise is reached between the couple, the court grants divorce to the couple. In this case, the arbitration, since it is forced, the fair and ethical form of this arbitration depends on moral issues such as impartiality, independence and disclosure. Because, as we know, the complexity of relationships in marriage is one of the specialized matters, and in many cases, an arbitrator unfamiliar with the matter causes unfair decisions in this context [19].

Compulsion arises from the contract in a situation where the obligation to arbitrate is due to the agreement of the litigants. In this situation, it does not make a difference whether the arbitration agreement is before or after the conflict. Article 1 of the Arbitration Law approved in 1934 stipulates that all people who have the capacity to file a lawsuit can settle their dispute with the arbitration of one or more people. In this article, there is no mention of the number of judges. In general, in this type of mandatory arbitration, the court, upon the request of one of the parties, refers it to arbitration, which is called relative compulsory arbitration. However, legal articles such as Article 2 and 4 of the Building Presale Law approved in 2010, binding arbitration is not relative but absolute because the dispute is referred to arbitration without the request of the parties.

The coercion resulting from the other party's request is reflected in Article 1 of the Arbitration Law approved in 1924. According to this article, if one of the parties requests arbitration, the other party or parties are required to accept it. Based on this, one of the litigants can request arbitration from the court, and the judge in this situation can oblige the other party to agree to this request [20]. Now, the question that can be raised is, when the arbitrator is chosen by lot, should the arbitrator be considered compulsory or arbitrary? In response, it should be said that there are different views in this field, one view considers this issue optional, another view considers it mandatory, and another view considers it neither compulsory nor arbitrary. The first point of view believes that in a situation where the arbitrator is chosen by lot, the arbitration is of a compulsory type. Another point of view believes that in this situation, arbitration is arbitrary because the principle of referring to arbitration is the will of the parties, and in fact, the parties have chosen the authority of their own free will. This point of view can be criticized especially based on Note 2 of Article 5 of the Civil Court Bill and Article 36 of the Securities Market Law. Because in some cases people have no choice but to obey the court's decision, sometimes they do not reach an agreement with each other in choosing an arbitrator, for this reason the element of law's coercion prevails over the element of free will of individuals.

In this law, the parties to the lawsuit are obliged to introduce the selected arbitrator and appoint a third arbitrator. Requiring the parties to the contract to refer the dispute to arbitration according to Article 20 of this law can be considered one of the advantages of this law, but the fact that the parties to the contract must also introduce their own arbitrators when concluding the pre-sale contract can be criticized in several ways. First, from the time the contract is concluded to the time it ends, the parties to the contract may want to introduce more qualified people as arbitrators to resolve these disputes. It should be noted that the time from concluding the contract to its end is relatively long. Second, appointing a certain person or persons as arbitrator may cause disruption and problems in arbitration in the future because the arbitrator may want to resign or die. In this case, arbitration will be difficult, so it is suggested that the legislator reconsider this matter. Third, the purpose of choosing an arbitrator is that the purpose of choosing an arbitrator is to be chosen and accepted by the parties; So far, no problem was observed, but the referee should be able to judge with knowledge of all aspects. Therefore, at the time of dispute, he should be selected according to the type of dispute and his expertise on all aspects and the nature of the dispute. The imposition of an arbitrator during the conclusion of a contract can conflict with his expertise and nobility on the subject and cause dissatisfaction of the parties. Finally, the fact that the legislator has not specified any conditions for introducing the arbitrator, as an example, it can be pointed out that he is an expert in matters related to property or his legal and judicial knowledge. Accordingly, not specifying the conditions of the visa for the arbitrators can cause them to issue an illegal decision. As a result, instead of the arbitrator facilitating the activity of the judicial system, it may cause the parties to refer to the judicial authorities to annul the arbitrator's decision, and the legislator's intention may not be fulfilled and only cause economic and time losses for the parties [21].

Compulsory arbitration and challenge with the right to action and judicial justice

With a close look, one of the challenges of compulsory arbitration can be seen as its conflict with the right to sue in judicial authorities. However, the opponents of this opinion do not consider it to be contrary to the right to action,

and they cite the reason that the deprivation of the right to action will be realized only when there is no reference for a grievance [22]. In this context, it should be said that the legislator has changed the jurisdiction of the litigation in the compulsory arbitration; This action is not only in cases related to compulsory arbitration. As an example, in Article 932, in order to resolve the dispute between the worker and the employer, the legislator has provided boards called "Diagnosis and Dispute Resolution Board". According to article 157 of the labor law, any dispute between the employer and the worker that is caused by the implementation of the labor law will be resolved in the first stage through a compromise between the employer and the worker or their representatives in the Islamic Labor Council or through the labor union association. And if this dispute is not resolved, it will be dealt with and resolved through the dispute detection and resolution committees. Non-judicial authorities have found jurisdiction here as well.

Such a point of view can be criticized from an ethical point of view, as an example of a dispute resolution board that workers and employers can refer to is a board where a few people deal with disputes first. Secondly, this board is more specialized in investigating cases of violation of workers' rights because the specialization is determined by the Ministry of Labor, but the scope of arbitration is wider; On the other hand, this point of view places the principle of dealing with grievances as the focus of its opinion, not the quality of expert handling of it; Therefore, it is the method and quality of handling that has its own method.

On this basis, forcing people to refer claims to arbitration and depriving people of access to justice is against their fundamental rights. For this reason, its effects can be seen in legal rulings. Based on this, it can be concluded that the judicial authorities have also realized the challenge of mandatory arbitration with the right to sue that may arise sometimes, and in this context, they have issued their verdict tending to respect the right to sue. Because this right is crystallized in Article 34 of the Constitution. According to Article 34 of the Constitution, filing a lawsuit is the inalienable right of every human being and anyone can refer to a competent court for the purpose of filing a lawsuit; On the other hand, this law specifies that no one can be barred from the court that he has the right to refer to according to the law. On the other hand, he considers Article 59 of the Constitution of Justice as the official authority for dealing with grievances and complaints. By combining Articles 34 and 59 of the Constitution, it can be concluded that people can refer to the court to benefit from the right to sue and judicial justice [23]. Therefore, legislators should provide equal opportunity for equal access to judicial services. For this reason, Article 113 of the Law of the Sixth Five-Year Plan and Paragraph 1 of Article 130 of the Law of the Fourth Plan of Economic, Social and Cultural Development emphasize the establishment of a fast, accurate, balanced and fair judicial system and consider it one of the duties of the government. On the other hand, this right is crystallized in Article 56 of the Charter of Citizen Rights.

CONCLUSION

This research was conducted with the aim of investigating the position of compulsory arbitration in Iran's legal system and the conflicts and ethical challenges in it based on the components of the right to action and judicial justice. According to the findings of the research, the nature of compulsory arbitration in Iran is based on following the principles and rules governing discretionary arbitration. This type of arbitration has special moral conflicts, which sometimes conflict with the right to action and not to impose additional costs on the litigants. In

addition, in some of these laws, arbitration is not realized and it is a quasi-judicial institution that may not have the necessary efficiency in resolving disputes. The results of this research show that due to the emergence of various ethical conflicts, the duty arbitration still does not have enough coherence. Compulsory arbitration does not have an element of freedom, and on the other hand, coercion is not very compatible with the concept of arbitration. In addition, compulsory arbitration is contrary to the right to sue and in this sense, it is inconsistent with Article 34 of the Constitution. In the field of family disputes, compulsory arbitration is limited to divorce, and in situations where the power of the parties is not equal, the impartiality of the arbitrator can be questioned. From the point of view of the mechanism, assignment arbitration also faces a challenge, and this challenge is more prominent in the field of pre-sale of buildings. The legislator's requirement to choose an arbitrator at the time of writing the contract is one of the important challenges in the field of ethical conflicts based on compulsory arbitration.

ETHICAL CONSIDERATIONS

Ethical issues (such as plagiarism, conscious satisfaction, misleading, making and or forging data, publishing or sending to two places, redundancy and etc.) have been fully considered by the writers.

CONFLICT OF INTEREST

The authors declare that there is no conflict of interests.

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