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CHU THI TRINH

**LABOR DISPUTE RESOLUTION BY ARBITRATION
UNDER VIETNAMESE LAW**

Field of Study: Economic Law

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SUMMARY OF DOCTORAL THESIS IN LAW

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Scientific Supervisors:

Assoc. Prof. Dr. Nguyen Hien Phuong

Assoc. Prof. Dr. Le Thi Hoai Thu

Reviewer 1:

Reviewer 2:

Reviewer 3:

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INTRODUCTION

1. Rationale for Choosing the Topic

In the context of Vietnam's economy undergoing profound transformation and deep integration into the global economy, while simultaneously being significantly influenced by the Fourth Industrial Revolution, labour relations have become increasingly diverse, complex, and prone to conflicts. The increase in both the number and complexity of labour disputes has created an urgent need to resolve such disputes effectively and to improve dispute resolution institutions in a manner that is efficient, flexible, and consistent with international practices. In this regard, labour dispute resolution through arbitration, with its outstanding advantages over traditional methods - including confidentiality, flexible and expeditious procedures, and final and binding awards - is not merely a dispute resolution mechanism, but also an intermediary mechanism capable of reconciling the legal nature and the flexibility of labour relations.

It contributes to maintaining stable labour relations, limiting spontaneous strikes, promoting social dialogue, and supporting collective bargaining. Labour arbitration clearly reflects the trend toward resolving disputes through non-state coercive mechanisms. This trend is increasingly emphasized in modern labour relations governance, where the role of the State has shifted from direct intervention to establishing legal frameworks and supporting self-regulatory mechanisms among the parties. In this context, encouraging parties to choose arbitration not only helps reduce the burden on the court system but also promotes the development of the parties' capacity for self-governance and self-responsibility in labour relations, thereby enhancing the sustainability and stability of labour relations.

In addition, the standards and recommendations of the International Labour Organization (ILO) all emphasize the role of out-of-court dispute resolution mechanisms, including labour arbitration. Under Recommendation No. 92 of 1951 concerning Voluntary Conciliation and Arbitration, the ILO stresses the voluntary nature of arbitration and requires the parties to respect arbitral awards once they have chosen this mechanism. The ILO also encourages countries to establish multi-tier dispute resolution systems combining prevention, conciliation, arbitration, and adjudication in order to ensure effectiveness and access to justice.

In Vietnam, Resolution No. 66-NQ/TW dated 30 April 2025 on reforming law-making and law enforcement to meet the country's development requirements in the new era, in setting out the task of reforming legislative thinking and orienting law-making toward both ensuring effective state governance and encouraging innovation, unlocking productive capacity, and mobilizing all development resources, identified the need to combine non-judicial dispute resolution methods with judicial proceedings; to adopt measures encouraging and developing out-of-court dispute resolution institutions such as arbitration and mediation; and to ensure the recognition and enforcement of arbitral awards in accordance with international standards and practices.

Vietnamese legal provisions on labour dispute resolution through arbitration have undergone multiple amendments recognizing the role and jurisdiction of Labour Arbitration Councils. However, in practice, this mechanism has not yet achieved significant effectiveness in promoting labour dispute resolution. The number of cases

resolved through arbitration remains very limited; the parties' level of trust in this mechanism is still low; awareness of labour arbitration remains limited; the organization and operation of Labour Arbitration Councils still contain shortcomings inconsistent with practical realities; and the professionalism and competence of labour arbitrators remain inadequate. This demonstrates a gap between legal provisions and practical implementation. Meanwhile, the internal demands of the economy increasingly require arbitration to fully realize its role and advantages in resolving labour disputes.

On that basis, the doctoral candidate has chosen the topic ***“Labour Dispute Resolution through Arbitration under Vietnamese Law”*** for this doctoral dissertation, as it is necessary from both theoretical and practical perspectives. The dissertation not only clarifies theoretical issues relating to labour dispute resolution through arbitration and examines the practice of labour arbitration in Vietnam but also proposes solutions for improving the law and enhancing the effectiveness of labour dispute resolution through arbitration in practice. In the context of Vietnam's orientation toward building harmonious and stable labour relations consistent with international standards, the development of non-state coercive dispute resolution mechanisms such as labour arbitration is an inevitable requirement.

2. Research Objectives and Research Tasks

2.1. Research Objectives

The objective of this doctoral dissertation is to further deepen the theoretical issues relating to labour dispute resolution through arbitration; the legal framework governing labour dispute resolution through arbitration; the current state of Vietnamese labour law on labour dispute resolution through arbitration; as well as the practice of implementing the law on labour dispute resolution through arbitration in Vietnam. On that basis, the doctoral dissertation proposes recommendations aimed at improving the system of legal provisions on labour dispute resolution through arbitration and enhancing the effectiveness of the implementation of the law on labour dispute resolution through arbitration in Vietnam.

2.2. Research task

In order to achieve the above-mentioned research objectives, the dissertation identifies the following research tasks:

- To provide an overview of domestic and foreign studies relating to labour dispute resolution through arbitration.
- To develop and refine the theoretical framework on labour dispute resolution through arbitration and the legal theory governing labour dispute resolution through arbitration.
- To analyse and assess the current legal framework on labour dispute resolution through arbitration and its implementation practice in Vietnam.
- To propose recommendations for improving the law on labour dispute resolution through arbitration and solutions for enhancing the effectiveness of the implementation of the law on labour dispute resolution through arbitration in Vietnam.

3. Research Subjects and Scope of Research

3.1. Research Subjects

The research subjects of the doctoral dissertation are identified as follows:

- Theoretical issues relating to labour dispute resolution through arbitration.
- Legal provisions governing labour dispute resolution through arbitration, primarily

the 2019 Labour Code (LC 2019) and its implementing regulations.

- Provisions of international law concerning labour dispute resolution through arbitration.
- The practice of implementing the law on labour dispute resolution through arbitration in Vietnam.

3.2. Scope of Research

- *Scope of subject matter:* The dissertation focuses on legal issues relating to labour dispute resolution through arbitration under Vietnamese law in comparison with the laws of several countries and international labour standards, limited to the following principal aspects: regulations on entities competent to resolve labour disputes through arbitration; regulations on the jurisdiction of Labour Arbitration Councils; regulations on the procedures for labour dispute resolution through arbitration; the legal validity and enforceability of labour arbitration decisions; and the practice of implementing the law on labour arbitration. The dissertation does not conduct an in-depth study of commercial arbitration, does not analyse other methods of labour dispute resolution, and does not examine economic, social, or human resource management aspects that are not directly connected to the legal issues of labour arbitration.

- *Geographical scope:* The dissertation examines the law and practice relating to labour dispute resolution through arbitration throughout Vietnam, with particular focus on several provinces and centrally governed cities having a high number of labour disputes, such as Hanoi, Ho Chi Minh City, and Dong Nai Province. Legal provisions will be analysed, compared, and evaluated against the standards of the International Labour Organization and the labour laws of several countries, within a scope appropriate to the research requirements and conditions.

- *Temporal scope:* The dissertation focuses on the legal provisions governing labour dispute resolution through arbitration and the practice of their implementation from the effective date of the LC 2019 up to the present, while also taking into account the continuity and development from previous legislative periods.

4. Methodology and Research Methods

4.1. Methodology

The dissertation employs the methodology of Marxist–Leninist theory, including dialectical materialism and historical materialism, on the basis of the viewpoints, objectives, and policies of the Party and the State concerning the development of a socialist-oriented market economy and the orientation for the development of labour relations.

4.2. Research Methods

In order to achieve the research objectives, the dissertation employs a combination of various research methods appropriate to the characteristics of labour law and labour dispute resolution through arbitration, including:

- The synthesis method is used to systematize research findings and generalize the research issues. This method is employed to: synthesize domestic and foreign scholarly viewpoints on labour arbitration, thereby constructing the theoretical framework for the dissertation; synthesize relevant current legal provisions in order to assess the consistency and coherence of the legal system; synthesize the results of practical

analyses in order to draw general conclusions regarding the effectiveness of labour arbitration in Vietnam; and propose solutions for improving the law and enhancing implementation effectiveness.

- The analytical method is applied throughout the dissertation in order to clarify the content, nature, and structure of the research issues. This method is used to: analyse the concepts, characteristics, and legal nature of labour dispute resolution through arbitration, thereby clarifying the position of arbitration in labour dispute resolution; analyse the current provisions of Vietnamese law on labour arbitration, including regulations on entities, jurisdiction, procedures, and the legal effect of arbitral decisions; and analyse practical data and information relating to the operation of Labour Arbitration Councils in order to identify issues arising in the implementation of the law.

- The comparative law method is employed to compare the laws and practices of Vietnam with those of several countries and international standards, thereby drawing comparative reference values. This method is used to: compare Vietnamese legal provisions with the standards and recommendations of the International Labour Organization regarding labour dispute resolution through arbitration; compare the organizational and operational models of labour arbitration in Vietnam with those of representative countries such as the United States, China, and Singapore; and compare the practical effectiveness of different models in order to identify factors that may be appropriately adopted and applied in Vietnam.

- Methods for collecting, selecting, and verifying empirical data were employed to establish a foundation for evaluating the actual implementation of laws regarding labor dispute resolution via arbitration in Vietnam. The thesis gathered data from secondary sources and verified it by cross-referencing and comparing legal regulations, statistical data, and practical application to ensure the objectivity and reliability of the research findings. Given that the practice of resolving labor disputes through arbitration in Vietnam remains limited—with few cases received and resolved by Labor Arbitration Councils—and considering the lack of established legal mechanisms for archiving and sharing case files and dispute resolution decisions, the thesis employs a case study approach combined with aggregated data provided by state management agencies. This approach aims to analyze the operational mechanism of labor arbitration and identify shortcomings in both the legal framework and its practical implementation.

- Semi-structured interviews were conducted with stakeholders involved in labor dispute arbitration (labor arbitrators, employees, employers, representatives of employees and employers, representatives of state labor management agencies, experts, and researchers) to gather qualitative data and to supplement and verify insights derived from theoretical research, legal analysis, and the study of practical application. The interviews focused on: (i) the adequacy, clarity, and feasibility of legal regulations concerning labor arbitration; (ii) the practical organization and operation of Labor Arbitration Councils; (iii) the reasons behind the low utilization of labor arbitration; and (iv) directions and solutions for improving the legal framework and the labor arbitration model in Vietnam. Interview data were aggregated, coded, and analyzed by thematic groups, then cross-referenced with legal regulations, research literature, and empirical data to validate the research findings. The interview results

served to clarify underlying causes and explain the discrepancies between legal regulations and practical application, while also providing an empirical basis for recommendations to improve the legal framework.

- The interdisciplinary approach is employed to analyse the labour arbitration mechanism not only from a legal perspective but also in relation to economic, social, and labour relations governance factors; not only from the perspective of labour law but also in relation to procedural law and arbitration law, thereby clarifying the legal nature of labour arbitration.

- The historical method is used to examine the process of formation and development of legal provisions on labour dispute resolution through arbitration, from earlier legal documents to the current regulations, particularly the new provisions introduced in the LC 2019. This method also clarifies the socio-economic context and state management requirements in each historical period, thereby explaining changes in approaches to labour arbitration.

5. New Scientific Contributions of the Dissertation

As a specialized scholarly work on labour dispute resolution through arbitration, the dissertation makes the following new contributions:

First, the dissertation identifies the legal nature of the resolution of labour disputes through arbitration as a mechanism that combines agreement and adjudication, and the parties' autonomy with State guarantees of implementation. It develops a theoretical framework for the law governing the resolution of labour disputes through arbitration, covering provisions on the subjects competent to resolve disputes, jurisdiction, procedures, the legal value of arbitral decisions, and their enforceability.

Second, the dissertation demonstrates that the main reason why the mechanism for resolving labour disputes through arbitration has not yet played an effective role in practice does not lie in the nature of arbitration itself, but in shortcomings in the institutional design and the existing legal framework. This empirical finding clarifies the gap between legal provisions and the operational effectiveness of the labour arbitration mechanism in Viet Nam.

Third, the dissertation proposes comprehensive reforms covering the organizational model, the selection and operation of arbitrators, dispute resolution procedures, and mechanisms for the recognition and enforcement of arbitral decisions. It also proposes measures to improve the effectiveness of law implementation by strengthening the capacity of relevant actors, improving State support mechanisms, and expanding access to arbitration in labour relations. In particular, the dissertation proposes a labour arbitration model suited to Viet Nam for the future.

6. Scientific and Practical Significance of the Dissertation

6.1. Scientific Significance

The research findings of the dissertation contribute to further clarifying a number of theoretical issues relating to labour dispute resolution through arbitration and the legal theory governing this matter. Through analysing and evaluating the provisions of the LC 2019, the dissertation contributes to clarifying the degree of completeness of the current legal framework on labour arbitration, while also identifying limitations in its practical implementation.

In addition, the dissertation provides a comparative perspective through

examining Vietnamese law in relation to the standards and recommendations of the International Labour Organization and the experience of several countries regarding labour arbitration, thereby contributing to clarifying the development trends of this mechanism in the context of international integration. The dissertation not only systematizes theoretical issues but also develops an interdisciplinary research approach, creating a foundation for subsequent studies in this field.

6.2. Practical Significance

Based on the assessment of the current legal framework and the practice of implementing the law on labour dispute resolution through arbitration in Vietnam, the dissertation proposes solutions for improving the law and enhancing the effectiveness of the implementation of the law on labour dispute resolution through arbitration. The dissertation will serve as a useful reference source for competent state authorities in the process of formulating and improving laws on labour dispute resolution in general and labour dispute resolution through arbitration in particular.

At the same time, the dissertation will serve as a reference material for research, study, learning, and teaching activities for students, trainees, lecturers, employees, and employers in enterprises, educational institutions, and research institutions.

Furthermore, the dissertation proposes several solutions aimed at improving the effectiveness of labour dispute resolution through arbitration, with the objective of making labour arbitration a dispute resolution method prioritized by the parties, thereby reducing the burden on the court system.

7. Structure of the Dissertation

In addition to the Introduction, Conclusion, List of the Author's Published Scientific Works Related to the Dissertation, and References, the dissertation is structured as follows:

Overview of Research Situation and Issues Related to the Dissertation Topic

Chapter 1. Theoretical Issues on Labour Dispute Resolution through Arbitration and the Law on Labour Dispute Resolution through Arbitration

Chapter 2. Current Legal Framework on Labour Dispute Resolution through Arbitration and Its Practical Implementation in Vietnam

Chapter 3. Improvement of the Law and Enhancement of the Effectiveness of the Implementation of the Law on Labour Dispute Resolution through Arbitration in Vietnam

OVERVIEW OF THE RESEARCH SITUATION AND ISSUES RELATED TO THE DISSERTATION TOPIC

1. Research Works Related to the Dissertation Topic

1.1. Research Works on the Theory of Labour Dispute Resolution through Arbitration

Research conducted both in Viet Nam and abroad has approached the resolution of labour disputes through arbitration from various perspectives, including the concept, legal nature, characteristics, role, and position of labour arbitration within the labour dispute resolution system. In general, these studies identify arbitration as a dispute resolution method involving a neutral third party, selected by the parties, who makes a decision that is legally binding. Labour arbitration is regarded as a specialized, flexible, and expeditious method that helps reduce conflict, maintain stable labour relations, and ease the burden on the courts.

From the perspective of alternative dispute resolution (ADR) and in comparison with judicial proceedings, studies emphasize the advantages of arbitration, such as procedural flexibility, shorter resolution time, specialized expertise, and confidentiality. They also point to the diversity of labour arbitration models worldwide, ranging from voluntary to mandatory models and from State-linked institutions to independent arbitration organizations. ILO research further places labour arbitration within a multi-tiered labour dispute resolution system that combines prevention, negotiation, conciliation, arbitration, and adjudication to ensure access to justice and industrial peace.

In Viet Nam, existing studies have initially clarified the position, role, advantages, and limitations of labour arbitration. However, they have not yet developed a comprehensive and consistent theoretical framework on the legal nature and characteristics of the resolution of labour disputes through arbitration. Issues such as the extent to which voluntariness and independence are reflected, the adjudicative element, the role of the State, and the relationship between labour arbitration, conciliation, and courts still require further research. This provides a basis for the dissertation to inherit, systematize, and further develop a theoretical framework for the resolution of labour disputes through arbitration that is appropriate to the conditions of Viet Nam.

1.2. Research Works on the Legal Theory of Labour Dispute Resolution through Arbitration

Research works on the legal theory of labour dispute resolution through arbitration have contributed significantly to establishing an important foundation for the development and improvement of the law in this field. In general, both domestic and international studies focus on clarifying the nature, role, and operational mechanisms of labour arbitration within the labour dispute resolution system. International studies indicate that arbitration is a common dispute resolution method characterized by relatively well-developed and flexible procedures and is widely utilized through two basic models: voluntary arbitration and compulsory arbitration. These studies also emphasize the close relationship between conciliation and arbitration in the dispute resolution process.

In Vietnam, studies have mainly approached labour arbitration within the broader framework of labour dispute resolution law, particularly in relation to collective labour disputes, thereby clarifying principles such as prioritizing negotiation, conciliation, and the parties' right to self-determination. Several doctoral dissertations and master's

theses have initially systematized theoretical issues such as concepts, characteristics, principles, jurisdiction, and procedures for labour dispute resolution through arbitration, while also comparing Vietnamese law with international law in order to propose directions for legal improvement.

However, existing studies still have certain limitations. They mainly approach arbitration as one component of the labour dispute resolution mechanism without thoroughly examining the specific characteristics of arbitration law itself. Moreover, there remains a lack of comprehensive studies on legal principles, the scope of legal regulation, and factors affecting the implementation of the law on labour arbitration. Therefore, there is a continuing need for more systematic and in-depth research in order to further develop the theoretical legal framework governing labour dispute resolution through arbitration in the new context.

1.3. Research Works on the Current Legal Framework Governing Labour Dispute Resolution through Arbitration in Vietnam and Its Practical Implementation

Research works on the current legal framework and the practice of labour dispute resolution through arbitration in Vietnam have approached the issue from various perspectives, including analyses of legal provisions, the organization and operation of Labour Arbitration Councils, as well as assessments of their practical effectiveness. In general, these studies have clarified the initial achievements of the current legal framework, particularly following the entry into force of the LC 2019, which introduced changes relating to jurisdiction, organizational structure, and procedures for dispute resolution through arbitration.

However, these studies have also identified numerous systemic limitations. First, the legal provisions governing arbitration remain inadequate. Such shortcomings include the unreasonable organization of Labour Arbitration Councils based on administrative units, overly complicated procedures, limited jurisdiction, and especially the absence of an effective enforcement mechanism for arbitral awards. In addition, practical implementation demonstrates that arbitration has not yet become a commonly used dispute resolution method, as the number of cases resolved through arbitration remains very low. This situation stems from both legal causes (unclear legal provisions and lack of enforcement guarantees) and practical causes (limitations in the competence of arbitrators, as well as limited awareness and confidence of the parties in the arbitration mechanism).

The studies also demonstrate the continuity and development of the law across different legislative periods, while providing valuable insights drawn from international experience and tripartite mechanisms in the organization and operation of arbitration. Nevertheless, existing works mainly focus on individual aspects and have not comprehensively analysed the relationship between legal provisions and practical effectiveness. Therefore, further integrated research is required in order to improve the law and enhance the effectiveness of the arbitration mechanism in resolving labour disputes in Vietnam.

1.4. Research Works on Improving the Law on Labour Dispute Resolution through Arbitration and Enhancing the Effectiveness of Labour Dispute Resolution through Arbitration

Research works on improving the law and enhancing the effectiveness of labour dispute resolution through arbitration generally approach the issue from two principal

directions: improving the legal framework and enhancing the organizational and practical effectiveness of the labour arbitration mechanism. International studies, particularly those of the ILO, emphasize the role of voluntary arbitration as a flexible and effective mechanism that should be designed in association with the objective of maintaining stable labour relations, promoting the autonomy of the parties, and limiting coercive state intervention.

In Vietnam, many studies have proposed improving the law in a more comprehensive and coherent manner, including the enactment of a separate law on labour arbitration, the expansion of arbitral jurisdiction (particularly in relation to individual labour disputes), and the improvement of elements such as organizational structure, procedures, and arbitration agreements. One of the central issues identified is the need to strengthen the legal validity and enforcement mechanisms of arbitral awards - a factor that plays a decisive role in building confidence in and increasing the practical use of this mechanism.

In addition, studies also emphasize the close relationship between improving the law and enhancing implementation effectiveness. Improving the effectiveness of labour arbitration depends not only on legal provisions but also on improving the organization of Labour Arbitration Councils, enhancing the competence of arbitrators, ensuring operational conditions, and establishing professional and transparent supporting institutions. Overall, the research trend has shifted from merely improving legal provisions toward ensuring the substantive operational effectiveness of the arbitration mechanism in the new context.

2. Assessment of Research Works Related to the Dissertation Topic, the Contents Inherited by the Dissertation, and Issues for Further Research

2.1. Assessment of Research Works Related to the Dissertation Topic

Research conducted both in Viet Nam and abroad has examined the resolution of labour disputes through labour arbitration from theoretical, legal, practical, and comparative perspectives. These studies have clarified the concept, nature, characteristics, and role of labour arbitration; different models of labour arbitration; and issues concerning the parties involved, jurisdiction, scope of disputes, procedures, arbitral decisions, and the enforcement of such decisions.

In Viet Nam, studies have examined the formation and development of the legal framework on labour arbitration and identified shortcomings in the organization and operation of Labour Arbitration Councils. Some studies conducted after the adoption of the 2019 Labour Code have begun to assess the existing labour arbitration mechanism and propose solutions to improve the legal framework.

However, existing studies have mainly addressed individual issues or particular types of labour disputes and have not fully analyzed the relationship between legal design, implementation, the parties' ability to choose arbitration, and its actual effectiveness. In particular, the reasons why labour arbitration, although recognized by law, remains rarely used have not yet been systematically explained. This is the research gap that the dissertation focuses on addressing.

2.2. Contents Inherited by the Dissertation from Previous Research Works

The dissertation selectively builds upon a number of important findings from previous studies. From a theoretical perspective, previous research has clarified the concept and classification of labour disputes and the role of labour dispute resolution mechanisms in

maintaining stable labour relations. These studies have also identified the advantages of labour arbitration over conciliation and court proceedings, particularly in terms of flexibility, expertise, and speed. Regarding the existing legal framework, the dissertation draws on previous analyses of the principles, procedures, and processes for resolving labour disputes through arbitration, although these analyses remain fragmented. In addition, practical assessments indicate that labour arbitration in Viet Nam has not yet operated effectively due to limited awareness, an incomplete and inconsistent legal framework, and weak implementation. Recommendations for improving the legal framework and relevant international experience are also inherited and further developed in the dissertation.

2.3. Issues for Further Research in the Dissertation

To develop a comprehensive theoretical framework for the resolution of labour disputes through arbitration as an independent institution; clarify the applicable legal framework, including jurisdiction, organization, procedures, and the legal effect and enforceability of arbitral awards; and provide a comprehensive analysis of the current legal framework under the 2019 Labour Code.

To assess the practical application of labour arbitration and identify the reasons why labour arbitration has not yet become widely used.

To propose a model and solutions to improve the legal framework and enhance the effectiveness of labour arbitration, taking into account the context of digital transformation and international integration, with a view to developing a coherent and feasible theoretical and practical framework for Viet Nam.

3. Research Theories, Research Questions, and Research Hypotheses

3.1. Research Theories

The dissertation is based on four principal groups of theories: (i) Theory of free will; (ii) Theory of industrial labor relations; (iii) Theory of alternative dispute resolution; (iv) Theory of equitable order.

3.2. Research Questions and Research Hypotheses

The dissertation formulates research questions corresponding to the research hypotheses.

The dissertation focuses on five groups of issues: (1) the legal nature of labour arbitration; (2) the content and requirements of the legal framework governing labour arbitration; (3) the reasons why labour arbitration is used only to a limited extent in practice; (4) a labour arbitration model appropriate for Viet Nam; and (5) orientations and solutions for improving the legal framework in the context of international integration and digital transformation.

The research hypotheses suggest that the effectiveness of labour arbitration depends on a coherent legal framework, the independence and professionalism of the institution, accessibility, and the parties' confidence in the mechanism. Accordingly, Viet Nam should move towards a voluntary, professional, relatively independent labour arbitration model, with final and binding decisions and an effective enforcement mechanism, while remaining consistent with Viet Nam's practical conditions.

OVERVIEW CONCLUSION

Currently, there are many studies both domestically and internationally on the law of resolving labor disputes through arbitration, but there are still very few studies that comprehensively and in-depth examine the law on resolving labor disputes through arbitration, from theory and legal content to practical implementation.

CHAPTER 1

THEORETICAL ISSUES ON LABOUR DISPUTE RESOLUTION THROUGH ARBITRATION AND THE LAW ON LABOUR DISPUTE RESOLUTION THROUGH ARBITRATION

1.1. Theoretical Issues on Labour Dispute Resolution through Arbitration

1.1.1. Concept and Characteristics of Labour Dispute Resolution through Arbitration

1.1.1.1. Concept of Labour Dispute Resolution through Arbitration

Arbitration is understood as a method of dispute resolution through a neutral third party vested with authority to render a binding decision. In the field of labour, the resolution of labour disputes through arbitration is a labour adjudication mechanism established on the basis of a valid agreement between the disputing parties or as provided by law, under which an arbitrator or arbitral tribunal has the authority to adjudicate the dispute in accordance with prescribed legal procedures and issue a legally binding decision recognized and enforced by the State, with the aim of resolving disputes objectively and effectively and maintaining order in labour relations.

1.1.1.2. Characteristics of Labour Dispute Resolution through Arbitration

First, it is a non-court adjudicative method of dispute resolution.

Second, the resolution of labour disputes through arbitration has a degree of institutional independence.

Third, the dispute resolution procedure is flexible and relatively simple.

Fourth, an arbitral decision resolving a dispute is legally binding and, in many systems, final; however, the extent of its legal binding effect depends on the particular labour arbitration model.

Fifth, in relation to the right to strike, labour arbitration is designed as an alternative to, or a means of preventing, strikes in modern labour relations.

1.1.2. Classification of Labour Dispute Resolution through Arbitration

Labour arbitration may be classified according to various criteria.

Based on the nature of the parties' participation, labour arbitration includes: (i) Voluntary arbitration - arising from the agreement of the parties and commonly applied in practice, characterized by: jurisdiction deriving from agreement, the binding effect of arbitral awards based on prior acceptance by the parties, and a high degree of procedural flexibility. (ii) Compulsory arbitration - imposed by the State in certain cases for the purpose of protecting public interests or restricting strikes.

Based on organizational form, labour arbitration includes: (i) Institutional arbitration - involving a permanent organization with clearly defined operational rules, a roster of arbitrators, stable operation, and an institutionalized nature. (ii) Ad hoc arbitration - established to resolve a specific dispute and dissolved upon completion of its task. Each model reflects differing levels of state intervention as well as varying degrees of flexibility in the dispute resolution mechanism.

1.1.3. The significance of resolving labor disputes through arbitration

Labour arbitration occupies an important intermediary position within the labour dispute resolution system. First, this mechanism ensures the parties' right to self-determination by allowing them to proactively choose the dispute resolution method, arbitrators, and procedures. At the same time, arbitration contributes to protecting the rights and interests of the parties, particularly through a flexible and balanced approach that

reduces adversarial confrontation, thereby maintaining and stabilizing labour relations.

In addition, arbitration facilitates prompt resolution of disputes, saves costs, and reduces the burden on the court system, while also minimizing opportunity costs resulting from disruptions to production and business activities.

In particular, labour arbitration also plays an important role in controlling and substituting strikes by providing an effective dispute resolution mechanism capable of preventing conflicts from escalating. At the same time, it supports and promotes collective bargaining by creating institutional pressure requiring the parties to negotiate in good faith and by providing solutions when negotiations fail.

1.2. Theoretical Issues on the Law Governing Labour Dispute Resolution through Arbitration

1.2.1. Concept and Characteristics of the Law on Labour Dispute Resolution through Arbitration

1.2.1.1. Concept of the Law Governing the Resolution of Labour Disputes through Arbitration

The law governing the resolution of labour disputes through arbitration should be understood not merely as a set of rules on dispute resolution procedures, but also as a legal institution that reflects how the State organizes, regulates, and allocates power in labour relations. In modern legal scholarship, law serves as a means of institutionalizing public policy. Accordingly, the law on labour arbitration has both a procedural and technical dimension and reflects the State's policy for regulating labour relations. The law governing the resolution of labour disputes through arbitration is a system of principles, legal rules, and institutions that regulate the establishment of jurisdiction, the organization and operation, procedures, and legal effect of arbitration, while also determining the degree of autonomy granted to the parties and the extent of State intervention, with a view to ensuring fair and effective dispute resolution and maintaining stable labour relations.

1.2.1.2. Characteristics of the Law Governing the Resolution of Labour Disputes through Arbitration

First, the law governing the resolution of labour disputes through arbitration combines the parties' autonomy with State oversight.

Second, the law on labour arbitration is interdisciplinary, reflecting the intersection of labour law, procedural law, and the law governing the organization and exercise of State power.

Third, this legal framework provides a high degree of flexibility in procedural design while maintaining legal oversight through the possibility for courts to review and set aside an arbitral award in certain circumstances.

Fourth, the law governing the resolution of labour disputes through arbitration seeks to ensure both effective dispute resolution and the maintenance of stable labour relations.

1.2.2. Principles of Labour Dispute Resolution through Arbitration

Labour dispute resolution through arbitration must comply with several fundamental principles, including: The principles include: ensuring the parties' right to self-determination; ensuring the independence of arbitrators; ensuring transparency, objectivity, speed, and legality; maintaining confidentiality; resolving disputes in a single instance and ensuring the finality of the arbitration award; and ensuring substantive fairness.

1.2.3. Contents of the Law on Labour Dispute Resolution through Arbitration

The law governing labour dispute resolution through arbitration comprises legal provisions relating to entities, jurisdiction, procedures, and the legal effect of arbitral awards. Generally, provisions on labour dispute resolution through arbitration are incorporated into labour laws, labour procedural laws, or arbitration procedural laws of different countries. Some countries regulate labour arbitration within laws on labour relations or laws governing industrial relations, while others provide for it in legislation specifically on labour dispute resolution. In certain jurisdictions, the procedures for labour dispute resolution through arbitration are regulated as part of the labour code.

i) The entities competent to resolve labour disputes through arbitration: are arbitrators or arbitral tribunals established on the basis of the parties' agreement or through appointment mechanisms prescribed by law.

Labour arbitration may be organized under various models (private, state-based, or mixed), but all models must ensure independence, professional competence, and credibility.

The laws of different countries generally impose relatively consistent requirements regarding the qualifications and conditions applicable to arbitrators, including: professional expertise in law and labour relations; practical experience; moral integrity; professional reputation; social competence; and the ability to reconcile interests and maintain stable labour relations.

ii) Jurisdiction over Labour Dispute Resolution through Arbitration

The jurisdiction of labour arbitration is determined based on the scope of labour disputes and may include both individual and collective disputes, as well as disputes concerning rights and interests, through a combination of voluntary and compulsory mechanisms depending on each legal system. The prevailing trend in international law and comparative national laws is to expand the jurisdiction of labour arbitration to cover most types of labour disputes.

The laws of many countries typically define arbitral jurisdiction by enumerating categories of matters falling within the competence of labour arbitration, such as: establishment and termination of labour relations; conclusion and performance of employment contracts; wages, working hours, and working conditions; insurance and employee benefits; labour discipline; as well as issues relating to the organization and operation of trade unions.

iii) Procedures for Labour Dispute Resolution through Arbitration

Such procedures generally include stages such as: determining limitation periods for filing claims; acceptance of cases; collection and evaluation of evidence; organization of hearings; and issuance of arbitral awards. Limitation periods are commonly calculated from the time when the concerned party knew or should have known that its rights or interests had been infringed, while extension mechanisms are often provided in cases of force majeure. The time limit for dispute resolution is usually short, ranging from 15 to 45 days depending on the country, in order to ensure promptness and avoid prolonged disputes.

During the proceedings, the parties are obliged to provide evidence, while arbitrators are empowered to proactively verify, collect, and assess evidence, including requiring parties possessing relevant information to disclose it in order to protect the weaker party. Hearings constitute the central stage of the proceedings, where the

parties present arguments and evidence; arbitrators play an active role in managing, directing, and expediting the dispute resolution process. Arbitral awards are rendered on the basis of a comprehensive assessment of evidence and legal-social factors, possess binding effect, and aim at achieving fair and reasonable solutions.

iv) Legal Effect of Labour Arbitral Awards.

Most developed legal systems recognize arbitral awards as final decisions not subject to appeal on the merits, thereby ensuring the promptness and conclusiveness of the dispute resolution process.

Labour arbitral awards are established on the basis of arbitration agreements and reinforced by national legal systems; however, the degree of enforceability and binding effect differs considerably among countries.

Since arbitrators do not possess direct coercive power, enforcement of arbitral awards depends on the support of courts or enforcement authorities. In many legal systems, once recognized or registered, arbitral awards have legal effect equivalent to court judgments and are enforced in accordance with civil judgment enforcement procedures.

1.2.4. Factors Affecting the Regulation and Implementation of the Law on Labour Dispute Resolution through Arbitration

Factors influencing the regulation and implementation of labor dispute resolution through arbitration include: socio-economic factors; legal traditions; the level of development of labor relations; and international cooperation in the field of labor.

CONCLUSION OF CHAPTER 1

CHAPTER 2

CURRENT STATE OF THE LAW ON LABOUR DISPUTE RESOLUTION THROUGH ARBITRATION AND ITS PRACTICAL IMPLEMENTATION IN VIET NAM

2.1. Current State of the Law on Labour Dispute Resolution through Arbitration

2.1.1. Entities Competent to Resolve Labour Disputes through Arbitration

2.1.1.1. Establishment of Labour Arbitration Councils and Labour Arbitration Panels

Labour Arbitration Councils are established at the provincial level by decisions of the Chairpersons of provincial People's Committees in order to ensure the legitimacy and operational capacity of the labour arbitration institution. The law has not clearly stipulated responsibilities in cases where Labour Arbitration Councils are not established or re-established upon the expiration of their terms, thereby affecting the continuity of the institution. Labour Arbitration Panels are established on a case-by-case basis, allowing the parties to select arbitrators; however, the scope of selection remains limited because it depends on the locally available list of arbitrators.

2.1.1.2. Organization and Operation of Labour Arbitration Councils

Labour Arbitration Councils are organized under a tripartite mechanism comprising representatives of state authorities, employee representative organizations, and employer representative organizations, thereby ensuring democracy and neutrality in dispute resolution. The number of arbitrators has been increased in order to enhance specialization and create replacement mechanisms where necessary. However, the organization and operation of Labour Arbitration Councils remain heavily dependent on state administrative agencies in terms of personnel, offices, and funding, resulting in limited independence.

The operation of Labour Arbitration Councils under a standing model combined with case-specific Arbitration Panels provides flexibility and saves resources, but it also creates difficulties in accumulating experience and ensuring consistency in the application of the law. In addition, most arbitrators work on a part-time basis, while mechanisms for training, standardizing professional skills, and providing appropriate remuneration remain inadequate; consequently, the level of professionalism remains limited.

2.1.1.3. Standards for Labour Arbitrators

Labour arbitrators are required to possess a university degree, legal knowledge, experience in labour relations, professional reputation, and good moral character. Compared to previous regulations, the law has more clearly defined the legal status and standards applicable to labour arbitrators. However, criteria relating to the level of legal knowledge, dispute resolution skills, and impartiality remain qualitative in nature and lack specific evaluation mechanisms, thereby leading to potential inconsistencies in the appointment and use of arbitrators. The law also provides for cases of dismissal from office in order to enhance the responsibility, competence, and professional ethics of labour arbitrators.

2.1.2. Jurisdiction over Labour Dispute Resolution through Arbitration

The LC 2019 significantly expanded the jurisdiction of Labour Arbitration Councils, allowing them to resolve individual labour disputes as well as collective labour disputes concerning both rights and interests, instead of being limited only to collective disputes concerning interests as under previous legislation.

Labour arbitration is now recognized as a genuine adjudicatory mechanism with the authority to issue binding decisions resolving disputes, rather than merely functioning as a conciliatory mechanism. However, arbitration may only be used when certain conditions are satisfied regarding the type of dispute, geographical scope, mandatory conciliation procedures, and the consent of the parties. The law still lacks detailed provisions concerning the form, content, and legal effect of arbitration

agreements, thereby creating difficulties in practical application.

2.1.3. Procedures for Labour Dispute Resolution through Arbitration

2.1.3.1. Statute of Limitations for Requesting Labour Dispute Resolution through Arbitration

The limitation period for requesting the resolution of individual labour disputes and collective labour disputes concerning rights is nine months from the date on which the violation is discovered. Although this provision aims to protect the rights and interests of the parties, determining the time of “discovery” remains subjective and may create difficulties in practical application.

2.1.3.2. Acceptance of Labour Disputes for Resolution through Arbitration

The acceptance of cases is based on the principles of voluntariness and mutual consent of the parties. Labour Arbitration Councils only accept disputes that fall within their jurisdiction, have undergone mandatory conciliation procedures (except where otherwise provided by law), remain within the limitation period, and have not been submitted to a court for resolution. This stage is important in establishing adjudicatory jurisdiction and controlling access to the arbitration mechanism.

2.1.3.3. Preparation for Labour Dispute Resolution through Arbitration

After accepting a case, the Labour Arbitration Council establishes a Labour Arbitration Panel to resolve the dispute. The parties may select arbitrators and have the right to request the replacement of arbitrators where there are grounds to believe that they lack objectivity. This stage aims to prepare dossiers, evidence, and other necessary conditions for the arbitration hearing.

2.1.3.4. Organization of Hearings for Labour Dispute Resolution through Arbitration

Hearings are conducted with the participation of the Labour Arbitration Panel and the disputing parties or their lawful representatives. The hearing process includes the opening session, presentation of the dispute, examination of evidence, and deliberation leading to the issuance of a decision. The Labour Arbitration Panel must render an award within the statutory time limit; however, the current time limit remains relatively short for complex disputes.

2.1.4. Effect of Decisions Resolving Disputes Issued by a Labour Arbitration Panel

A decision resolving a dispute issued by a Labour Arbitration Panel is currently neither final nor subject to compulsory enforcement through State power. If one party does not voluntarily comply with the decision, the other party may only request the court to resolve the dispute or proceed with a strike. This reduces the practical value and effectiveness of the labour arbitration mechanism and means that arbitration has not yet become a truly independent and effective adjudicative institution. Although Vietnamese law has moved closer to international standards, further improvements are still needed with regard to the organization of Labour Arbitration Councils, the legal effect of arbitral decisions, and mechanisms for ensuring their enforcement.

2.2. The Practical Implementation of Arbitration in Labor Dispute Resolution in Vietnam

2.2.1. The Current Situation of Labour Dispute Resolution through Arbitration in Viet Nam

Although the labour arbitration mechanism has been provided for by law since the 1994 Labour Code and Labour Arbitration Councils have been established in many localities, very few cases have actually been resolved through arbitration. Disputing parties continue to rely mainly on conciliation or court proceedings. In many localities, the activities of Labour Arbitration Councils remain largely formalistic, focusing mainly on dissemination, support, and dispute prevention rather than on actual dispute resolution. This situation indicates that labour arbitration has not yet gained the parties' confidence or become an effective dispute resolution mechanism in practice.

Table 2.1. Situation of labor dispute resolution at labor arbitration councils in some provinces and cities in Vietnam.

Location	2021		2022		2023		2024		2025	
	Number of cases submitted for resolution	Number of cases resolved	Number of cases submitted for resolution	Number of cases resolved	Number of cases submitted for resolution	Number of cases resolved	Number of cases submitted for resolution	Number of cases resolved	Number of cases submitted for resolution	Number of cases resolved
Hochiminh City	0	0	0	0	0	0	05	0	01	01
Dongnai	0	0	01	01	0	0	03	01	0	0
Hanoi	0	0	0	0	0	0	0	0	0	0
Bacninh	0	0	0	0	0	0	0	0	0	0
Hoabinh	0	0	0	0	0	0	01	01	0	0

Although the current labour legislation contains relatively comprehensive provisions on labour arbitration, these regulations have not been sufficient to create confidence in, or incentives for, the use of labour arbitration among parties in labour relations.

2.2.2. Achievements in the Implementation of the Law on Labour Dispute Resolution through Arbitration in Viet Nam

Regarding the Establishment, Organization, and Operation of Labour Arbitration Councils

Many localities have established and consolidated Labour Arbitration Councils, ensuring tripartite representation and promulgating their own operational regulations.

Labour arbitrators generally satisfy the standards prescribed by law and consist of individuals possessing experience and expertise in labour matters. Labour Arbitration Councils operate on a standing basis while disputes are resolved on a case-by-case basis through Labour Arbitration Panels.

Regarding Jurisdiction over Labour Dispute Resolution

Disputes accepted by Labour Arbitration Councils mainly involve individual labour disputes and collective labour disputes relating to employment, wages, and the performance of labour contracts. Labour Arbitration Councils only resolve disputes falling within their local jurisdiction and satisfying statutory conditions relating to conciliation, jurisdiction, and procedural requirements.

Regarding Procedures for Labour Dispute Resolution through Arbitration

Practice shows that Labour Arbitration Councils have resolved certain disputes in compliance with statutory procedures and time limits. A typical example is a case in Dong Nai Province in 2024, in which the Labour Arbitration Council accepted the case, established a Labour Arbitration Panel, organized a hearing, and issued a dispute resolution decision within 30 days. This demonstrates the advantages of labour arbitration in terms of speed and procedural flexibility.

2.2.3. Limitations in the Implementation of the Law on Labour Dispute Resolution through Arbitration in Viet Nam and Their Causes

Regarding the Establishment, Organization, and Operation of Labour Arbitration Councils

In many localities, the selection of arbitrators remains largely formalistic, emphasizing representational structure rather than professional competence, and is not adequately linked to the mandatory standards applicable to labour arbitrators,

particularly requirements concerning legal knowledge, dispute resolution skills, and specialized expertise in labour law. Representatives of employees mainly come from trade unions due to the absence of employee representative organizations at enterprises. In addition, there is no unified nationwide operational regulation, nor are there guiding provisions regarding the minimum scope and content of such regulations, resulting in inconsistent operations among Labour Arbitration Councils.

Regarding Procedures for Dispute Resolution

Legal provisions governing arbitral proceedings remain overly general and have not been developed into a complete and detailed procedural framework. There is a lack of detailed guidance on the receipt of applications, collection of evidence, organization of hearings, and issuance of arbitral awards. This creates practical difficulties and adversely affects the professionalism of the labour arbitration mechanism.

Regarding the Legal Effect of Arbitral Awards

Labour arbitral awards are neither final nor supported by compulsory enforcement mechanisms, resulting in limited practical effectiveness.

Regarding the Application of Technology in Dispute Resolution

Labour arbitration has not yet undergone full digitalization and lacks online case filing systems, online hearings, and electronic databases on labour arbitration. The law also fails to provide comprehensive regulations on electronic evidence and arbitral proceedings in digital environments, thereby creating difficulties for the digital transformation of this mechanism.

Causes of These Limitations

These limitations stem from inadequacies in legal design, the lack of enforceability of arbitral awards, the legal awareness and habits of the parties that continue to favor courts, the insufficient professionalism of labour arbitrators, the absence of a supporting ecosystem, and shortcomings in digital transformation. Consequently, labour arbitration has not yet gained sufficient attractiveness or trust among parties in labour relations.

CONCLUSION OF CHAPTER 2

Research into current laws and the practice of resolving labor disputes through arbitration shows that the law has significantly improved by expanding the jurisdiction of arbitration tribunals to individual labor disputes and collective labor disputes concerning rights and interests; at the same time, arbitrators have been empowered to issue legally binding dispute resolution decisions.

However, the law still has many limitations, such as the local organizational model of arbitration tribunals which disperses resources, the activities are still largely formal, and there is a lack of clear regulations on the legal value and mechanisms for ensuring the enforcement of arbitration awards.

Practical application shows that labor arbitration is not yet widely used, and its effectiveness remains low due to inadequacies in organization, procedures, the effectiveness of awards, and the understanding of the disputing parties. Therefore, further improvement of the law and enhancement of the effectiveness of the arbitration mechanism are needed to ensure the legitimate rights and interests of the parties and stabilize labor relations.

CHAPTER 3: RECOMMENDATIONS FOR IMPROVING THE LAW AND ENHANCING THE EFFECTIVENESS OF THE IMPLEMENTATION OF THE LAW ON LABOUR DISPUTE RESOLUTION THROUGH ARBITRATION IN VIET NAM

3.1. Requirements for Improving the Law and Enhancing the Effectiveness of the Implementation of the Law on Labour Dispute Resolution through Arbitration in Viet Nam

Address limitations and ensure the feasibility of the law

Ensure compliance with international labour standards and harmonization with regional legal frameworks

Meet the requirements of judicial reform and the building of a rule-of-law state

Ensure harmonious and stable labour relations and attract investment

Develop an effective dispute resolution institution to reduce the burden on the courts

Meet the requirements of digital transformation and the Fourth Industrial Revolution

3.2. Recommendations for improving the law on labour dispute resolution through arbitration in Viet Nam

3.2.1. Improving regulations on Entities Competent to Resolve Labour Disputes through Arbitration

Regarding the Organization of Labour Arbitration Councils

It is proposed that the current model of provincial Labour Arbitration Councils be replaced by regional Labour Arbitration Centers operating independently from administrative agencies while remaining subject to indirect state supervision. Parties should have the right to select arbitration centers and arbitrators from a national database. Additional provisions should be introduced regarding the re-establishment of Labour Arbitration Councils upon the expiration of their terms in order to ensure institutional continuity.

Regarding Standards for Labour Arbitrators

Professional standards, occupational skills, and practical experience requirements applicable to labour arbitrators should be further specified.

The standards for appointment and professional practice of labour arbitrators should not be limited merely to educational qualifications and work experience, but should also include mandatory professional skills such as conducting hearings, analyzing evidence, legal reasoning, and drafting arbitral awards. A pre-appointment assessment mechanism should also be introduced.

The law should additionally specify circumstances in which individuals are ineligible to serve as arbitrators in order to improve the quality of the arbitration workforce.

Regarding the Organizational Structure of Labour Arbitration Councils

The sources for nominating employee representatives should be expanded to include employee representative organizations at enterprises.

Mechanisms should be supplemented to address situations in which employer representative organizations fail to reach agreement on nominations.

Unified guiding regulations on the operation of labour arbitration should be promulgated in the context of the new organizational structure of the state apparatus.

Regarding the Operation of Labour Arbitration Councils

It is proposed that a nationwide model regulation governing the organization and operation of Labour Arbitration Councils be developed.

The remuneration mechanism should be improved in a manner linked to the quality and effectiveness of dispute resolution rather than being calculated solely on a daily working basis.

3.2.2. Improving Regulations on Jurisdiction over Labour Dispute Resolution through Arbitration

Specific provisions should be added concerning the form, content, and validity conditions of arbitration agreements. Such agreements must be made in writing, ensure the genuine voluntariness of employees, and clearly stipulate cases in which arbitration agreements are invalid.

3.2.3. Improving Regulations on Procedures for Labour Dispute Resolution through Arbitration

The provisions governing limitation periods for requesting dispute resolution should be amended in the direction of determining the time when the aggrieved party “knew or should have known” of the violation.

Detailed provisions should also be added regarding the receipt of applications, collection of evidence, organization of hearings, and arbitral procedural steps in order to ensure transparency and consistency.

3.2.4. Improving Regulations on the Legal Effect of Arbitral Awards

It is proposed that labour arbitral awards be recognized as final and binding. Courts should only review procedural aspects and should not re-examine the substantive merits of disputes.

Additional provisions should be introduced specifying the grounds for setting aside arbitral awards.

Mechanisms should also be supplemented concerning the registration of arbitral awards with courts, the correction and interpretation of awards, and compulsory enforcement through state authority.

3.2.5. Proposed Labour Arbitration Model for Viet Nam in the Future

The dissertation proposes reforming the existing labour arbitration model, which is based on provincial Labour Arbitration Councils, towards a voluntary, professional, and relatively independent labour arbitration model, operating as a permanent institution organized on a regional basis. The State would be responsible for establishing the legal framework, ensuring the necessary conditions for operation, and supervising legality. Arbitrators would be selected according to uniform standards concerning professional qualifications, experience, independence, and professional ethics.

The proposed model would safeguard the parties’ autonomy, provide streamlined procedures, facilitate access, and ensure professional expertise. It would allow the parties to enter into an arbitration agreement either before or after a dispute arises. Arbitral decisions would be final and binding and supported by an effective enforcement mechanism, while courts would exercise only limited judicial review and would not rehear the merits of the dispute. This model is intended to address the administrative nature, lack of professionalism, and limited enforceability of the existing mechanism, while improving access to justice and the effectiveness of labour dispute resolution.

3.3. Solutions for Enhancing the Effectiveness of the Implementation of the Law on Labor Dispute Resolution by Arbitration

3.3.1. Establishing Mandatory Legal Mechanisms for Dissemination, Training, and Integration of Labor Arbitration Knowledge into Labor Relations Governance

Legal obligations should be imposed on employers and state management agencies to disseminate knowledge about labor arbitration to employees and enterprises.

Labor arbitration content should be integrated into mandatory training and professional development programs for relevant subjects.

Communication efforts targeting parties in labor relations and their representative organizations regarding labor arbitration should be strengthened; obligations concerning the provision of and access to information on labor arbitration should be directly integrated into labor relations institutions.

3.3.2. Standardizing Capacity, Establishing Mandatory Training Mechanisms, and Evaluating Subjects Resolving Labor Disputes by Arbitration

A unified and mandatory training program for labor arbitrators should be developed.

Training on dispute resolution skills and professional ethics should be strengthened.

A mechanism for evaluating the quality of arbitrators' performance should also be established.

The capacity of subjects supporting the labor arbitration process, such as labor mediators, grassroots employee representative organizations, and employer representatives, should also be improved.

3.3.3. Establishing and Operating Coordinated Mechanisms among Competent Subjects in Labor Dispute Resolution by Arbitration

It is necessary to establish interconnected coordination mechanisms among labor mediators, Labor Arbitration Councils, state management agencies, and representative organizations of employees and employers in order to improve dispute resolution efficiency and support parties during arbitral proceedings.

3.3.4. Strengthening State Management of Labor

The State should improve the effectiveness of labor management, strengthen inspection and supervision, and enhance legal compliance awareness among parties in labor relations in order to limit labor disputes and create favorable conditions for the effective operation of labor arbitration. State labor management agencies should shift from a passive management model focusing on handling violations after disputes arise to a proactive management model aimed at preventing legal risks from the formation and operation stages of labor relations.

3.3.5. Strengthening the Application of Information Technology in Labor Dispute Resolution by Arbitration to Meet the Requirements of the Digital Era

An electronic record management system needs to be established at the Labor Arbitration Council.

The application of information technology in arbitration proceedings needs to be expanded.

The dissemination and training on labor arbitration need to be standardized and digitized.

CONCLUSION OF CHAPTER 3

Improving the legal framework and enhancing the effectiveness of labor dispute resolution through arbitration needs to meet the demands of the labor market in the context of digital transformation, international integration, and judicial reform; while ensuring harmonious labor relations, a stable investment environment, and reducing the burden on the courts.

Laws on labor arbitration need to be improved to strengthen jurisdiction, clarify procedural rules, legal value, and the final effect of arbitration decisions; and to innovate the organizational model from decentralized labor arbitration councils to regional arbitration centers to enhance professionalism and operational efficiency.

In addition, it is necessary to improve the capacity of labor arbitrators, strengthen coordination among dispute resolution institutions, and promote awareness of the law among parties in labor relations.

CONCLUSION

1. Labor dispute resolution by arbitration is an out-of-court dispute resolution method established on the basis of the lawful agreement of the disputing parties or as recognized by law. Under this mechanism, labor arbitrators or Labor Arbitration Councils are vested with the authority to examine and assess the circumstances of the dispute and issue decisions to impose legal obligations upon the parties, thereby ensuring that disputes are resolved objectively, effectively, and in a manner consistent with the requirements of maintaining order and stability in labor relations.

2. The law on labor dispute resolution by arbitration regulates fundamental issues relating to the organization and operation of labor arbitration, including subjects, jurisdiction, procedures for dispute resolution, and the enforceability of arbitral decisions.

3. Vietnam's current law on labor dispute resolution by arbitration has undergone significant improvements, more clearly defining the jurisdiction of Labor Arbitration Councils, expanding the scope of disputes subject to arbitration, and gradually enhancing the role and position of labor arbitration within the system of labor dispute resolution institutions. However, despite these achievements, the law on labor dispute resolution by arbitration still reveals many limitations. The organization of Labor Arbitration Councils based on provincial and centrally governed municipal administrative units has resulted in fragmented resources, a lack of professionalism, and difficulties in concentrating highly qualified and experienced labor experts. The operation of many Labor Arbitration Councils remains largely formalistic, ineffective, and inconsistent among localities. In particular, the lack of clarity regarding the legal value of arbitral decisions and enforcement mechanisms has significantly undermined the confidence of disputing parties in labor arbitration.

4. The practical implementation of the law on labor dispute resolution by arbitration shows that although a basic legal framework has been established and Labor Arbitration Councils have been formed nationwide, labor arbitration is still rarely chosen by disputing parties. The number of disputes resolved through arbitration remains very limited; the activities of Labor Arbitration Councils mainly focus on support, consultation, and dispute prevention rather than performing the genuine adjudicative function of arbitration. Shortcomings relating to organizational structure, procedures, the effectiveness of arbitral decisions, and the legal awareness of parties in labor relations have considerably reduced the practical effectiveness of this institution.

5. Improving the law and enhancing the effectiveness of labor dispute resolution by arbitration are objective and urgent requirements. The process of legal reform must ensure compatibility with the development demands of the labor market in the context of the Fourth Industrial Revolution, digital transformation, and deep international integration; at the same time, it must address existing shortcomings and inadequacies while ensuring the feasibility and coherence of legal provisions. Such improvements must also be associated with the requirements of judicial reform, the building of a socialist rule-of-law state in Vietnam, and the development of harmonious, stable, and progressive labor relations.

6. The law on labor dispute resolution by arbitration should be improved in the direction of strengthening the adjudicative nature of labor arbitration; standardizing

regulations on arbitration agreements; clarifying jurisdiction, the legal value, and the finality of arbitral decisions; and improving judicial review and enforcement mechanisms for arbitral decisions with the support of courts and civil judgment enforcement agencies. In addition, the orientation toward reforming the organizational model of labor arbitration by gradually shifting from the model of decentralized Labor Arbitration Councils based on administrative boundaries to regional or inter-regional labor arbitration centers is necessary to enhance the professionalism, independence, and operational effectiveness of this mechanism.

7. Enhancing the effectiveness of the implementation of the law on labor dispute resolution by arbitration requires particular attention to organizational and operational solutions, with a focus on improving the capacity, professional qualifications, and professional skills of labor arbitrators; strengthening close coordination, interconnection, and continuity among labor dispute resolution institutions. At the same time, promoting legal dissemination and education and improving the legal awareness and compliance consciousness of employees and employers are identified as fundamental conditions for labor arbitration to truly gain the trust of and be chosen by parties in practice.

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