**Video Title:** Arbitration Explained

**Video URL:** <https://www.youtube.com/watch?v=9dUi_phYXrY>

**Run Time:** 3:28

**Source:** Hesham Elrafei/YouTube

**Close Caption Available:** Yes

Arbitration is explained on pages 181-182 of the textbook, and this video provides more details about the subject. Arbitration is an alternative dispute resolution where the disputing parties agree to appoint an impartial arbitrator based on the person’s expertise and reputation. The arbitrator settles a commercial dispute by means of a final and binding award. Arbitration is considered to be international when the facts involved extend beyond a single national jurisdiction. The distinction between domestic and international arbitration is important because it affects the enforcement of the award.

Arbitration differs from other types of dispute resolution as the arbitrator is selected by the parties involved. Unlike mediation and conciliation, the arbitrator not only resolves the dispute but also makes a binding decision. Arbitration disputes usually arise from a variety of business deals such as mergers and acquisitions, financial services, construction, infrastructure, intellectual property disputes, and sales agreements. Arbitration is chosen by the parties because it offers several benefits over local or state courts. First, the parties are free to select the place of arbitration. Second, the arbitrator is a neutral, independent, and impartial party, resulting in an unbiased dispute resolution. Third, the proceedings are conducted in a private and confidential manner. The arbitration award is final with no right of appeal, which can save time and money when compared to lengthy appellate proceedings. Another advantage of arbitration is that the cross-border arbitration award might be supported by international treaties resulting in easier enforcement than in a foreign court settlement.

Despite the effectiveness of arbitration, it can also have disadvantages. The technical nature or complexity of arbitration can lead to uncertain results. The arbitrator’s power is limited because he or she cannot order pre-emptive injunctions which can only be granted by state courts. The confidentiality of arbitration creates a lack of transparency which makes the process subject to bias. When the losing party does not comply with the award, it could be necessary to rely on the state court for help. The finality of the arbitration award means that a wrong decision cannot be corrected or appealed. Arbitration can be expensive, including the arbitrator fees and expert technical reports. Lastly, arbitration may not be suitable where there are several parties to a dispute, such as in project and construction claims involving several companies working on the same deal.

*Questions for Thought and Discussion*

1. Why should the parties in conflict trust the judgment of the arbitrator?

2. When a dispute has to go to arbitration, what does this say about the conflict-resolution skills of the managers and professionals involved in the dispute?

3. Does it appear that arbitration is used to settle relatively minor disputes, such as one worker claiming he or she is not given a fair share of overtime work?

4. Suppose you had a big claim against a company, such as developing a permanent body rash after using the company’s shampoo for a week. Explain whether you would you prefer to sue the company using a lawyer, or have your case go to arbitration.

5. In what way is an arbitrator supposed to have a role similar to a referee or umpire at a sporting event?