

The Roles Of Psychology In International Arbitrat

Evolution and Adaptation Jean Kalicki, Mohamed Abdel Raouf. 2019-12-17 What is it about international arbitration that makes it so open to evolution and adaptation? What are the main pressure points today and the unmet needs of stakeholders? What are the opportunities for expansion to new sectors and new audiences? What are the drivers for change, the obstacles and the risks? And equally important, what are the core principles that should never be lost? These were the topics of the Twenty-Fourth ICCA Congress, held in Sydney, Australia, in April 2018, the proceedings of which are collected in this volume. The volume highlights arbitration as a 'living organism' that has adapted in the past to various challenges, and that today - under attack from various quarters - might need to demonstrate its adaptability again. Accordingly, the contributions address the evolving needs of users, the impact of the rapidly changing face of technology, the expectations of the public, and the convergence and divergence of different aspects of legal traditions and cultures. Topical issues of interest for practitioners, academics, and students of arbitration include the following: legitimacy and authority of arbitrators, institutions and professional organizations to act as lawmakers; investment treaty reform, with particular reference to the definition of 'investment,' the evolution of substantive treaty standards, and sustainable development obligations; commercial arbitration reform, including issues of public and private interest, the development of common law, and cost, delay and transparency concerns; revisiting party autonomy in choosing decision-makers, including through institutional appointments or investment courts; equality of arms, the economics of access, and the role of costs and third-party funding; public-private disputes and special issues that arise when State entities arbitrate; public participation and transparency, and their effect on both ISDS and commercial arbitration; revisiting conventional wisdom in organizing arbitral proceedings; lessons to be learned from other dispute resolution frameworks; technology as friend and enemy, including new tools, new threats, and cybersecurity; arbitration of disputes in conflict and post-conflict zones; inter-generational blame and praise in investment arbitration; and the emergence of sovereign wealth funds as arbitration participants. A special section on 'New Frontiers in Arbitration' offers enlightening perspectives on new types of claims and new types of stakeholders likely to affect the future of international arbitration, including the potential for climate change disputes and enlarged participation.

Mediation Dwight Golann, Jay Folberg. 2021-09-14 The purchase of this ebook edition does not entitle you to receive access to the Connected eBook on CasebookConnect. You will need to purchase a new print book to get access to the full experience including: lifetime access to the online ebook with highlight, annotation, and search capabilities, plus an outline tool and other helpful resources. *Mediation: The Roles of Advocate and Neutral, Fourth Edition*, integrates mediation skills and strategies with theory, ethics, and practice applications to teach students about legal mediation and how to represent clients effectively in the process. This book reflects the experience of its authors, who are both professors and practicing legal mediators with decades of experience teaching and resolving cases. It includes all the coverage of mediation found in *Resolving Disputes*, the survey text, as well as material on negotiation and hybrid processes and additional coverage of mediation. Most important, this book has become a fully video-integrated text. As they read students are referred to 65 unique video excerpts, embedded in the text and instantly accessible, which show leading mediators applying specific techniques and strategies to overcome barriers to settlement. New to the Fourth Edition Video: Unique and diverse video excerpts, created expressly for this book and embedded in the text, featuring mediators from the U.S. and around the world. Virtual mediation: Analysis of the special aspects of mediating via Zoom, based on the experiences of professional mediators. Grief and loss: New material

probing deeply into the psychology of loss and how it affects settlement decisions. ODR: New readings on online mediation. International: Perspectives and video of international practitioners, based on the authors' experience training mediators on five continents. Professors and student will benefit from: Concise content that supports an active experiential class, without sacrificing the deeper knowledge expected in a law school course. An informal writing style that presents actual case examples, practical advice, and thought-provoking questions written for students who will soon become lawyers, representing clients in mediating disputes. A practice-based approach that helps students apply concepts, including realistic roleplays that facilitate classroom discussion. Examples of lawyers taking on roles as informal mediators, giving students models of how to apply mediative skills immediately in their practice.

International Commercial Agreements and Electronic Commerce William F. Fox. 2018-03-26 Although negotiation still lies at the heart of international commercial agreements, much of the detail has migrated to the Internet and has become part of electronic commerce. This incomparable one-volume work—now in its sixth edition—with its deeply informed emphasis on both the face-to-face and electronic components of setting up and performing an international commercial agreement, stands alone among contract drafting guides and has proven its enduring worth. Following its established highly practical format, the book's much-appreciated precise information on a wide variety of issues—including those pertaining to intellectual property, alternative dispute resolution, and regional differences—is of course still here in this new edition. There is new and updated material on such matters as the following: • the need for contract drafters to understand and to use the concepts of “standardization” (i.e., the work of the International Organization for Standardization (ISO) as a contract drafting tool); • new developments and technical progress in e-commerce; • new developments in artificial intelligence in contract drafting; • the possible use of electronic currencies such as Bitcoin as a payment device; • foreign direct investment; • special considerations inherent in drafting licensing agreements; • online dispute resolution including the innovations referred to as the “robot” arbitrator; • changes in the arbitration rules of major international organizations; and • assessment of possible future trends in international commercial arrangements. Each chapter provides numerous references to additional sources, including a large number of websites. Materials from and citations to appropriate literature in languages other than English are also included. In its recognition that a business executive entering into an international commercial transaction is mainly interested in drafting an agreement that satisfies all of the parties and that will be performed as promised, this superb guide will immeasurably assist any lawyer or business executive to plan and carry out individual transactions even when that person is not interested in a full-blown understanding of the entire landscape of international contracts. Business executives who are not lawyers will find that this book gives them the understanding and perspective necessary to work effectively with the legal experts.

New Frontiers in Asia-Pacific International Arbitration and Dispute Resolution Shahla Ali, Bruno Jetin, Luke Nottage, Nobumichi Teramura. 2020-12-10 International Arbitration Law Library Volume 59 The eastward shift in international dispute resolution has already involved initiatives not only to improve support for international commercial arbitration (ICA) and investor-state dispute settlement (ISDS) but also to develop alternatives such as international commercial courts and mediation. Focusing on these initiatives and their accompanying case law and trends in the Asia-Pacific region, this invaluable book challenges existing procedures and frameworks for cross-border dispute resolution in both commercial and treaty arbitration. Specially assembled for this project, an outstanding team of experienced and insightful arbitrators and scholars describes pertinent developments including: ICA and ISDS in the context of China's Belt and Road Initiative; the Singapore Convention on Mediation; the shift to virtual hearings and other challenges from the COVID-19 pandemic; mistrust of the application of the rule of law in certain East Asian jurisdictions; growing public concern over ISDS arbitration; tensions between confidentiality and transparency; and potential regional harmonisation of the public policy exception

to arbitral enforcement. The contributors chart evolving practices and high-profile cases to make informed observations about where changes are needed, as well as educated guesses about the chances of reforms being successful and the consequences if they are not. The main jurisdictions covered are China, Hong Kong, Japan, Malaysia, India, Australia and Singapore. The first in-depth study of recent trends in dispute resolution practice related to business in the Asia-Pacific region, the book's practical analysis of new resources for dealing with the increasing competition among countries to become credible regional dispute resolution hubs will prove to be of great value to specialists in the international business law sector. Lawyers will be enabled to make informed decisions on which venue and dispute resolution methods are the most suitable for any specific dispute in the region, and policymakers will confidently assess emerging trends in international dispute resolution policy development and treaty-making.

International Commercial Arbitration Gary B. Born. 2020-11-23 International Commercial Arbitration is an authoritative 4,250 page treatise, in three volumes, providing the most comprehensive commentary and analysis, on all aspects of the international commercial arbitration process that is available. The Third Edition of International Commercial Arbitration has been comprehensively revised, expanded and updated, To include all legislative, judicial and arbitral authorities, and other materials in the field of international arbitration prior to June 2020. It also includes expanded treatment of annulment, recognition of awards, counsel ethics, arbitrator independence and impartiality and applicable law. The revised 4,250 page text contains references to more than 20,000 cases, awards and other authorities and will enhance the treatise's position as the world's leading work on international arbitration. The first and second editions of International Commercial Arbitration have been routinely relied on by courts and arbitral tribunals around the world ((including the highest courts of the United States, United Kingdom, Singapore, India, Hong Kong, New Zealand, Australia, the Netherlands and Canada) and international arbitral tribunals (including ICC, SIAC, LCIA, AAA, ICSID, SCC and PCA), e.g.: U.S. Supreme Court - GE Energy Power Conversion France SAS, Corp. v. Outokumpu Stainless USA, LLC, 590 U.S. - (U.S. S.Ct. 2020); BG Group plc v. Republic of Argentina, 572 U.S. 25 (U.S. S.Ct. 2014); Canadian Supreme Court - Uber v. Heller, 2020 SCC 16 (Canadian S.Ct.); Yugraneft Corp. v. Rexx Mgt Corp., [2010] 1 R.C.S. 649, 661 (Canadian S.Ct.); U.K. Supreme Court - Jivraj v. Hashwani [2011] UKSC 40, ¶78 (U.K. S.Ct.); Dallah Real Estate & Tourism Holding Co. v. Ministry of Religious Affairs, Gov't of Pakistan [2010] UKSC 46 (U.K. S.Ct.); Swiss Federal Tribunal - Judgment of 25 September 2014, DFT 5A_165/2014 (Swiss Fed. Trib.); Indian Supreme Court - Bharat Aluminium v. Kaiser Aluminium, C.A. No. 7019/2005, ¶¶138-39, 142, 148-49 (Indian S.Ct. 2012); Singapore Court of Appeal - Rakna Arakshaka Lanka Ltd v. Avant Garde Maritime Servs. Ltd, [2019] 2 SLR 131 (Singapore Ct. App.); PT Perusahaan Gas Negara (Persero) TBK v. CRW Joint Operation, [2015] SGCA 30 (Singapore Ct. App.); Larsen Oil & Gas Pte Ltd v. Petroprod Ltd, [2011] SGCA 21, ¶19 (Singapore Ct. App.); Australian Federal Court - Hancock Prospecting Pty Ltd v. Rinehart, [2017] FCAFC 170 (Australian Fed. Ct.); Hague Court of Appeal - Judgment of 18 February 2020, Case No. 200.197.079/01 (Hague Gerechtshof); Arbitral Tribunals - Lao Holdings NV v. Lao People's Democratic Republic I, Award in ICSID Case No. ARB(AF)/12/6, 6 August 2019; Gold Reserve Inc. v. Bolivarian Republic of Venezuela, Decision regarding the Claimant's and the Respondent's Requests for Corrections, ICSID Case No. ARB(AF)/09/1, 15 December 2014; Total SA v. The Argentine Republic, Decision on Stay of Enforcement of the Award, ICSID Case No. ARB/04/01, 4 December 2014; Millicom Int'l Operations B.V. v. Republic of Senegal, Decision on Jurisdiction of the Arbitral Tribunal, ICSID Case No. ARB/08/20, 16 July 2010; Lemire v. Ukraine, Dissenting Opinion of Jürgen Voss, ICSID Case No. ARB/06/18, 1 March 2011.

The DIS Arbitration Rules Gustav Flecke-Giammarco, Christopher Boog, Siegfried H. Elsing, Peter Heckel, Anke Meier. 2020-03-20 The new arbitration rules of the German Arbitration Institute (Rules) entered into force on 1 March 2018. Drafted over an intense period of eighteen months by a committee of globally recognized experts with the active participation of nearly 300 arbitration practitioners, the Rules stand poised to attract parties

seeking dispute resolution not only in Germany but also internationally. This extraordinary book, written by the drafters themselves, with more than 550 pages of comprehensive article-by-article commentary, is filled with practical insights and recommendations regarding the application of the Rules. Each provision of the new Rules is given its own chapter, in which the following issues and topics are examined in depth for the specific rule under analysis: use of the provision in practice; modifications from the corresponding provision in the 1998 Rules; relationship to the relevant sections of the German Code of Civil Procedure; comparison with relevant regulations and practices in German State court proceedings; detailed expert commentary, including analysis of case law and legal scholarship; DIS practice concerning the application of the provision; and comparison with similar provisions in other arbitration rules. An annex contains an extensive collection of reference materials, including forms, schedule of costs and texts of various international arbitration documents. The authors and editors have vast experience as counsel and arbitrators in proceedings conducted under the auspices of the DIS and other arbitral institutions. Their intimate familiarity with all aspects of DIS case administration is of immeasurable value to all stakeholders in arbitral proceedings. A genuine user's guide, the book explains how the new Rules are likely to be applied in practice by the arbitral institution, arbitrators and parties. Its practical tips regarding the effective conduct of DIS arbitrations elucidate best practices for counsel and arbitrators and make DIS' day-to-day case management and decision-making processes more transparent and predictable for users of all levels of experience and expertise.

Arbitration: the Art and Science of Persuasion Donald Vinson, Klaus Reichert. 2022-08-04 Effective persuasion is an art; an art which can be learned and perfected with practice and insight into human behaviour. This innovative book, written for lawyers and those interested in the science of persuasion in a legal setting, is the first to explain how key concepts from psychology, sociology, and communication science can be productively applied to the art of persuasion in international dispute resolution. Whilst success in arbitration relies upon knowledge of the law, sound judgment, and intelligence, it is also increasingly recognized that it is dependent upon the ability to effectively communicate with other people in order to convince them of a particular point of view. These are skills that can be acquired and enhanced over time with practice and experience. The focus of this book is to provide practitioners with insights and applications of the behavioural sciences that can assist in the development of those key skills associated with success in arbitration. Starting with an overview of the important elements of the psychology of persuasion, the book then provides recommendations and examples of how the information can be effectively utilized, with a view to providing a practical and pragmatic treatment of ideas and techniques of persuasion that lawyers can employ to enhance their advocacy skills. Prominent arbitrators from around the globe provide observations and anecdotes from their own arbitration experiences that offer context and provide the reader with fascinating insights into the experiences of some of the world's leading arbitrators. Taken together, the structure and analysis, backed up with real-world examples, gives readers the tools to gain the edge when it comes to using negotiation in their dispute resolution practice.

International Arbitration and Global Governance Walter Mattli, Thomas Dietz. 2014-07-18 Most literature on international arbitration is practice-oriented, technical, and promotional. It is by arbitrators and largely for arbitrators and their clients. Outside analyses by non-participants are still very rare. This book boldly steps away from this tradition of scholarship to reflect analytically on international arbitration as a form of global governance. It thus contributes to a rapidly growing literature that describes the profound economic, legal, and political transformation in which key governance functions are increasingly exercised by a new constellation that include actors other than national public authorities. The book brings together leading scholars from law and the social sciences to assess and critically reflect on the significance and implications of international arbitration as a new locus of global private authority. The views predictably diverge. Some see the evolution of these private courts positively as a significant element of an emerging transnational private legal system that gradually evolves according to the needs of market actors without much

state interference. Others fear that private courts allow transnational actors to circumvent state regulation and create an illegitimate judicial system that is driven by powerful transnational companies at the expense of collective public interests. Still others accept that these contrasting views serve as useful starting points of an analysis but are too simplistic to adequately understand the complex governance structures that international arbitration courts have been developing over the last two decades. In sum, this book offers a wide-ranging and up-to-date analytical overview of arguments in a vigorous nascent interdisciplinary debate about arbitration courts and their exercise of private governance power in the transnational realm. This debate is generating fascinating new insights into such central topics as legitimacy, constitutional order and justice beyond classical nation state institutions.

Economic Analysis of the Arbitrator's Function Bruno Guandalini.2020-06-16 Economic Analysis of the Arbitrator's Function Bruno Guandalini Arbitration has become an important market, where arbitrators are rational economic agents maximizing their utility. Although this is self-evident, it is rarely discussed. This penetrating book is the first to comprehensively analyze the market for arbitrators and arbitrators' economic role within it. In great depth, the author tackles such salient issues as the following: effect of perceived inefficiencies and high costs on arbitration legitimacy; alleged commercialization of the arbitrator's function; possible ethical problem raised by financial remuneration for rendering justice; what motivates a person to arbitrate; market for arbitrators' functioning and failures, providing a better understanding of how actors could behave in such a specific market; structural and artificial entry barriers; effect of an arbitrator's strategic behavior on the arbitrator's function; limitations on an arbitrator's rationality; and preventing and correcting these limitations. Numerous references to customs and procedures in major arbitral jurisdictions and to international laws and conventions affecting the efficiency of the arbitrator's function are included. Pursuing a non-prescriptive analysis, the author draws on the discipline of law and economics, rational choice theory, behavioral economics, and psychological work on bounded rationality. Understanding the arbitrator's function as a legal institution that is influenced by the market, this pioneer in developing and systematizing the study of the market for arbitrators and how it works will prove of inestimable value to all stakeholders in the arbitration market. Arbitrators, policymakers, regulators, and academics will be enabled to open the way to a more efficient market for arbitrators and betterment in arbitration worldwide.

Arbitration's Age of Enlightenment? Cavinder Bull,Loretta Malintoppi,Constantine Partasides.2023-09-12 Directly presenting the considered views of a broad cross-section of the international arbitration community, this timely collection of essays addresses the criticism of the arbitral process that has been voiced in recent years, interpreting the challenge as an invitation to enlightenment. The volume records the entire proceedings of the twenty-fifth Congress of the International Council for Commercial Arbitration (ICCA), held in Edinburgh in September 2022. Topics range from the impact of artificial intelligence to the role of international arbitration in restraining resort to unilateralism, protectionism, and nationalism. The contributors tackle such contentious issues as the following: time and cost; gender and cultural diversity; confidentiality vs. transparency; investor-State dispute settlement procedures; the proposed establishment of a permanent international investment court system; how cross-fertilisation across different disciplines may impact international arbitration; determining whether a document request seeks documents that are relevant and material to the outcome of a dispute; whether we would be better off if investment arbitration were to disappear; and implications for international arbitration of the Russian invasion of Ukraine. There is consideration of global issues that are likely to give rise to disputes in the future, including climate change, environmental protection, access to depleting water resources, energy and mining transition, and human rights initiatives. Several contributions focus on developments in specific countries (China, India) and regions (Africa, the Middle East). Arbitrators, corporate counsel, and policymakers will appreciate this opportunity to engage with current thinking on key issues in international commercial and investment arbitration, especially given the diversity of thought presented by authors from all over the world.

International Arbitration in England Laila Hamzi, Daniel Harrison, Gregory Fullelove. 2022-08-09 There is no question that in recent years, the case law, practice and legal environment in which international arbitration in England is practised have all evolved and adapted to a changing world and continue to do so. In this book, a diverse range of practitioners chart this development with detailed consideration of the challenges and opportunities for the future of international arbitration in England. The topics chosen often reflect and explore preoccupations of our times, including such aspects of arbitral practice as the following: challenges to arbitrators, with particular attention to the Supreme Court's findings in *Halliburton v. Chubb*; virtual hearings; diversity in international arbitration; climate change arbitration; 'green arbitration' practices; developing jurisprudence regarding enjoining foreign states in English proceedings; recovery of in-house costs in English-seated international arbitrations; overlapping sanctions regimes and their application to arbitral disputes in England; and the role and future of third-party funding. The fact that the essays were all written during the COVID-19 pandemic is reflected in the procedural issues which form the focus of some chapters, reminding us that when it comes, change can come quickly. For this reason, the deeply informed insights in this volume, intended as they are to ensure the continued evolution and success of international arbitration in England, will prove of immeasurable value for any practitioner making submissions before an arbitral tribunal. Jurists, academics and students will gain invaluable perspectives on the future trajectory of the field.

UNCITRAL Model Law on International Commercial Arbitration Ilias Bantekas, Pietro Ortolani, Shahla Ali, Manuel A. Gomez, Michael Polkinghorne. 2020-03-05 This book provides a comprehensive commentary on the UNCITRAL Model Law on International Arbitration. Combining both theory and practice, it is written by leading academics and practitioners from Europe, Asia and the Americas to ensure the book has a balanced international coverage. The book not only provides an article-by-article critical analysis, but also incorporates information on the reality of legal practice in UNCITRAL jurisdictions, ensuring it is more than a recitation of case law and variations in legal text. This is not a handbook for practitioners needing a supportive citation, but rather a guide for practitioners, legislators and academics to the reasons the Model Law was structured as it was, and the reasons variations have been adopted.

Cambridge Compendium of International Commercial and Investment Arbitration Stefan Kröll, Andrea Bjorklund, Franco Ferrari. 2023-03-02 The Compendium, like an encyclopedia, contains entries for most of the foundational principles and concepts underlying arbitration. Each entry takes a holistic view of international arbitration, as they tackle core concepts from both a commercial and an investment arbitration perspective, focusing on the fundamental issues underlying the various topics rather than on the solutions adopted in any particular jurisdiction, thus making the Compendium a truly cross-border, transnational resource. This innovative approach will allow readers to identify the commonalities as well as the differences between commercial and investment arbitration, whether and where cross-fertilization has taken place and what consequences it can have. This approach allows the Compendium to be a tool in promoting the creation of a culture of international arbitration that considers commercial arbitration and investment arbitration as part of a whole but with certain distinct features particular to each.

Guide to Advocacy Stephen Jagusch. 2017-11-03 Global Arbitration Review's Guide to Advocacy is a practical book for specialists and would-be specialists on how to be persuasive during international arbitration, featuring unique insight from well-known arbitrators on advocacy. The fully revised Second Edition is a useful tool for junior lawyers who wish to develop their advocacy skills, as well as a manual for civil trained lawyers who would like to feel more at ease with cross-examination as it breaks the arbitral process into key steps and explains the advocacy 'opportunity' that each represents (focusing on the principles at work rather than specifics). Woven throughout are gems from big name arbitrators - tips, complaints, musings and reminiscences - providing a new, 360-degree view of written and oral submissions. The Second Edition contains several new chapters and a fresh tranche of arbitrator contributions. While the first edition covers the basics through chapters on,

inter alia, written submissions, cross-examination, opening submissions and closing arguments, this second edition delves deeper by exploring 'Cultural Considerations in Advocacy'. These are aimed at advocates raised within a particular national or regional style who wish to know what adjustments to make when in the international milieu; and vice versa. These chapters contain observations of help when some of the players in the arbitration - be they arbitrators, opponents or others - hail from Asia, Latin America, United States or the UK.

Mediation in Collective Labor Conflicts Martin C. Euwema, Francisco J. Medina, Ana Belén García, Erica Romero Pender. 2019-05-28 This open access book opens up the black box of mediation in collective conflicts through the analyses and comparisons of various systems. Mediation and related third party interventions such as conciliation and facilitation are discussed as effective prevention and regulation tools for different types of collective labor conflicts. These interventions fit in a new developed five-phase model of collective conflicts in organizations, going from capacity building in latent conflicts, through conciliation, mediation and arbitration in escalating phases, to rebuilding of trust after hot conflicts. The authors promote understanding and discussion with regards to labor mediation systems, presenting comparative research on the perspectives of mediators and users of mediation. This book describes and analyses laws, regulations and practices of mediation in seventeen countries, with a relative strong emphasis on Europe. Part 1 presents theoretical frameworks on conciliation and mediation in collective labor conflicts. Part 2 presents regulations and practices in 12 European countries: Belgium, Denmark, Estonia, France, Italy, Poland, Portugal, Spain, The Netherlands, and the United Kingdom. Part 3 discusses mediation in these collective conflicts in Australia, China, India, South Africa and the USA. Part 4 offers conclusions and ways forward. This book offers analyses, good practices and developments for third party intervention in collective labor conflicts in global and local changing environments. This book is a must-read for policy makers, social partners at different levels, as well as scholars and practitioners in industrial relations, human resources management and conflict management, particularly conciliators and mediators.

How Parties Experience Mediation Timea Tallodi. 2019-10-22 This book presents an unprecedented qualitative research study on relational changes in mediation with a truly interdisciplinary outset, drawing on the literature on psychology, alternative dispute resolution and business. Mediation's potential to induce changes in parties' relationships as an advantage of the process is commonly mentioned in the literature. However, despite its being a key to reconciliation, relational changes in mediation has not yet been a topic of foundational and fine-grained qualitative enquiry. As the first study in the literature, this research uses in-depth interviews with mediation parties and the qualitative methodology of interpretative phenomenological analysis in order to explore participants' lived experiences. The phenomenological stance ensures a particularly rich data set and a nuanced interpretative analysis. This pioneering piece of research seeks to enter mediation parties' true experiences as closely as possible, moving beyond pre-existing theoretical, quantitative and large-scale qualitative explorations. The themes are discussed in the context of theory, research and practice. Therefore, this book advances knowledge about mediation both in theoretical and practical terms. Innovative conclusions and recommendations are provided for developing mediation practice, mediation training programmes, and further research.

Mediation, Conciliation, and Emotions Peter D. Ladd, Kyle E. Blanchfield. 2019-04-11 Mediation, Conciliation, and Emotions is a groundbreaking book in its approach to understanding the role emotional climate plays in conflict resolution, and covers such contemporary themes as mental illness and violence in the United States and around the world.

Economic Analysis of the Arbitrator's Function Bruno Guandalini. 2020-06-16 Economic Analysis of the Arbitrator's Function Bruno Guandalini Arbitration has become an important market, where arbitrators are rational economic agents maximizing their utility. Although this is self-evident, it is rarely discussed. This penetrating book is the first to comprehensively analyze the market for arbitrators and arbitrators' economic role within it. In great depth, the author tackles such salient issues as the following: effect of perceived inefficiencies and high costs on arbitration legitimacy;

alleged commercialization of the arbitrator's function; possible ethical problem raised by financial remuneration for rendering justice; what motivates a person to arbitrate; market for arbitrators' functioning and failures, providing a better understanding of how actors could behave in such a specific market; structural and artificial entry barriers; effect of an arbitrator's strategic behavior on the arbitrator's function; limitations on an arbitrator's rationality; and preventing and correcting these limitations. Numerous references to customs and procedures in major arbitral jurisdictions and to international laws and conventions affecting the efficiency of the arbitrator's function are included. Pursuing a non-prescriptive analysis, the author draws on the discipline of law and economics, rational choice theory, behavioral economics, and psychological work on bounded rationality. Understanding the arbitrator's function as a legal institution that is influenced by the market, this pioneer in developing and systematizing the study of the market for arbitrators and how it works will prove of inestimable value to all stakeholders in the arbitration market. Arbitrators, policymakers, regulators, and academics will be enabled to open the way to a more efficient market for arbitrators and betterment in arbitration worldwide.

Dealing with Bribery and Corruption in International Commercial Arbitration Emmanuel Obiora Igbokwe. 2023-01-10 International Arbitration Law Library, Volume 65 International commercial arbitration is by no means free from bribery and corruption. Although a plethora of legal scholarship clearly affirms this contention, a thorough study on the particularly important question of the authority and duty of international commercial arbitrators to investigate a suspicion or indication of bribery or corruption *sua sponte* – that is, on their own initiative – has been surprisingly lacking. This important book fills this gap, *inter alia*, by locating *sua sponte* authority in the position of arbitral tribunals in establishing the facts of a case and ascertaining and applying the applicable normative standards. In addition to providing a comprehensive examination of how the issue of bribery and corruption is dealt with in contemporary international commercial arbitration, the book also highlights the role of arbitrators in global efforts to combat transnational commercial bribery and corruption. Among others, the following critical issues are thoroughly investigated: arbitrability of issues of public interests; intermediary contracts; role of arbitrators in the fact-finding process; party autonomy versus overriding mandatory rules; *iura novit curia* in international commercial arbitration in the context of bribery and corruption; notion of transnational (or ‘truly international’) public policy; arbitrators’ duty to act as guardians of international commerce; investigative tools available to arbitrators; dealing with manifestly recalcitrant parties; possible consequences of violating the obligation to *sua sponte* investigate; and the view from developing countries. The analysis leans primarily on Swiss law, as Switzerland is one of the most important jurisdictions in international commercial arbitration; Switzerland has also been involved in some of the most famous and controversial arbitration cases wherein bribery and corruption became an issue. However, the study also includes a comparative analysis of the relevant laws, jurisprudence, and doctrine of other major arbitration venues, particularly England, France, and Germany. Not only in the light it sheds on how and whether international commercial arbitrators have hitherto justified the trust States have placed in them regarding the protection of the public interests but also in the practical solutions it offers arbitrators faced with issues of bribery and corruption, this deeply researched book equips arbitration practitioners and arbitration institutions with a hitherto lacking in-depth analysis on the question of *sua sponte* investigation. It also provides invaluable insights on how this issue might affect the future, legitimacy and expansion of this dispute settlement mechanism. Outside the field of arbitration, the book also provides jurists, legal scholars, in-house counsel for companies doing transnational business and public officials with highly enlightening perspectives on the interaction between international commercial arbitration and public interests.

Arbitration Costs Susan D. Franck. 2019-03-26 Investment treaty arbitration (sometimes called investor-state dispute settlement or ISDS) has become a flashpoint in the backlash against globalization, with costs becoming an area of core scrutiny. Yet conventional wisdom about costs is not necessarily wise. To separate fact from fiction, this book tests claims about investment arbitration and fiscal costs against data so that policy reforms

can be informed by scientific evidence. The exercise is critical, as investment treaties grant international arbitrators the power to order states-both rich and poor-to pay potentially millions of dollars to foreign investors when states violate the international law commitments made in the treaties. Meanwhile, the cost to access and defend the arbitration can also climb to millions of dollars. This book uses insights drawn from cognitive psychology and hard data to explore the reality of investment treaty arbitration, identify core demographics and basic information on outcomes, and drill down on the costs of parties' counsel and arbitral tribunals. It offers a nuanced analysis of how and when cost-shifting occurs, parses tribunals' rationalization (or lack thereof) of cost assessments, and models the variables most likely to predict costs, using data to point the way towards evidence-based normative reform. With an intelligent interdisciplinary approach that speaks to ongoing reform at entities like the World Bank's ICSID and UNCITRAL, this book provides the most up-to-date study of investment treaty dispute settlement, offering new insights that will shape the direction of investment treaty and arbitration reform more broadly.

The Evolution and Future of International Arbitration Stavros Brekoulakis, Julian D.M. Lew. 2016-06-24 The School of International Arbitration of the Centre for Commercial Law Studies at Queen Mary University of London celebrated its 30th anniversary in April 2015 with a major conference featuring presentations by 35 international arbitration practitioners and scholars from many countries representing a variety of legal systems. This volume has emerged from that conference. What is striking is not only the range and diversity of the topics examined but also the emergence of new subjects for examination, demonstrating that arbitration law and practice do not stand still but are constantly evolving. The issues and topics covered include the following: - Evolution of case law and practice in international arbitration; - The concept and autonomy of arbitral award; - Parties in international arbitration; - Parallel proceedings in international arbitration; - Court review of arbitration awards; - Geographic expansion of international arbitration; - Counsel regulation and conflicts disclosures; - The use of technology in international arbitration; - Teaching and research in international arbitration. This superbly organised and edited volume, like earlier conference volumes from the School of International Arbitration, is sure to be welcomed and acclaimed, and like them will prove of lasting value.

The Decision-Making Process of Investor-State Arbitration Tribunals Mary Mitsi. 2018-12-28 In the course of a single investor-state dispute, an arbitrator may make numerous decisions, from interpreting the treaty or national laws to taking into account case law, customs and policies. In practice, this process raises important issues regarding the consistency of decisions and the predictability and legitimacy of the decision-making process in general. Investment arbitration tribunals have developed a specialised process of legal decision making adapted to the interpretational needs that arise in the context of an investor-state dispute and to the transnational characteristics of the investment arbitration framework. This is the first book to offer an in-depth analysis of the transnational characteristics of investment arbitration and to analyse the interpretive arguments of investment tribunals and the way they use treaties, precedent, policies, general principles of law and customary law in their decision-making process. Drawing on publicly available arbitral case law supplemented with personal interviews with investment arbitrators, the author touches on such concepts and practices as the following: - an overview of various decision-making genres of arbitral tribunals: attitudinal, economic, strategic and legal; - the legal argumentation triptych of language-rhetoric-dialogue; - the specific language arbitrators have developed when interpreting the law; - how arbitrators use the concepts 'standards', 'rules', 'principles' and 'rights'; - the importance of the legal reasoning of arbitral awards and the role of rhetoric therein; - concepts of 'acceptability', 'audience' and 'legitimacy'; - limitations of the public international law interpretive methodology enshrined in the Vienna Convention; - interpretation of precedents, customary law, general principles of law and policies; - the way national and international legal orders interact in the context of interpretation; and - how decision-making is connected to the issues of predictability, consistency and the rule of law. The core of the book proposes a novel, full-edged dialogical network theory for analysing the interpretation process. As an

exemplary demonstration of developing theory to keep up with practice, this unique book provides a deeply engaged means for enhancing the practice of international arbitration. Its introduction of a new field of interdisciplinary analysis employing legal argumentation theories is sure to provide inestimable guidance for institutions and policymakers, especially in light of recent proposals for the creation of a permanent investment arbitration court. Given that unveiling the legal decision-making process is critical for the well-being of the whole dispute resolution procedure, and that being aware of how arbitrators interpret the law can constitute a roadmap for counsel's arguments and approaches when dealing with cross-border disputes, the topic of this book is relevant for both academics and practitioners, and its significance can only grow as recourse to investor-state arbitration continues to expand.

Diversity in International Arbitration Shahla F. Ali, Filip Balcerzak, Giorgio F. Colombo, Joshua Karton. 2022-11-04 After decades of focus on harmonization, which for too many represents no more than Western legal dominance and a largely homogeneous arbitration practitioner community, this ground-breaking book explores the increasing attention being paid to the need for greater diversity in the international arbitration ecosystem. It examines diversity in all its forms, investigating how best to develop an international arbitral order that is not just tolerant of diversity, but that sustains and promotes diversity in concert with harmonized practices.

Theory, Law and Practice of Maritime Arbitration Eva Litina. 2020-12-10 Theory, Law and Practice of Maritime Arbitration The Case of International Contracts for the Carriage of Goods by Sea Eva Litina It is estimated that over 80% of global trade by volume is carried by sea, making maritime transport a cornerstone of the global economy. Most disputes in the shipping industry are settled by distinctive, private arbitral proceedings that are best understood by a close examination of the standard form contracts that are used in practice and of the case law arising therefrom. Extrapolating insightfully from these sources, the author of this book examines in depth the phenomenon of maritime arbitration with a specific focus on contracts for the carriage of goods by sea. She offers the first comprehensive and comparative analysis of arbitral practice in the three jurisdictions where the most frequently selected maritime arbitral seats are located: London, New York, and Singapore. An analysis of the applicable rules and relevant case law in each jurisdiction provides the basis from which a comparative assessment of maritime arbitral seats is achieved. The book addresses the following key aspects of maritime arbitration: maritime arbitration's definition, origins, theoretical underpinnings, socioeconomic context, and significance; the maritime-specific reasons for wide use of ad hoc versus institutional arbitration; the international instruments governing arbitration in contracts for the carriage of goods by sea; the shipping industry's pursuit of self-regulation via standard form contracts; the arbitration agreement contained in standard form charterparties and bills of lading; maritime arbitration's unique approach to judicial review, confidentiality, and arbitrator impartiality; the specific dispute resolution objectives that compel a comparative assessment of maritime arbitral seats; and the future of maritime arbitration in light of international political, financial, and technological developments. In addition to the three main maritime arbitral seats, the analysis touches on maritime arbitration in other relevant jurisdictions, such as Hong Kong, Greece, Japan, and Korea, thus affording a comparison of the process in common and civil law jurisdictions. The book concludes by considering the potential impact of the current international political landscape, and suggesting future perspectives and research in international maritime arbitration. An important addition to scholarship in this field of law, the book's thorough assessment of the merits of the competing maritime arbitral seats—and its specific focus on maritime disputes—will prove of significant importance to arbitrators, law firms, in-house counsel of shipping companies, international organizations, and arbitration institutions and associations. Practitioners will discover all tools necessary to examine any case before the main maritime arbitral seats with full awareness of each applicable legal regime and its distinguishing features.

Psychological and Political Strategies for Peace Negotiation Francesco Aquilar, Mauro Galluccio. 2010-11-15 Peace is one of the most sought

after commodities around the world, and as a result, individuals and countries employ a variety of tactics to obtain it. One of the most common practices used to accomplish peace is negotiation. With its elevated role in the dialogue surrounding peace, negotiation is often steeped in politics and focused on managing parties in conflict. However, the art and science of negotiation can and should be viewed more broadly to include a psychological and cognitive approach. *Psychological and Political Strategies for Peace Negotiation* gathers the foremost authors in the field and combines their expertise into a volume which addresses the complexity of peace negotiation strategies. To further underscore the importance of successful negotiation strategies, the editors have also included the unique perspective of authors with personal experience with political upheaval in Serbia and Lebanon. Though each chapter focuses on a different topic, they are integrated to create a foundation for future research and practice. Specific topics included in this volume embrace: • Changing minds and the multiple intelligence (MI) framework • Personal schemas in the negotiation process • Escalation of image in international conflicts • Representative decision making • Transformative leadership for peace negotiation *Psychological and Political Strategies for Peace Negotiation* is an essential reference for psychologists, negotiators, mediators, and conflict managers, as well as for students and researchers in international, cross-cultural and peace psychology studies.

The Oxford Handbook of International Arbitration Thomas Schultz, Federico Ortino. 2020-09-11 This Handbook brings together many of the key scholars and leading practitioners in international arbitration, to present and examine cutting-edge knowledge in the field. Innovative in its breadth of coverage, chapter-topics range from the practicalities of how arbitration works, to big picture discussions of the actors involved and the values that underpin it. The book includes critical analysis of some of international arbitrations most controversial aspects, whilst providing a nuanced account overall that allows readers to draw their own informed conclusions. The book is divided into six parts, after an introduction discussing the formation of knowledge in the field. Part I provides an overview of the key legal notions needed to understand how international arbitration technically works, such as the relation between arbitration and law, the power of arbitral tribunals to make decisions, the appointment of arbitrators, and the role of public policy. Part II focuses on key actors in international arbitration, such as arbitrators, parties choosing arbitrators, and civil society. Part III examines the central values at stake in the field, including efficiency, legal certainty, and constitutional ideals. Part IV discusses intellectual paradigms structuring the thinking in and about international arbitration, such as the idea of autonomous transnational legal orders and conflicts of law. Part V presents the empirical evidence we currently have about the operations and effects of both commercial and investment arbitration. Finally, Part VI provides different disciplinary perspectives on international arbitration, including historical, sociological, literary, economic, and psychological accounts.

International Law's Invisible Frames Andrea Bianchi, Moshe Hirsch. 2021 This innovative edited collection uncovers the invisible frames which form our understanding of international law. Taking an interdisciplinary approach, it investigates how social cognition and knowledge production processes affect decision-making, and inform unquestioned beliefs about what international law is, and how it works.

Ex Aequo et Bono as a Response to the 'Over-Judicialisation' of International Commercial Arbitration Nobumichi Teramura. 2020-05-12 Despite its many distinguished proponents over time, *ex aequo et bono* – the idea of deciding disputes on the basis of what an adjudicator regards as fair and equitable – has failed to take hold in international commercial arbitration (ICA). Formalisation and fossilisation of arbitral procedure, as manifested in the increasing use of litigation-style practice, unfortunately reign instead. This bold and challenging book argues that parties to an arbitration should be more willing for their cross-border disputes to be decided (and arbitrators should be more prepared to decide those disputes) in accordance with broad principles of equity and fairness, rather than by strict adherence to technical rules of law. Putting forward suggestions based on extensive research and doctrinal considerations, this book invites us to confront what ICA was supposed to be, what it now is and what it can be.

In particular, Dr Teramura discusses how, by resorting to *ex aequo et bono*, arbitrators can: construe contractual terms, including the limits; apply trade usages; deal with mandatory rules of a given forum or place of performance; minimise the cost and length of time that arbitration takes; avoid the abuse of discretion; and ensure predictable results. The book examines significant differences in the way that *ex aequo et bono* arbitration is understood among various state and international institutions. It attempts to identify a 'common core' of universally accepted concepts underlying those different understandings. The book argues that *ex aequo et bono* has the potential to reform ICA without undermining its positive aspects. Along the way, it discusses the implications of *ex aequo et bono* arbitration on the now widely used UNCITRAL Model Law on ICA. It should thus appeal to lay business persons and commercial law practitioners who are looking for an economical and efficient way to solve business disputes within a globalised arbitration framework.

The Art of Advocacy in International Arbitration R. Doak Bishop, Edward G. Kehoe. 2010-05-01 Written by today's leading arbitrators and counsel, this remarkably candid guide provides insight into the practitioner's approach, conduct, style, and techniques that have proven most effective. While the facts and the law are fundamental, a successful outcome is the product of painstaking document review, witness interviews, legal research, strategizing and focusing the case, and developing compelling written and oral presentations. How to properly perform these tasks is the subject of this book. And where the first edition focused mainly on the cultural differences in advocacy performed in various regions of the world, this new edition expands on this theme by addressing each functional aspect of an international arbitration and the techniques that have been developed for good written and oral advocacy. Intended to assist both the novice in learning the techniques of advocacy, and the experienced advocate in improving his skills, this is an essential reference.

Stockholm Arbitration Yearbook 2021 Axel Calissendorff, Patrik Schöldström. 2021-10-08 Stockholm Arbitration Yearbook Series, VOLUME 3 Each year, Stockholm is the arbitration seat of choice for numerous parties endeavouring to resolve international disputes. It is the second most used venue for investment disputes, and it is often the venue for disputes arising from the Energy Charter Treaty. This annual publication, launched under the auspices of the Stockholm Centre for Commercial Law, is designed to meet the information needs of arbitration practitioners and parties from all over the world. The present edition's topics include: a guide to the arbitral tribunal's deliberation and decision-making; getting unwilling witnesses to appear; recent Swedish case law related to arbitration; claims based on fraud and other non-contractual claims; two parties with several arbitration agreements; and interaction between experts and the arbitral tribunal. The Yearbook provides both perspective and detailed analyses that will be welcomed by arbitration practitioners, counsel and judges deciding arbitration cases. It will also provide valuable insights for arbitration academics, in-house counsel at multinational companies and arbitral institutions worldwide.

International Arbitration Ben Beaumont, Alexis Foucard, Fahira Brodlija. 2022-12-09 In the spirit of Pieter Sanders's classic *Quo Vadis Arbitration?* (1999), this far-reaching overview of the state of international arbitration thoroughly assesses the current condition and prospects of arbitration and conciliation with practical, insightful solutions to the new and emerging problems confronting arbitration practice today. A distinguished group of internationally renowned arbitrators, academics, and lawmakers elucidate the ubiquitous evolution towards increased technical complexity, the need for multi-focal and multi-cultural approaches, and the tension between desirable simplicity and indispensable precision that have come to characterize current arbitral practice and procedure. Among the topics covered are the following: remote hearings; reliance on digital technology; cost of arbitration in a post-COVID world; extension of the arbitration agreement to non-signatories; tailoring of ADR techniques to suit the needs of micro, small, and medium-sized enterprises; jurisdictions emerging as new arbitration hubs, e.g., Delaware, the Caribbean, Scotland; evolution of a code of conduct for adjudicators in investment disputes; and the reform of bilateral investment treaties. As Sanders's 1999 book did at the time, the

chapters identify specific improvements and refinements to the entire system as it has developed over recent decades. The book will be a go-to resource for the arbitration community worldwide as a stocktaking of current and ongoing trends in international arbitration. It will enthuse the many lawyers, judges, legislators, and businesspeople to whom it is addressed.

Taming the Guerrilla in International Commercial Arbitration Navin G. Ahuja. 2022-05-23 The book explores the definition and nature of guerrilla tactics in international commercial arbitration. It analyses various such tactics deployed (pre-Covid and during Covid times) and portrays them in a way that enables one to visualise how, and possibly why, they might be deployed. Attempts to codify ethical standards and rules regulating the behaviour of legal representatives in international arbitration are examined. The book covers a range of culture clashes, addresses several elephants in the room, and looks at factors inherent in the arbitral process that create opportunities and increase temptations to misbehave. It considers the remedies and sanctions available in international arbitration and compares them to those available to the courts in civil litigation. In addition to recommendations for future research, the book offers solutions to curb the problem in line with party autonomy and with a critical analysis. "This manuscript is an essential solutions-based text that not only addresses a comprehensive range of modern-day guerrilla tactics in international commercial arbitration but also offers thoughtful methods to deal with the shenanigans that parties may bring to the arbitral process." - Chiann Bao, Independent Arbitrator, Arbitration Chambers and Vice President of the International Chamber of Commerce, Court of Arbitration "Dr. Ahuja's book is a thoughtful and highly practical contribution to the study of procedures in international commercial arbitration. It is replete with scholarly analysis, careful treatment of authority, pragmatic insights and policy discussions. Any practitioner or student of international arbitration would benefit from this volume." - Gary Born, Author, International Commercial Arbitration (3d ed. 2021) "A highly readable and informative book which identifies and analyses the numerous guerrilla tactics parties may attempt to deploy in international commercial arbitration, the factors which may encourage such behaviour, and practical mechanisms to keep the proceedings on track. Both erudite and practical, this book is a must-read for parties, counsel and arbitrators alike." - Prof. Benjamin Hughes, Independent Arbitrator, The Arbitration Chambers "Guerrilla tactics are a pertinent problem in arbitration. Dr. Ahuja's well written book not only describes the various tactics in a succinct way but provides extremely useful guidance on how to tackle them. It will be a primary source of reference for every practitioner faced with such tactics." - Prof. Dr. Stefan Kröll, Chairman of the Board of Directors of the German Arbitration Institute (DIS) "Taming the Guerrilla in International Commercial Arbitration offers a refreshingly candid and balanced discussion of 'sharp practices' in international arbitration. The book collects a wealth of information on guerrilla tactics previously only available in separate survey reports, articles, and guidelines on the topic. It additionally includes a chapter addressing tactics deployed in virtual or remote arbitrations due to the Covid-19 pandemic. The comprehensive research and analysis presented in this book make it a valuable resource to counsel, parties, arbitrators, academics, and those who deliver practical arbitration training. A must-read for those who want to better understand the practices that may lead some to disfavor arbitration and ways the arbitration community can respond to guerrilla tactics to improve the arbitration process for all participants." - Dana MacGrath, Independent Arbitrator, MacGrath Arbitration "From an unreasoned fiat of a wise man who left both sides equally unhappy but resolved the disputes effectively, arbitration has evolved into a full-scale trial before a party chosen tribunal. Its informality and expedition puts in peril the fundamental right of the recalcitrant to delay proceedings. Dr. Ahuja has assiduously articulated the measures, aptly christened Guerrilla Tactics, used to disrupt and derail arbitrations. An indispensable read for the practitioner and an insightful treatise for the policy maker." - Harish Salve SA QC, Blackstone Chambers "This book shines a spotlight on arbitration's dark arts - guerrilla tactics. Dr Ahuja illuminates this shadowy world with excellent (and much needed) scholarship that is practice-based and useful for all stakeholders in arbitration. His examination of the root causes of this problem, recommendations on how to control it, comparisons with litigation

practice and suggestions for future research marvellously combine to make this a work that is required to be consulted by all serious counsel, arbitrators, institutions and academics in the field of arbitration.” - Romesh Weeramantry, Head, International Dispute Resolution, Centre for International Law, National University of Singapore

Human Rights in International Investment Law and Arbitration Pierre-Marie Dupuy, Ernst-Ulrich Petersmann, Francesco Francioni. 2009-09-10 This book offers a systematic analysis of the interaction between international investment law, investment arbitration and human rights, including the role of national and international courts, investor-state arbitral tribunals and alternative jurisdictions, the risks of legal and jurisdictional fragmentation, the human rights dimensions of investment law and arbitration, and the relationships of substantive and procedural principles of justice to international investment law. Part I summarizes the main conclusions of the 24 book chapters and places them into the broader context of the principles of justice, global administrative law and multilevel constitutionalism that may be relevant for the administration of justice in international economic law and investor-state arbitration. Part II includes contributions clarifying the constitutional dimensions of transnational investment disputes and investor-state arbitration, as reflected in the increasing number of arbitral awards and amicus curiae submissions addressing human rights concerns. Part III addresses the need for principle-oriented ordering and the normative congruence of diverse national, regional and worldwide legal regimes, focusing on the pertinent dispute settlement practices and legal interpretation methods of regional economic courts and human rights courts, which increasingly interpret international economic law with due regard to human rights obligations of the governments concerned. Part IV includes twelve case studies on the potential human rights dimensions of specific protection standards (e.g. fair and equitable treatment, non-discrimination), applicable law (e.g. national and international human rights law, rules on corporate social accountability), procedural law issues (e.g. amicus curiae submissions) and specific fundamental rights (e.g. the protection of human health, access to water, and protection of the environment). These case studies discuss not only the still limited examples of human rights discourse in investor-state arbitral awards; they also probe the potential legal relevance of investor-state arbitration for the judicial recognition, interpretation and balancing of primary rules, such as of investment law and human rights law, in the light of the principles of justice as defined by national and international law.

The Psychology of Conflict Paul Randolph. 2016-02-25 This practical guide, with a foreword by Nobel Laureate Archbishop Desmond Tutu, will assist those interested in conflict resolution to better understand the psychological processes of parties in conflict and mediation. As Randolph argues, psychology is increasingly perceived by lawyers as a vital tool for resolving conflicts in the litigation environment, whether in commercial, family, community or employment disputes. With an ever-growing demand for mediators across international borders, the psychologically-informed mediator can also provide much needed facilitation in global trade and peace negotiations, as well as being invaluable in helping to resolve a variety of political and international conflicts.

Third Party Funding in International Arbitration Mohamed F. Sweify. 2023-02-14 The author of *Third Party Funding in International Arbitration* challenges the structural inconsistencies of the current practices of arbitration funding by arguing that third party funding should be a forum of justice, rather than a forum of profit. The author introduces a new methodology with an alternative way of structuring third party funding to solve a set of practical problems generated by the risk of claim control by the funder.

High Conflict People in Legal Disputes Bill Eddy. 2012-03-30 An easy and practical book for legal professionals or anyone else disputing with someone with a high-conflict personality.

The Roles of Psychology in International Arbitration Tony Cole. 2017-03-15 The system of international arbitration is built on private contractual relations, yet has been endorsed by governments around the world as a fair and reliable alternative to litigation in State courts. As a private process,

however, its authority and legitimacy derive entirely from the views and actions of those involved in the arbitral process, whether arbitrators, counsel, or parties. It is, though increasingly clear that psychological factors complicate, and in some cases radically change, every arbitral proceeding. In this context, psychological insights are crucial for understanding how international arbitration genuinely operates, and whether the legal framework currently applied to it is well-suited to achieving the aims of ensuring a fair and reliable dispute resolution procedure. This is the first book to focus on this important issue: the insights into international arbitration that can be gained from contemporary psychology. With contributions from nineteen internationally known figures in their fields – arbitrators, mediators, lawyers, law professors, psychology professors, psychologists – and drawing from a longer term project on the role of psychology in arbitration, this ground-breaking volume addresses a range of topics, including the following: - the decision-making processes of arbitrators; - the ability of arbitration to serve as a genuine dispute resolution mechanism; - the impact of particular procedures on the arbitral process; - bias, self-deception and vested interests in judgment and decision-making; - the role of arbitrators in managing the arbitral process; - cultural differences in the evaluation of arguments; - psychological influences on witness testimony; - the impact of tribunal composition on arbitral decision-making; - the influence of arbitration’s professional context on arbitrators and legal counsel; and - methods for arbitrators and legal counsel to more effectively manage the arbitral process. Informed by the behavioural insights in these essays, counsel and arbitrators will be enabled to think critically about the underlying assumptions and the potential behavioural effects of a prospective arbitration, while individuals researching arbitration will gain a greater understanding of the psychological context in which every arbitration occurs. This book meets the increasingly recognized need for understanding the role of psychology in arbitral proceedings, and forms an indispensable foundation for subsequent work in this area. Its innovative and forward-thinking analysis will be of immeasurable value to the international arbitration community, as well as to institutions supporting arbitration and to academics in the field.

The State's Power to Tax in the Investment Arbitration of Energy Disputes Cornel Marian.2020-09-28 The State’s Power to Tax in the Investment Arbitration of Energy Disputes Outer Limits and the Energy Charter Treaty Cornel Marian States today are expected not only to regulate the efficient and safe production and distribution of energy to end-users but also to incentivize increased production of energy and the transition to clean energy. In recent years, states are increasingly relying on taxation measures to address the economic challenges affecting the energy sector. This book provides the first in-depth exploration of the intersection between the treaty investment protection regime and taxation measures, as these materialize in investor-state energy disputes. With the analysis of all known and pending cases under the Energy Charter Treaty (ECT), as well as non-ECT cases and bilateral investment treaties which have heavily influenced ECT jurisprudence, the author develops a deeply informed energy tax policy that greatly mitigates the points of tension in the current regime. He closely investigates the following elements of the subject: aligning the ECT Taxation Article with the taxation articles of other investment treaties; tracing current case law to the original arbitration decisions involving tax measures; extrapolating the interplay of taxation provisions with substantive standards of investment protection as reviewed by international arbitral tribunals; evaluating the outer limits of the state’s power to tax under investment treaties and public international law; and addressing how the Yukos arbitration case has changed the framework of taxation issues in investment arbitration. In a clear and concise manner, the author provides the necessary framework to dissect any taxation chapter of an investment treaty and presents tools for the development of long-term tax policy and the adoption of model taxation clauses for sustainable investment protection mechanisms. The book takes a giant step toward meeting the ECT’s mandate to promote long-term cooperation in the energy field with a set of defined objectives focusing on trade, cooperation, energy efficiency, and environmental protection. It will be of immeasurable value to states in developing tax-specific investment incentive schemes as well as to investors in completing a necessary level of due diligence against possible adverse tax measures. Practitioners and academics with a focus on international

arbitration will benefit from the book's systematic approach to the complex taxation provisions of investment protection treaties and more readily recognize the "red flags" attached to national taxation provisions and their impact on investments in the energy sector.

Fact-Finding in International Arbitration Julian Bickmann.2022-12-09 Establishing a factual basis on which to apply the law can be an extraordinarily challenging process, and perhaps more so in international arbitration than in any other proceedings, due to the very different notions of fact-finding that prevail among jurisdictions. This important book assesses, for the first time, the contours of an emerging transnational law of fact-finding that promises to greatly enhance the efficiency and reliability of this crucial arbitral procedure. In his analysis, focusing on bases that reflect current (but fluid) transnational practice, the author assembles a viable *lex evidentiæ* from an in-depth examination and synthesis of the following bodies of source material: published arbitration proceedings and awards; the general framework of fact-finding issues as provided for under the arbitration acts of England and Wales, the United States, Germany, Brazil, Spain, Switzerland, Austria, and Italy, as well as under the Model Law; fact-finding stipulations under UNCITRAL Arbitration Rules as well as under various institutional rules; soft law (such as the IBA Rules, Prague Rules, ALI/UNIDROIT Principles of Transnational Civil Procedure); best practices as captured by legal commentary; and investment arbitration proceedings, where many decisions and awards are nowadays publicly available. In the course of the analysis, a comprehensive description and analysis of what fact-finding entails, including both gathering of facts and taking of evidence, is fully elaborated. Given that it is an essential task of international arbitration proceedings to define the disagreements between the parties and seek to determine the truth, the international arbitration community must be able to rely on a robust, consistent, and predictable, albeit flexible and adaptive, set of fact-finding rules. Against this background, the present study not only provides a stocktaking of current practice but also makes a signal contribution to meeting the need for legal certainty and reliability in international arbitration.

International Commercial Arbitration A. J. van den Berg.2003-01-01 The collected papers in ICCA Congress Series no. 11, as reflected in its title, address important contemporary questions in international commercial arbitration. Included are contributions written by participants in the UNCITRAL Working Group on Arbitration and Conciliation on its current work on the requirement of a written form for an arbitration agreement, interim measures of protection and UNCITRAL's Model Law on International Commercial Conciliation. Further contributions give leading practitioners' views on illegality in the formation and performance of contracts or in the conduct of the arbitration, examining questions on how the arbitral tribunal should deal with these vexed issues and how forgery and fraud may be detected. The factors that lead to acceptance by parties of the decisions of arbitrators are dealt with in contributions on the psychological aspects of dispute resolution. The volume concludes with a series of articles on arbitration under investment treaties written by experienced arbitrators and practitioners, with special emphasis on ICSID and NAFTA and the emerging issues of transparency, accountability and review. Contains lengthy articles on the ongoing work of UNCITRAL on proposed amendments to the UNCITRAL Model Law on International Commercial Arbitration and the recently adopted Model Law on International Commercial Conciliation Details the current thinking on the requirement of an arbitration agreement in writing and how this can be accommodated by the UNCITRAL Model Law and the 1958 New York Convention Addresses the granting of interim measures by arbitral tribunals and their enforcement by national and foreign courts Analyzes issues raised by illegality in the formation and performance of contracts and in the conduct arbitrations and provides a systematic overview of the answers given by legislation, arbitrators and courts Provides insight into the attitudes of arbitrators and parties regarding dispute settlement processes Addresses the changing public perception of arbitration under investment treaties

Fuel your quest for knowledge with Brendan G. Carr is thought-provoking masterpiece, Explore **The Roles Of Psychology In International Arbitrat** . This educational ebook, conveniently sized in PDF (*), is a gateway to personal growth and intellectual stimulation. Immerse yourself in the enriching content curated to cater to every eager mind. Download now and embark on a learning journey that promises to expand your horizons. .

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The Roles Of Psychology In International Arbitrat Introduction

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