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INTERNATIONAL LAW

AUTONOMY IN INTERNATIONAL CONTRACTS

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Autonomy In International Contracts

Catherine Walsh



Autonomy In International Contracts:

Autonomy in International Contracts Peter Edward Nygh,1999 One of the fundamental issues in private international law disputes is to determine which country's law will be used in the case of the parties going to court Peter Nygh discusses and explains this contentious issue

Party Autonomy in International Contracts Petra Carey,2007

The Scope of Autonomy in International Contracts and Its Relation to Economic Regulation and Development Philip J. McConnaughay,2001

International Contracts and National Economic Regulation:Dispute Resolution Through International Commercial Arbitration Mahmood Bagheri,2000-12-06 The growth of national economic regulation and the process of globalisation increasingly expose international transactions to an array of regulations from different jurisdictions These developments often contribute to widespread international contractual failures when parties claim the incompatibility of their contractual obligations with regulatory laws The author challenges conventional means of dispute resolution and argues for an interdisciplinary approach whereby disciplines such as international economic law conflict of laws contract law and economic regulations are functionally united to resolve international and multifaceted regulatory disputes He identifies the normative foundation of contract law as an important determinant in this process contending that contract law is essentially neutral and underpinned by the concept of corrective justice while economic regulations are mainly prompted by distributive justice Applying this corrective distributive justice dichotomy to international contracts the author critically assesses major conflict of laws approaches such as proper law the Rome Convention and governmental interest analysis which could disregard either public interest or private rights The author taking these theories into account proposes an alternative two dimensional interest analysis approach He tests the viability of this approach with reference to arbitral awards and court decisions in various jurisdictions and concludes that it uniquely fits into the structure of international commercial arbitration In adopting this approach arbitrators would take into account both corrective and distributive justice and to the extent that corrective justice prevails would be able to avert a total failure of the contract

Party Autonomy in Latin America María I. Vial Undurraga,King's College London. Department of Law,2010 Party autonomy in international contracts is widely accepted worldwide and said to belong to the common core of the legal systems However it is not statutorily accepted in some Latin American countries due to historical reasons The consolidation of autonomy is needed in these countries since choice of law clauses are commonly included in international contracts connected to them and national courts vacillate as to upholding these clauses or not This consolidation will secure the validity of these clauses and eradicate juridical uncertainty about their efficacy Further it will help to update perfect and harmonize conflict rules which are now quite diverse and sometimes inadequate to determine the law governing contracts OAS intended that this consolidation be produced by The Inter American Convention on the Law Applicable to International Contracts Mexico 1994 This Convention however seems to have failed in its objective It has received only two ratifications and whether there will be more is

uncertain due to its restricted scope of application the need to supplement the Convention with national conflict provisions which do not exist in some countries and its conflict with the legal tradition of some of the countries The consolidation of autonomy will require harmonising amendment of the domestic rules on contracts of those countries which reject or have no rules on autonomy This amendment might be fostered by a non binding instrument a Model Law or a set of General Principles on Choice of Law in International Contracts drafted by an authoritative international organ such as UNCITRAL or the Hague Conference on Private International Law that includes rules on autonomy widely accepted in comparative law but also respectful of the Latin American legal tradition

The SCOPE OF PARTY AUTONOMY IN INTERNATIONAL COMMERCIAL CONTRACTS Akinwumi Ogunranti,2017 Transnational contracts are almost inevitable in the world today It follows that a system of law must govern the resolution of disputes that arise from the contracts The freedom of parties to choose a law that regulates transnational contracts is recognized by most countries as party autonomy However the extent of this autonomy has been controversial This thesis unravels the controversy surrounding the doctrine of party autonomy and more importantly provides another perspective to the argument that the application and scope of party autonomy in countries is determined by historical colonial economic and religious factors It uses this as a background to examine the new Hague Conference s Principles on Choice of Law in International Contracts with the argument that the Hague Conference may have neglected these factors in some of the Principles provisions It proposes that these factors must be considered to persuade countries especially developing ones to adopt it

Party Autonomy in Private International Law Alex Mills,2018-08-16 Provides an unprecedented historical theoretical and comparative analysis and appraisal of party autonomy in private international law These issues are of great practical importance to any lawyer dealing with cross border legal relationships and great theoretical importance to a wide range of scholars interested in law and globalisation

Non-State Rules in International Commercial Law Johanna Hoekstra,2021-03-15 Through further technological development and increased globalization conducting business abroad has become easier especially for Small and Medium Enterprises SME However the legal issues associated with international commerce have not lessened in complexity including the role of non state rules The book provides a comprehensive analysis of non state rules in international commercial contracts Non state rules have legal authority in the national and international sphere but the key question is how this legal authority can be understood and established To answer this question this book examines first what non state rules are and how their legal authority can be measured it then analyses how non state rules are applied in different scenarios including as the applicable law as a source of law or to interpret either the law or the contract Throughout this analysis three other important questions are also answered when can non state rules be applied when are they applied and how are they applied The book concludes with a framework and classification that leads to a deeper understanding of the legal authority of non state rules Providing a transnational perspective on this important topic this book will appeal to anyone researching international commercial law It

will also be a valuable resource for arbitrators and anyone working in international commercial litigation *The Uses and Abuses of Party Autonomy in International Contracts* Catherine Walsh,2016 This article is adapted from the 17th Annual Ivan C Rand Memorial Lecture delivered at UNB on 4 February 2010 Of his many and varied accomplishments Ivan C Rand is perhaps most famously known for the Rand formula the principle that all employees of a unionized workplace in the interests of preserving union stability and security must pay union dues whether they choose to be members of the union or not The extent to which individual free will is or should be subordinated to larger social and economic policy goals is very much at the centre of this article Arbitration in Complex International Contracts Joachim Frick,2001-10-24 The technical economic and social development of the last one hundred years has created a new type of long term contract which one may call Complex International Contract Typical examples include complex civil engineering and constructions contracts as well as joint venture shareholders project finance franchising cooperation and management agreements The dispute resolution mechanism which normally deals with such contracts is commercial arbitration which has been deeply affected in recent decades by attempts to improve its capabilities Most importantly there is the trend towards further denationalization of arbitration with respect to the applicable substantive law In this regard a new generation of conflict rules no longer imposes on the arbitrators a particular method to be applied for the purpose of determining the applicable rules of law Moreover arbitration more frequently took on the task of adapting Complex International Contracts to changed circumstances Also special rules have been developed for so called multi party arbitration and fast track arbitration facilitating efficient dispute resolution The author describes these trends both from a practical as well as a theoretical perspective evaluating not only the advantages but also the risks involved with the new developments in arbitration Relevant issues with respect to the drafting and renegotiation of such contracts are also discussed *Standard Clauses in International Contracts. The Arbitration Clause* Joy Mutimba,2018-05-02 Essay from the year 2018 in the subject Law Miscellaneous grade A Lyon Catholic University course International Contract Law language English abstract The paper discusses the Definition and Purpose of the Arbitration Clause Two Types of Contracts where the Arbitration Clause is typically found Legal Basis Regime Differences in the use and interpretation of the Contract Clause between common law and civil law jurisdictions You may use your home jurisdictions as illustrative and Proper drafting of the Contract Clause and advice to avoid the pitfalls of relying on a boilerplate clause The Nature and Enforcement of Choice of Court Agreements Mukarrum Ahmed,2017-10-05 PRAISE FOR THE BOOK This constitutes a work of impressive scholarship that will become a major reference point for future discourse on choice of court agreements Dr Ahmed advances a firm thesis in a lucid manner that will satisfy both academics and practitioners The discussion is supported by a monumental foundation of underpinning research Ahmed s monograph throughout shows clear understanding of underlying substantive laws and in Chapter 11 displays a refreshing willingness to engage in intelligent speculation on the implications of Brexit Professor David Milman University of Lancaster The book is an

excellent attempt to understand the theoretical underpinnings of choice of court agreements in private international law. Anyone with an interest in the theory and practice of choice of court agreements in particular in mechanisms for their enforcement should read this book. They will find much of value by doing so. Professor Paul Beaumont, University of Aberdeen, from the Series Editor's Preface. This book examines the fundamental juridical nature, classification and enforcement of choice of court agreements in international commercial litigation. It is the first full length attempt to integrate the comparative and doctrinal analysis of choice of court agreements under the Brussels I Recast Regulation, the Hague Convention on Choice of Court Agreements, Hague Convention and the English common law jurisdictional regime into a theoretical framework. In this regard, the book analyses the impact of a multilateral and regulatory conception of private international law on the private law enforcement of choice of court agreements before the English courts. In the process, it both pre-empted and offers innovative solutions to issues that may arise under the jurisprudence of the emergent Brussels I Recast Regulation and the Hague Convention. The need to understand the nature and enforcement of choice of court agreements before the English courts from the perspective of the EU private international law regime and the Hague Convention cannot be understated. This important new study aims to fill an existing gap in the literature in relation to an account of choice of court agreements which explores and reconnects arguments drawn from international legal theory with legal practice. However, the scope of the work remains most relevant for cross border commercial lawyers interested in crafting pragmatic solutions to the conflicts of jurisdictions.

Mandatory Rules and Other Party Autonomy Limitations in International Contractual Obligations Seyed Nasrollah Ebrahimi, 2004-10. Modern views of freedom of contract recognise that the principle of party autonomy has a number of restrictions such as the doctrines of public policy, ordre public, of good faith, bona fides, evasion of law, fraude a la loi, and mandatory rules with various interchangeable expressions such as lois de police, lois d'application immédiate, lois d'application impérative, lois d'application nécessaire, lois d'application directe. The concept of mandatory rules is regarded as one of the key concepts in post-war private international law, existing in various legal systems and also in some regional and international conventions, thus influencing the functioning of conflict of laws rules. It has become in recent years one of the most debated topics, particularly in continental private international law, with no agreed criteria which identify with any precision the rules which qualify for such categorisation. Dr Ebrahimi's new work is a comprehensive study of the concept, function and application of mandatory rules in international contracts and their relationship to other institutions restricting the party autonomy and a free choice of law in the light, particularly of the Rome Convention on the Law Applicable to Contractual Obligations, 1980. Dr Ebrahimi, the associate professor of international law in Tehran Azad University and also director of Legal and a commentary to fully understand the regional and international conventions on private international law, particularly the Hague Conventions on the Law Applicable to contracts for International Sale of Goods, 1955 and 1986, the Mexico City Convention, 1994, and the Rome Convention on the Law

Applicable to Contractual Obligations 1980 and also a useful pointer to shape international contracts to come
International Contracts and Party Autonomy in the New Peruvian Rules of Private International Law Albert Alex Forsyth,1985* , International Law & Trade Perspective ,2000 **International Standard Contracts** Antonio Boggiano,1991 *International Standard Contracts* Choice-of-law Clauses in International Contracts Kay-Niklas Elsaesser,1999 Party Autonomy in the International Contract Law: American-Swiss Aspects Elisabeth Irminger,1953 *Conflict of Laws and Arbitral Discretion* Benjamin Hayward,2016

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