


BOOK REVIEWS

So, Now You Are an Arbitrator: The Arbitrator's Toolkit

by Neil KAPLAN and Chiann BAO. Alphen a/d Rijn, The Netherlands: Wolters Kluwer, Kluwer Law International, 2022. xviii + 290 pp. Hardcover: €184.00

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In an epoch where arbitration is increasingly becoming a sine qua non for resolving international commercial disputes, the indispensability of mastering the nuances of arbitral procedures cannot be overstated. Against this backdrop, “So, Now You Are an Arbitrator: The Arbitrator’s Toolkit”, by Neil Kaplan and Chiann Bao, serves as a seminal work that comprehensively guides aspiring arbitrators and seasoned ones alike through the intricate labyrinth of arbitration proceedings.

The work is compartmentalized into twenty meticulously researched chapters, each addressing key areas such as appointment terms, procedural orders, dealing with non-participating parties, expert evidence, and data protection. An intriguing aspect of the book is its focus on the first meeting with the parties and Procedural Order No. 1, which underscores the importance of initiating the arbitral proceedings on a robust footing. Both Kaplan and Bao bring their extensive experience and credibility to the subject matter. Kaplan is a chartered arbitrator based in Hong Kong and is involved in a wide range of commercial and investment arbitrations. On the other hand, Bao, an independent arbitrator based in Singapore, brings her expertise to several billion-dollar disputes. Their dual perspectives enrich the text, providing a balanced viewpoint that crosses jurisdictional lines.

The authors astutely address the impact of the pandemic on arbitration, noting that the increased usage of videoconferencing and online repositories may prove beneficial in terms of cost-effectiveness and environmental sustainability. This contextualization is valuable, offering readers an understanding of the evolving norms within arbitration in a post-pandemic world. Additionally, the book does not merely serve as a theoretical guide; it is replete with practical appendices that include model forms, schedules, and declarations. This makes it a living toolkit for new and seasoned arbitrators alike, one that extends its utility beyond the academic realm into real-world applications.

However, the work is not without its limitations. While the book offers a comprehensive overview of arbitral proceedings from the vantage point of the arbitrator, it might be criticized for not delving into the comparative aspects of arbitration law across different jurisdictions in depth. Given the increasingly global nature of arbitration, focusing on how different jurisdictions may present unique challenges and solutions could have added another layer of complexity to the text.

Notwithstanding these considerations, this work stands as a pivotal contribution to the field. It effectively bridges the gap between theory and practice and serves as an indispensable guide for those aspiring to don the hat of an arbitrator. Moreover, its


forward-looking perspective on the changes brought about by the pandemic adds a timely relevance to the text. Hence, this book is an invaluable asset for anyone keen on understanding the intricacies of arbitral procedure and wishing to be an arbitrator. It undoubtedly enhances existing scholarship on the subject.

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International Law Obligations on Climate Change Mitigation

by Benoit MAYER. Oxford: Oxford University Press, 2022. xliii + 358 pp. Hardcover: £87.00; eBook: £72.50. doi: 10.1093/oso/9780192843661.001.0001

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Although a few important functional modalities of the Paris Agreement (PA) are still under negotiation, this book, authored by Benoit Mayer (a renowned scholar of climate change law), provides a critical reflection on the identification and application of general and specific climate change mitigation obligations as grounded in international treaties (that is, both climate change and human rights treaties) and customary international law (CIL). The book fills the doctrinal gap by proposing an alternative concept of “corollary duty” when concepts like substantive and procedural obligations are insufficient to assess states’ compliance with their “general” mitigation obligations of prevention and cooperation.

Chapter 1 lays down the methodologies (ascending and descending reasoning), objectives, and the need for doctrinal research on the identification and application of “general” mitigation obligations. Chapters 2, 3, and 4 identify, respectively, mitigation commitments (that is, general commitments laid down in CIL and the United Nations Framework Convention on Climate Change and specific commitments/measures required in the PA), customary obligations (for example, obligations of due diligence and cooperation), and obligations implied from human rights treaties requiring states to mitigate climate change to protect human rights. Since the identification process primarily relies on treaties and CIL, it hardly touches another important source of identification, that is, the general principles of law recognized by nations. While Chapter 5 characterizes the nature of “general” mitigation obligations, Chapters 6 and 7 propose two alternative ways of assessing compliance with these obligations. In the literature, the nature of “general” mitigation obligations is understood in two ways: obligations of conduct and result and substantive and procedural obligations. The author, while contesting the relevance of any such categorization of obligations into substantive and procedural, identifies normative difficulties in assessing compliance with the obligations of result and conduct.

Chapter 6 attempts to assess the requisite level of mitigation action a state must take to meet its “general” mitigation obligation. The book argues that such an assessment could be expressed in terms of the “result” a state is expected to achieve in a prescribed time.