Consent In International Arbitration

An innovative textbook setting out a systematic approach to business and human rights.

Investor-state arbitration is a relatively new dispute settlement mechanism that allows foreign investors the opportunity to seek redress for damages arising out of breaches of investment-related treaty obligations by the governments of host countries. Claims are submitted to independent, international arbitration tribunals, which are called upon to interpret the treaty at hand. Because of the public interest involved in these cases, the awards of these tribunals are subject to much scrutiny and debate. Thus, it has already generated hundreds of cases and created new legal disciplines, inspiring a continuous string of legal writings. This book provides a comprehensive analysis of the main issues that arise in investor-state arbitration. It accompanies the reader through the phases of such a procedure, starting with an examination of the instruments, which provide, in the overwhelming majority of the cases, the legal basis for the requests for such arbitration. It then continues with the launching of the arbitration procedure, followed by the analysis of the main jurisdictional and substantive issues that the tribunals are confronted with, and the review procedures, when there is a request for setting aside of the award. It finally looks at the post-award phase and concludes with a reflection on the role of precedent in investment arbitration.

Arbitration under International Investment Agreements: a Guide to the Key Issues contains in one volume what everybody needs to know on this evolving topic. Calling on the most renowned experts in this field, private practitioners, academics, government and international organization officials, it describes the process in all its phases from A to Z, providing a comprehensive insight in the way investor-state arbitration works from the perspective of the main actors involved. Its analyses of all key aspects of the topic are pragmatic and reliable.

The scope of someone's consent is the range of actions that they permit by giving consent. The Scope of Consent investigates the under-explored question of which normative principle governs the scope of consent. To answer this question, the book's investigation involves taking a stance on what constitutes consent. By appealing to the idea that someone can justify their behaviour by appealing to another person's consent, Dougherty defends the view that consent consists in behaviour that expresses a consent-giver's will for how a consent-receiver behaves. The ultimate conclusion of the book is that the scope of consent is determined by certain evidence that bears on the appropriate interpretation of the consent.
Until now, the resolution of international commercial and investment disputes has been dominated almost exclusively by international arbitration. But that is changing. Whilst they may be complementary mechanisms, international mediation and conciliation are now coming to the fore. Mediation rules that were in disuse gather momentum, and dispute settlement centres are introducing new mediation rules. The European Union is encouraging international mediation in both the commercial and investment spheres. The 2019 Singapore Mediation Convention of the United Nations Commission on International Trade Law (UNCITRAL) is aiming to ensure enforcement of international commercial settlement agreements resulting from mediation. The first investor-State disputes are mediated under the International Bar Association (IBA) rules. The International Centre for Settlement of Investment Disputes (ICSID)'s conciliation mechanism is resorted to more often than in the past. The International Chamber of Commerce (ICC) has recently administered its first mediation case based on a bilateral investment treaty, and a new training market on mediation is flourishing. Mediation in Commercial and Investment Disputes brings together a line-up of outstanding, highly-qualified experts from academia, mediation and arbitration institutions, and international legal practice, to address this highly topical, complex subject from a variety of angles.

Based on the author's dissertation (doctoral)--University of Geneva.

Examining the notion, nature, and extent of consent in both commercial arbitration and investment arbitration, this book provides practitioners and academics with a thorough, case-related analysis of an issue which raises many questions. Whilst considering the evolution of arbitration and its consensual nature - enlargement of the parties' freedom to consent to arbitration, and development from commercial arbitration to investment arbitration - it addresses important theoretical questions to offer practical solutions. These include: how consent to arbitrate is expressed and when mutual consent to arbitration is reached; which law shall govern the arbitration agreement or, more particularly, consent as an element of the substantive validity of it; and, conversely, according to which law will a possible lack of consent be judged; how consent should be interpreted; which relationship exists between consent as part of the substantive validity of an arbitration agreement and its formal validity; which, if any, are the implied terms when consenting to arbitration; how consent to arbitrate influences procedural aspects (counterclaims, joinder, consolidation), and which solutions adopted by treaties, national laws or arbitration rules are, or would be, the most respectful of parties' consent in this respect; what in investment arbitration is the relationship between consent and most-favoured-nation clauses or the influence of umbrella clauses. The book includes original arguments and puts forward new suggestions with regard to the changeable consensual character of arbitration. It also provides a particular focus on problems that frequently arise in practice of international arbitration, for example issues related to complex multiparty arbitration and to jurisdictional questions in investment arbitration.

Third Parties in International Commercial Arbitration addresses the role and the interests of third parties in international arbitration. Through a clear overview and in-depth critical commentary, the book explores existing case law and its related academic literature as well as offering an insight into more practical concerns.

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 technicly 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.

This work provides a comprehensive, article-by-article commentary on the IBA Rules on the Taking of Evidence in International Arbitration, pulling together in one volume an in-depth analysis of the relevant case law, reports of the IBA working groups, academic authorities, and the authors' own practical experience.

Investor-State Arbitration describes the increasing importance of international investment and the necessary development of a new field of international law that defines the obligations of host states and creates procedures for resolving disputes. The authors examine the international treaties that allow investors to proceed with the arbitration of their claims, describe the most-commonly employed arbitration rules, and set forth the most important elements of investor-State arbitration procedure - including tribunal composition, jurisdiction, evidence, award, and challenge of annulment. The authors trace the evolution and rapid development of the field of international investment, including the formation of the International Center for the Settlement of Investment Disputes (ICSID), and the more than 2,000 bilateral investment treaties, most of which were entered into in the last twenty years. The authors explain how this development has led to far greater certainty for foreign investors in dealing with their host countries, as well as how it has incentivized growth in international trade and commerce.

The Yearbook on International Investment Law & Policy is an annual publication which provides a comprehensive overview of current developments in the international investment law and policy field, focusing on recent trends and issues in foreign direct investment (FDI), investment treaty practice, and investor-state arbitration. Edited by an Editorial Committee and overseen by an Advisory Board of esteemed global experts in the field of international investment law, the Yearbook is an essential tool for practitioners and academics looking for a resource of timely and authoritative information in this field.

This is an authoritative and full-scale review of the substantive law and principles of investment treaty arbitration. The first edition has been widely referenced and relied upon, and presents the first and deepest analysis of this rapidly-growing field; the second edition accounts for the significant growth in BITs and case law since 2006.

Today, investor-state arbitration embodies the worst fears of those concerned about runaway globalization - a far cry from its framers' intentions. Why did governments create a special legal system in which foreign investors can bring cases directly against states? This book takes readers through the key decisions that created investor-state arbitration, drawing on internal documents from several governments and extensive interviews to illustrate the politics behind this new legal system. The corporations and law firms that dominate investor-state arbitration today were not present at its creation. In fact, there was almost no lobbying from investors. Nor did powerful states have a strong preference for it. Nor was it created because there was evidence that it facilitates investment - there was no such evidence. International officials with peacebuilding and development aims drove the rise of investor-state arbitration. This book puts forward a new historical institutionalist explanation to illuminate how the actions of these officials kicked off a process of gradual institutional development. While these officials anticipated many developments, including an enormous caseload from investment treaties, over time this institutional framework they created has been put to new purposes by different actors. Institutions do not determine the purposes to which they may be put, and this book's analysis illustrates how unintended consequences emerge and why institutions persist regardless.

This title covers all aspects of international commercial arbitration in Sweden which has long been a leading arbitral centre. Combining a practical approach with scholarly analysis, it provides the reader with in-depth knowledge about Swedish arbitration law as applied in international arbitrations.

This publication from the International Bureau of the Permanent Court of Arbitration presents a collection of studies from a group of
distinguished academics, jurists and practitioners widely regarded as experts in the field. The book address a niche and developing area of international arbitration, including the more recent developments of investment arbitration and classwide arbitration. This book, comprising papers written by renowned experts from Europe and North America, deals with the key issues found in complex international commercial and investment disputes involving more than two parties.

From trade relations to greenhouse gases, from shipwrecks to cybercrime, treaties structure the rights and obligations of states, international organizations, and individuals. For centuries, treaties have regulated relations among nation states. Today, they are the dominant source of international law. Thus, being adept with treaties and international agreements is an indispensable skill for anyone engaged in international relations, including international lawyers, diplomats, international organization officials, and representatives of non-governmental organizations. The Oxford Guide to Treaties provides a comprehensive guide to treaties, shedding light on the rules and practices surrounding the making, interpretation, and operation of these instruments. Leading experts provide essays designed to introduce the law of treaties and offer practical insights into how treaties actually work. Foundational issues are covered, including what treaties are and when they should be used, alongside detailed analyses of treaty formation, application, interpretation, and exit. Special issues associated with treaties involving the European Union and other international organizations are also addressed. These scholarly treatments are complimented by a set of model treaty clauses. Real examples illustrate the approaches treaty-makers can take on topics such as entry into force, languages, reservations, and amendments. The Oxford Guide to Treaties thus provides an authoritative reference point for anyone studying or involved in the creation or interpretation of treaties or other forms of international agreement.

Investment Arbitration is a multi-billion dollar venture. It is an area of international dispute resolution, which has undergone tremendous growth in recent years and resulted in the signature of thousands of Bilateral Investment Treaties (BITs) between foreign states and several Multilateral Investment Treaties (MITs). Numerous disputes involving these instruments are resolved through international arbitration. Arbitral tribunals have rendered many awards ordering the payment of large sums of money. This handbook provides an explanatory introduction into the area of investment arbitration, differentiating it from commercial arbitration and state-to-state arbitration. It examines the legal framework and the general course of an international investment arbitration. In particular, it focuses on the standards of protection in international investment agreements, the concept of jurisdiction in international investment arbitration and the arbitral award, including the notions of recognition, enforcement and execution. Moreover, this cutting-edge publication contains relevant and recent case law in the area and deals with contemporaneous issues such as the ongoing controversy regarding the future of Intra-EU BITs and Free Trade Agreements as well as the link between vulture funds and investment arbitration. The handbook aims at arbitrators, lawyers, practitioners, academics, students and everyone with an interest in international investment arbitration.

International humanitarian law is the law that governs the conduct of participants during armed conflict. This branch of law aims to regulate the means and methods of warfare as well as to provide protections to those who do not, or who no longer, take part in the hostilities. It is one of the oldest branches of international law and one of enduring relevance today. The Oxford Guide to International Humanitarian Law provides a practical yet sophisticated overview of this important area of law. Written by a stellar line up of contributors, drawn from those who not only have extensive practical experience but who are also regarded as leading scholars of the subject, the text offers a comprehensive and authoritative exposition of the field. The Guide provides professionals and advanced students with information and analysis of sufficient depth to enable them to perform their tasks with understanding and confidence. Each chapter illuminates how the law applies in practice, but does not shy away from the important conceptual issues that underpin how the law has developed. It will serve as a first port of call and a regular reference work for those interested in international humanitarian law.

Reviewing the legal context within which international commercial arbitration operates, this text has been updated to reflect recent developments in international law.

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.

Disputes in the energy and natural resources sector are at the heart of international arbitration. With more arbitrations arising in the international energy sector than in any other sector, it is not surprising that the highest valued awards in the history of arbitration come from energy-related arbitrations. Energy disputes often involve complex and controversial issues relating to security, sovereignty, and public welfare. International Arbitration in the Energy Sector puts international energy disputes into a global context, providing broad coverage of different forms and systems of dispute resolution across both renewable and non-renewable sectors. With contributions from leading practitioners, arbitrators, academics, and industry experts from across the globe, the eighteen chapters in the book enable readers to compare the approaches to, and learnings from, energy arbitrations across various legal systems and geographic regions. After outlining the international energy arbitration legal framework, the text delves into a detailed analysis of the problems which regularly arise in practice. These include, among other things, commercial disputes in Part I (e.g. over the upstream oil sector and long-term gas supply contracts), investor-state disputes in Part II (e.g. under the Energy Charter Treaty), and public international law disputes in Part III (e.g. concerning international boundaries and the distribution of natural resources). Alongside recent developments in the international energy sector, attention is given to climate and sustainable development disputes, which raise important questions about enforcing sustainability objectives on individuals, corporations, and states. Backed by analyses of arbitral awards, national court and international tribunal decisions, treaties, and other international legal instruments, as well as current events and news in the energy industry, this text offers a unique contribution to international energy literature and provides insightful commentary on the prevalent issues in the field. It is essential reading for any practitioner or researcher in the energy and natural resources sector.

Covering the various forms of expressing consent, this book also looks at the differences between consent under State legislation and through treaties. It combines scholarly analysis with a detailed discussion of relevant cases, laws, and rules, and focuses on problems that frequently arise in practice.

Offering a nuanced and realistic account of the authority of international law, this book discusses whether international law is obeyed, and the type of duties it imposes on the state. Through a review of present accounts ranging from the mainstream to extra-disciplinary, the extent of authority is explored.

For the first time, a monograph thoroughly analyses the controversial and sensitive topic of secretaries to arbitral tribunals. Tribunal secretaries support arbitrators at all stages of the arbitration and provide valuable assistance; yet, thus far, they have remained largely in the shadows. This book provides vital discussion on how tribunal secretaries should be appointed, what specific tasks they may be endowed with, and what the consequences of an impermissible use are. Comprehensive analysis of case law, arbitration legislation, institutional rules and guidelines, and supporting literature guides the reader towards a profound understanding of the benefits and pitfalls surrounding the tribunal secretary's position. Tribunal Secretaries in International Arbitration adopts a transnational approach to systematically answer questions often discussed but thus far unresolved. Structured in three parts, the book develops the conceptual
foundations, discusses the practical implementation, and outlines limits of the permissible use of tribunal secretaries. The busy practitioner is furnished with easy-to-use templates and guidelines for practical and seamless implementation in international arbitrations. These include a seven-step formal appointment process, ready-to-use material for correspondence with the parties, and a Traffic Light Scale of Permissible Tribunal Secretary Tasks for the consultation of arbitrators, secretaries and parties alike. Shining a spotlight on the tribunal secretary, this monograph is an invaluable contribution to the further institutionalisation of a role of ever-increasing importance in the coming years. With useful analysis and practical guidelines, it is an essential tool for all practitioners and academics involved in international arbitration.

E. Form of declaration

'Agreements on Jurisdiction and Choice of Law' analyses the law and practice relating to the classification, drafting, validity and enforcement of contractual clauses relating to jurisdiction, choice of law, arbitration and other types of dispute resolution.

This book expounds the theory of international arbitration law. It explains in easily accessible terms all the fundamentals of arbitration, from separability of the arbitration agreement to competence-competence over procedural autonomy, finality of the award, and many other concepts. It does so with a focus on international arbitration law and jurisprudence in Switzerland, a global leader in the field. With a broader reach than a commentary of Chapter 12 of the Swiss Private International Law Act, the discussion contains numerous references to comparative law and its developments in addition to an extensive review of the practice of international tribunals. Written by two well-known specialists - Professor Kaufmann-Kohler being one of the leading arbitrators worldwide and Professor Rigozzi one of the foremost experts in sports arbitration - the work reflects many years of experience in managing arbitral proceedings involving commercial, investment, and sports disputes. This expertise is the basis for the solutions proposed to resolve the many practical issues that may arise in the course of an arbitration. It also informs the discussion of the arbitration rules addressed in the book, from the ICC Arbitration Rules to the Swiss Rules of International Arbitration, the CAS Code, and the UNCITRAL Rules. While the book covers commercial and sports arbitrations primarily, it also applies to investment arbitrations conducted under rules other than the ICSID framework.

This commentary on the International Centre for Dispute Resolution (ICDR) Rules is a comprehensive reference work for practitioners and arbitrators considering ICDR arbitration. The International Centre for Dispute Resolution (ICDR) is the international division of the American Arbitration Association (AAA) and given that an excess of 600 arbitrations are now administered every year under the ICDR Rules, this book answers the need for the first comparative guide devoted to them. The ICDR International Arbitration Rules are structured in accordance with the typical life-cycle of an international arbitration and thus the book follows their thematic structure, providing ample cross-referencing to assist the reader in understanding the relationship between the various rules and genuine issues likely to be encountered during an arbitration. The commentary embraces each of the 37 articles in their entirety and includes discussion of how each provision compares to analogous rules of other major arbitral institutions. The authors draw not only on their own experience, but on caselaw gathered from foreign jurisdictions and from the rich vein of caselaw in the US (applying the ICDR Rules and, where appropriate, analogous provisions of various AAA domestic rules). The work's comparative perspective helps to emphasize key issues to consider when drafting an arbitral clause or strategizing over the conduct of an arbitration. A Guide to the ICDR International Arbitration Rules features multiple appendices and difficult-to-find resources to form a collection of core materials which include the ICDR Rules, the administrative fee schedule, guidelines for exchanges of information, practice notes and key AAA cooperation agreements with other institutions. Together, Gusy, Hosking and Schwarz form a strong author team of practitioners whose combined experience includes having co-chaired the ICDR’s young Practitioner’s group, collaborated with the ICDR and interviewed key ICDR senior management members.

Despite growing skepticism about the value of international law and its compatibility with state sovereignty, states should improve and strengthen international law because it makes a critical contribution to an international order characterized by peace and justice. In recent years, international agreements and institutions have become particularly contentious. China is refusing to abide by the decision
of an international arbitration decision implementing UNCLOS rules in the South China Sea, and Donald Trump has withdrawn the US from international agreements including the Paris Agreement on Climate Change of 2015. Such retreats expose widespread ambivalence towards cooperation through international law, and reverse the gains made by long-standing processes of legalization. In Law Beyond the State, Carmen Pavel responds to the ambivalent attitude states have with respect to international law by offering moral and legal reasons for them to improve, strengthen, and further institutionalize its capacity. She argues that the same reasons which support the development of law at the domestic level, namely the cultivation of peace, the protection of individual rights, the facilitation of complex forms of cooperation, and the resolution of collective action problems, also support the development of law at the international level. The argument thus engages in institutional moral reasoning. Pavel shows why it should matter to individuals that their states are part of a rule-governed international order. When states are bound by common rules of behavior, their citizens reap the benefits. International law encourages states to protect individual rights and provides a forum where they can communicate, negotiate, and compromise on their differences in order to protect themselves from outside interference and pursue their domestic policies more effectively, including those directed at enhancing their citizen's welfare. Thus, Pavel shows that international law makes a critical, irreplaceable, and defining contribution to an international order characterized by peace and justice. At a time when challenges of cooperation beyond state boundaries include climate change, health epidemics, and large-scale human rights violations, Law Beyond the State issues a powerful reminder of the tools we have to address them.

The European Court of Justice is one of the most important actors in the process of European integration. Political science still struggles to understand its significance, with recent scholarship emphasizing how closely rulings reflect member states' preferences. This book argues that the implications of the supremacy and direct effect of the EU Treaty have still been overlooked. As it constitutionalizes an intergovernmental treaty, the European Union has a detailed set of policies inscribed into its constitution that are extensively shaped by the Court's case law. If rulings have constitutional status, their impact will be considerable, even if the Court only occasionally diverts from member states' preferences. By focusing on the four freedoms of goods, services, persons, and capital, as well as citizenship rights, the book analyses how the Court's development of case law has ascribed a broad meaning to these freedoms. The constitutional status of this case law constrains policymaking at the European and member-state levels. Different case studies show how major pieces of EU legislation only partly codify case law. Judicialization is important in the EU. It also directly constrains member-state policies. Court rulings oriented towards individual disputes are difficult to translate into general policies but if they have constitutional status they have to go through this process. Policy options are thereby withdrawn from majoritarian decision-making. As the Court cannot be overruled, short of a Treaty change, its case law casts a long shadow over policymaking in the European Union, undermining the legitimacy of this political order.

Providing a theoretical examination of the concept of arbitration, this book explores the place of arbitration in the legal process and examines the ethical challenges to arbitral authority and its moral hazards.


Investment treaties grant special international protection to foreign investors, and give them a means to enforce those rights against States in which they have invested. This book systematically examines the law of international investment treaties, particularly with respect to its origins, structure, content, and effects. Although the precise provisions of investment treaties are not uniform, virtually all investment treaties address the same issues. This book examines those issues in detail, including the scope of application, conditions for the entry of foreign investment, and general standards of treatment of foreign investments. Investment treaty law has continued to evolve rapidly and dramatically since publication of the second edition of this work in 2015. The field has seen considerable growth in the number and scope of investment treaties, now estimated at 3300, and investor-state arbitrations cases, which reached over 1000 in 2020. The field has also experienced significant changes and reforms. In 2018, eleven Pacific Basin Countries, despite the withdrawal of the United States, forged ahead to conclude the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTTP), a potentially far reaching regional trade and investment agreement. The next year, the three north American nations replaced the North
American Free Trade Agreement (NAFTA) with the United States-Mexico-Canada Agreement (USMCA). And in 2020, European Union member states terminated over 100 intra-EU BITs, leaving intra-EU investors to rely on EU law and legal processes alone for protection from unfavourable government acts. This edition of The Law of Investment Treaties incorporates a consideration of all of these and other reforms into its analysis of the body of law created by investment treaties since World War II.

The Oxford Handbooks series is a major new initiative in academic publishing. Each volume offers an authoritative and state-of-the-art survey of current thinking and research in a particular subject area. Specially commissioned essays from leading international figures in the discipline give critical examinations of the progress and direction of debates. Oxford Handbooks provide scholars and graduate students with compelling new perspectives upon a wide range of subjects in the humanities and social sciences. The Oxford Handbook of International Investment Law aims to provide the first truly exhaustive account of the current state and future development of this important and topical field of international law. The Handbook is divided into three main parts. Part One deals with fundamental conceptual issues, Part Two deals with the main substantive areas of law, and Part Three deals with the major procedural issues arising out of the settlement of international investment disputes. The book has a policy-oriented introduction, setting the more technical chapters that follow in their policy environment within which contemporary norms for international foreign investment law are evolving. The Handbook concludes with a chapter written by the editors to highlight the major conclusions of the collection, to identify trends in the existing law, and to look forward to the future development of this field.

International mining disputes represent a significant and growing area of disputes over natural resources, yet the unique risks inherent in the mining industry set them apart, both in the nature of the disputes and the approach taken to resolve them. International arbitration has emerged as the mechanism of choice for the resolution of such disputes. This has given rise to a wealth of arbitral decisions from which certain principles specific to the mining sector are developing. This book is the first of its kind to bring together thorough analysis of arbitral decisions and insightful commentary on both dispute resolution and the business of mining, in order to provide a comprehensive guide to arbitration in the mining sector. Part I introduces the different parties involved in international mining projects; Part II explains the main risks and challenges involved in mining projects and how they result in different types of disputes; Part III provides practical advice for parties and counsel involved in international mining disputes, including in-depth analysis of the confidentiality issues that so often arise in connection with international mining disputes and the conditions and strategies for the settlement of these disputes; and Part IV examines the substantive principles applicable to international commercial and investor-State mining disputes.

Structured in two parts, part one examines the doctrine of res judicata in domestic and international litigation whilst part two determines whether and how the res judicata doctrine may be applied by international commercial arbitral tribunals. Dr Schaffstein identifies situations in which res judicata issues are likely to arise before international commercial arbitral tribunals and provides serviceable solutions. The book presents the key features of the doctrine of res judicata in the laws of England, the United States, France, and Switzerland, i.e. major representatives of the common law system on the one hand and the civil law system on the other hand. The book also presents the doctrine of res judicata in the context of private international law, alongside its crucial aspects and application in public international law by international courts and tribunals.

On the occasion of his 75th birthday, Neil Kaplan's unparalleled influence in the field of international arbitration is celebrated in this book which comprises contributions from over twenty-five renowned international arbitration practitioners, all of whom credit Kaplan as having impacted the development of arbitration in their respective jurisdictions or professionally. The book is constructed as a three-part compendium as follows: • the Kaplan Lectures, an annual series established to bring some of the best minds in international arbitration to Hong Kong to address current and practical issues; • key decisions and arbitration awards rendered by Kaplan, with commentaries that make current the issues arising out of these judgments and also provide an in-depth analysis of important issues emanating from his treaty arbitration awards; • articles showcasing the reach of Kaplan's influence through reflections by several of his former assistants who are now making a mark in their own right in the international arbitration community. Arbitration practitioners will
welcome this book for its practical analysis of some of the most discussed and debated 'hot issues' in arbitration law and practice today. In addition, the commentaries on Kaplan's key decisions offer especially insightful guidance for practitioners, academics and students in the field of international arbitration.

International arbitration has developed into a global system of adjudication, dealing with disputes arising from a variety of legal relationships: between states, between private commercial actors, and between private and public entities. It operates to a large extent according to its own rules and dynamics - a transnational justice system rather independent of domestic and international law. In response to its growing importance and use by disputing parties, international arbitration has become increasingly institutionalized, professionalized, and judicialized. At the same time, it has gained significance beyond specific disputes and indeed contributes to the shaping of law. Arbitrators have therefore become not only adjudicators, but transnational lawmakers. This has raised concerns over the legitimacy of international arbitration. Practising Virtue looks at international arbitration from the 'inside', with an emphasis on its transnational character. Instead of concentrating on the national and international law governing international arbitration, it focuses on those who practice international arbitration, in order to understand how it actually works, what its sources of authority are, and what demands of legitimacy it must meet. Putting those who practice arbitration into the centre of the system of international arbitration allows us to appreciate the way in which they contribute to the development of the law they apply. This book invites eminent arbitrators to reflect on the actual practice of international arbitration, and its contribution to the transnational justice system.