

Book Review

International Commercial Arbitration: An Asia-Pacific Perspective

Simon Greenberg, Christopher Kee and J Romesh Weeramantry
(Cambridge University Press, 2011), 504 pp.

Review by Khory McCormick¹

The authors of *International Commercial Arbitration: An Asia-Pacific Perspective* set themselves a challenge 'to spice the teaching of general principles of international arbitration with strongly Asia-Pacific flavours'.² Did they succeed? Yes.

Some have said the feature distinguishing this text from other works in the field is its regional perspective.³ That is correct, but it is not a sufficient commendation of the work.

After reading all 504 pages plus appendices of the work, I was perplexed. Why did I enjoy this book when I was already familiar with its basic subject matter and where there were challenges in reading such a substantial work in terms of its depth, detail and style, which repeatedly required serious concentration? The answer was that the book, although somewhat reminiscent of Redfern and Hunter in format, is a unique contribution to the field of international commercial arbitration and not merely Asia-Pacific regional commercial arbitration.

Although the book contains as its conclusion a chapter concerning investment treaty arbitration this merely enables both that subject matter and the balance of the text to be understood in a broader international disputes context. The book remains true to its title and focuses on international commercial arbitration. It does so, however, in a number of appealing and unique ways.

The authors, when indicating their 'aim' as stated above, acknowledge that the book 'does not purport to provide an extensive overview of individual arbitration law' and that '(a) practitioner is unlikely to find in it everything he or she wants to know about a particular jurisdiction within its pages'.⁴ They understate the utility of their own work. There are unique aspects of the book that make it both a worthwhile contribution to the particular field of enquiry and an enjoyable read.

First, notwithstanding that the work is in a monograph format which has the risk of dating more rapidly as compared with a loose-leaf service, the work contains a substantial body of foundation knowledge content which ensures that it will remain a useful tool to both students and practitioners, and a starting point worthy of reference for a considerable period of time in relation to a very broad range of questions arising in practice. As foreshadowed by the authors, the book may not answer every practitioner's question on every topic in every jurisdiction, but it is highly likely to be of use at some point in time to every practitioner in every jurisdiction who becomes aware of its existence. This book will not date quickly.

1 BA LLM FCI Arb

2 Simon Greenberg, Christopher Kee and J Romesh Weeramantry, *International Commercial Arbitration: An Asia-Pacific Perspective*, (Cambridge University Press, 2011), Preface, xvii.

3 M Pryles, 'Foreword' in *Ibid.*, xv.

4 *Ibid.*, Preface, xvii.

Secondly, the authors have a refreshing willingness to deal with controversial issues and to never shy away from opining as to the correct answer to a question or at least the preferred position on an issue. This can be seen, for example, in their discussion on the applicable substantive law and the Indian position on setting aside foreign awards.⁵

Thirdly, notwithstanding the relative youth of the authors, which impacts positively on the plain language style of expression of the work, we find a depth of collective personal experiences which enables the work to reference the observations of well known practitioners and academics to permeate the work thus making it seem particularly contemporary and relevant to daily interactions in international commercial arbitration.

Finally, there is a very appropriate but sensitive recognition by the authors. That recognition is that although a text on a subject matter such as regional international commercial arbitration can try and identify major influences on the relevant legal systems and international dispute resolution and cultures of Asia it must because of its brevity and the perspectives from which the authors come resist the temptation to draw comparisons concerning social, religious or political cultures, that being a task beyond the scope of such a book.⁶

The structure of the book, which largely follows the life of an award from the beginning of a dispute through the arbitral process to the recognition and enforcement of the award, is achieved in a format which enables the complex and inter-related issues pertinent to practice in the field of international commercial arbitration to be easily accessible and digestible to the reader. This is a book which I find easy to recommend to any person interested in the field whether they be a student, teacher, novice practitioner, experienced counsel or arbitrator.

I think the value of the book can best be reflected by endorsing the observation made by the authors albeit about other authors in the following terms:

Another important supranational source is comprised of journal articles, books and other publications by experts. Articles and books will often be cited by arbitral tribunals in their awards and by lawyers in their legal briefs. They might, for example, be cited as authority for a proposition in relation to arbitral practice to support a party's position as to what procedure an arbitral tribunal should adopt...⁷

and by confidently asserting that International Commercial Arbitration: An Asia-Pacific Perspective will now be one of those often cited books.

5 Ibid., 112 [3.68], Ibid., 418 [9.25].

6 Ibid., 44-45.

7 Ibid, 31 [1.121].