

Arbitration in China: A Legal and Cultural Analysis (China and International Economic Law)

By Kun Fan

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In the context of harmonization of arbitration law and practice worldwide, to what extent are local legal traditions still influential on local arbitration practices, especially at a time when non-Western countries are playing an increasingly important role in international commercial and financial markets? How are the major economic powers reacting to the trend towards harmonization? China provides a good case study, with its historic tradition of non-confrontational means of dispute resolution now confronting current trends in transnational arbitration. Can China retain its traditional legal culture and at the same time influence the practice of arbitration in the rest of the world? To address these baffling questions, it is necessary to examine the development of arbitration in the context of China's changing cultural and legal structures. Written for international businessmen, lawyers, academics, and students, this book gives the reader a unique insight into real arbitration practice in China, based on a combination of theoretical analysis and practical insights. It explains contemporary arbitration in China from an interdisciplinary perspective and with a comparative approach, setting Chinese arbitration in its wider social context to aid understanding of its history, contemporary practice, the legal obstacles to modern arbitration, and possible future trends. *** In 2011, the thesis on which this book was based was named "Best Thesis in International Studies" by the Swiss Network for International Studies. (Series: China and International Economic Law - Vol. 5)

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Editorial Review

Review
"*What distinguishes this work from other books on international arbitration is its interdisciplinary perspective and comparative approach...this book makes a remarkable contribution to the understanding of arbitration in China and transnational arbitration in general. Academics, scholars and students of international arbitration, comparative studies and globalisation may all find this book stimulating. It also provides useful guidance for practitioners involved or interested in arbitration in China*."
From the Foreword by Gabrielle Kaufmann-Kohler

The jury found that your subject was timely, addressed in a very original manner and presented in a well-articulated and appropriate form with a logical flow of arguments...Your focus on China's intensified involvement in international trade, a very interesting and topical theme, paired with your first hand experience with arbitration and your extensive empirical research, allows your thesis too enrich our knowledge on the history and presence of arbitration in China and is also an inspiring read for a non-lawyer.

-- Director of the Swiss Network for International Studies

Dr. Fan's book will interest practitioners in arbitration, international commercial and comparative law, specialists in dispute resolution, and students in arbitration and mediation courses. Specialists and non-specialists alike will learn about how aspects of China's legal culture have shaped the development of contemporary China's legal framework and its arbitration/mediation practices. (*Meridian 180*)

The book is of great value for academics, scholars and students of international arbitration and comparative studies. It may also be very useful for practitioners of arbitration in China. (Yves Claeys *Association of International Arbitration Newsletter*)

In our legal life, we rarely read a book that really impresses. In the case of Kun Fan's book, I did. Her book is an eye opener for everyone who engages in trade, legal negotiations or arbitration with a Chinese party.Fan's book is well-timed as both trade and ensuing disputes between Chinese and non-Chinese parties are developing rapidly. For the drafting of arbitral awards, the book is also a helpful research tool (I am aware of at least one CIETAC award where it has been cited). In her forward, Gabrielle Kaufmann-Kohler has characterised the book correctly as "a remarkable contribution to the understanding of arbitration in China .", to which I would merely add, "and to negotiation, contract management and arbitration with Chinese parties in general." (Eckart Brödermann *Global Arbitration Review*)

This book is an important contribution to the understanding of dispute resolution in the People's Republic of China, and international arbitration in particular... Anyone who is interested in contemporary China, the globalisation of law, or developments in dispute resolution will find this book valuable. What makes the book particularly interesting, and distinguishes it from other books and articles on arbitration in China, is its interdisciplinary analysis which examines legal and arbitration developments within the context of China's history, society and culture, and the comparisons it makes between Chinese practices and many generally accepted legal norms and practices. A second unique feature of the work is the use of original empirical research... This book is a unique and fascinating account of the law and practice of international arbitration

in one of the world's most important and dynamic economies. Placing Chinese arbitration laws and practices within their historical, social and cultural contexts makes the work relevant to a broad readership of practitioners and scholars; the book has a place in the library of the practitioner and in the academy. (A.Dahlberg *Transnational Dispute Management, Vol. 11, issue 3*)

The analysis provided by Kun Fan offers a rich landscape against which international arbitration can be re-assessed in the light of Chinese practice.The volume.is an excellent work of scholarship. It is very well written, and I have no doubt that the book will be regarded as an indispensable resource for future research in many disciplines interested in China's arbitration experience. (Julien Chaisse *The Journal of World Investment & Trade*)

Kun Fan's book is an invaluable guide for understanding the development of the law and practice of arbitration in countries whose legal history, culture and traditions diverge from those in Western world. (Poorva Nanawati *Asian International Arbitration Journal*)

Arbitration in China: A Legal and Cultural Analysis by Dr Fan Kun provides an excellent study of the subsequent reforms to arbitration in the People's Republic of China. [it] is a wonderful contribution to the literature on the subject of Chinese arbitration law. While the road to arbitration reform in the PRC still has a long way to go, *Arbitration in China: A Legal and Cultural Analysis* will undoubtedly make that road smoother and more traversable (Romesh Weeramantry *Asian Dispute Review*)

On the whole, Kun Fan's *Arbitration in China* is an enriching book on the arbitration practices in China. The book promises a clear, concise yet detailed depiction of the Chinese arbitration system measured up to international arbitration standards. Kun Fan makes a concerted effort to provide the reader with a practical and balanced insight of Arbitration Law. Using data and statistics, she makes compelling arguments that showcase the reality of arbitration in China as opposed to what may be reflected in the legislation and rules of the arbitral tribunals. Kun Fan's *Arbitration in China* is an excellent addition to the bookshelf of academics, students and arbitration practitioners seeking to understand the arbitration system in China. (Perveen Kaur *International Trade and Business Law Review*)

The book as a whole provides many insights into the law and culture of arbitration in China. What is particularly impressive is the detailed knowledge the author has not only of the law in China but also of the practices of arbitral tribunals, arbitral institutions and the courts. It is not always easy to document court decisions as well as the practices of arbitral institutions, and it can be particularly difficult in a developing country where such information is sometimes not easily accessible. To have done such a good job in such a large country with so many different arbitral institutions and courts is extremely impressive. Anyone interested in arbitration in China will have to read this book. (Gary F Bell *Singapore Journal of Legal Studies*)

About the Author
Fan Kun is Assistant Professor at the Faculty of Law, Chinese University of Hong Kong and Visiting Scholar at the Harvard-Yenching Institute, Harvard University (2012-2013). She has studied and worked in China, Singapore, U.S.A., Switzerland, France and Hong Kong, and speaks Chinese, English and French. She obtained her PhD degree (summa cum laude) from the University of Geneva, and LLM degrees from New York University and Paris XII University. Her doctoral dissertation, under the supervision of Professor Gabrielle Kaufmann-Kohler, was awarded the Best Thesis in International Studies by the Swiss Network for International Studies Award 2011. She is a former Deputy Counsel of the ICC International Court of Arbitration and now practices as a Senior Consultant for Arbitration Asia. She is called to the New York Bar, Member of the Chartered Institute of Arbitrators, Accredited Mediator and Domain Names Panelist of the

Hong Kong International Arbitration Center.

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