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The arbitrator's role as a settlement facilitator in international commercial arbitration: toward harmonized transnational standards

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The Arbitrator's Role as a Settlement Facilitator in International Commercial Arbitration

Toward Harmonized Transnational Standards

Carmel Wahby

In light of concerns about the increasing 'judicialization' of international arbitration, alongside broader shifts in the transnational dispute-resolution landscape, a recalibration of traditional adjudicative methods is underway. This evolution favors approaches that combine adjudicative and non-adjudicative techniques to enhance flexibility, party autonomy, efficiency, the preservation of business relationships, and the promotion of early settlements with the assistance of an adjudicator. This groundbreaking book presents the first comprehensive analysis of one of the most innovative developments in this context—the role of the arbitrator as settlement facilitator, a dual function that challenges conventional boundaries by enabling arbitrators, in appropriate circumstances, to foster amicable resolution alongside their adjudicative duties.

The author maps and categorizes a wide spectrum of settlement-facilitation methods, both established and innovative, and compares diverse approaches that acknowledge and promote this practice. Key areas of discussion include:

- the range of arbitrator initiatives in setting the stage for settlement;
- relevant principles, divergences, and emerging transnational trends across legal systems;
- institutional rules, domestic legislation, and normative instruments that support or limit implementation;
- safeguards for impartiality, party autonomy, and due process; and
- mechanisms to ensure the finality and enforceability of settlements.

To support safe and effective implementation, the book provides practical solutions for parties seeking to empower arbitrators as settlement facilitators, offering concrete safeguards that can be integrated into arbitration agreements. It also advances broader recommendations to foster international recognition and harmonization, ensuring sustainable integration of this practice across legal systems.

The settlement-facilitation methods and safeguards presented will enable practitioners to enhance efficiency, reduce costs, and streamline dispute resolution in both commercial and investment arbitration. In addition, the book's comparative analysis will equip arbitrators, arbitral institutions, and policymakers with a global perspective on regulatory frameworks, enabling them to make informed choices regarding settlement facilitation across different jurisdictions.

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in International Commercial Arbitration

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