

BOOK REVIEW

## **The Institute of International Law’s Resolution on the Equality of Parties before International Investment Tribunals: Introduction, Text and Commentaries**

**by Campbell McLACHLAN. Cambridge, United Kingdom; New York, NY: Cambridge University Press, 2021. xx + 126 pp. Hardcover: AUD\$94.95; Digital Access (PDF): USD\$64.99. doi:10.1017/9781009047586**

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Campbell McLachlan KC is a professor of law at Victoria University of Wellington and a member of the Institute of International Law (the Institute). Of particular relevance to this review is that he was the Institute’s Rapporteur on the Equality of Parties before the International Investment Tribunals and was thus involved from the beginning up until the Institute adopted the Resolution on the Equality of Parties before the International Investment Tribunal (the Resolution) in August 2019.

Mainly offering an article-by-article commentary on the Resolution, the book has three chapters arranged in a simple and reader-friendly way. Chapter 1 introduces readers to the equality of parties as an essential part of a fair system of adjudication, referring to equity as a constitutional and procedural principle. Following that, it describes the Institute’s contribution to issues of arbitral procedure from its foundation up until the adoption of the Resolution. Next, it explains the scope of the Resolution: the equality of parties as a procedural principle in international investment tribunals. Furthermore, it touches upon equality in asymmetrical dispute resolution systems: (1) diplomatic protection and claims commissions; and (2) international human rights commissions and tribunals. Lastly, the Chapter examines the treatment of the equality principle in the context of the Convention on the Settlement of Investment Disputes between States and Nationals of Other States of 1965 (the ICSID Convention), given its self-contained character, wide ratification, and importance to the study. Chapter 2 turns to the Resolution’s final text comprising a preamble and two parts of twelve articles. Part one deals with applying the principle of equality to the establishment of the tribunal. Part two addresses its application to the tribunal’s procedure. Chapter 3 analyzes the provisions of the Resolution. It is based on the Rapporteur’s research and the comments of the Institute’s members responsible for the subject. For example, the preamble’s commentaries highlight the principle’s crucial importance by presenting how international courts and tribunals have treated it. Another example is the commentaries on part two of the Resolution, which shed light on how procedural equality can be achieved by international investment tribunals in handling, *inter alia*, multiple claims, counterclaims, and third-person submissions. Such commentaries were drawn from various sources, such as investment cases, the

ICSID Convention, arbitration rules, and the work of the United Nations Commission on International Trade Law.

This book is essential for anyone who needs to learn about procedural equality in international investment arbitration in general and those needing to use the Resolution in particular. Still, there is one minor drawback. The book might have been more helpful for beginners if it had presented a brief historical account of the principle in the introductory remarks. Nevertheless, this book is unmatched, being the first of its kind written by the Rapporteur on the subject he oversaw and had expertise on.

**Competing interests.** The author declares none.