

## Book Review

### *Arbitration, Ordre Public and Criminal Law*

Professor Alexander J Bělohlávek

Review by AA de Fina OAM<sup>1</sup>

This three volume work is by Professor Dr Alexander Bělohlávek, an eminent Czech international arbitrator and academic

The works deal in an exhaustive and considered manner the interaction of private and public international law and domestic law as it applies to arbitration.

The term ‘Ordre Public’ is to be understood in the Australian context as ‘Public Policy’ and the books have a section devoted to Australia, as well as other countries including Austria, Czech Republic, Germany, Spain, France, Canada, Netherlands, United Kingdom, Switzerland and the United States, thus spanning both civil code and common law legal systems.

A work of extraordinary scholarship and research, the volumes are well footnoted and indexed covering the complete spectrum of matters arbitration from arbitrability to enforcement.

The work has express sections dealing with the interaction of private and public law, public order, international and territorial criminality, human rights, labour law disputes, objective and subjective arbitrability, anti-suit/anti arbitration injunctions, consular and diplomatic immunities.

The author, in the section on criminal law, deals with the vexed question of the relationship between public officials and arbitrators, particularly obligations of disclosure or secrecy in relation to criminal activity including taxation avoidance, money laundering and regulation of financial markets.

Throughout the works are supported by extensive and detailed reference to conventions, judgements of courts of various jurisdictions, including Hebrew, Canonical and Shari’a law tribunals.

Australia is singled out for special attention, particularly in relation to the *Esso Australia Resources Ltd v Plowman* (High Court of Australia 7 April 1995) and *Commonwealth of Australia v Cockatoo Dockyard* (NSW Court of Appeal 27 June 1995), both dealing with confidentiality.

The learned author comments on what he describes as ‘real excess’ of the Australian judgements with the tag line ‘fortunately Australia is far away’.

The author cites an extraordinary compendium of reference books and articles for independent analysis.

---

1 Past President IAMA  
Past President ACICA  
Hon Fellow The Institute of Arbitrators & Mediators Australia  
Member Cour Européenne d’Arbitrage (France)  
Member International Arbitration Institute (France)

## **THE ARBITRATOR & MEDIATOR OCTOBER 2011**

Certainly the most extensive work on the subject in recent times, the three volumes are appropriate as a reference source for practitioners in arbitration ranging from lawyers, practising arbitrators to academics and will assist greatly the advancement and understanding of arbitration in both a domestic and international context.

A welcome and valuable addition to any law library.