

Court Intervention in International Arbitration: The Case for Compulsory Judicial Internationalism

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Chairperson: Assoc Prof Gary F Bell, NUS

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ABSTRACT

One of the most interesting legal phenomena of our times is the increasing willingness shown by national courts in both civil law and common law jurisdictions to justify their legal holdings in hard cases by referring to foreign or international normative sources. This paper argues that in the field of international arbitration, judicial internationalism is not only useful, it is necessary. Judges sitting in jurisdictions which have signaled their willingness to support the international arbitration system must acknowledge the permeability of the domestic legal order to so-called transnational rules of international arbitration. Concretely, this entails adopting a distinctive interpretive approach while answering questions of law to which local sources that judges are bound to take into consideration provide no clear answer. This paper explores the theoretical underpinnings of the proposed approach before analyzing how precisely the relevant international normative context ought to bear on decisions made by court called upon to intervene in the international arbitral process.

BIOGRAPHY OF SPEAKER



Frédéric Bachand is an Associate Professor of Law at McGill University, where he teaches in the areas of extrajudicial dispute resolution, international investments, civil procedure and civil evidence. Professor Bachand came to McGill after having practiced law for several years with the law firm of Ogilvy Renault in Montreal. He holds doctoral degrees from Université Panthéon-Assas (Paris II) and Université de Montréal, as well as an LL.M. from the University of Cambridge, where he spent a year after clerking for Justice Gérard V. La Forest of the Supreme Court of Canada. His award-winning scholarship focuses on domestic and international arbitration, with a particular emphasis on the role national courts play in the arbitral process. An active member of McGill's Private Justice and Rule of Law research team (<http://www.mcgill.ca/pjrl/>), he also co-directs the McGill Summer Program in Arbitration and is the general editor of a bilingual website on consensual arbitration in Quebec (<http://www.mcgill.ca/arbitration/>), which he launched in 2004.

REGISTRATION

There is no registration fee for this seminar but seats are limited. To register, please click [here](#). For enquiries, please contact Ms Khai at Tel: 6516 3102 or email her at lawcccls@nus.edu.sg. Directions to the law school may be found at http://law.nus.edu.sg/about_us/location.html