

Global Trends in Dispute Resolution- Book Series

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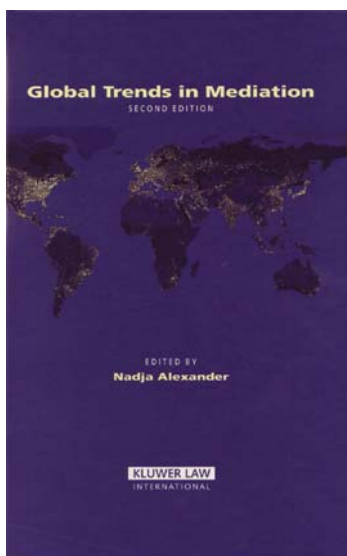
About the Series

Global Trends in Dispute Resolution offers readers a garden rich in ideas and insights into contemporary dispute resolution principles, processes and practices. The series leads the way in first-class debate and analysis of dispute resolution trends across our rapidly globalizing world. More particularly, it analyses dispute resolution developments in various geographical regions around the world and in relation to diverse transnational practice areas. These practice areas include not only well-established legal categories such as intellectual property, construction, and resources law, but also emerging dispute resolution developments ranging from dispute systems design to cross-border mediation in private and public law.

Volume 1, *Global Trends in Mediation* (2006), planted the first seeds for the series with its analysis of contemporary mediation developments in 14 primary 'mediating' jurisdictions across four continents. In addition to up-to-date descriptions of mediation laws, initiatives, and practices in the respective countries, it offered valuable insights into global patterns emerging in the world of alternative dispute resolution (ADR). It also highlighted the extent to which legal traditions and frameworks shape dispute resolution policy and practice – essential knowledge for practitioners working across borders.

With a particular focus on new initiatives and ADR practices, the *Global Trends in Dispute Resolution Series* aims to provide practitioners, scholars, policy-makers, and 'pracademics' (that elusive yet rapidly emerging category of practical academics and academically-oriented practitioners – you know who you are) with the resources both to cultivate the dispute resolution gardens of the world and to explore new paths within and beyond them.

The volumes in this series will be cited as GTDR 1, 2, 3 and so on.



GTDR 1

Nadja Alexander (ed.) *Global Trends in Mediation*. Kluwer Law International, The Hague, 2006.

In its first edition, *Global Trends in Mediation* was the first book to focus on mediation from a comparative perspective – reaching beyond the all-too-familiar Anglo-American view- and as such has enjoyed wide use among alternative dispute resolution (ADR) professionals worldwide. This new edition has not only been updated throughout, it has also

added two new jurisdictions (France and Quebec) and a useful comparative table summarising the salient points from each of the 14 jurisdictional chapters.

Each chapter addresses critical structural and process issues in ADR such as the institutionalisation of mediation, mediation case law and legislation, the range and nature of disputes where mediation is utilised, court-related mediation, mediation practice standards, education, training and accreditation of mediators, the role of lawyers in mediation, online dispute resolution and future trends. All the contributors are senior dispute resolution academics or practitioners with vast knowledge and experience of dispute resolution developments in their countries and abroad.

The unique value of the book for practitioners and academics resides in its:

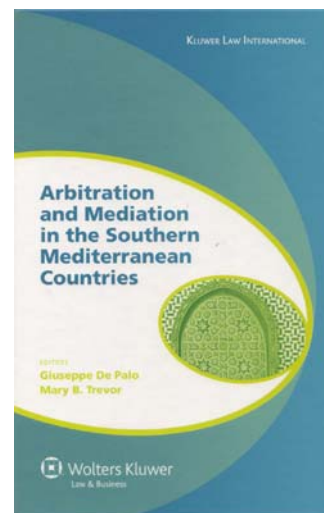
- coverage of both common law and civil law jurisdictions,
- attention to the diversity of legal cultures and systems on four continents, and
- rich analysis of mediation models, standards, laws and practices around the world.

GTDR 2

Giuseppe De Palo and Mary B. Trevor (ed.) *Global Trends in Dispute Resolution: Arbitration and Mediation in the Southern Mediterranean Countries*. Kluwer Law International, Alphen aan den Rijn, 2007.

The people of the southern Mediterranean have long recognized the fundamental value of commercial dispute resolution. Arbitration – *tahkeem* – is mentioned in the Quran. The *sulh*, a formalized process of dispute resolution recognised by Islamic law, has roots in local village and tribal practices. Current pressures of economic globalization, however, are leading the people in the region to modify their traditional approaches to dispute resolution in the commercial field through the adoption of modern arbitration and Alternative Dispute Resolution (ADR) techniques such as mediation.

In this highly informative and very useful book, thirty-three local experts describe the ongoing process of adopting and adapting modern techniques of dispute resolution for economic and commercial matters of Algeria, Egypt, Israel, Jordan, Lebanon, Morocco, Syria, Tunisia, Turkey, and the West Bank



and Gaza Strip. Each chapter illustrates multiple techniques, including court processes as well as arbitration and mediation processes, against the backdrop of economic and legislative changes that have occurred region-wide since the late twentieth century. The country-by-country presentations are especially valuable for their emphasis on how local ADR practices deal with, or are affected by, such factors as the following:

- civil procedure codes;
- international conventions;
- international enforcement awards;
- appeals;
- qualifications of arbitrators and mediators;
- rules of local, regional, and international ADR institutions;
- costs;
- involvement of the judiciary;
- cultural aspects; and
- regional and international trade agreements.

GTDR 3

GTDR 4

Nadja Alexander, *No Borders to Justice? The Law of Transnational Mediation*. Kluwer Law International, 2008 forthcoming

The main criticisms of mediation today relate to its lack of finality and certainty in terms of outcome. Whereas there is an effective international legal framework for arbitration practice incorporating foreign recognition and enforceability of arbitral awards, the same does not exist in relation to mediation. The rapid growth of international mediation practice has not been matched by suitable international regulation, although significant efforts are being made in this regard.

These circumstances provide valuable insights into mediation's primary paradox – the perennial tension between diversity and consistency.

No Borders to Justice? The Law of Transnational Mediation is a book about dynamic and pluralistic legal concepts in an emerging area of globalised law. At its heart lies mediation's dilemma: how to maintain the benefits that mediation has to offer and at the same time minimise its risks. How to encourage discourse, debate and self-determination and at the same time ensure accountability, stability and predictability? How to balance notions of

creativity diversity and pluralism with those of security, certainty and quality assurance? The author challenges readers to deal with these hard and uncomfortable questions. In return she offers a path forward – one that avoids short-term solutions but one that has a chance of making a real contribution to global dispute resolution culture and practice.

The book comprises eight chapters and three appendices as indicated below.:

Ch 1: Transnational Mediation:

Ch 2: What's Law Got To Do With It?

Ch 3: The Law of Mediation: Pre-mediation Issues

Ch 4: The Law of Mediation: Issues Arising During Mediation

Ch 5: The Law of Mediation: Post-mediation Issues

Ch 6: Regional Initiatives in Mediation: EU Directive and the UMA

Ch 7: The UNCITRAL Model Law on International Commercial Conciliation

Ch 8: Future Trends in Transnational Mediation

Appendices

A: Comparative Table of Mediation Rules for Transnational Disputes

B: Transnational Mediation Organisations

C: Precedents for Transnational Mediation