

Party Autonomy through International Private Law — from Cross-Border Prospective, including Arbitration Practice. (Summary)

Yoshihiro (Yoshi) TAKATORI

Orrick Tokyo Law Offices, Partner, Chair of Dispute Resolution Department

Commented on three aspects on party autonomy including international arbitration, and issues for the future practice from cross-border legal practitioner's eye.

The first aspect is motivation to expand utilization of ADR including arbitration. One of the recent big motivation is that dispute resolution and compliance on each jurisdiction including FCPA and UKBA become further cross-border or international. Some corporations who are doing overseas business tend to utilize party autonomy dispute resolution system in order to avoid possible risk of bribery by choosing court system as dispute resolution in developing countries.

The second aspect is basis to facilitate utilization of such dispute resolution system or device. In order to realize and accelerate such basis, keeping and increasing the credibility of arbitrators' quality and accessibility to appoint arbitrators with good qualities is very important but practically difficult.

The third aspect is phenomenon and effect caused by expansion of such utilization.

Practical conflict between common law based system including discovery and civil law type of culture and management or adjustment of those conflict may require further flexibility of party autonomy including international arbitration practice.

From those three aspects, some concrete and practical examples are referred to.