

## BOOK REVIEW

*The Choice of Law Contract* by M Hook [Bloomsbury/Hart Publishing, Oxford, 2016, 288pp, ISBN 978-1-84946-764-3, £60.00 (h/bk)]

The potential significance of choice of law to the determination of cross-border disputes is well known to scholars and practitioners in private international law. In many cases, the success (or failure) of the parties' claims and the remedies available to them hinge on the system of law which applies to the dispute being litigated. In order to ensure a greater degree of certainty, parties are well advised to designate the law governing their relationship from the outset. Such an exercise in party autonomy has a long-standing tradition in contractual relations and has gained prominence in matters relating to tort, family law and succession. At least two important questions in this context have attracted debate among legal commentators: first, what is the true nature of choice of law agreements; and, second, how should the principle of party autonomy in choice of law be regulated?

In *The Choice of Law Contract*, Dr Maria Hook seeks to answer these questions. The author argues that the parties' designation of the applicable law creates a binding contract between them. This contractual agreement is, however, 'peculiar' (12) as it 'is not an agreement that creates, transfers, modifies or extinguishes *in personam* rights or obligations' (33–34). Due to its nature, Dr Hook contends that an 'integrated approach', which combines the various considerations within choice of law and contract, is required to bring the choice of law contract out of a 'regulatory twilight zone' (2). According to the author, 'what is needed ... is a fusion of the law of contract and choice of law to regulate the freedom to choose the applicable law' (16). This approach, which is outlined in great detail in the book, 'requires courts to give effect to basic principles of contract when establishing the parties' agreement on the applicable law ... and it also requires a more proactive use of modal choice of law' (225).

*The Choice of Law Contract* is the latest addition to the Bloomsbury/Hart Publishing's expanding 'Series in Private International Law'. It comprises nine chapters. Chapter 1 sets the scene by introducing the scope of the enquiry. The substantive discussion begins, in Chapter 2, with the author arguing that choice of law agreements are contractual in nature, albeit with certain unusual features. Dr Hook proceeds, in Chapter 3, to examine the question of when the parties should be granted the freedom to choose the law governing their relationship. In the next stage of the enquiry, in Chapter 4, the author examines the interrelationship between the choice of law contract and the overarching contract that the chosen law is supposed to regulate. The chief contention here is that the choice of law agreement ought to be understood as a 'contract in its own right' which is 'self-sufficient and does not depend on the existence or validity of an underlying contract' (75). Chapter 5 is concerned with questions relating to the regulation of the choice of law contract. Having sought to outline the confines of a contractual framework for the regulation of the choice of law agreement, Chapters 6–8 pursue two objectives: 'to evaluate the existing regime that determines the existence and validity of choice of law contracts and, where appropriate, to propose changes to the regime itself or to the way it is given effect' (132). Chapter 9 pulls the threads of the discussion together.

In this ambitious and well-researched book, Dr Hook has been able to put together and analyse material which had not been previously accessible in one book. In doing so, the author has painstakingly drawn on sources from a wide range of jurisdictions—namely, England, Australia, New Zealand, the United States, France, Germany and Switzerland—as well as international instruments (European Regulations on the choice of law and the work of the Hague Conference on Private International Law). This comparative approach to the material is one of the book's main strengths, rendering it of potential interest to private international law scholars in all parts of the world. Another strength is the book's breadth of coverage. In the main, previous studies of

party autonomy have been concerned with contractual relationships. Dr Hook, though, has sought to analyse the notion in a wider set of legal relationships including tort, family and succession.

Despite its many virtues, however, there is one minor aspect of the work with which a reviewer might wish to quibble. Given the prominence of theoretical discussion in the book, it might have been helpful to a reader not as closely engaged with the material as the author if there had been better linkage between the chapters. One way of achieving this objective would have been through the inclusion of clear introductory and concluding sections in each of the substantive chapters. However, with the exception of Chapters 6–8, none of the other substantive chapters in the book have designated introductory and concluding sections (Chapter 4 had a conclusion). As a result, in the relevant chapters, the scope of the enquiry and how it connected with the discussion in the chapters before and after it were not as easily detectable as they might otherwise have been.

These observations should in no way detract from the fact that *The Choice of Law Contract* is a scholarly book. It will without doubt be of interest to scholars in private international law in numerous jurisdictions across the globe.

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*The International Protection of Adults*, edited by RICHARD FRIMSTON, ALEXANDER RUCK KEENE, CLAIRE VAN OVERDIJK and ADRIAN D WARD [Oxford University Press, Oxford, 2015, ISBN 978-0-19-872725-5, lxxxvi + 808pp, £175.00 (h/bk)]

This substantial and excellent book represents a most useful and practical attempt to deal with the wide variety of cross-border legal issues that arise in the context of measures designed to protect adults who are deemed to be vulnerable by reason of intellectual disability, illness, age or a combination of such circumstances. The book is divided into four parts: first, an overview of the subject replete with comparative references; second, a detailed analysis of the Hague Convention on the International Protection of Adults of 13 January 2000 (hereafter ‘the Convention’) itself; third, an exceptionally practical and useful survey of the law and institutions concerning the protection of adults in 41 different legal systems (including legal systems inside and outside the Convention); and fourth, case studies based on nine different aspects of the international legal issues involved in the protection of vulnerable adults. The book also provides generous appendices including: the text of the Convention; the explanatory Lagarde Report on the Convention (Professor Lagarde also provides the Foreword for the book); and a range of other useful supplementary material.

The book is a timely and necessary contribution to practical legal knowledge as it deals with the situations covered by the Convention. The UK is one of the currently nine contracting parties to this important and developing Hague Convention. There are also however, moves afoot within the EU Parliament to encourage greater involvement by the European Union in the Convention; at the moment it seems that such involvement would also be likely to involve the creation of an EU Regulation concerning these matters.

For many potential readers, whether students, academics or non-specialist practitioners, this subject may, however, seem somewhat ‘niche’: this book should dispel this erroneous impression. This book concerns an important and emerging area of law and should be available to every practitioner and also be regarded as a basic purchase by every law library. These bold claims deserve some justification. In the UK the international dimension of the protection of adults has traditionally been concealed behind legal institutions such as trusts and powers of attorney, or obscured by public healthcare provisions. The present trend of events suggests, however, that the Convention is likely to grow in significance as well as in contracting parties.

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