. Record Nr. UNINA9910463818903321

Titolo Formalisation and flexibilisation in dispute resolution / / edited by

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Pubbl/distr/stampa Leiden, Netherlands:,: Brill Nijhoff,, 2014

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ISBN 90-04-28117-7

Descrizione fisica 1 online resource (424 pages) : illustrations (some color)

Disciplina 347/.09

Soggetti Dispute resolution (Law)

Electronic books.

Lingua di pubblicazione Inglese

Formato Materiale a stampa

Livello bibliografico Monografia

Note generali Includes index.

Nota di bibliografia Includes bibliographical references and index.

Nota di contenuto Preliminary Material -- Introduction: The Changing Face of Dispute

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Formal law versus informal justice – these are two frequently invoked labels to highlight the distinction between court-based and "alternative" dispute resolution (ADR). Indeed, it appears to be all but a truism to assume that ADR has developed as a more flexible and creative alternative to rigid and formalised judicial proceedings. In Formalisation and Flexibilisation in Dispute Resolution scholars from four continents examine both historical and recent developments that cast doubt on the validity of these widespread assumptions. They not only explore trends towards an increased formalisation of ADR procedures but also address the tendencies of state civil justice systems to adopt flexible and informal tools for the resolution of disputes in the courts. Editors Joachim Zekoll, Moritz Bälz and Iwo Amelung have divided the book into three Parts. Part One seeks to develop the general theme of formalisation from several angles. including a socio-legal perspective, the public-private divide, the regulatory challenges and potential tensions with the rule of law. The emphasis of Part Two is on the historical emergence of formal and informal dispute resolution instruments in several legal and cultural contexts. Historical roots, be they genuine or construed, also play a role in the other two parts of the book, but in this part, they take centre stage. Finally, Part Three features chapters which address and elaborate on specific applications such as ADR as means of consumer dispute resolution and arbitration in transnational investment disputes. While the contributions to the first two parts of this volume already raise normative questions in some respects, this final part evaluates and passes judgement on the potential merits and deficits of ADR in a variety of specific settings.