

Power Indicators in International Construction Law

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Key words: Education

SUMMARY

Construction law practice varies greatly between different jurisdictions and within the civil/common law traditions. A degree of commonality is discernible around the two dominant principles of freedom to contract and pacta sunt servanda. The extent to which these tenets govern construction law and are supplemented by others differs widely in varying approaches taken to tackle common problems. The literature reviewed in this work explores twelve international construction law practices and discusses their application in the selected jurisdictions in which they feature. The hypothesis examined is that differences in approach are not, as might be expected, to be found along the civil/common law divide but instead can be analysed in terms of the power balance in the countries discussed. The practices are measured against a scale indicating the extent to which they can be deemed pro-client or pro-supply side. The paper concludes by presenting a table where three national results on the occurrence of the practices are compared. The findings re-inforce the importance of cultural aspects as reflected in the comparative practices discussed.

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FIG Working Week 2019
Geospatial information for a smarter life and environmental resilience
Hanoi, Vietnam, April 22–26, 2019