

# THE STRUCTURE OF INTERNATIONAL ARBITRATION LAW AND THE EXERCISE OF ARBITRAL AUTHORITY

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## ABSTRACT

*Existing theoretical treatments of international arbitration deal adequately with the sources of international arbitrators' authority to resolve disputes, but tend to neglect the exercise of that authority. In what ways is arbitral decision-making constrained? Are international arbitrators obliged to exercise their authority in any particular ways? If so, what are the sources of such obligations, and how might they be enforced? This article contributes to the theoretical literature on international commercial arbitration by adding a dimension that has thus far been neglected: the structure of the legal regime that governs international arbitrations. It applies a familiar concept from Anglo-American jurisprudence, H.L.A. Hart's typology of primary and secondary rules, to argue that international arbitration law is essentially contractarian in its structure. The article concludes by considering the implications of the contractarian structure of international arbitration law for the ways that arbitrators may and must exercise their authority.*

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