
This massive work is a looseleaf updated edition of the original hardback copy of 1989. In the process of updating, the information has extended from six countries to nine: Syria, Lebanon, Jordan, Iraq, Egypt, Kuwait, Bahrain, the United Arab Emirates and Oman. There is also an important introduction, specific updates to Oman and the United Arab Emirates, and an index. Major relevant laws have been thoroughly translated, and this edition, like its predecessor, is a remarkable compendium with no competitor in any language in the field. Since the economies of all these countries, outside oil and some banking for a few, are dependent first and foremost on trade, one immediately realizes its importance for international practitioners. The quality of the research is also such that English-speaking lawyers in the relevant countries will also find it useful.

The present review cannot give its full due to the work, but wishes to offer a few remarks which may be taken on board in subsequent editions, both in terms of form and substance. These critical remarks must be appreciated against the unique importance of such a work both for commercial practice and for the new interest in a comparative approach to Middle Eastern Law generally.

Form

One could quarrel with the absence of data in one or the other country, especially with regard to case law: the chapter on the United Arab Emirates, for instance, ignores an important case of the constitutional court on agency (UAE Federal Supreme Court, constitutional chamber, 14 April 1993, al-Majalla al-'arabiyya lil-fiqh wal-qada', 16, October 1994, p. 109), and a number of reported decisions in Lebanon are passed under silence. For other countries, especially in the Gulf, the dearth of reference to court decisions can perhaps be explained by the difficulty of reaching case law decided in these jurisdictions, but the effort may be worth the trouble for a more real appreciation of law in practice. It is also possible to question the need to write an independent update for Oman and the UAE, rather than weave the changes into the original. Some attention should have been given in the Introduction to the fact that the book does not deal any more with six, but with nine jurisdictions (mistake eg at pp. 1-5; 1-20), and this sort of error could have been smoothed over by a sub-editor. Lastly, one expects with great interest the author's inclusion of the system of agency/distributorship in Saudi Arabia, by far the most important trading partner and importer of foreign goods in the whole region. For an international practitioner, Saudi Arabia remains the most mysterious country legally, and the most important one financially.

Substance

In terms of substance, the book covers all nine jurisdictions with great precision and an attention to detail. The introduction is important for a book of this nature, and there is a genuine theoretical effort by the author to underline two aspects of the law of commercial agency and distributorship in the jurisdictions concerned.
First, the growing importance of Islamic law warrants the author looking into the books of classical law for precedents: the result is "the archaism of shari'a and its restrictions on the assignment of rights" (pp. 1-17), and the absence of direct constraints on the modern law of agency which the author correctly notes with regard to the Qur'an and the hadith. There is however an insistence on the law of agency, which is quite developed in the classical works (pp. 1-11 to 1-14), but the consequences are not fully drawn with regard to the notable discrepancy between the principle, under classical law, that an agency is revocable, and the difficulty of revoking even an open-ended agency in the Arab Middle East. In addition, and contrary to the logic of classical law, present rules establishing compensation for agents, even when the contract comes to an end, show the extreme limitations on the sway of the shari'a in this field.

Present commercial transactions regarding commercial agency and distributorship owe therefore much to a different intellectual set-up than that of classical Islamic law. Nor can the legislation in the area be understood with reference to the common law. As noted in the brief but expressive introduction of Professor Roy Goode, "in common law jurisdictions the principle of autonomy of contract applies with particular vigour to commercial agency. There is no special statutory regime governing commercial agents, no requirement for registration, no principle of compensation to the agent following lawful termination of the agency agreement" (Preface, p. xix).

But if the complicated and heavily regulated system in the Arab world corresponds to a model which is to be found neither in the common law nor in classical Islam, then how did such detailed regulations emerge? This is where the author should have perhaps devoted more attention to the pedigree of seemingly harsh rules governing termination of agency, for they belong to a type of "excessive" laws which developed in France in the Second World War and were reactivated by Decree 58 of 23 December 1958. (See for a comprehensive study, J. Hémard, "Les agents commerciaux", Revue Trimestrielle de Droit Commercial, 1959, p. 573.) This law was passed in France to protect the category of commercial agents. It has been since reinforced by various statutes, the latest being Law 91-593 of 25 June 1991. When one looks at Lebanese Decree Law 34 of 1967, it is clear that the Lebanese legislator followed the wording of its French predecessor almost verbatim. In turn, Lebanese law and practice has offered the model for much of the legislation of Arab Gulf countries in so far as stringent regulation of exclusive agencies and dealerships and their compensation is concerned. (See further my "Comparative models of freedom of trade: The hurdle of Lebanese sole agency", presented at a seminar in Beirut organized by the Konrad Adenauer Foundation and the Lebanese Centre for Policy Studies in July 1996, to appear in a forthcoming book edited by K. Shehadeh on cooperation between the European Union and Lebanon.)

The second point which the Introduction makes relevant for the whole of the book are "eight key questions" (pp. 1-7) These questions show the practical competence of the author, and represent those queries "most commonly asked by foreign principals/manufacturers." They include the relevance of the shari'a, the role played by contractual clauses, the legal qualifications of the agents/distributors, the nature of the link between the foreign principal and the local agent, the validity of the instrument of appointment, exclusivity clauses, effects of termination of the agency by the principal, and the possible validity of foreign laws, notably those dealing with arbitration.

When one goes to each country, however, the model is not always followed punctiliously. There is no harm in that, so long as each country is taken separately. However, one result is the difficulty to see the thread running through the logic of commercial networks in countries heavily dependent on foreign goods as it unravels in the work taken as a whole. While