

PARTY AUTONOMY IN CONTRACTUAL CHOICE OF LAW IN CHINA

The principle of party autonomy in contractual choice of law is widely recognized in the law of most jurisdictions. It has been more than thirty years since party autonomy was first accepted in Chinese private international law. However, the legal rules provided in legislation and judicial interpretations concerning the application of the party autonomy principle are abstract and open-ended. Without a critical understanding of the party autonomy principle and appropriate interpretations of the relevant legal rules, judges have not exercised their discretionary power appropriately. The party autonomy principle has been applied in a way that undermines its very purpose – that is, to protect the legitimate expectations of the parties and promote the predictability of outcomes in transnational commercial litigation. Jieying Liang addresses the questions of how, when and with what limitations parties' choice of law clauses in an international commercial contract should be enforced by Chinese courts.

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CONTRACTUAL CHOICE
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CAMBRIDGE
UNIVERSITY PRESS

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University Printing House, Cambridge CB2 8BS, United Kingdom
One Liberty Plaza, 20th Floor, New York, NY 10006, USA
477 Williamstown Road, Port Melbourne, VIC 3207, Australia
314-321, 3rd Floor, Plot 3, Splendor Forum, Jasola District Centre, New Delhi - 110025, India
79 Anson Road, #06-04/06, Singapore 079906

Cambridge University Press is part of the University of Cambridge.
It furthers the University's mission by disseminating knowledge in the pursuit of
education, learning and research at the highest international levels of excellence.

www.cambridge.org
Information on this title: www.cambridge.org/9781108738323
DOI: 10.1017/9781316718377

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First published 2018
First paperback edition 2019

A catalogue record for this publication is available from the British Library

ISBN 978-1-107-16917-3 Hardback
ISBN 978-1-108-73832-3 Paperback

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Cambridge University Press
978-1-108-73832-3 — Party Autonomy in Contractual Choice of Law in China
Jieying Liang
Frontmatter
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To
Professor Michael Tilbury
My lifelong mentor and friend

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