

Alan Scott Rau

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Education:

Preparatory: Franklin School, New York City (1955-1959)

College: Harvard College, Cambridge, Mass (1959-1963)

Degree: B.A. magna cum laude
Field of Concentration: History
Honors: Phi Beta Kappa

Graduate: Institut d'Etudes Politiques,
University of Bordeaux (1963-1964)
Certificat d'études politiques à titre étranger

Harvard Law School (1964-1967)
Degree: LL.B. magna cum laude
(Rank in class: 3)
Activities: Harvard Law Review, Case Editor

Publications: Student author primarily responsible for:

- "The Board and Section 9(c)(5): Multilocation and Single-location Bargaining Units in the Insurance and Retail Industries," 79 Harv. L. Rev. 811 (1966); and
- "Case Note," 80 Harv. L. Rev. 129-135 (1966).

Joseph H. Beale Prize for highest grade in Conflict of Laws.

London School of Economics and Political Science (Frank Knox Memorial Fellowship, Harvard University, 1967-68).

Employment:

1968-1971: Associate, Coudert Frères, Paris, France

1971-1974: Assistant Professor, University of Texas School of Law, Austin, Texas

1975-Present: Professor of Law, University of Texas School of Law, Austin, Texas

2010-Present: Mark G. & Judy G. Yudof Chair in Law, University of Texas School of Law, Austin, Texas

1974-1975: Visiting Professor, University of Toronto Faculty of Law, Toronto

1985-1986: Fulbright Professor, China University of Political Science and Law, Beijing, People's Republic of China

Spring 1992: Fred Paulus Chair in Public Policy and Visiting Professor of Law, Willamette University College of Law, Salem, Oregon

Spring 1996; Spring 2000- 2006, Visiting Professor, Faculty of Law, University of Geneva

Spring 2004: Visiting Professor, Université de Paris-I (Panthéon-Sorbonne) and Université de Paris-II (Panthéon-Assas)

Fall 2007: Visiting Professor, Université de Paris-I (Panthéon-Sorbonne) and Université de Paris-II (Panthéon-Assas)

Fall 2014 : Distinguished Visiting Fellow, Queen Mary University of London

Teaching Interests: Arbitration; Negotiation; Alternative Dispute Resolution; Contracts; Sales

Publications:

- "The Subsidiary in France: Problems of Control Under French Law," 8 Texas Intl L.J. 137 (1973).

- Cases and Materials on Contracts (with Hamilton and Weintraub; West Publishing Co., 1984; 2d ed. 1992).

- "Intellectual Property (Fifth Circuit Symposium)," 16 Texas Tech L. Rev. 355 (1985).
- Processes of Dispute Resolution: The Role of Lawyers (with Murray and Sherman; Foundation Press, 1989; Supp. 1990; 2d ed. 1996).
- Materials on Alternative Dispute Resolution (with Murray and Sherman; National Institute for Dispute Resolution, 1991).
- "Resolving Attorney-Client Disputes: The Role of ADR," 46 S.M.U. Law Rev. 2005 (1993).
- Rau & Sherman's Texas ADR and Arbitration: Statutes and Commentary (with Sherman; Shepard's McGraw-Hill, 1994; 2d ed. West, 1998; 3d ed. West, 2000).
- "Arbitration in Contracts of Adhesion: Process Dangers and Design Possibilities" (Proceedings, Society of Professionals in Dispute Resolution [SPIDR] 22nd Annual Conference, 1994).
- "Tradition and Innovation in International Arbitration Procedure" (with Sherman), 30 Tex. Int'l L.J. 89 (1995).
- "The UNCITRAL Model Law in State and Federal Courts: The Case of Waiver," 6 Amer. Rev. Int'l Arb. 223 (1996).
- "Arbitration as Contract: One More Word About *First Options v. Kaplan*," Mealey's Int'l Arb. Rep., March 1997.
- "Integrity in Private Judging," 38 So. Tex. L. Rev. 485 (1997).

[A revised version of this article appears in 14 Arbitration International 115 (1998)].

- "The New York Convention in American Courts," 7 Amer. Rev. Int'l Arb. 213 (1996).
- "Does State Arbitration Law Matter at All? Part I: Federal Preemption," ADR Currents, June 1998 at p. 19.
- "Does State Arbitration Law Matter at All? Part II: A Continuing Role for State Law," ADR Currents, December 1998 at p. 20.

[These two articles are reprinted in American Arbitration Association, ADR & the Law 199 (2000), and in Thomas E. Carbonneau (ed.), American Arbitration Association Handbook on Commercial Arbitration 415 (2006).

- “Contracting Out of the Arbitration Act,” 8 Amer. Rev. of Int’l Arb. 225 (1999).
 - “Mediation in Art-Related Disputes,” 11 Studies in Art Law 153 (Centre du Droit de l’Art, Geneva, 1999).
 - “The Arbitrability Question Itself,” 10 Amer. Rev. of Int’l Arb. 287 (1999)
 - “*La contractualisation de l’arbitrage: le modèle américain*,” Revue de l’Arbitrage, 2001 No. 3 at p. 451.
 - Processes of Dispute Resolution: The Role of Lawyers (with Sherman and Peppet, Foundation Press, 3d ed. 2002; 4th ed. 2006).
 - Notes for Teachers, Processes of Dispute Resolution: The Role of Lawyers (with Sherman and Peppet, Foundation Press, 3d ed. 2002, 4th ed. 2006).
 - “Arbitrability’ and Judicial Review: A Brief Rejoinder,” 1 J. Amer. Arb. 159 (2002).
 - “Everything You Really Need to Know About Separability in Seventeen Simple Propositions,” 14 Amer. Rev. of Int’l Arb. 1 (2003).
 - “Provisional Relief in Arbitration: How Things Stand in the United States,” 22(1) Journal of International Arbitration 1 (2005).
 - “The Culture of American Arbitration and the Lessons of ADR,” 40 Tex. Int’l L.J. 449 (2005).
 - Separability, “Illegality,” and Federalism: The *Cardegna* Case in the Supreme Court, Mealey’s Int’l Arb. Rep. (Oct. 2005).
 - “Separability in the United States Supreme Court,” 2006:1 Stockholm International Arbitration Review 1 (2006).
 - “Federal Common Law and Arbitral Power,” 8 Nev. L.J. 169 (2007)
 - “Arbitral Jurisdiction and the Dimensions of Party ‘Consent,’” 24 Arbitration International 199 (2008).
- [A revised version of this article appears in Permanent Court of Arbitration (ed.), *Multiple Party Actions in International Arbitration: Consent, Procedure and Enforcement* (Oxford University Press, 2009)].
- “Fear of Freedom,” 17 Amer. Rev. of Int’l Arb. 469 (2006, published 2008).

- “The Arbitrator and Mandatory Rules,” 18 *Amer. Rev. of Int’l Arb.* 51 (2007, published 2008).
- “Evidence and Discovery in American Arbitration: The Problem of Third Parties,” 19 *Amer. Rev. of Int’l Arb.* 1 (2008, published 2009).
- “Comment: Mandatory Law and the Enforceability of Arbitration Agreements,” 3 *World Arb. & Med. Rep.* 133 (2009).
- “Understanding (and Misunderstanding) ‘Primary Jurisdiction,’” 21 *Amer. Rev. of Int’l Arb.* 47 (2010, published 2011)
- “The Limits of Arbitral Power: Yet Another Trilogy,” 22 *Amer. Rev. of Int’l Arb.* 435 (2011, published 2012).
- “The Errors of Comity: *Forum Non Conveniens* Returns to the Second Circuit,” 23 *Amer. Rev. of Int’l Arb.* 1 (2012).
- “Arbitrating ‘Arbitrability,’” 7 *World Arb. & Med. Rep.* 487 (2013).
- “Arbitrators Without Powers? Disqualifying Counsel in Arbitral Proceedings,” 30 *Arbitration International* 457 (2014).
- “Gap Filling by Arbitrators,” *Proceedings of the ICCA Annual Conference* (forthcoming 2014).
- “Asymmetrical Arbitration Clauses,” *Dossiers of the ICC* (forthcoming, 2014)
- “Crossing the Threshold: Arbitral Jurisdiction after *BG Group*,” *Mélanges en l’honneur de Pierre Mayer* (forthcoming, 2015)

Papers and Presentations (Selected):

- March 7, 1996: Presented paper, "American Practice in the Development of International Commercial Contracts" at the International Commercial Contracts Symposium, Istanbul Chamber of Commerce, Istanbul, Turkey.
- April 18, 1996: Presentation, "The Use of Arbitration Clauses in Contracts of Adhesion," faculty colloquium, the Faculty of Law, University of Geneva, Switzerland

- October 17, 1997: Presented paper, "The Use of Mediation in Art-Related Disputes," at Symposium on Resolution Methods for Art-Related Disputes, Centre du Droit de l'Art, Geneva, Switzerland
- August 18, 1998: Presentation, "American Contract Law," at 4th Intensive Course on American Law (sponsored by Brazil-U.S. Law Society, University of São Paulo School of Law, and University of Texas School of Law), São Paulo, Brazil
- September 25, 1998: Presentation, "Federal and State Law," at American Bar Association Conference, "Arbitration: Preparing for the 21st Century," New York
- May 7, 1999: Presentation, "Dispute Resolution in Corporate and Commercial Law," University of St. Gallen, Institut für Europarecht, Master of European and International Business Law Program, St. Gallen, Switzerland
- September 24, 1999: Presentation, "The Challenges and Adaptations of Contemporary Arbitration," SPIDR (Society of Professionals in Dispute Resolution) International Conference, Baltimore, Maryland
- April 27-May 4, 2000; May 30-June 6, 2001; May 13-17, 2002; May 5-15, 2003; May 21-June 4, 2004; May 29-June 9, 2005: Classes on Negotiation and Mediation, in the MBL (Master in Business Law) program at the Universities of Lausanne and Geneva, Switzerland
- May 2-May 9, 2000; May 31-June 12, 2001; May 6-19, 2003; May 30-June 14, 2005: Presented a "workshop" on Alternative Dispute Resolution for practicing attorneys and judges at the University of Geneva, Faculty of Law
- May 11, 2000: Presentation, "Actualité de l'arbitrage aux Etats-Unis: Une tendance a la contractualisation?," to the Comité Français de l'Arbitrage, Paris, France.
- August 21, 2001: Presentation, "American Contract Law," at Intensive Course on American Law (sponsored by the Universidade Federal do Rio Grande do Sul and University of Texas School of Law), Porto Alegre, Brazil.
- February 22, 2002: "Enforcement of International Awards and Foreign Judgments," 14th Annual International Law Institute: Managing the International Transaction: Doing the Deal, Handling the Disputes, Houston, Texas
- August 5-17, 2002: Course in International Arbitration, 4th International Summer Program on Dispute Resolution, Tulane Law School / Institut für Anwaltsrecht an der Humboldt-Universität zu Berlin, Berlin, Germany.

- March 14-15, 2003: Presented a paper on “Separability” at the Vanderbilt Journal of Transnational Law, 2003 Symposium, “International Commercial Arbitration,” Nashville, Tennessee.
- April 1, 2004: Presentation, "L'autonomie de la clause compromissoire et la notion de compétence/compétence en droit américain de l'arbitrage," Centre de Recherche en Droit International, Paris, France.
- September 2004: National Reports for the United States, on “Court Support for Arbitration,” “Interim Relief in Arbitration,” and “Mediation and Contract Law,” prepared for the Congress of the International Association of Procedural Law, Paris-Dijon.
 - June 2, 2005: Presentation, "Evaluation of a Case for Settlement," faculty colloquium, the Faculty of Law, University of Geneva, Switzerland.
 - January 10, 2006: Presentation, "The Culture of American Arbitration," The Houston International Arbitration Club, Houston, Texas.
 - October 27, 2006: Presentation, “How You Can Try to Avoid Arbitration--- and How You Probably Won’t Succeed,” Civil Litigation Conference, University of Texas School of Law.
 - January 26, 2007: Presentation, “Federal Common Law and Arbitral Power,” for Symposium, “Rethinking the Federal Arbitration Act,” Saltman Center for Dispute Resolution, University of Nevada, Las Vegas.
 - May 10-11, 2007: Presentation, “Arbitral Jurisdiction and the Dimensions of Party Consent,” for Symposium, “Multiple Parties in Arbitration,” Permanent Court of Arbitration, The Hague, Netherlands.
 - June 8, 2007: Presentation, “Mandatory Rules of Law in International Commercial Arbitration,” for Colloquium, “Mandatory Rules of Law in International Arbitration,” Columbia Law School, New York
 - October- November 2007: Lectures on Arbitration and ADR, in Masters Programs at the University of Paris-II (Pantheon-Assas), Institut d’Etudes Politiques, Paris, and the University of Versailles, France.
 - February 7, 2008: Presentation, “Competing Jurisdictions and Processes of Dispute Resolution” at Symposium, “Commercial Law: Where From and Where To?,” Queen Mary School of Law, Centre for Commercial Law Studies, London.

- April 17, 2008: Moderator, “Declaratory Relief and Injunctions,” Symposium, “Remedies in Commercial, Investment and Energy Arbitrations,” Houston, Texas (Planning Committee).
- October 2-3, 2008: Presentation, “Arbitration and Adjudication,” at International Dispute Settlement Conference, University of St. Gallen, St., Gallen, Switzerland.
- January 30-31, 2009: Commentator, “Mandatory Rules in Arbitration,” Institute for Transnational Arbitration, Academic Council, Retreat and Annual Meeting, Berkeley, California
- May 14-15, 2009: Presentation, “Discovery and Third Parties,” at Symposium, “Weighing the Facts: Information Exchange and Presentation of Evidence in International Commercial and Investment Arbitration,” Permanent Court of Arbitration, The Hague, Netherlands.
- October 15-16, 2009: Presentation, “Arbitration and Judicial Dialogue,” St. Gallen International Dispute Resolution Conference, St. Gallen, Switzerland
- May 14-15, 2010: Commentator, “An Introduction to Arbitral Jurisdiction: Who Decides?,” at Symposium, “Arbitration and National Courts: Conflict and Cooperation,” Houston, Texas
- October 14-15, 2010: Presentation, “Precedent in Arbitration,” St. Gallen International Dispute Resolution Conference, St. Gallen, Switzerland
- November 11, 2010: Lecture, “Understanding (and Misunderstanding) ‘Primary Jurisdiction,’” as part of Dispute Resolution Lecture Series, McGill University Faculty of Law, Montreal, Canada
- May 3, 2011: Lecture, “Justice in Danger,” at Seminar, “Justice, Democracy and the Rule of Law: Dialogues on the Stage of Globalization,” Centre of Contemporary Culture, Barcelona, Spain
- May 4, 2011: Presentation, “Arbitral Justice,” Universitat Pompeu Fabra, Facultat de Dret, Barcelona, Spain
- May 10, 2011: Lecture, “Understanding (and Misunderstanding) ‘Primary Jurisdiction,’” Uria Menendez Law Firm, Madrid, Spain
- May 11, 2011: Lecture, “Precedent in International Arbitration,” Instituto de Empresa School of Law, Madrid, Spain

- March 1, 2013: Presentation. “The Restatement of International Commercial Arbitration, Third,” at the annual Roundtable (“Arbitration and the Corporation”), Yale Law School Center for the Study of Corporate Law, New Haven.
- April 3, 2013: Presentation, “The Gateway Problem in International Arbitration,” at Annual Joint Conference of the Institute for Transnational Arbitration and the American Society of International Law, Washington, D.C.
- May 28, 2013: Presentation, “Limitation of Liability Clauses,” at Conference (“The Future of Arbitration”) at the Faculty of Law, University of Oslo, Norway.
- February 14, 2014: Presentation, “Arbitrators Without Powers,” International Bar Association, “Arbitration Day,” Paris, France.
- April 7, 2014: Presentation, “Gap-Filling by Arbitrators,” ICCA [International Council for Commercial Arbitration] Annual Conference, Miami, Florida.
- May 23, 2014, Presentation, “Asymmetrical Arbitration Clauses,” ICC Institute Spring Conference, “Jurisdictional Choices in Times of Trouble,” Paris, France.
- June 5-6, 2014: Organizing Committee and Moderator, “Jurisdiction of Arbitrators, Respective Roles of Courts and Arbitrators, and Mechanisms for Resolving Energy Disputes and Enforcing Awards in Latin America,” at Conference, “Emerging Trends in International Arbitration in Latin America,” University of Texas, Santiago, Chile.
- July 20-23, 2014: Special course, “The Jurisdiction of Arbitrators: The Respective Powers of Courts and Tribunals,” in the Arbitration Academy, Paris, France.

Organizations:

Board of Directors, Dispute Resolution Center of Austin-Travis County, 1987-1991
(Mediator training, DRC 1985; Advanced Mediator Training, Texas Center for Public Policy Dispute Resolution, 1999)

Board of Advisors, The Texas Center for Public Policy Dispute Resolution, 1993-present
(Under contract with the Center for Public Policy Dispute Resolution. designed a dispute resolution system and drafted dispute resolution clauses for construction contracts entered into by Texas General Services Commission, Summer 1993)

Advisory Council, University of Texas Center for Global Energy, International Arbitration, and Environmental Law, 2009-present.

Member, Commercial Panel, American Arbitration Association
(AAA Advanced Arbitrator Training, March 1991; AAA Commercial Arbitrator Training Workshop, October 1998; AAA Commercial Arbitrator II Training, December 2001; AAA Arbitrator Continuing Education: Chairing a Panel, December 2005).

Member, Panel of Arbitrators, British Columbia International Commercial Arbitration Centre

Member, Commission on Settlement in Arbitration, CEDR [UK]

Member, Editorial Board, Journal of International Dispute Settlement
(Graduate Institute of International Studies in Geneva and Geneva University Law School).

Member, Academic Council, Institute for Transnational Arbitration

Member, Panel of Mediators, Court of Arbitration for Sport, Lausanne, Switzerland

Member, Advisory Council, American Law Institute, Restatement of the Law Third, The U.S. Law of International Commercial Arbitration

Languages: fluent French
Bar Membership: New York (inactive)