A Guide To Contracting, Negotiation And The Law

R. I Akroyd

Contracts of Adhesion – standardized contracts, usually presented on a take-it-or-leave-it basis, to parties of unequal bargaining strength. Covenant – this term used in a contract means a promise which, if not carried out, will carry legal consequences. Often, covenants are divided into Affirmative Covenants (the things the promisor agrees to do) and Negative Covenants (the things the promisor agrees not to do). Commonly such things as war, riots, earthquakes, floods, strikes and the like are included. The common law generally takes a stricter approach to force majeure than civil law legal systems. Impracticability – A legal doctrine closely related to Force Majeure. Contracts for international transactions contain a mix of the familiar and the exotic. Familiar, in that deals resemble each other the world over, and so does the language used to express them. Exotic, in that differences in legal and business environments can require different approaches, or at least make them advisable. If you ignore the familiar, you end up reinventing the wheel. But if a contract party and its lawyers aren't used to working in English, the benefit of prevailing on them to accept English-language contracts might be more than offset by problems after signing caused by their not understanding what they had agreed to. For example, Chinese courts have been willing to hold that a given contract not in Chinese is void because the Chinese party simply didn't understand it.