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- Chapter 8: Value Added Tax
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CHAPTER 3

Tax and Taxes

3.1 WHAT IS A TAX?

Since this is a book on tax, it seems appropriate to ask what “tax” means. It turns out that the concept is a slippery one. In economic terms, any imposition of costs on individuals or firms by the government can be considered a tax. For example, economists frequently talk about the inflation tax, since inflation appropriates resources to the government. Legally, though, it is clear that inflation is not a tax, since it does not involve a payment by the taxpayer to the government. Similarly, regulatory requirements can have the same economic consequence as taxes. For example, a legal requirement for employers to provide health insurance to their employees may have almost the same economic effect as a tax imposed on the employer the revenues from which are used to provide health benefits to employees. Such a requirement is not a tax, even though it is economically equivalent to a tax.¹

Tax might be defined as a required payment to government. While this definition distinguishes taxes from other government action with an equivalent economic effect, it is at the same time both under- and over-inclusive. Some legally required payments may be made not to the government itself, but to a government-controlled entity. Such payments differ only in form from earmarked taxes that are paid to the government and then passed on to the spending agency in question. On the other hand, not all required payments to the government are taxes. Tax should not include a civil or criminal fine.

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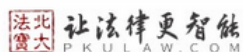
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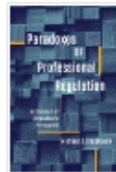
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Авторы: [Deepa Das Acevedo](#)

Информация о публикации: Cambridge, United Kingdom : Cambridge University Press. 2021

Тип ресурса: eBook.

Описание: In Beyond the Algorithm: Qualitative Insights for Gig Work Regulation, Deepa Das Acevedo and a collection of scholars and experts use mass surveys and data-scrubbing in order to truly understand the realities of gig work. The contributors draw on qualitative empirical experiences that define gig work, and they connect these insights to policy debates being fought out in courts, town halls, and even in academic and non-academic worlds by drawing on the experiences of drivers, journalists, and workers' advocates who were among the up. This book is a must-read for anyone interested in gig work, the legal infrastructure surrounding it, and how that infrastructure can

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1

The Rise and Scope of Gig Work Regulation

Deera Das Acevedo

This chapter provides some background information about legal responses to gig work in the United States, but it does so subject to an important qualification: there is less volume than one might imagine, and even less coherence. This is in large part because of the frequently forgotten newness of the gig economy. However ubiquitous and powerful some platforms may now appear to be, the precursor to Airbnb only appeared in 2007 and the first transportation platform, Sidecar, was only founded in 2011.¹ There is litigation to be sure, and some rulemaking as well, but there can only be so much within this limited time frame.

...tive lack of gig work regulation is also due to the fact that much of ... has occurred with respect to gig companies pertains to industry ... mer protection – in other words, the universe of gig economy ... ader than that of gig work regulation. Zoning, driver qualifications ... e-hire transportation, building codes, and food and safety require- ... of the nonwork concerns that gig companies raise and that states ... have been at pains to address. Moreover, state and local govern- ... tackle these issues is understandable: the average taxpayer is much ... about the gig economy because of how specific industries impact her

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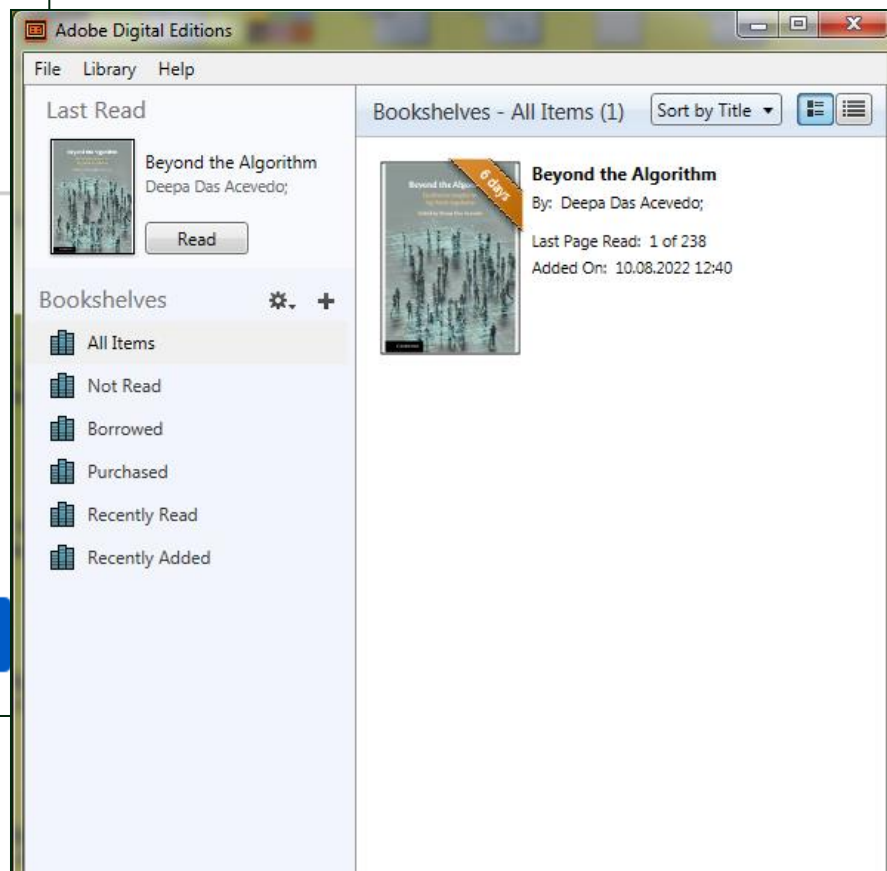
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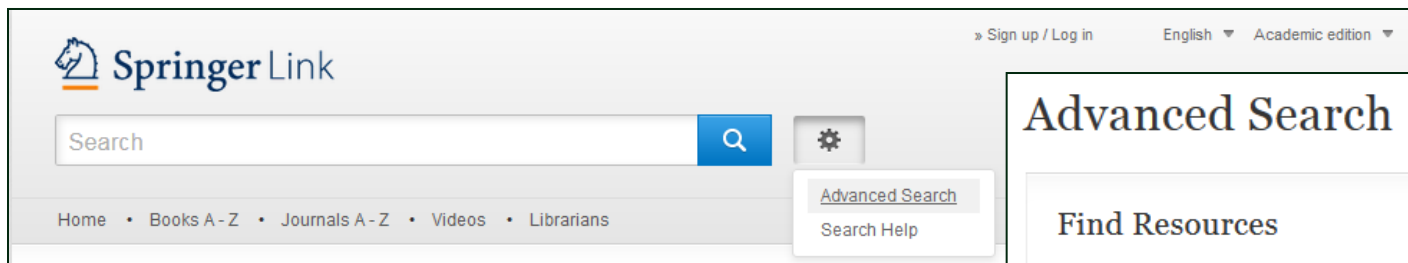
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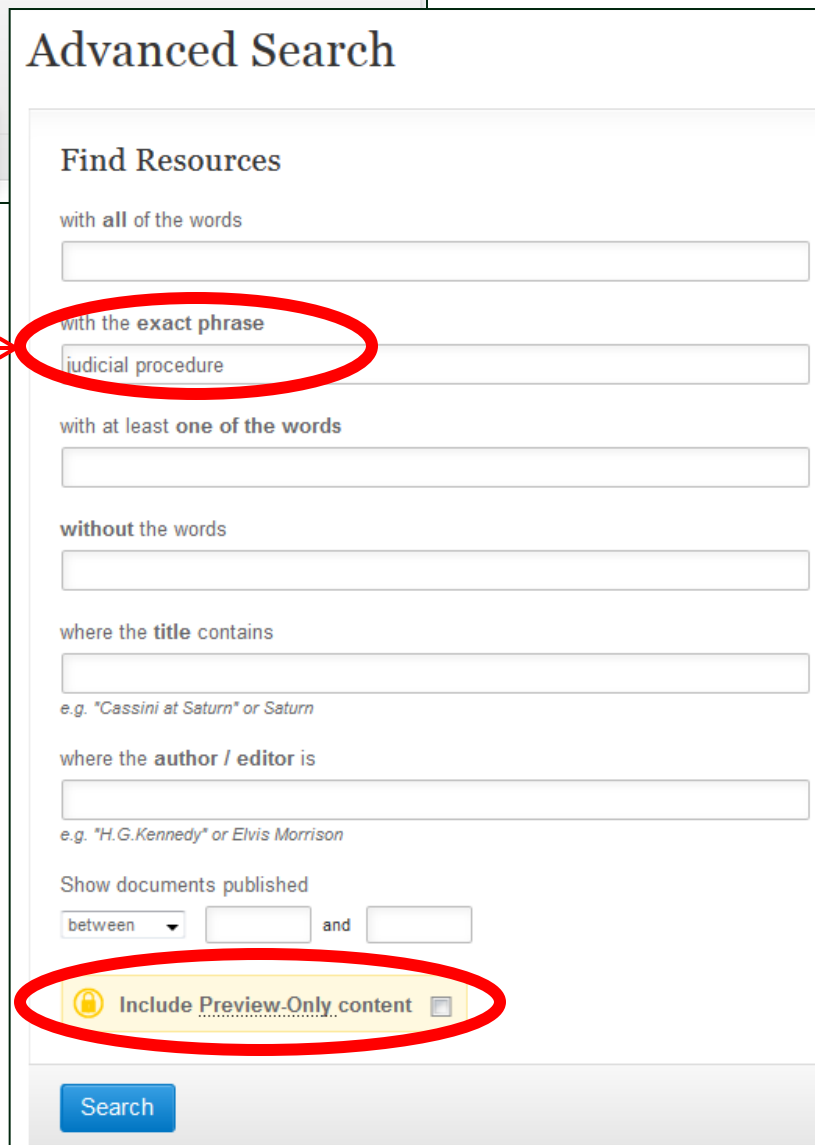
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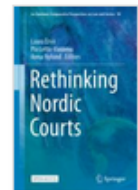
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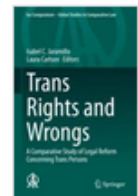
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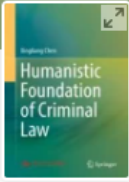
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Through the philosophical investigation on free will, a conclusion is summarized that from the perspective of ontology, the human will is not free; however, from the perspective of axiology, the human will is free. This conclusion is of great significance to the study of crime because crime can also be analyzed from the perspectives of ontology and axiology. The ontology of crime regards crime as a social phenomenon, and it belongs to the research of criminology. The mission of criminology is to reveal the general law of criminal phenomena, especially the causes of committing crimes. Therefore, the study of criminology only exists when it is researched from the perspective of behavioral determinism. The axiology of crime regards crime as an individual behavior, and it is the study of criminal law. The mission of the study of criminal law is to determine whether human behaviors constitute crimes and hence to provide the factual basis for the investigation on criminal responsibilities. Accordingly, the study of criminal law exists only when it is researched through the lens of free will. Ontology and axiology provide analytical frameworks for us to reveal the humanistic foundation of crime, and also serve as a foundation to clarify the arguments between the classical school and the positivist school of criminology.

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HABIT, CRIME, AND CULPABILITY

ERIC A. JOHNSON*

Courts and scholars long have distinguished the wrongdoing component of criminal liability from the culpability component. In the old days, wrongdoing was thought to be crime's physical, objective component—the “evil-doing hand.” Culpability, by contrast, was the mental, subjective component—the “evil-meaning mind.” Nowadays, most scholars agree with Holmes that even the wrongdoing component requires proof of the actor's mental state. If the wrongdoing component requires proof of the actor's mental state, though, what's the point of the culpability requirement? For now, the dominant answer appears to be that the culpability requirement is a concession to human weakness.

In this Article, I will develop a different view. I will argue that the culpability requirement is less a concession to human weakness than to the varieties of human rationality. Building on insights by philosopher Michael Bratman and others, I will argue that rationality can take at least two fundamentally different forms. The wrongdoing requirement is concerned only with conduct's time-slice rationality—with the act's downstream risks and utilities as measured from the moment of the act. Conduct that isn't time-slice rational, however, still can embody a second kind of rationality, namely, temporally extended rationality. This second variety of rationality is present, for example, when an actor's conduct is attributable to desirable habits of thinking, feeling, or behaving. The culpability requirement is best understood as addressed to this second kind of rationality. It absolves just those actors whose conduct, though wrongful, nevertheless is a product of desirable habits.

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* Professor of Law and Heidi Hurd Faculty Scholar, University of Illinois College of Law. I am grateful to Ernest Johnson for his comments on an earlier version of this paper.

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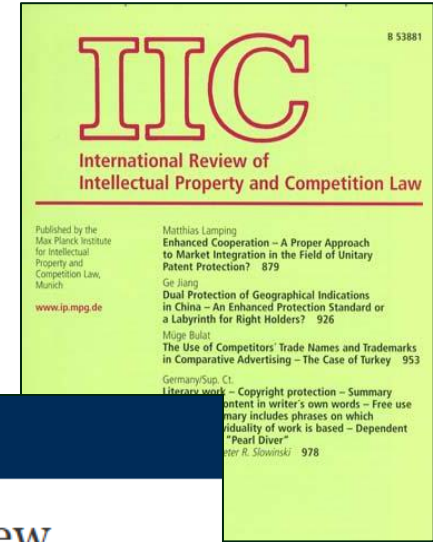
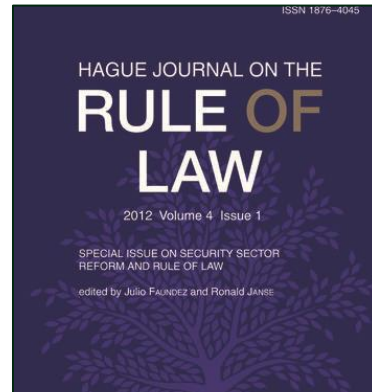
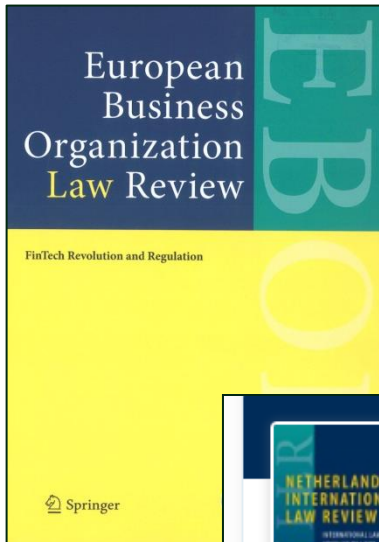
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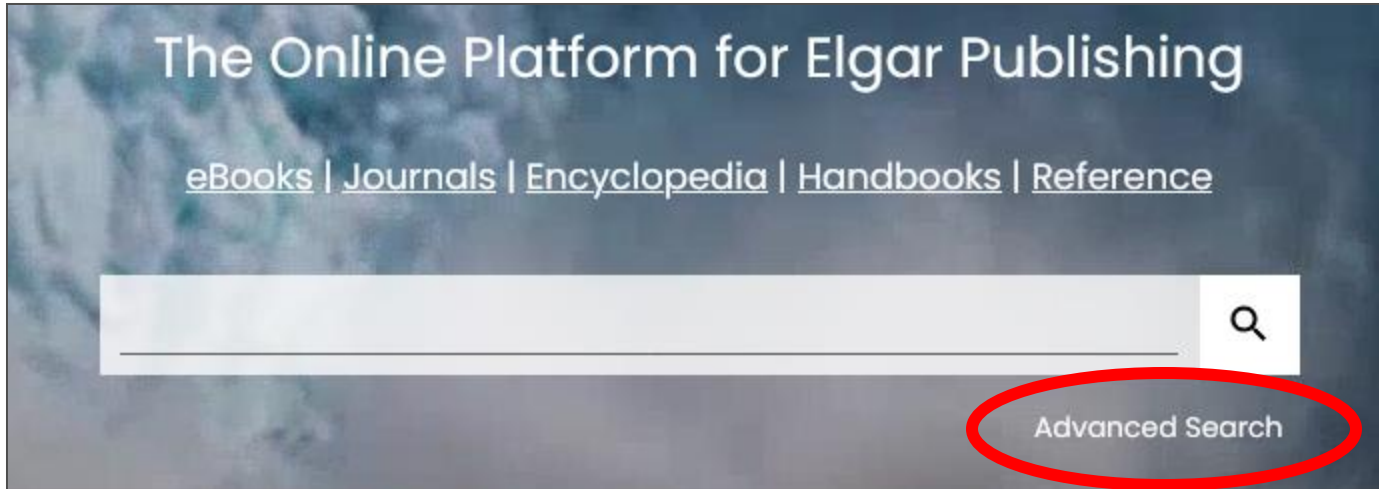
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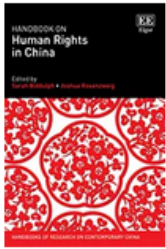
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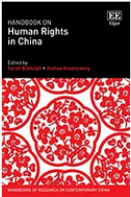


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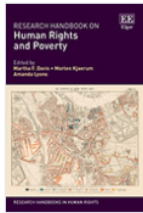
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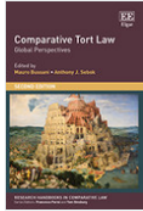


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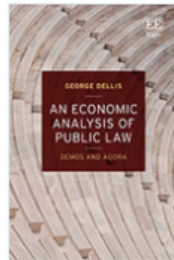


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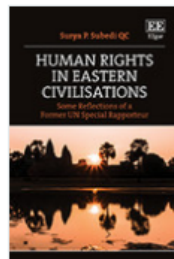


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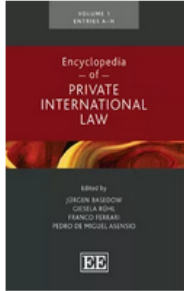
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Internet, jurisdiction

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Keywords: Private International Law; Transnational Law; Comparative Law

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I. Jurisdictional complexity of the internet


The expansion of digital networks and the ubiquitous nature of internet activities have led to a dramatic rise not only in the number of international transactions and situations, but also in their complexity and in the challenges they pose when regulating international jurisdiction (→Jurisdiction, foundations; →Jurisdiction, limits under international law).

The increase of cross-border interaction through digital networks facilitates transactions and relationships between parties who may not always know the physical location of all actors involved. The instantaneous and borderless transmission of information via the internet has increased the provision of services and the exploitation of intangible

rights on a global scale carried out through the significance in areas s

Estoppel

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Keywords: Private International Law; Transnational Law; Comparative Law

I. Concept

1. Historical development

Estoppel is one of the 'most powerful and flexible instruments to be found in any system of court jurisprudence' (Sir Frederick Pollock, *The Expansion of the Common Law* (Stevens and Sons 1904) 108). While the etymological origins of estoppel can be traced to old French, the concept is most closely associated with the common law tradition.

The term estoppel comes from the old French word *estoupail* (*étoupe*), from the Latin *stupa*. 'Etoupe' meant a bung or cork by which you stopped something from coming out. For instance, in the construction of wooden boats, it was used in order to prevent the intrusion of water. The term is related to the verb '*estop*' (*stopper*).

Brazil

I. Sources of private international law

1. Major legislation

Although Brazil is a federal country, as enshrined in art 22 of the Brazilian Constitution of 1988 (published in the Official Federal Gazette of Brazil (*Diário Oficial da União*), No 191-A of 5 October 1988, henceforth DOU), the Federal Union has sole prerogative to legislate on most legal subjects, including matters of Private International Law. Federal legislation prevails over the laws of the various states of Brazil. There are no state laws dealing with Private International Law and procedural law matters. While legislative provisions with a bearing on Private International Law can be found in several statutes, the primary norms on the matter are found on a single statute, the '*Lei de Introdução às Normas do Direito Brasileiro*' (Introductory Act to the Norms of Brazilian Law, DOU of 9 September 1942, henceforth LINDB). This Act has traditionally been

1988, DOU 191-A of 5 October 1988) in favour of Brazilians in the case of → succession *mortis causa* (see below). The current LINDB introduced domicile (→ Domicile, habitual residence and establishment) as the main connecting factor for Private International Law issues and excluded the provision allowing parties to choose the law applicable to international commercial contracts (art 9 LINDB). It contains rigid connecting factors and a number of obscure articles which deal with conflict of laws (arts 7–19). As noted above, Brazil is a party to a number of international conventions.

III. Administration of private international law

1. Special courts

There are no courts specialized in Private International Law in Brazil, except for the recognition and enforcement of foreign judgments (see below). Private International Law matters are within the purview of ordinary civil courts, but can also fall under the purview of labour courts.

Typically, federal courts are more likely to be faced with matters of Private International Law than state courts, particularly with respect to matters of cooperation in judicial affairs.

Certain Private International Law matters, particularly cooperation in civil judicial matters, are also addressed primarily by non-judicial bodies such as the Public Attorney's Office (*Ministério Público*), but also by public notaries and diplomatic and consular officials.

More recently, Small Claim Federal Courts (*Juizados Especiais Federais*) have also been equipped to deal with certain Private International Law matters.

2. Application and enforcement of foreign law

The LINDB requires courts and other authorities to make a determination as to whether the case before them involves a matter of Private International Law, and to apply *ex officio* the relevant rules on → choice of law contained in the LINDB. However, the parties in a case bear the burden of establishing the content of foreign law, which is somewhat cumbersome in Brazil. The foreign law presented to the court must be an authentic version of the relevant legislation, duly validated by a Brazilian consular authority in the jurisdiction from

which the document originates, and if it is in a language other than Portuguese, it must be translated in full by a certified translator. In practice, this approach limits the use of foreign law as well as foreign materials more generally, which are subject to the same rule to the extent they are also evidence adduced in court (→ Evidence, procurement of). Recent instruments, most notably the Hague Access to Justice Convention, are attempts at simplifying this procedure.

As far as non-judicial authorities are concerned, proof of foreign law and other foreign documents is made through validation by a Brazilian consular authority in the jurisdiction from which the invoked document originates. Without this validation, such documents cannot be considered valid in Brazil.

IV. Basic principles of private international law: jurisdiction

Articles 21–3 CPC establish the basic principles of jurisdiction under Brazilian law, thereby replacing art 12 LINDB, although this provision has never been officially revoked.

Under art 23 CPC, Brazilian courts have exclusive jurisdiction to deal with disputes related to immovable goods located in Brazil and for the succession *mortis causa* of goods situated in Brazil. Furthermore, the courts shall have exclusive jurisdiction to hear disputes involving the partition of any assets located in Brazil in the context of a divorce, judicial separation or dissolution of a *de facto* union, regardless of the parties' domicile or nationality (→ Divorce and personal separation). Exclusive jurisdiction prevents the recognition and enforcement of a foreign judgment or the enforcement of a clause indicating the competence of a foreign forum to deal with the subject matter covered by art 23 CPC.

Articles 21 and 22 CPC establish the situations where Brazilian courts may have concurrent jurisdiction with foreign courts. Under art 21 CPC, Brazilian courts shall have concurrent jurisdiction: (i) when the defendant is domiciled in Brazil, regardless of his nationality; (ii) when the obligation has to be performed in Brazil; and (iii) when the claim is based upon a fact or an act that took place in Brazil. As per art 22(3) CPC, parties may also validly submit a dispute to Brazilian courts. Articles 22(1) and 22(2) CPC relate to specific situations in the

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