19. Unconscionable bargains and inequality of bargaining power

This chapter considers the law on unconscionability and inequality of bargaining power. English law has traditionally been cautious about wholeheartedly adopting such sweeping principles as ‘unconscionability’, preferring instead to avoid unfair outcomes through particular doctrines (for example, misrepresentation, duress, and undue influence). Some contracts may be set aside if they are considered to be an ‘unconscionable bargain’, i.e. if the claimant is ‘poor and ignorant’, the terms of the contract are substantially disadvantageous to the claimant, and the claimant had no independent advice. There is no general principle in English law that a contract can be set aside due to inequality of bargaining power.
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