

Propositions

1. The use of ex ante contracts to arbitrate tort claims by “repeat player” tortfeasors, allows them to behave strategically in ways which are unavailable outside of the arbitration process or are unavailable in the litigation setting within state operated courts.
2. The use of arbitration tribunals for the adjudication of tort claims may lead to the preclusion of some types of industry specific tort claims from judicial review when firms in the industry have coordinated to include arbitration clauses in their standard form contracts.
3. Because of a divergence between the EU and the US concerning the legal treatment of ex ante contracts to arbitrate claims related to consumer contracts, there are less instances of arbitration being used to adjudicate tort claims within the EU than in the US, although because of the secretive nature of arbitration the number of claims arbitrated is impossible to identify.
4. While international legal norms have developed in the use of arbitration for international commercial transactions, largely under the auspice of the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards of 1958, there is no convergence of legal norms in the use of arbitration for domestic claims.
5. A unique form of regulatory competition may occur when individuals and firms are permitted to contract over private and public adjudication forums for tort claims within a state, which can lead to the arbitrage of tort claims from public forums into private arbitration tribunals, which can be described as a domestic forum arbitrage strategy which is enabled by the strategic contracting of repeat player litigants to tort claims.
6. During parts of the United States Afghanistan War (2001-2021), the United States engaged in the practice of extrajudicially arresting suspected terrorists in European states under a practice known as extraordinary rendition, some of these extrajudicially detained suspects were kept in so called “black sites” within European host states, and the United States also engaged in a practice of labeling some captured combatants in the conflict as “unlawful combatants”, a designation which does not have the same legal protections given to enemies of war under the Geneva Conventions of 1949, with each practice contributing the frustration of international law.
7. In closed professional sports leagues, the competition between cities for the right to host professional sports teams contributes to an increase in public financing for professional sports stadia, which has contributed to a “race to the bottom” in the market to host professional sports teams in the United States.
8. The use of artificial intelligence to make legal determinations in the adjudication of civil and criminal claims is controversial in so far as the decisions rendered by artificial intelligence are contained within a so called “black box” which does not allow for the review and examination of the process by which the artificial intelligence has rendered its decisions.
9. The COVID-19 pandemic highlighted how in federal systems there is a need for a “smart mix” of centralized and decentralized state responses to widespread disasters, which allows federal systems to take advantages of both local expertise and economies of scale.
10. Aleatory contracts, in which risk is an essential part of the underlying contract, should be enforced even when there are unforeseen circumstances which render the performance of the contract onerous to one of the parties.
11. The band Nirvana is a more influential band than Pearl Jam, although Pearl Jam has become a more technically proficient studio and live band than Nirvana was.