FARSHAD GHODOOSI
Assistant Professor of Business Law
Nazarian College of Business & Economics
California State University, Northridge
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EDUCATION

Yale Law School
J.S.D. (2015), *LL.M.* (2012)
- Senior Editor of *Yale Journal of International Law*

University of California, Berkeley, School of Law
LL.M in Corporate Law (2012) (two-summer program)
- *Certificate of Business Law* from Berkeley Center for Law, Business and the Economy

Florida International University
Ph.D. in International Relations, (2018)
- *Lecturer; Fellow at Middle East Studies Program*

University of Tehran
LL.M. in Private Law (2008), *B.A. in English Literature* (2007), *LL.B.* (2005)

FACULTY APPOINTMENTS

Nazarian College of Business & Economics, California State University, Northridge, Northridge CA, 2020-present
Assistant Professor of Business Law (Tenure-Track)
- *Courses*: Contracts, Business Associations, Corporations, Commercial Transactions.
- *Activities*: Project lead and founder of Autonomy in Law project at a NASA-sponsored autonomy research center (*ARCS*) with a focus on big data & law. (Link)

RESEARCH & TEACHING INTERESTS

Primary: Contracts, Business Associations, Corp. Governance, Int'l Business Transactions, Securities

Secondary: Law & Technology, Behavioral Law & Economics, Arbitration, Privacy, Fintech

SELECT RESEARCH GRANTS

- National Science Foundation: (Funded, 2021)
  - Project: *Workers & Technology Together*
- The Knight Foundation grant in internet governance (Link)
  - Project: *Seduction by Graphics (Dark Patterns and Textual Deception)*
- Berkeley Hass-Ripple grant in Fintech & Blockchain (Link)
  - Project: *Smart Contracts*

PUBLICATIONS

Articles
- ***Contracting Risks***, U. ILL. L. REV. (forthcoming 2022). (Link)

- Featured in Harvard Caselaw Access Project (Link), Private Law Theory Blog (Link) and ContractsProfBlog (Link).
- ***Synopsis***: Contracts serve an important function: allocation of risks. In achieving this function, contractual parties routinely include a force majeure clause in their contracts to be excused from performance in the face of a supervening event. But why do parties include force majeure clauses despite the default rules of impossibility, impracticability, and frustration? Relatedly, what events qualify to excuse performance and how have courts approached force majeure clauses? Using empirical methods (including machine learning and natural language processing) and doctrinal analysis, this Article makes the following contributions: *First*, based on empirical analysis of force majeure clauses and behavioral economics, it argues that parties primarily do away with the basic assumption requirement in their force majeure clauses. *Second*, by parsing through past courts' decisions, it shows that courts have relied on three factors (*i.e.*, control, foreseeability, and language) to approach force majeure clauses. *Third*, using computational tools on force majeure cases since 1810, it shows that the control factor (beyond the control of the parties) is the most important factor in courts' decisions. *Fourth*, the Article suggests an overhaul shift based on promisee's reliance rather than solely based on promisor's ability to control.

- ***Justice in Arbitration****: The Consumer Perspective*, 32 INT'L J. OF CONFLICT MGMT. 626 (forthcoming 2022). (Link) (with Monica M. Sharif, PhD). (The leading peer-reviewed conflict management journal ranked "A" in the widely-adopted ABDC ranking list)

  - ***Synopsis****:* Arbitration has been the primary legal way for resolution of consumer disputes. Consumers, however, rarely use arbitration to resolve their disputes while evidence suggests that their disputes remain unresolved. Contrary to the current prevailing emphasis on who's winning in arbitration, our study establishes that consumers believe that the court is more just than arbitration, regardless of the outcome. Our study further establishes that consumers' perceived poor legitimacy and lack of familiarity, not cost calculation, are what drive their justice perception.

- ***Contracting in the Age of Smart Contracts***, 96 WASH. L. REV. 51 (2021). (Link)
  - Featured in Legal Theory Blog (Link), Machine Lawyering Blog (Link) and Harvard Caselaw Access Project (Link).
  - Selected for reprint at ***Defense Law Journal*** (quarterly publication by Lexis Nexis on challenging legal issues for large law firms and in-house corporate counsels)
  - ***Synopsis****:* Smart contracts lie at the heart of blockchain technology. There are two principal problems, however, with existing smart contracts: first, the enforceability of smart contracts remains ambiguous. Second, smart contracts are limited in scope and capability barring more complex contracts from being executed via blockchain technology. Drawing from the existing literature on contracts and smart contracting, this Article suggests new approaches to address these two problems. *First*, it proposes a framework based on reliance-based contracting to analyze smart contracts. *Second*, the Article analyzes the seismic shifts in contractual disputes, and offers new insights into its features including decentralized decision-making, network-based dispute resolution, and extrajudicial enforcement of decisions. The Article concludes that

users' reliance should be the basis for analysis of smart contracts and its associated dispute resolution mechanism.

- ***Binding Political Commitments***, 2020 U. ILL. L. REV. ONLINE 235 (Oct. 15, 2020). (Link)
  - ***Synopsis:*** This essay investigates the issue of bindingness of agreements at the international level using JCPOA as a case study. I argue that notions such as soft law and political commitments give international law a bad name. Nor does word-choice hair splitting get us far in understanding the nature of agreements in many instances (language factor). Finding intent—or to be more precise extrapolating intent—is even more elusive than domestic contracts (intent factor). Circumstantial evidence (*e.g.*, legislative history of the Review Act) is neither entirely relevant nor always convincing (domestic legislation factor). I argue instead that the center of inquiry must be on object and purpose of the agreements.

- ***Fall of Last Safeguard in Global Dejudicialization****: The Problem of Protecting Public Policy in Private Business Disputes,* 98 OR. L. REV. 99 (2020). (Link)
  - ***Synopsis:*** As one of the last remaining safeguards for the modern private justice system, the public policy doctrine grants discretion to courts to set aside arbitration agreements and awards which harm the public. Due to its evasive nature, courts and international arbitral tribunals alike have grappled with an appropriate way to define and approach this notion. In a comprehensive study, this Article analyzes arbitral and judicial decisions regarding commercial cross-border disputes over the last three decades using qualitative research and coding. The study demonstrates the frequency of public policy claims in courts and arbitral tribunals, issues presented under this rubric, and the success rate of these claims. Results suggest the increase of public policy arguments while the courts and arbitral tribunals alike have remained passive. This Article argues that a triangle of a pro-arbitration policy of courts, the doctrine of international public policy, and the contractual view of arbitration have led to underutilization, ineffectiveness, and the fall of the public policy doctrine as the last safeguard in the de-judicialization of domestic and global business disputes. The Article calls for an overhaul of this structure whereby courts' review is not only at the end of the private dispute resolution process.

- ***The Trump Effect****: Assertive Foreign Policy Through Extraterritorial Application of Laws,* 51 GEO. WASH. INT'L L. REV. 661 (2019) (invited piece). (Link)
  - ***Synopsis:*** What will the world look like following trade wars and the collapse of multilateralism? The answer might be the increasing use of extraterritorial application of laws. One of the ways the Trump Administration has impacted global dispute resolution is through endorsing and espousing a return of unilateralism, which manifests itself through the extraterritoriality of laws. This Article explains this approach and assesses resulting legal challenges.

- ***Arbitrating Public Policy****: Why the Buck Should Not Stop at National Courts,* 20 LEWIS & CLARK L. REV. 237 (2016). (Link)
  - ***Synopsis:*** The U.S. Supreme Court in *Mitsubishi v. Soler* famously declares that antitrust claims are arbitrable in cases where the underlying dispute arises from an international transaction. Employing this ruling, the Article argues that arbitration is a suitable

venue for resolving public policy related matters not only antitrust claims with international character. Contrary to the current trend, the Article suggests that arbitral bodies handle cases with controversial issues related to public policy provided that courts play an active role in reviewing arbitral awards based on their public policy implications.

- ***The Concept of Public Policy in Law***: *Revisiting the Role of the Public Policy Doctrine in the Enforcement of Private Legal Arrangements*, 94 NEB. L. REV. 685 (2016). (Link)
  - Featured in the most popular papers in *Nebraska Law Review*'s history. (Link)
  - ***Synopsis***: The doctrine of public policy is a channel through which public law enters private law and bars it from actualizing its normal legal consequences. It is not clear which aspects of public law have a trumping effect on contract (private) law and make it unenforceable. The Article argues that the doctrine of public policy consists of three distinct strands, each with a separate pedigree: public interest, public morality and public security. Each has a distinct constitutive grammar of its own. The public interest category includes matters requiring cost and benefit analysis. Public morality deals with judicial activism. Public security revolves around states' interest in survival.

- ***The Sanctions Theory***: *A Frail Paradigm for International Law?* HARV. INT'L L. J. ONLINE (2015). (Link)
  - Reviewed and recommended by the Legal Theory Blog. (Link)
  - ***Synopsis***: This Article argues that the theory of economic sanctions is a vague and incoherent paradigm. Despite its logical incoherence, some scholars have endeavored to reformulate international law based on economic out-casting. This piece rejects this approach and argues that reformulating international law based on the sanctions paradigm would create further theoretical, as well as practical, challenges for this discipline instead of resolving them.

- ***Combatting Economic Sanctions***: *Investment Disputes in Times of Political Hostility*, 37 FORDHAM INT'L L. J. 1732 (2014) (Link)
  - ***Synopsis:*** International investment law has grown significantly since the end of the Cold War, as have the international sanctions regimes designed to change the behavior of recalcitrant states. This Article argues that countries subject to sanctions could combat the negative results of economic isolation by resorting to the investment law regime, demonstrating that international investment law significantly undermines the effect of economic sanctions.

- ***The Limits of the Free Movement of Capital***: *The Status of Customary International Law of Money*, 7 N.W. INTERDISC. L. REV. 287 (2014). (Link)
  - ***Synopsis:*** Globalization is inextricably linked to the idea of free movement of capital vis-à-vis states' regulatory restrictions. This Article investigates the legal limits crafted in the post World War II global economy. It shows that despite the rhetoric on the triumph of neo-liberalism, legally speaking, one of its basic tenets (*i.e.*, the free flow of capital) still faces important and structural limits stemming from principles of political sovereignty (e.g. security exception) and monetary sovereignty (*e.g.*, balance of payments exception.)

Book

- **INTERNATIONAL DISPUTE RESOLUTION AND THE PUBLIC POLICY EXCEPTION** (2017, reprint 2018) (in Routledge Research in International Commercial Law series). (Link)
    - ***Synopsis:*** The doctrine of public policy grants discretion to courts to set aside private legal arrangements, including arbitration, which harm the "public." The *ad hoc* and vague nature of the doctrine, coupled with the strong push in favor of alternative dispute resolution, has rendered the doctrine, in certain jurisdictions, toothless. At the international level also, some scholars and practitioners have devised the notion of transnational public policy in order to capture norms that are "truly" transnational and amenable for application in cross-border litigations. Yet, despite the importance of this doctrine—a safety valve and a control mechanism for today's international and domestic dispute resolution—no major study has ventured to review and analyze it. This Book fills the gap by providing a historical, theoretical and practical background on the public policy exception in alternative dispute resolution with a focus on cross-border and transnational disputes.

Book Chapter

- ***Monetary Sovereignty and Capital Flow*** in THE LEGAL IMPLICATIONS OF GLOBAL FINANCIAL CRISES (2020) (a publication by the Hague Academy of International Law in collaboration with Brill publishers). (Link)
    - ***Synopsis:*** Identifying three stages of monetary sovereignty, this chapter argues the current stage is best described as fragmented monetary sovereignty. This stage is marked by a combination of legal frameworks stemming from the vestiges of Bretton Woods, neo-liberalism, and the security environment of post 9/11. The chapter analyzes various limits imposed on monetary sovereignty including from trade regimes, investment treaties, and politics (*e.g.*, economic sanctions).

Other Publications

- *Defining the Relationship: Terminology and the Iran Deal*, FOREIGN AFFAIRS, (Apr. 5, 2015). (Link)

- Book Note*, The Idea of Arbitration*, 39 YALE J. INT'L L. 401 (2014) (book review). (Link)

- Personal Remarks for Honoring Judge Weinstein at 2014 International Advocate for Peace Award, published in 16 CARDOZO J. CONFLICT RESOL. 857 (2014-2015). (Link)

- International Law Association*, Report of the Seventy-Sixth Conference: Session on Intellectual Property and Private International Law*, 587, 587-601(Aug. 2014) (with Hector A. Paez)

MANUSCRIPTS

- ***The Ethics of Blockchain in Organizations*** (Revise & Resubmit at JOURNAL OF BUSINESS ETHICS, No. 1 journal in social sciences in terms of impact factor according to Google Scholar)
    - ***Synopsis:*** This research takes a first step in proposing several ways in which the blockchain technology can be used to improve current organizational practices, while also considering the ethical implications. Specifically, the paper examines the role that blockchain technology plays in three primary areas of people operations: 1) entry to the organization (via recruitment and selection), 2) intraorganizational processes (including compensation via smart contracts, retention and motivation via shared

leadership and conflict management via network-based dispute resolution, and performance management), and 3) exit (offboarding). In each section, the paper reviews the ethical implications from the lenses of virtue ethics, utilitarianism, deontology and contractarianism. The paper concludes that in whole the implementation of blockchain technology in people operations processes can create a more ethical work environment. However, careful implementation is necessary and requires extensive examination of ethical implications in advance.

- ***Arbitration Effect*** (full draft)
    - ***Synopsis:*** The omnipresent arbitration is changing American law and its justice system. Critiques argue that arbitration leads to claim suppression. Proponents argue that it is cheaper and less informal. These claims have not been empirically tested. Whether and how arbitration impacts individuals' decision to sue remains an open query. In a series of experiments, this Article shows the impact of arbitration agreements on individuals' decision to sue which directly impacts the redressability of their grievances. The results establish that individuals are less likely to sue in arbitration as opposed to court (hence the arbitration effect). Such effect, however, does not exist at the contracting stage—whether pre-dispute or post dispute—meaning that individuals do not shun away from arbitration when given the option. Further, none of the fundamental attributes of arbitration, as touted by the Supreme Court, are what individuals care about. Nor do win-rates and class action mitigate the arbitration effect. Equally, informational nudges do not reduce the effect and individuals do not ascribe negative attributes to firms forcing mandatory arbitration. This Article for the first time shows how arbitration impacts individuals' decision to sue. It casts serious doubts on efforts—market-based or regulatory—aiming to change the arbitration course. It further suggests that the contracting decision differs from the justice decision. Arbitration is changing the law and it seems that it is here to stay.

- ***Internalizing External Conflicts***: *Thick Skin in the Face of Economic Sanctions and a Pandemic* (full draft)
    - ***Synopsis***: Economic sanctions regimes have played and continue to play a significant role in the geopolitics of recent years. Sanctions are designed to punish by isolation, economic pressure, and severe trade and service restrictions. This research presents a case for the importance of examining the role of economic sanctions for organizations, particularly employee behavior. Borrowing from the literature in international relations, international law, and political science, the paper provides background regarding how economic sanctions actually work in international relations. It analyzes the micro impact of economic sanctions as it creates ontological insecurity for the target population. The paper utilizes novel data from sanctioned and non-sanctioned countries during the Covid-19 pandemic. The results indicate significant differences in performance, work engagement, ethical behavior, affect, and work climate. Specifically, individuals from the sanctioned country, compared to individuals from non-sanctioned countries, demonstrated more resiliency during distress. Despite a harsher work environment, they demonstrated less negative emotions, more ethical behavior, better work engagement, and consistent performance. The paper concludes by furnishing a new theory—ontological resiliency—and proposing new solutions to the underlying problem of lack of resiliency.

- ***Seduction by Graphics***: *An Experimental Study of the Qualitative Difference of Online Manipulation* (work-in-progress) (Sponsored by the Knight Foundation)

- ***Contractual Interpretation, the Macro View***: *Computational & Normative Analyses of Courts' Opinions on Contractual Interpretations Using Big Data* (work-in-progress)

- ***Network Contracts:*** *How to Create Decentralized Firms?* (work-in-progress)

- ***Can Justice be Tokenized?*** *Lessons from Initial Coin Offerings (ICOs) & Security Token Offerings (STOs)?* (work-in-progress)

- ***Paradox of Fiduciary Duties***: *An Empirical Study of Fiduciary Duties in the Non-Profit Sector* (work-in-progress)

- ***Consumers' Breakup:*** *Will Breakups Make Users Better Off? (A Behavioral Study)* (work-in-progress) (proposal under review at Economic Security Project's Anti-Monopoly Fund)

- ***Automated Compliance Enforcer:*** *Reimaging Privacy Compliance in Firms Through Formal Methods* (proposal under review at National Science Foundation).

PRIOR TEACHING EXPERIENCES

Graves School of Business at Morgan State University, Baltimore, MD**,** 2018-2020
Assistant Professor of Law and Management (Tenure-Track)

- *Courses*: Contracts, Business Law, Risk Management, Intellectual Property
- *Activities*: Faculty fellow at the Center for the Study of Blockchain and Financial Technology; Morgan State University Provost Research Grants.

The George Washington University, Elliott School of International Affairs, Washington, DC Summer 2019
Adjunct Professor
Course: International Business Transactions

University of California at Berkeley, Berkeley, CA, 2016
Legal Studies Program
Lecturer
Course: International Law

PROFESSIONAL EXPERIENCE

Three Crowns LLP, Washington, DC, 2016-2018
Associate Attorney

Keystone Strategy, San Francisco, CA, 2015-2016
Consultant

Jones Day LLP, Paris, France 2013-2015 (remote collaboration)
Independent Legal Consultant

Yale Law School, New Haven, CT, 2012-2015
Research Assistant (Professor Bruce Ackerman and Professor W. Michael Reisman)

Shearman & Sterling LLP, Paris, France, Summer 2013
Summer Law Trainee

Yale Law School
Jerome Frank Legal Services, **Transnational Development Clinic,** New Haven, CT, 2012
Student Director

SELECTED PRESENTATIONS

- Contracting Risks, *Academy of Legal Studies in Business Annual Conference 2021*, Virtual, (August 2021)
- Foreseeability & Control in Force Majeure, *Law Insider Webinar Series 2021*, Virtual (August 2021)
- Arbitration Effect, *American Business Law Journal Invited Scholars Colloquium*, Virtual, (August 2021)
- Sanctions Ethics, *Academy of Legal Studies in Business Annual Conference 2021*, Virtual, (August 2021)
- Internalizing External Conflicts, *Academy of Management Annual Meeting,* Virtual (August 2021)
- Regulating Privacy Through Software: Legal, Behavioral and Technical Challenges of Automated Compliance, *ComplianceNet 2021*, (June 2021)
- Contracting Risks, *National Business Law Scholars Conference 2021*, Virtual, (June 2021)
- Contractual Allocation of Risks in Times of Crises, *Law & Society 2021 Annual Meeting*, Virtual, (May 2021)
- Contracting in the Age of Smart Contracts, *University of Michigan Law School Doctoral Colloquium*, Virtual, (March, 2021)
- Legal Allocation of Risks: A Computational Study of Force Majeure Clauses, *2020 Southern Academy of Legal Studies in Business*, University of Georgia, Virtual, (November 2020)
- Smart Contracting, *2020 Association of American Law Schools Annual Meeting*, Robotics and AI: Legal and Ethical Frameworks panel, Washington, DC (January 2020). Also presented at *Colloquium at Georgetown International Economic Law*, Georgetown University Law Center, Washington, DC (January 2020).
- Digital Solidarity: Contractual Disputes in the Age of Smart Contracts, *American Business Law Journal Invited Scholars Colloquium*, Montreal, Canada (August 2019)
- Fairness in Arbitration: the Consumer Perspective, *Academy of Management Annual Meeting*, Boston, MA (August 2019)
- Why Don't They Sue? An Analysis of Impeding Factors in Employment and Consumer Arbitration and its Downstream Consequences for Organizations" *Junior Faculty Forum at University of Richmond School of Law*, Richmond, VA (May, 2019).
- Assertive Foreign Policy Through Extraterritorial Application of Laws, *American Bar Association, Section of International Law*, Washington, D.C. (April 2019)

- Fall of Last Safeguard in Global Dejudicialization: The Problem of Protecting Public Policy in Private Business Disputes, *American Society of International Law Annual Meeting*, International Law in Domestic Court Interest Group, Washington, D.C. (March 2019)
- Justice in Arbitration: The Consumer Perspective, *Consumer Law Scholars Conference*, Berkeley, CA (February, 2019)
- The Expansion of Extraterritorial Regulations under Trump Administration, *The George Washington University Law School*, Washington, D.C. (October 2018)
- Economic sanctions and International Arbitration, *Georgetown Law International Arbitration Society*, Washington, D.C. (February 2017)
- Transnational Public Policy: A Remedy or A Threat to International Dispute Resolution", presented, *American Society of International Law Research Forum*, Washington, D.C. (October, 2015)
- Erosion of Public Interest in International Dispute Resolution, *American Society of International Law – International Economic Law Interest Group*, Philadelphia, PA (January, 2015)
- Revisiting the Doctrine of Public Policy in Enforcement of Private Legal Arrangements, *The Doctoral Colloquium at Yale Law School, New* Haven, CT (April, 2015)
- Prospect and Challenges for ADR, *University of California at Hastings College of the Law and at JAMS Alternative Dispute Resolution Center*, San Francisco, CA. (October, 2014)

HONORS

- Co-President of Yale Society of International Law
- A Weinstein Fellow at JAMS
- Organizer of Yale Doctoral Scholarship Conference
- Fellow at Harvard's Institute for Global Law and Policy
- Fellow at Stanford's AMENDS Program
- Organizer of Yale Law and Religion Series
- Resident fellow at Hague's Center for Studies and Research in International Law and International Relations.
- Vice-Chair for Intellectual Property Interest Group in American Society for International Law
- Reviewer for *International Journal of Conflict Management*
- Reviewer for *American Business Law Journal*
- Reviewer for *Academy of Management Review*

ADDITIONAL SKILLS & QUALIFICATIONS

California State Bar (2021)
New York State Bar (2013)
Washington, D.C. (Special Legal Consultant) (2016)

REFERENCES

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