Alyssa King

Assistant Professor

Queen’s University Faculty of Law

128 Union St. W.

Kingston, ON K7L 3N9

Canada

[alyssa.king@queensu.ca](mailto:alyssa.king@queensu.ca)

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A “global” civil procedure has emerged and has found its way into debates over procedural reform in both the international and domestic arenas. Global civil procedure is a product of the same forces as global administrative law—the rise of transgovernmental regulation designed to address the consequences of globalization. It promises an answer to some questions about the legitimacy of courts and arbitral tribunals as regulatory actors. As multi-national actors find themselves hailed into court in multiple jurisdictions, and as lawyers and litigation strategies travel around the world, global civil procedure limits the ability of any one jurisdiction to develop its own distinct approach.

Global civil procedure is at stake in multiple present trends and debates, including model laws in commercial arbitration, the procedure of international tribunals, the debate over investment dispute resolution, the rise of courts oriented towards international litigation, and in sprawling litigation the spans multiple jurisdictions and fora.

Yet various actors do not necessarily agree on the purpose of adjudication. Civilian emphasis on the adjudicator’s role and equality of arms may clash with common law sensibilities that require that parties have a greater say in the litigation. A European desire for hierarchy and harmonization through review of first instance judgments must meet a U.S. approach more comfortable with divergence and fearful of negative binding precedent. For democracies, the purpose of procedural reforms might be to facilitate access to justice or to respond to criticisms of counter-majoritarian decisions that tribunals have reached. Other countries may view procedural regularity as a good because it facilitates top down administrative control of judges.

This paper discusses these debates in terms of several emerging global civil procedure norms surrounding tribunal independence, aggregation, and discovery.