DISPUTE RESOLUTION IN FINANCE:

A COMPARATIVE STUDY ON THE RELEVANCE OF INTERNATIONAL ARBITRATION IN THE GLOBAL DERIVATIVES MARKET

ALI DEHDASHTI
KING'S COLLEGE LONDON

Introduction

In 2008, the world experienced one of the most devastating financial crises, following years of expansionary monetary policies and loose regulations. The aftermath saw the collapse of several banks and financial institutions, leading to a wave of litigation across the globe, particularly in the financial hubs of London and New York.

This study aims to analyse the lessons learned from those litigations using a doctrinal methodology while also comparing other forms of dispute resolution, such as international arbitration. The goal is to identify and propose the most efficient method for resolving financial disputes.

Research questions

What is the best method for resolving complex disputes in the OTC-Derivatives market?

Given the nature and idiosyncrasies of disputes in the OTC derivatives market, are common law courts—with their precedent-setting function—the most appropriate form of dispute resolution for this industry?

Hypothesis

The regulatory role of common law courts in financial disputes can introduce market-centric biases and risks of market disruption.

International arbitration can mitigate legal risks, jurisdictional conflicts, and abusive behaviour by litigants, especially in cross-border disputes.

The effectiveness of arbitration can be compromised if it is used as a dilatory tactic, especially since speed and efficiency are critical concerns in financial markets.