THE EGOCENTRIC REASONABLE PERSON

Whose norms decide what is reasonable in contract law?

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THE QUESTION

Contract law grounds reasonableness in an external benchmark — trade custom, community expectations — and explicitly excludes individual moral judgment.

But which standard do lay people use when they call conduct "reasonable"?

Descriptive norm
What I believe people typically do

Personal injunctive norm
What I myself believe is appropriate

Social injunctive norm
What I believe my community believes is appropriate

WHY IT MATTERS

- Many reasonableness questions go to lay factfinders. If they apply personal rather than community norms, doctrine and practice diverge.
- Parties may judge each other's conduct by their own sense of what is reasonable.
- If each applies personal standards, the same conduct can seem reasonable to one and unreasonable to the other, which breeds conflict.

TWO STUDIES

STUDY 1

Within-subject vignette design (N = 1,742)

- 25 contractual scenarios (5 blocks of 5): landlord–tenant, consumer–business, employer–employee
- Each scenario rated on 4 dimensions (order randomized): reasonableness, descriptive, personal injunctive, social injunctive norm
- Reasonableness framed as a juror applying a legal standard
- 6-point scale; social-norm ratings incentivized (opinion-matching)

STUDY 2

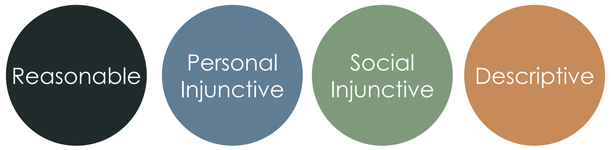
Between-subjects framing experiment (N = 600)

- 8 scenarios from Study 1, chosen for varied norm alignment
- Randomly assigned to 1 of 5 reasonableness-instruction conditions: legal control · non-legal · focus-personal · focus-social · focus-descriptive
- Only the reasonableness instructions varied by condition

SCENARIO CONTEXTS (EXAMPLES)

24-hour landlord notice · hyperlink terms · lengthy equipment delivery · immediate contract termination · free-phone hidden terms · ski-resort liability disclaimer · 3-day job-offer acceptance

FOUR MEASURES PER SCENARIO



EXAMPLE: How reasonable do you believe it is for a ski resort to disclaim liability for personal injuries incurred by consumers while using its skiing facilities, particularly in connection with the sale of lift tickets?

CONTRIBUTIONS AND KEY TAKE AWAY

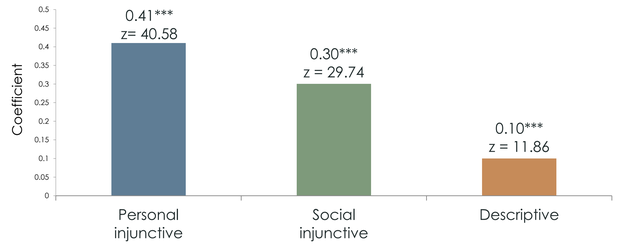
- First empirical study of lay reasonableness in contract law;
- First to separate personal from social injunctive norms;
- First to test whether jury-instruction framing can shift the normative basis of the judgment.

Two pre-registered studies (N = 2,342) find that lay reasonableness tracks what people themselves believe one ought to do — not community expectations, not common practice — and legal instructions do not undo it.

PERSONAL NORMS DOMINATE

WHAT PREDICTS REASONABLENESS?

Coefficients, full mixed-effects model (N = 1,742)



WHERE DOES REASONABLENESS SIT?

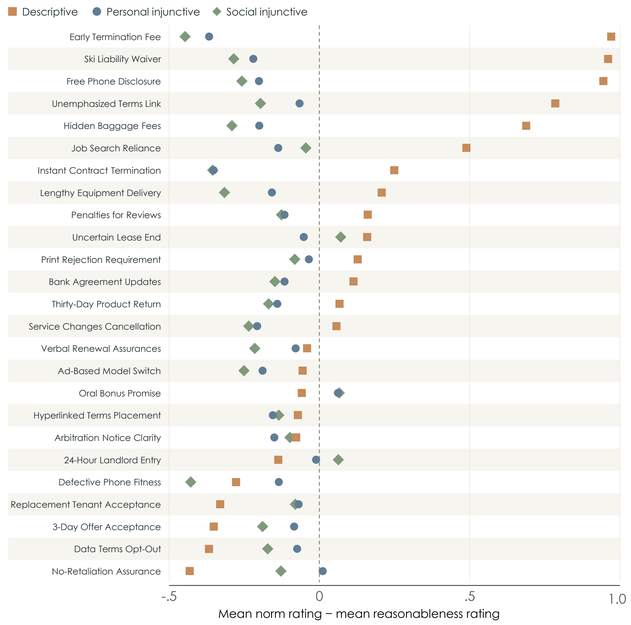
Mean rating gap (6-pt scale), with 95% CI. All differences p < .001.



21 of 25 scenarios personal injunctive norms are the strongest predictor of reasonableness — vs. 4 for social norms, 0 for descriptive

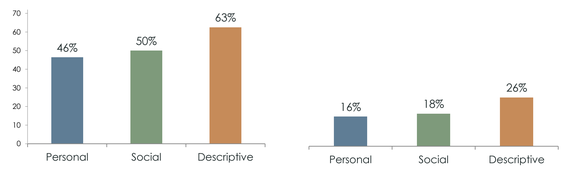
SCENARIO-LEVEL HETEROGENEITY

Mean norm rating − mean reasonableness rating, by scenario. Scenarios ordered by the descriptive gap.



HOW OFTEN DOES REASONABLENESS DIVERGE?

Left: any disagreement with the norm. Right: full reversal across the scale midpoint.

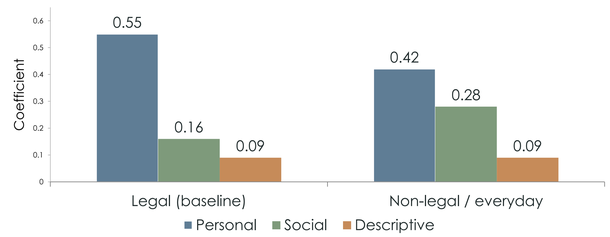


FRAMING DOESN'T FIX IT

Study 2 tried to shift jurors toward the objective standard — by dropping legal framing, or by directly telling them to focus on social or descriptive norms.

LEGAL VS. EVERYDAY FRAMING

Coefficient (b) predicting reasonableness, full model



DIRECTLY INSTRUCTING FOCUS ON…

- Personal norms → already dominant, no further change; descriptive norms further decreased (b = -0.02)
- Social norms → no reliable shift
- Descriptive norms → still only a minor predictor (b = 0.09)

IMPLICATIONS

- Trade usage (UCC § 1-303): without concrete evidence of the practice, lay assessors default to their own judgment.
- Customary conduct may still be judged unreasonable, by factfinders and by counterparties.
- Instructions that merely invoke a community standard may not displace the personal default; concrete evidence might.

SELECTED REFERENCES

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