Rough Consensus and Running Code

A Theory of Transnational Private Law

Gralf-Peter Calliess and Peer Zumbansen

Endorsements

'The authors brilliantly bridge the growing gap between law and evolving transnational governance practice. They do this with great knowledge of the multiple scholarships that address the diverse elements of this rapidly expanding reality.'
Saskia Sassen, Robert S. Lynd Professor of Sociology, Columbia University.

'For anyone interested in how law works today, and the dynamic interaction of public and private norms and national and international processes in law’s formation and application, Rough Consensus and Running Code is a must read. Its theorizing is rich and ecumenical in scope...Kudos to Calliess and Zumbansen!'
Gregory Shaffer, Melvin C. Steen Professor of Law, University of Minnesota Law School.

'Soeverignty is fiction. State legislators have to navigate an ever rising tide of rules, acts of authority, norms and exercises of power beyond their control. Formal law has ceased to be the primary, or the privileged tool for governing society. Under the label of "transnational law", the authors resurrect the law as a social practice, and they herald in a more timely mission for the law as an academic discipline.'
Christoph Engel, Director, Max Planck Institute for Research on Collective Goods, Bonn.

Private law has long been the focus of efforts to explain wider developments of law in an era of globalisation. As consumer transactions and corporate activities continue to develop with scant regard to legal and national boundaries, private law theorists have begun to sketch and conceptualise the possible architecture of a transnational legal theory. Drawing a detailed map of the mixed regulatory landscape of 'hard' and 'soft' laws, official, unofficial, direct and indirect modes of regulation, rules, recommendations and principles as well as exploring the concept of governance through disclosure and transparency, this book develops a theoretical framework of transnational legal regulation.

Rough Consensus and Running Code describes and analyses different law-making regimes currently observable in the transnational arena. Its core aim is to reassess the transnational regulation of consumer contracts and corporate governance in light of a dramatic proliferation of rule-creators and compliance mechanisms that can no longer be clearly associated with either the 'state' or the 'market'. The chosen examples from two of the most dynamic legal fields in the transnational arena today serve as backdrops for a comprehensive legal theoretical inquiry into the changing institutional and normative landscape of legal norm-creation.

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