RULE OF LAW DYNAMICS

This volume explores the various strategies, mechanisms, and processes that influence rule of law dynamics across borders and the national–international divide, illuminating the diverse paths of influence. It shows to what extent, and how, rule of law dynamics have changed in recent years, especially at the transnational and international levels of government. To explore these interactive dynamics, the volume adopts an interdisciplinary approach, bringing together the normative perspective of law with the analytical perspective of social sciences. The volume contributes to several fields, including studies of rule of law, law and development, and good governance; democratization; globalization studies; neo-institutionalism and judicial studies; international law, transnational governance, and the emerging literature on judicial reforms in authoritarian regimes; and comparative law (Islamic, African, Asian, and Latin American legal systems).

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Rule of Law Dynamics

IN AN ERA OF INTERNATIONAL AND TRANSNATIONAL GOVERNANCE

Edited by

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Contents

List of Tables v
List of Figures ix
List of Contributors xi
Preface and Acknowledgments xv
List of Abbreviations xvii

Introduction: Rule of Law Dynamics in an Era of International and Transnational Governance
Michael Zürn, André Nollkaemper, and Randall Peerenboom 1

PART I. RULE OF LAW AT THE INTERNATIONAL, NATIONAL, AND TRANSCONTINENTAL LEVELS

1 Measuring the Quality of Rule of Law: Virtues, Perils, Results
Wolfgang Merkel 21

2 International Law and the Rule of Law at the National Level
Helmut Philipp Aust and Georg Nolte 48

3 Constraining International Authority through the Rule of Law:
Legitimatory Potential and Political Dynamics
Tim Gemkow and Michael Zürn 68

4 New Modes of Governance and the Rule of Law: The Case
of Transnational Rule Making
Gunnar Folke Schuppert 90
Contents

Part II. Actors: Strategies and Responses

5 A Comparison of the Rule of Law Promotion Policies of Major Western Powers
   Frank Schimmelfennig 111

6 Rule of Law Promotion through International Organizations and NGOs
   Monika Heupel 133

7 Combating Transnational Crime: The Role of Learning and Norm Diffusion in the Current Rule of Law Wave
   Paulette Lloyd, Beth A. Simmons, and Brandon M. Stewart 153

8 Rule of Law Challenges in Middle-Income Countries and Donor Approaches to Addressing Them
   Linn Hammergren 181

9 Civil–Military Cooperation in Building the Rule of Law
   Tilmann J. Röder 206

10 Developing a Theoretical Framework for Evaluating Rule of Law Promotion in Developing Countries
    John Gillespie 233

11 Rule of Law Promotion after Conflict: Experimenting in the Kosovo Laboratory
    Richard Zajac Sannerholm 252

12 The ICC’s Intervention in Uganda: Which Rule of Law Does It Promote?
    Sarah M. H. Nouwen 278

Conclusion: From Rule of Law Promotion to Rule of Law Dynamics
    Randall Peerenboom, Michael Zürn, and André Nollkaemper 305

Bibliography 325
Index 365
List of Tables

1.1. Three Concepts of Rule of Law ............................... page 22
1.2. Rule of Law: Countries ....................................... 43
4.1. Modes of Global Standard Setting ......................... 93
4.2. Tetra Lemma of Global Law .................................. 96
4.3. Principles of the Rule of Law ................................. 105
5.1. Organizational Dimensions of Rule of Law Promotion ... 117
5.2. Strategies of Rule of Law Promotion ....................... 122
5.3. Relative Share of Democracy and Governance Aid ...... 128
6.1. Assumptions, Strategies, and Prerequisites ............... 136
7.1. Most Active Participants in Sponsoring the Major Human Trafficking Resolutions in the UN Third Committee, 1995–2009 ............... 163
7.2. Influences on Anti-Trafficking Activity in the UN Third Committee .................................................... 165
7.3. Criminalization of Human Trafficking in National Law ................................................................. 171
7.4. Ratification of the Human Trafficking Protocol, 2000 ................................................................. 176
11.1. Ten Most Registered Complaints with the Kosovo Ombudsperson Institution (2000–2009) ......... 274
List of Figures

I. Rule of Law Dynamics Disaggregated
1.1. Freedom House: Deviations between Freedom, Civil Liberties, and Rule of Law  
25
1.2. Development of Rule of Law by Regions  
29
1.3. Development of Rule of Law in Asia  
30
1.4. Gap between Democracy and Rule of Law by Regions  
31
1.5. Overall Development of Rule of Law in the BTI, 2006, 2008, and 2010  
35
37
1.7. The Concept Tree of the Democracy Barometer  
38
1.8. The Concept Tree of Rule of Law  
39
1.9. The Rule of Law and Quality of Democracy Indices over Time  
44
4.1. Four Principles of Organization for an International Standardization Body  
102
7.1. Adopted UN Resolutions by Transnational Crime  
155
7.2. The Increase in Academic Interest in Human Trafficking  
156
7.3. The Increase in Public Awareness of Human Trafficking  
157
7.4. Resolutions on Human Trafficking  
164
List of Contributors

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List of Contributors

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Preface and Acknowledgments

This volume is part of a larger multiyear interdisciplinary project on the rule of law entitled “The Internationalisation of the Rule of Law: Changing Context and New Challenges.” The project is sponsored by The Hague Institute for the Internationalisation of Law (Hiil), Social Science Research Center Berlin (WZB), the University of Amsterdam, and La Trobe University. The aim of the project is to contribute to a better understanding of the success or failure of rule of law promotion strategies by states, civil society, and international organizations such as the United Nations and the World Bank, in view of increasing international and transnational dimensions of governance in an era of international and transnational governance. The key research question has been identified in cooperation with the Hague Rule of Law Network.

The first phase of the project consisted of an authors’ workshop in Berlin in November 2009, followed by a conference in Amsterdam in November 2009. The present volume is the culmination of these events and concludes the first phase of the project.

Based on the conclusions of this volume, the second phase consists of three research projects, each one to be led by the individual co-editors of this volume. Randall Peerenboom will focus on the special challenges that middle-income countries face in implementing the rule of law. Michael Zürn will focus on the normative dynamics triggered by the incorporation of principles of law on the international level. André Nollkaemper will investigate the principles and practices that shape the contestation between requirements from the international rule of law on the one hand and the national rule of law on the other. Each project will result in an edited volume as well as other research publications. In addition, the authors will provide concrete policy recommendations for policy makers and rule of law promotion officials on the basis of the outcomes of the three projects.

The editors collectively thank Hiil and their own institutions for their support. They also thank Morly Frishman and the Hiil staff for their highly professional
Preface and Acknowledgments

support in organizing the workshops and conferences and their efficient handling of the myriad other logistical details that are vital to the success of a multiyear project such as this. The editors are also extremely grateful to Niki Frencken and Yael Tibco at the Amsterdam Center for International Law for their conscientious copyediting and hard work during the manuscript preparation process, and to John Berger and the team at Cambridge University Press for their support. Randall Peerenboom also thanks the Australian Research Council for ARC Discovery Grant DP0985927. As always, the editors are deeply grateful to their families for allowing them the time to complete this project and bearing their physical and mental absences with good humor.
List of Abbreviations

ABA – American Bar Association
ABA ROLI – American Bar Association Rule of Law Initiative
ACP – Africa, the Caribbean, and the Pacific
AJC – Advisory Judicial Commission
AJP-9 – Allied Joint Publication 9
BITs – bilateral investment treaties
BMZ – Germany’s Federal Ministry for Economic Cooperation and Development
BTI – Bertelsmann Transformation Index
CAS – Court for Arbitration for Sport
CEREP – Commander’s Emergency Response Program
CIMIC – civil–military cooperation/coordination
CIS – Commonwealth of Independent States
CIN – counterinsurgency
CPA – Coalition Provisional Authority
CSDP – Common Security and Defence Policy
DFID – Department for International Development
DPP – Director of Public Prosecutions
DRC – Democratic Republic of Congo
EC – European Community
ECA – Europe and Central Asia
ECJ – European Court of Justice
ECOWAS – Economic Community of West African States
EIDHR – European Instrument for Democracy and Human Rights
EU – European Union
EUJUST LEX/Iraq – EU Integrated Rule of Law Mission for Iraq
EUJUST THEMIS – EU Rule of Law Mission to Georgia
EULEX – European Union Rule of Law Mission in Kosovo
EUPOL AFGHANISTAN – EU Police Mission in Afghanistan
List of Abbreviations

EUPOL PROXIMA/FYROM – EU Police Mission in the former Yugoslav Republic of Macedonia
FCO – Foreign and Commonwealth Office
FPA – Final Peace Agreement
GAL – Global Administrative Law
GDP – gross domestic product
GIZ – Gesellschaft für Internationale Zusammenarbeit
GNI – gross national income
GTZ – Deutsche Gesellschaft für Technische Zusammenarbeit
GWOT – Global War on Terror
HIC – high-income countries
HiiL – Hague Institute for the Internationalisation of Law
HN – host nation
HPCC – Housing and Property Claims Commission
HPD – Housing and Property Directorate
IADB – Inter-American Development Bank
ICC – International Criminal Court
ICCPR – International Covenant on Civil and Political Rights
ICR – Implementation Completion Report
ICRC – International Committee of the Red Cross and Red Crescent
IEG – Independent Evaluation Group
IFOR – Implementation Force
IJPCC – Independent Judicial and Prosecutorial Commission
IMF – International Monetary Fund
IO – international organization
ISAF – International Security Assistance Force
ISO – International Standards Organization
JLOS – Ugandan Justice Law and Order Sector
KFOR – Kosovo Force
LCR – Latin America and the Caribbean
L&D – Law and Development
LICs – lower-income countries
LRA – Lord’s Resistance Army
MCA – Millennium Challenge Account
MCC – Millennium Challenge Corporation
MENA – Middle East and North Africa
MICs – middle-income countries
MIS – management information system
MMA – monitoring, mentoring, and advising
MONUC – UN Organization Mission in the DRC
NAFTA – North American Free Trade Agreement
NATO – North Atlantic Treaty Organization
List of Abbreviations

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<thead>
<tr>
<th>Abbreviation</th>
<th>Full Form</th>
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<tr>
<td>NGO</td>
<td>nongovernmental organization</td>
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<td>NIE</td>
<td>New Institutional Economics</td>
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<td>OAS</td>
<td>Organization of American States</td>
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<td>ODA</td>
<td>official development aid</td>
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<td>OECD</td>
<td>Organization for Economic Cooperation and Development</td>
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<td>OHCHR</td>
<td>Office of the High Commissioner for Human Rights</td>
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<td>OSCE</td>
<td>Organization for Security and Cooperation in Europe</td>
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<td>OTP</td>
<td>Office of the Prosecutor</td>
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<td>PACE</td>
<td>Parliamentary Assembly of the Council of Europe</td>
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<td>PISG</td>
<td>Provisional Institutions of Self-Government</td>
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<td>PPP</td>
<td>purchasing power parity</td>
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<td>PRTs</td>
<td>Provincial Reconstructions Teams</td>
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<td>RoL</td>
<td>rule of law</td>
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<td>SDHC</td>
<td>Special Division of the High Court</td>
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<td>SRSG</td>
<td>Special Representative of the Secretary-General</td>
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<td>SSR</td>
<td>Security Sector Reform</td>
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<td>transnational corporations</td>
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<td>UN Assistance Mission to Afghanistan</td>
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<td>UNCHR</td>
<td>UN Commission on Human Rights</td>
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<tr>
<td>UNCTOC</td>
<td>UN Convention against Transnational Organized Crime</td>
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<tr>
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<td>UN Department of Peacekeeping Operations</td>
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<tr>
<td>UNGA</td>
<td>UN General Assembly</td>
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<tr>
<td>UNHCR</td>
<td>UN High Commissioner for Refugees</td>
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<td>United States</td>
<td>United States of America</td>
</tr>
<tr>
<td>UNMIBH</td>
<td>UN Mission in Bosnia-Herzegovina</td>
</tr>
<tr>
<td>UNMIK</td>
<td>UN Interim Administration Mission in Kosovo</td>
</tr>
<tr>
<td>UNSC</td>
<td>United Nations Security Council</td>
</tr>
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<td>UN Transitional Authority in Cambodia</td>
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<td>UN Transitional Administration for Eastern Slavonia, Baranja, and Western Sirmium</td>
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<tr>
<td>UNTAET</td>
<td>UN Transitional Administration in East Timor</td>
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<tr>
<td>UPDF</td>
<td>Ugandan Peoples’ Defence Forces</td>
</tr>
<tr>
<td>USAID</td>
<td>U.S. Agency for International Development</td>
</tr>
<tr>
<td>U.S. GAO</td>
<td>United States Government Accountability Office</td>
</tr>
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<td>WCC</td>
<td>War Crimes Court</td>
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<td>Worldwide Governance Indicators</td>
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<td>Social Science Research Center Berlin</td>
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