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978-1-107-02471-7 - Rule of Law Dynamics: In an Era of International and Transnational Governance

Edited by Michael Zürn, André Nollkaemper and Randy Peerenboom

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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).

Michael Zürn is director of the research unit Transnational Conflicts and International Institutions of the Social Science Research Center Berlin and professor of international relations at the Free University of Berlin. From 2004 to 2009, he was founding Dean of the Hertie School of Governance in Berlin. Zürn is a member of the Berlin-Brandenburg Academy of Sciences. He is (co-)editor or (co-)author of numerous books, most recently *Handbook on Multi-Level Governance* (2010), *Transformations of the State* (Cambridge University Press, 2005), and *Law and Governance in Post-National Europe* (Cambridge University Press, 2005).

André Nollkaemper is professor of public international law at the Faculty of Law of the University of Amsterdam, where he previously directed the Amsterdam Center for International Law. He is an external legal advisor of the Minister for Foreign Affairs of the Netherlands and member of the board of the European Society for International Law. He has practical experience in cases before several international courts and tribunals and courts of the Netherlands. He is co-editor-in-chief of the journal *International Law in Domestic Courts* and member of the editorial board of *The Hague Journal of Rule of Law*. His books include *National Courts and the International Rule of Law* (2011) and, as editor, *New Perspectives on the Divide between International and National Law* (2007).

Randall Peerenboom is a law professor at La Trobe University and an associate Fellow of the Oxford University Center for Socio-Legal Studies. He was a professor at UCLA Law School from 1998 to 2007 and director of the Oxford Foundation for Law, Justice and Society Rule of Law in China Programme. He has been a consultant to the Asian Development Bank, Ford Foundation, EU-China, United Nations Development Programme, and other international organizations on legal reforms and rule of law in China and Asia, and is the co-editor-in-chief of *The Hague Journal of Rule of Law*. He is the author or co-editor of *Judicial Independence in China* (Cambridge University Press, 2010), *Regulation in Asia* (2009), *China Modernizes: Threat to the West or Model for the Rest?* (2007), *Human Rights in Asia* (2006), *Asian Discourses of Rule of Law* (2004), and *China's Long March toward Rule of Law* (Cambridge University Press, 2002).

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# Rule of Law Dynamics

IN AN ERA OF INTERNATIONAL AND  
TRANSNATIONAL GOVERNANCE

Edited by

**MICHAEL ZÜRN**

Social Science Research Center Berlin

**ANDRÉ NOLLKAEMPER**

University of Amsterdam

**RANDALL PEERENBOOM**

La Trobe University, Melbourne



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## List of Contributors

**Helmut Philipp Aust**, Doctor of Laws (Dr. iur.), is a senior research Fellow at the Humboldt University, Berlin. He was previously a Fellow at the University of Munich as well as a visiting Fellow at the Lauterpacht Centre for International Law, University of Cambridge. He is the author of *Complicity and the Law of State Responsibility* (Cambridge University Press, 2011).

**Tim Gemkow** is a doctoral student in the Research Unit on Transnational Conflicts and Institutions at the Social Science Research Center Berlin and a member of the Berlin Graduate School for Transnational Studies. His research is supported by a PhD stipend from the German National Academic Foundation. He studied political science at the Free University in Berlin and the Institut d'Études Politiques in Grenoble and has published on the ambiguous consequences of increased legalization for the legitimacy of international organizations. His doctoral research investigates state decisions to adopt extraterritorial law and the different interactions between national extraterritorial law and international cooperation.

**John Gillespie** is professor of law and director of the Asia Pacific Business Regulation Group, Department of Business Law and Taxation, Monash University. He teaches and publishes widely about legal change in East Asia. He has worked as a consultant with many international development agencies in East Asia. His most recent book (with Albert Chen) is *Legal Reforms in China and Vietnam: A Comparison of Asian Communist Regimes* (Routledge, 2010).

**Linn Hamnergren** is an independent consultant specializing in rule of law, anti-corruption, and general governance issues. Before 2008, she spent 10 years with the World Bank and 12 as an internal consultant for the U.S. Agency for International Development managing Administration of Justice projects. Her research and publications focus on judicial politics and reform, judicial corruption, citizen security, and the politics of foreign assistance. She is best known for her work on Latin America but is now also focusing on Africa, Asia, and the South Pacific.

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**Monika Heupel** is a political scientist and a research Fellow at the Social Science Research Center Berlin in the research unit Transnational Conflicts and International Institutions. Her work focuses on international organizations, security studies, and global human rights policy. Her work has been published in *Security Dialogue*, *Cooperation and Conflict*, *International Affairs*, and the *Journal of International Relations and Development*, among others.

**Paulette Lloyd** is assistant professor of sociology and international studies at Indiana University, Bloomington. She is a faculty affiliate of the Center for Law, Society, and Culture at the Maurer School of Law and the Center for the Study of Global Change. Her current research interests include social network methods, the process of consensus formation on international norms and policies, United Nations voting analysis, human rights, international law compliance, transnational crime, and international organizations.

**Wolfgang Merkel** is director of the Democracy and Democratisation research program at the Social Science Research Center Berlin and professor of political science at the Humboldt University, Berlin. He is a member of a number of key bodies, including the Berlin-Brandenburg Academy of Sciences and Humanities and the International Council of Advisors to Spanish Prime Minister José Luis Rodríguez Zapatero. His most recent publications include the co-edited volume *The Future of Representative Democracy* (Cambridge University Press, 2011); *Systemtransformation* (2010); and contributions on democracy and democratization, dictatorships, political parties, comparative public policy, social democracy, welfare states, and social justice.

**André Nollkaemper** is professor of public international law at the Faculty of Law of the University of Amsterdam. He is an external legal advisor of the Minister for Foreign Affairs of the Netherlands and member of the board of the European Society for International Law. He has practical experience in cases before the European Court on Human Rights, the Special Court for Sierra Leone, the International Criminal Tribunal for the Former Yugoslavia, the Extraordinary Chamber for the Courts of Cambodia, and courts of the Netherlands. He is co-editor-in-chief of *International Law in Domestic Courts* (Oxford University Press), author of *National Courts and the International Rule of Law* (Oxford University Press, 2011), and editor of *New Perspectives on the Divide between International and National Law* (Oxford University Press, 2007).

**Georg Nolte** is professor of law at the Humboldt University, Berlin, and a member of the International Law Commission of the United Nations. He was previously professor of law at the Universities of Göttingen and Munich as well as visiting professor at All Souls College, Oxford, and Université Paris II. He has published widely on issues of public international law and comparative constitutional law.

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**Sarah M. H. Nouwen** is Mayer Brown Research Fellow in Public International Law at the Lauterpacht Centre for International Law and Pembroke College, Cambridge. She holds a PhD (Cantab) and LLM (Utrecht/Cape Town/Western Cape) in international law and an MPhil in international relations (Cantab). She was a visiting professional at the International Criminal Court and worked as a consultant for foreign ministries, Ugandan and Senegalese nongovernmental organizations, and the African Union High-Level Implementation Panel for Sudan.

**Randall Peerenboom** is a law professor at La Trobe University and an associate Fellow of the Oxford University Center for Socio-Legal Studies. He was a professor at UCLA Law School from 1998 to 2007 and director of the Oxford Foundation for Law, Justice and Society Rule of Law in China Programme. He has been a consultant to the Asian Development Bank, Ford Foundation, EU-China, United Nations Development Programme, and other international organizations on legal reforms and rule of law in China and Asia, and is the co-editor-in-chief of *The Hague Journal of Rule of Law*. He is also a China International Economic and Trade Arbitration Commission arbitrator, and he frequently serves as an expert witness on People's Republic of China legal issues. His recent sole-authored and co-edited books include *Judicial Independence in China* (Cambridge University Press, 2010); *Regulation in Asia* (Routledge, 2009); *China Modernizes: Threat to the West or Model for the Rest?* (Oxford University Press, 2007); *Human Rights in Asia* (Routledge, 2006); *Asian Discourses of Rule of Law* (Routledge, 2004); and *China's Long March toward Rule of Law* (Cambridge University Press, 2002).

**Tilman J. Röder** is a senior research Fellow at the Max Planck Institute for Comparative Public Law and International Law in Heidelberg and is responsible for rule of law projects in Islamic countries, including Afghanistan, Pakistan, Iraq, Egypt, Libya, and Tunisia. He has published in the areas of constitution building, legal pluralism, rule of law promotion in postconflict societies, and water conflicts in international law. Legal history also belongs to his fields of interest. His recent co-edited works include *Constitutionalism in Islamic Countries: Between Upheaval and Continuity* (Oxford University Press, 2011) and *From Industrial to Legal Standardisation, 1871–1914: Transnational Insurance Law and the Great San Francisco Earthquake* (Brill, 2011).

**Frank Schimmelfennig** is professor of European politics at ETH Zurich and a member of the Center for Comparative and International Studies. His main research interests are in the theory of international institutions and European integration and, more specifically, in the enlargement and democratization of European regional organizations as well as in international democracy promotion. More information can be obtained at <http://www.eup.ethz.ch/people/schimmelfennig>.

**Gunnar Folke Schuppert** is Professor Emeritus for Public Law and Administrative Science at the Humboldt University, Berlin. He currently holds a research

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professorship in New Forms of Governance at the Social Science Research Center Berlin, where he is also managing director of the institute's Rule of Law Center. In addition to these tasks, he heads a research project at the Collaborative Research Center (*Sonderforschungsbereich*) 700, Governance in Areas of Limited Statehood, and teaches as adjunct professor at the Hertie School of Governance in Berlin.

**Beth A. Simmons** is Clarence Dillon Professor of International Affairs and director of the Weatherhead Center for International Affairs at Harvard University. Her new book, *Mobilizing for Human Rights: International Law in Domestic Politics* (Cambridge University Press, 2009), won best book awards from the American Society for International Law, the American Political Science Association, and the International Social Science Council. Simmons was elected in April 2009 to the American Academy of Arts and Sciences. Current research interests include international law compliance, the globalization of criminal law, and international economic law.

**Brandon M. Stewart** is a doctoral student in the department of government at Harvard University. He received his BA from the College of William & Mary in Government and International Relations. His substantive interests include security, terrorism, and conflict-cooperation dynamics. Methodologically, he is interested in automated content analysis, statistical methods, and data visualization. His research has been published in *Conflict Management and Peace Science*, *Small Wars and Insurgencies*, and other peer-reviewed publications.

**Richard Zajac Sannerholm** has experience in rule of law reform in postconflict, crisis, and transition countries, working as a researcher and advisor for international organizations, national agencies, and nongovernmental organizations. Assignments include research and programming on legal education, public administration reform, rule of law training, customary law and issues of harmonization, and human rights. Zajac Sannerholm currently holds a position as a researcher and project leader at the Folke Bernadotte Academy, and he conducts research on measuring rule of law in public administration, monitoring administrative justice, rule of law and security sector reform, and an empirical project on mapping UN rule of law reform in postconflict settings.

**Michael Zürn** is director of the research unit Transnational Conflicts and International Institutions of the Social Science Research Center Berlin and professor of international relations at the Free University of Berlin. From 2004 to 2009, he was founding Dean of the Hertie School of Governance in Berlin. Zürn is a member of the Berlin-Brandenburg Academy of Sciences. Among his recent co-edited and co-authored book publications are *Handbook on Multi-Level Governance* (Edward Elgar, 2010); *Transformations of the State* (Cambridge University Press, 2005), and *Law and Governance in Post-National Europe* (Cambridge University Press, 2005).

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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

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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.



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## 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  
CERP – Commander's Emergency Response Program  
CIMIC – civil–military cooperation/coordination  
CIS – Commonwealth of Independent States  
COIN – 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

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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

IJPC – 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

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

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