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## Book Review: Responsible Business: Self-governance and Law in Transnational Economic Transactions edited by Olaf Dilling, Martin Herberg and Gerd Winter

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stand relationships between law and criminal behavior, they should expand their sites of inquiry to different cultures and different crimes. For example, there are several chapters in this volume on honor killings but none on war crimes, where cultural information is increasingly used. In at least one case from the International Criminal Tribunal for the former Yugoslavia, one anthropologist refused to testify on behalf of the prosecution and another who did testify reiterated that she did not want the court to generalize from her study of one village.

By broadening the analysis, scholars could increase knowledge about the variety of ways in which culture mediates criminal behavior and judicial decisionmaking.

Finally, the editors acknowledge the limitation of a volume with case studies that are primarily from countries with Western legal systems. These countries employ a similar notion of criminal liability, face similar challenges due to growing immigrant populations, and there are well known examples of the cultural defense in these contexts. Some contributors reiterate well-trodden cases studies where feminism and multiculturalism clash in domestic violence cases. Moreover, some of the analyses are simplistic, such as an uncritical explanation of how and why “face” matters in Asian society, and the uncontroverted condemnation of certain forms of violence without analysis from the point of view of the communities who condone those acts.

However, despite these limitations, each author employs an anthropological lens that enables the reader to understand and appreciate the nuances in each country’s history and how national identity affects the incorporation of cultural information in judicial and administrative processes. While the book reveals the need to set standards for incorporating cultural information in judicial proceedings, it also shows how difficult this endeavor will be.

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*Responsible Business: Self-Governance and Law in Transnational Economic Transactions.* By Olaf Dilling, Martin Herberg, and Gerd Winter, eds. Oxford, UK, and Portland, OR: Hart Publishing, 2008. Pp. 376. \$95.00 cloth; \$48.00 paper.

Reviewed by Laura Spitz, University of Colorado

The idea of “responsible businesses,” regulating themselves in the public interest, may be an especially hard sell in the aftermath of recent global economic crises. If newspapers and blogs are to be

trusted to reflect the views of ordinary people, then most are skeptical of claims that “self-governance” may lead to more “responsible business” practices in transnational economic transactions, or that global market failures may be avoided—or at least mitigated—by self-regulation of transnational industries. This edited volume offers itself as a thoughtful counterpoint to these views, drawing attention to the potential for self-regulatory settings, such as multinational corporations (MNCs), transnational production networks (TPNs), and industry/nongovernmental organization (I/NGO) partnerships, to step in to fill gaps where governments have been unable or unwilling to regulate in the interests of the public. Indeed, in those instances where MNCs, TPNs, and I/NGO partnerships have developed rules and norms to govern themselves and their industries (what the editors call “informal law” or “para-legal systems” [pp. 1–5]), and they do so in ways that advance the interests of workers, consumers, or the environment, then the editors suggest that these private actors are taking an important “public role” (p. vii).

This is not to say that the authors in this edited volume unambiguously embrace informal rulemaking by private actors as the panacea for institutional failures of constitutional states. Instead, they take this opportunity to consider and evaluate the origins, efficacy, and future of a global legal pluralism that understands self-regulatory settings as a sort of nascent source of law. Further, they aim to develop “an empirically informed general theory” (p. 5) to take account of the increasingly—and arguably increasingly successful—public role of networked private governance. But the authors clearly understand this transformation from regulation to governance as incomplete, necessarily connected to—if not contingent on—the global legal pluralism in which it is embedded.

The volume is divided into four parts: Corporate Responsibility and the Law (Part I), Standards of Transnational Business Networks and the Law (Part II), Consumer-Based Self-Regulation and the Law (Part III), and Transnational Self-Governance in Perspective (Part IV). Part I is made up of three chapters. In the first of these, Herberg takes an empirical approach to exploring his central claim, namely, that transnational private ordering and constitutional legal systems are not bifurcated or parallel systems, but instead interactive and co-constitutive. He focuses on “the emergence of transnational private self-regulatory systems in the field of environmental protection and safety in multinational enterprises” (p. 21) by surveying the experiences of the eight largest corporations in the German chemical industry.

In the second chapter, “Bridging the Gap: The Legal Potential of Private Regulation,” Glinski focuses on gaps in the regulation of health, safety, labor, and the environment in “developing coun-

tries" (p. 41) and asks about the potential for corporate and other private codes of conduct to fill those gaps. To answer this question, she examines the legal effects of private regulation: on the authors and signatories of private rules; on groups of corporations, through what she calls "generalization" (p. 48); and on negatively affected third parties, through what she calls "real standardization" (p. 52). Kocher also takes up corporate social responsibility and the legal nature of corporate codes in her chapter, "Codes of Conduct and Framework Agreements on Social Minimum Standards—Private Regulation," but she takes as her point of departure German industrial relations. She concludes that private codes are useful because they contribute to the creation of international labor standards that, by virtue of their latter status, are legally binding within constitutional states.

Dilling's examination of the effects of national product regulation on transnational business practices is the first of the three chapters that constitute Part II. Dilling focuses on product standards because—unlike production facilities, "which may circumvent environmental regulation by retreating to low standard jurisdictions" (p. 89)—products have to satisfy standards set by the markets in which they will eventually be distributed ("end-markets"). This leads some scholars to conclude that economies of scale push corporations to establish production standards that satisfy the most stringent jurisdiction in which their goods will be marketed, and then produce the product to those standards for every market (what some call the "California effect" [p. 90]). Not satisfied, however, that corporate responses to end-market standards can fully explain transnational regulatory compliance and this "trading up" phenomenon, Dilling convincingly explores the possibility that "transnational corporate standards and practices are developing a life of their own" (p. 90).

The remainder of Part II is devoted to the potential for emerging regulatory orders to participate and contribute to something one might call transnational industry governance, first in the context of "interfirm cooperation" (Lindenthal, p. 123) and then in the context of "green finance" (Perez, p. 151). Lindenthal's chapter focuses on transnational management of hazardous chemicals, and the contributions of interfirm cooperation and associations to this phenomenon. Perez tells a story about the emergence of new "green" financial instruments, lending standards, and accounting conventions, and their not-so-obvious path from "segregated contractual instruments and uncoordinated organisational routines" to "new global centres of governance . . . dominated by non-state actors" (p. 151).

In Part III, the book shifts its focus to consumers. In the first of four chapters in this section, Bendrath uses the Internet as a sort of

case study of global governance in general, and privacy regulation in particular. Part history and part sociology, Bendrath's piece outlines the shift from state regulation to corporate self-regulation of privacy and emphasizes that renewed calls for state intervention are complicated by the emerging role of intermediaries and the highly technical nature of Internet regulation. In the chapter that follows, Calliess turns to the issue of consumer protection in the context of business-to-consumer electronic commerce, examining the "potential role of private-ordering and co-regulation in the area of cross-border consumer contracts" (p. 226). The result, what he calls "transnational civil regimes," combines with states, industry, and civil society actors to establish a sort of "civil constitution"—independent from the legal order of states—for regulating consumer protection in virtual marketplaces.

The third chapter in this part, "Multi-Interest Self-Governance through Global Product Certification Programmes," examines product certification programs in the forestry sector as an example by which transnational supragovernmental regulatory systems emerge. It begins by tracing the evolution of certification institutions and their recent application to transnational social and environmental regulation, and it then examines the complex set of relationships between these institutions and state-based legal systems. The author, Meidinger, concludes by considering possible grounds for assessing emerging self-governance systems. In the fourth and final chapter in this section, Derani and Fontoura Costa take up product certification in the specific context of Brazil. Although the chapter is primarily descriptive, the authors conclude with some reflections on the potential for, and limits of, private regulation and "eco-labelling" (p. 306).

The book concludes with a single chapter in Part IV, "Regulatory Networks and Multi-Level Global Governance." In this chapter, Picciotto argues that "private economic regulation is not a matter of autonomous self-organization, nor is it purely private" (p. 315). The decentering, destabilizing, and de-/re-regulating aspects of networked global governance pose dilemmas for postliberal constitutional governments. In particular, they blur the distinctions between public and private. Nevertheless, the interactions between public and private can and should be managed more effectively to "ensure the primacy of public over private" (p. 336), so that economic power is, ultimately, exercised for the general or public good. He concludes that law has an important role to play here, "not because of its precision, but because of its flexibility" (p. 336).

It is indisputable that MNCs, TPNs, and I/NGO partnerships play a significant role in the dynamic reconfiguration of global governance, disrupting and challenging assumptions that law can only be made by governments, and the public good can only be

protected by constitutional democracies. This book aims to address—if not assuage—some of the fears raised by these developments. Interdisciplinary in its inception and empirical in its approach, the volume draws primarily from sociology, law, and political science to provide a thought-provoking and optimistic story about the emergent potential for self-governance and private ordering to produce systems of rules and norms that increasingly—and explicitly—regulate public goods, in the public interest. The book's value is its explicitly interdisciplinary focus on empirical and legal accounts, attempting to ground governance theory in specific examples. As such, it should have wide appeal.