Preface

Plus ça change, plus c'est la même chose.
[The more things change, the more they stay the same.]

FOR VETERANS of the Asian Financial Crisis, the unraveling of the world economy in late 2008 has a familiar but chilling resonance. In late 1997 and early 1998 a quick succession of national financial crises in East Asia portended a regional crisis that might have plunged the world economy into systemic breakdown. It was this fear that galvanized the G-7 and G-22 to urge emergency action. Led by the U.S., leaders of advanced economies pressed international financial institutions (IFIs) in the short term to halt the downward slide of national economies teetering on the edge of bankruptcy. In the intermediate term, states and international organizations in the global center set about forging national and international institutions that would forestall future crises of similar or greater scope. The creation of robust bankruptcy systems featured prominently in this institutional architecture.

Despite these efforts, a potentially greater crisis now threatens the global economy. It is a threat that began not in smaller developing or transitional economies but in the American financial system at the heart of global finance. Yet again we see the International Monetary Fund (IMF) rushing to the aid of nations that need an immediate infusion of capital (so far, Iceland, Ukraine, Hungary, and Pakistan). Again the world's leading economies (now the G-20) meet in a quickly convened conclave to coordinate a concerted action plan. And again, it is likely international organizations will intensify efforts to build legal apparatuses and frameworks—new global norms, new global regulatory regimes, new national regulatory bodies with globally authorized features—to prevent recurrence of the present threat to markets of debtor and creditor nations alike.

How does the *legal* response to financial crisis work in practice? Do the states that lead the world's economy also produce institutional change? How do international organizations craft global norms for laws and institutions to make markets more resilient? Can global actors effectively press their standards on nation-states and insist on institution building to protect the integrity of national financial systems? How responsive are faltering nation-states to the demands of their international last-resort creditors?

One obvious way to find some answers is to examine previous crises. The Great Depression surely is one, but it occurred in a radically different global economy. The aftermath of World War II, with the establishment of the Bretton Woods system, provides another, but it, too, unfolded in such a different set of circumstances as to be not quite comparable. Most proximate and salient is the Asian Financial Crisis, now ten years old. Although there are many differences, it is plausible to apply some of the lessons of the last ten years in the present crisis.

This book shows in detail how the international community responded in the last major financial crisis to a perceived deficit in national and international regulatory institutions. It identifies the key global actors, shows how they competed and cooperated with each other, analyzes the types of norms they crafted, and reviews the actions they took. This book also shows how systemic financial crisis unfolded on the other side of the global/local divide. It reveals how three countries experienced financial crisis, how they reacted to foreign emergency interventions, and how deep and enduringly the institutional reforms penetrated everyday activity.

Above all, our book explores how and when institutions change, even in the most extreme of circumstances. It describes remarkable advances on some fronts (e.g., obtaining global consensus on norms) but halting progress on others (e.g., implementing effective institutional change in nation-states). Institutional change, we shall show, comes hard. Indeed, effective institution building to forestall financial crisis is so difficult that it calls into question just how deeply globalization has penetrated beyond financial markets and into the legal institutions that undergird them.

Globalization and Its Limits

The aphorism "the more things change, the more they stay the same" insinuates that change and continuity coexist. However much change catches our

eye and absorbs our attention, much remains unchanged. Contemporary discussions of globalization and economic change could do well to heed its message, for many scholars, journalists, and popular commentators talk about globalization as if it were unprecedented and as if it were causing dramatic and simultaneous change around the world. To be sure, our world is more interconnected and interdependent than it has been in the past. One person can sneeze in Guangdong province in southern China, and two days (and a plane ride) later someone else contracts SARS in Toronto, Canada. Cost-cutting at Wal-Mart headquarters in Arkansas leads to layoffs and redundancies in Malaysia and Cambodia as clothing suppliers lose their contracts. The subprime mortgage crisis, originating in the U.S., causes banks around the world to lose billions of dollars and national financial systems in every region to falter.

Such interconnections expose people's employers, jobs, and general economic well-being to far-off events and forces. If these constraints and influences are proximate, then individuals have the chance to shape, modify, or ameliorate them, or at the very least to anticipate their impact. Being in the same political jurisdiction gives citizens the opportunity to pressure their governments for action to help solve such problems (of course, they need not be successful) or to exhort local firms to be good corporate citizens. But in a global world, the events and forces that shape people's lives increasingly lie outside their national political jurisdiction. Malaysia can pass a law regulating layoffs, but that law won't stop Wal-Mart from cost-cutting. Municipal governments in South Carolina may offer tax incentives to keep textile mills, but those incentives won't prevent the textile industry from migrating to Mexico or China. This mismatch between polity and economy is one of the central challenges of globalization: How can we live in a world of global connections and worldwide interdependencies extending beyond the reach of local or national government? How can we manage global market forces that exceed the political grasp of individual national governments?

Of course, by many measures of globalization, the current era is *not* unprecedented or extraordinary. In 1913 on the eve of World War I and under a British-led, gold-standard financial system, the world economy was characterized by substantial international flows of capital, goods, and even people (Obstfeld 1998). International economic integration collapsed during the war, fell apart further during the Depression, and did not return to levels comparable to those of 1913 until the 1980s. Even today, international flows of people remain more restricted than they were in the early twentieth century.

But some things have changed. Globalization not only affects trade in goods and services, and flows of capital into and out of countries, but increasingly is shaping the fundamental legal, political, and social institutions that undergird market economies. Globalization now encompasses the flow of ideas around the world, ideas about how best to organize an economy, how best to manage corporate governance and restructuring, and how best to encourage investment and economic growth in effective ways. Trade in models, paradigms, ideas, and policies now rivals that of goods and services.

The collapse of the Eastern European socialist bloc and China's decision to pursue market reform effectively made capitalism the only game in town. But what kind of capitalism? Neoliberal doctrines were embraced by international financial institutions like the IMF and World Bank in the 1980s and 1990s (the so-called Washington Consensus; see Stiglitz 2002: 16), and this doctrine stipulated privatization, liberalization, fiscal austerity, retrenchment of the welfare state, deregulation, and "hard currencies" as the path to economic success. The Reagan and Thatcherite "Revolutions" in the U.S. and U.K. gave credence to these policies (Prasad 2006). Such ideas also embraced the so-called rule of law as the best way to provide a stable framework of predictable contract law and enforceable property rights. It seemed that only one version of capitalism was to hold sway.

Despite the application of neoliberal doctrine to Latin American economies during the 1980s, to transitional economies in the early 1990s, and then to East Asia in the late 1990s, some scholars detect a strong and enduring difference between Anglo-Saxon liberal market economies (typified by those of the U.S., U.K., Australia, Canada, etc.), on the one hand, and Continental coordinated market economies (including those of Germany, France, Scandinavia, Japan, etc.), on the other. These two groups of countries differ over the structure of their labor markets, social welfare protections, financial markets, and patterns of corporate governance. This line of scholarship argues that such varieties of capitalism are durable and will continue to exist (Hall and Soskice 2001). It also implies that one-size-fits-all policy recommendations are mistaken (Stiglitz 2002). Furthermore, scholars have noted that the regulation of global business is increasingly occurring between states rather than within them, at the level of international organizations like the World Trade Organization (WTO), regional meta-governments like the European Union (EU), or multilateral trade agreements like the North American Free Trade Agreement (NAFTA) (Braithwaite and Drahos 2000). Such arguments offer a cautionary

corrective to those who expect global pressures unproblematically to produce rapid institutional convergence to a single national model of capitalism.

But if rapid convergence isn't happening, institutional change certainly is. Sometimes countries make changes in the wake of an economic or political crisis, and sometimes they do so under external pressure from organizations like the IMF. Typically, however, change occurs as the result of a confluence of factors and a configuration of causes, both domestic and foreign. Institutional change is seldom unicausal. Moreover, institutional change initiated wholly from the outside is unlikely to be effective. To avoid "window dressing" concessions or purely symbolic change, proponents almost always need to have internal political partners with an autonomous interest in reform.

In this book, we study change in a legal institution that plays a central role in governing corporate failure, economic restructuring, firm rehabilitation, and firm liquidation: namely, corporate bankruptcy law. This kind of law sits at the nexus between the legal system and the market economy. It defines corporate "failure" and sets the rules that govern what happens to insolvent firms. It dissolves one set of ownership claims and creates a new set as it transfers assets out of the control of the insolvent debtor and into the hands of creditors. And it overturns corporate governance arrangements by empowering new sets of stakeholders. Bankruptcy law constitutes the hard budget constraints that distinguish capitalist from command economies (Kornai 1992), and it structures the flow of credit that fuels all modern market economies. Given its importance for debtor-creditor relationships, it seems likely that bankruptcy law will vary depending on the kind of financial system a country possesses (Allen and Gale 2000; Zysman 1983).

A number of countries reformed their bankruptcy laws independently and sporadically during the 1970s and 1980s. Two notable cases were the U.S. in 1978 and the U.K. in 1986 (Carruthers and Halliday 1998). But starting at the end of the 1980s, and throughout the 1990s, bankruptcy law became a topic of concern to major international financial institutions, global lawmaking bodies, and international professional associations. Each organization participated in a loose, expert-led, ongoing set of international conversations and deliberations about the centrality of bankruptcy law, and what constituted good law. Their interest was sparked by a combination of real-world events and growing recognition of the role that institutions play in economic development.

Bankruptcy reform began to occur in waves as first the transitional economies of Eastern and Central Europe passed new laws when they created market

economies, and then East Asian economies reformed their laws in the wake of the Asian Financial Crisis. In some cases, countries reformed their laws more than once. Countries began to borrow ideas and models from each other, and some international organizations began to design and promulgate the underlying principles or basic rules of "good" bankruptcy law and "best practices." Furthermore, some actors learned to appreciate that simply to pass good laws and put them on the books are not enough: effective implementation of law is critical if the benefits of "good" commercial law are to be achieved. To be effective, formal rules needed to be enforced by institutions with sufficient capacity and adequate resources.

To understand this accelerating process of legal reform, and to explain why and how so many different organizations became interested in bankruptcy law, we engage a number of different ideas about the causes of institutional change, patterns of legal change, the importance of predictable law in capitalist economies, processes of legal rationalization, the relationship between standardization and predictability, varieties of capitalism, and the connection between law, finance, and economic growth. Furthermore, we recognize that legal reform is often an ongoing process in which law-on-the-books is implemented as law-in-action, which itself may engender new law-on-the-books. This cyclical process we name the *recursivity of law*, in recognition that the process of implementation is often problematic, or complicated, and can result in a substantial difference between law-on-the-books and law-in-action (Halliday and Carruthers 2007b). This gap is a staple of sociolegal research. Here, we place it into a larger context of legal reform, which acknowledges that the groups who most influence enactment are frequently not those who most shape implementation. Indeed, sometimes those who can exert the greatest control over enactment of formal law have very little influence over implementation. Legal practice can lead to new law-on-the-books, just as new formal law can lead to new practices.

Our book reports the results of a two-pronged research strategy. On the one side, we have undertaken intensive research of global norm-making organizations through participation, observation, interviewing, and documentary analysis. From 1999 until 2007 we tracked closely the emergence of an international legal field of norm-making organizations as they struggled toward convergence on a single set of global standards.[1] We have asked: When did they become interested in this kind of legal reform? Are their relationships with each other antagonistic or cooperative? What kinds of approaches have they

taken? What has led them to embrace particular models, paradigms, principles, or "best practices"? How are they able to press their recommendations onto audiences that range from welcoming to hostile?

While the power and importance of such well-known organizations cannot be denied, the world is not a blank page upon which the IMF or World Bank can write what it pleases. The impact of IFI recommendations, for example, is very much dependent on the interaction between the IFI and the particular countries it advises, influences, or lends money to. The same is true for the World Bank and similar organizations. Furthermore, even countries that embrace these recommendations and pass new laws still face the formidable problem of implementation.

In recognition of these complexities, the second prong of our research examines episodes of legal reform from the domestic viewpoint of three countries: Indonesia, South Korea, and China. These three countries give us useful variation in that China is a transition economy, but the other two are not. South Korea enjoyed a much higher level of economic development than the other two and in many respects has a fully "modernized" economy (e.g., it joined the Organisation for Economic Co-operation and Development [OECD] in 1996). And because they felt the brunt of the Asian Financial Crisis so severely, the IMF and World Bank had considerable financial leverage over Indonesia and South Korea but not over China.[2]

Four Questions

We weave our analysis around a series of key issues. The first and most important concerns the *relationship between states and global markets*. Scholars have long recognized that markets do not emerge "automatically" or out of "thin air." Rather, they exist because their institutional preconditions have been satisfied. Usually, these foundations are provided by the state (Fligstein 2001; Moss 2002; North 1981; Polanyi 1944). States constitute markets by providing property rights, enforcing contracts, and promulgating other basic rules of the game. In turn, however, markets affect states by providing the economic base out of which states extract the resources necessary to fund their activities. In capitalist democracies, markets also determine the general well-being of citizen-voters, who in turn choose their political leaders on the basis of how well the economy is performing. Markets and states coexist and coevolve.

Were market boundaries and political boundaries perfectly aligned, this reciprocal relationship between states and markets would remain relatively simple. States would encourage economic activity within their boundaries by devising rules that supported markets. But they are not coterminus, and in fact some markets have become very much larger than any political jurisdictions. Many market transactions occur between polities, as opposed to within them. This situation leads to a kind of "mismatch" problem between nation-states and global markets. At the same time that the world has become economically integrated, it has remained politically fragmented (Gilpin and Gilpin 2000). Economic markets exceed the political grasp of any single nation, even one as large as the United States. As a result, for a given political jurisdiction or state actor, global markets are hard to regulate and difficult to control, and such markets have the power to frustrate or constrain public policy. Countries are vulnerable to economic interdependencies that they cannot govern.

In addition, neoliberal waves of privatization and deregulation in the 1980s and 1990s mean that in many countries, states have loosened their grip over the markets they formerly regulated or administered (Levi-Faur 2005). Instead of direct public command and control, markets are governed through a combination of networks of professionals (e.g., accountants, lawyers, managers) and organizations (various private groups, industry associations, and other nongovernmental organizations [NGOs] and international nongovernmental organizations [INGOs]) whose accountability to national publics is relatively limited even though they have been delegated regulatory responsibility (Braithwaite and Drahos 2000; Picciotto 1997).

For the private economic actors who operate within such markets, the mismatch creates a different set of challenges. It means that those engaging in global transactions or relationships necessarily face the problem of legal pluralism: their business goes through multiple legal jurisdictions, so they may have to deal with different and even conflicting sets of rules. This pluralist legal order frequently adds unwelcome uncertainty to global transactions and makes them riskier for all but the most sophisticated players. Suppose a lender has extended a substantial sum to a firm that operates in twenty countries and that has gone bankrupt. These twenty countries have twenty different bankruptcy laws, and it is not clear how or where a creditor should best proceed if it wants to recover its money. Advocates of legal harmonization among countries propose that it beneficially reduces transaction costs and legal uncertainties faced by private actors.

Mismatches that lead to legal variability are not always bad for private economic actors, however, in part because such differences enable them to play a game of "institutional arbitrage" (akin to regulatory arbitrage), exploiting differences to put pressure on jurisdictions with less desirable features. A typical scenario would be one in which investors shift their money from high-tax jurisdictions to low-tax jurisdictions, putting pressure on the former to lower their taxes or suffer continued disinvestment. Such arbitrage situations can set off races to the bottom, or to the top, but either case over time is conducive to *convergence*.

In sum, the mismatch appears to give considerable leverage to private economic actors in relation to public authorities. So long as state powers are bounded by the political limits of the nation, private economic actors navigating international markets can, *when it suits them*, evade, elude, and circumvent the rules and restrictions that states try to impose. But nation-states have not remained passive, outmaneuvered by more nimble and mobile private actors. Nations can respond by cooperating with each other to build international economic institutions and establish a legal connective tissue that spans the gap between nation-states. Indeed, the export of legal codes from colonial powers (like Britain) to their colonies during the nineteenth century exemplified a global diffusion of law. More recently, however, this connective tissue consists of bilateral or multilateral treaties, and membership in transnational governmental bodies (like the EU or WTO), in efforts to harmonize their discrepant rules, and sometimes in more informal (memoranda of understanding) or implicit understandings. Even as state regulation has receded at the national level (as governments deregulated and liberalized various markets during the 1980s and 1990s), re-regulation was occurring in the space between countries.

A second major issue concerns whether the recent period of globalization has led to *institutional or legal change*. Various arguments can be adduced (e.g., that globalization produces convergence, that globalization leads to greater international flows of ideas, policy paradigms, models, etc.) suggesting that the combination of integrated markets and fragmented polities will bring about institutional change. At the very least, greater global economic integration has created enormous demand for institutional arrangements to help govern transactions, provide credible information to market participants, enhance the security of ownership interests and allow for reliable transfer of such interests, and so on. The scale and complexity of global markets have in

some respects simply outrun supporting institutional structures, and key political and economic shocks (e.g., the first OPEC oil crisis, the Latin American debt crisis, the collapse of socialism in Eastern and Central Europe, and the Asian Financial Crisis) have propelled institutional elaboration, extension, and modification.

Institutional change can occur from a number of different directions (Clemens and Cook 1999). Institutional rules can be more or less mutable, they may possess internal contradictions, and there may be multiple or competing alternative rules. Any of these situations produces institutional variation that, if it is to lead to significant change across an entire field, must somehow spread. The means of diffusion include networks, coercion, learning, and emulation. Some of these factors suggest that change is more likely to occur among marginal or peripheral organizations or actors (Clemens and Cook 1999: 452, 458). Clemens and Cook's discussion resonates with our analysis given how much corporate bankruptcy law, as a set of institutionalized rules, differs from country to country and possesses variable mutability. Furthermore, professional and expert networks span the globe, knit together this area, and provide ample opportunity for diffusion, learning, and emulation. And organizations like the IMF and World Bank have the financial leverage to coerce (or at least strongly encourage) countries to change their laws.

Theories of institutional change can inform our analysis, but given our interest in law, we also draw upon theories of *legal change*. Among other things, we can engage ideas about the rationalization of law, first posed by Max Weber but also by others more recently (see, e.g., Carruthers and Halliday 2007). Some scholars have focused on the importance of structural contradictions for lawmaking (Chambliss and Zatz 1993), while others have viewed law in a more functionalist perspective, perceiving it to adapt to the changing needs of society, elites, capitalists, business, or some other group. Some view legal change as primarily having to do with the creation of new formal law; others, with changes in how given formal law (law-on-the-books) is interpreted or implemented. Here we treat these possibilities in combination.

From political science, arguments about public policy feedbacks (Thelen 1999) suggest that one of the most important factors shaping the change of law is law itself. Extant policies, including law, can themselves engender supportive and opposing political constituencies and can expand or contract bureaucratic capacities. This argument about feedbacks implies that regardless of the particular political, bureaucratic, and social forces that put a policy in

place at one point in time, that policy in turn changes those forces and how they affect subsequent policy. To give one example, the beneficiaries of a new law may not have been involved in the passage of the law (indeed, they may not even have existed as an organized political group), but once the law is in place, they crystallize as a supportive constituency who would oppose repeal or substantial modification of that law. Thus, interest groups shape law, but law shapes interest groups, so a feedback process occurs.

The fact of institutional change does not say anything about the direction of change. This leads us to our third major issue: *institutional convergence*. In particular, we consider whether there is global convergence in insolvency rules and if so, what is producing it. The issue of convergence has become something of a set piece in discussions of globalization, with early arguments stating that globalization was going to lead to rapid convergence among prices, products, business forms, and public policies. The next round of scholarship noted that in fact, rapid convergence was not occurring (see, e.g., Boyer 1996; Garrett 1998). Simplistic convergence arguments became something of a dead horse to be ritually flogged while noting the limits of globalization and criticizing exaggerated claims about its effects.

Yet, in the arena of corporate bankruptcy law, convergence is not such an implausible outcome. The 1990s have witnessed widespread revision of such laws in many different parts of the world. Furthermore, numbers of powerful organizations have become active in trying to devise and promulgate models, principles, normative standards, and paradigms for good bankruptcy law. Some of these organizations possess considerable financial leverage (e.g., IMF and World Bank) and can press their favored alternatives on loan recipients. Other organizations (e.g., United Nations Commission on International Trade Law [UNCITRAL], OECD, International Federation of Insolvency Practitioners [INSOL]) possess additional political, technocratic, or rhetorical resources to promote their alternatives.[3] Since many of these organizations have been trying to coordinate their negotiations, it is plausible that one or two alternative models might emerge and then be diffused globally, resulting in considerable convergence. But convergence could also occur if creditor or investor groups, which possess considerable international mobility, push hard for laws that favor their interests. Through a process of investment and disinvestment, countries that offered such laws would benefit while those that didn't would suffer, and over time laws would converge around a pattern that was good for investors.

If the emergence of global standards increases the likelihood and degree of convergence of legal institutions and helps to motivate institutional change, we have still to consider a fourth issue: *construction and propagation of global normative standards*. We do not consider such standards to be necessarily and strictly legal, although they have some lawlike features. To address this question, we must consider the activities of international organizations during the late 1990s. We also examine how the mobilization and deployment of technocratic and professionally based expertise shaped the diagnosis of "problems" and the prescription of "solutions." Because of differences in their training and in the knowledge they draw upon, different professions (e.g., lawyers vs. accountants vs. economists) have distinct and often conflicting perspectives on the same situation, and when these experts are based in different organizations (e.g., a Ministry of Justice vs. a Ministry of Finance), professional disagreements can turn into bureaucratic conflicts. Despite such differences, all the groups that mobilized in the late 1990s shared a belief that bankruptcy law, appropriately enacted and implemented, played an important role in supporting a market economy. They also agreed that such law was highly technical, and its revision required input from experts.

Beyond this basic consensus, however, competing visions were proposed, negotiated, and revised in various venues and organizations around the world. For instance, even if all agreed that a proper and effective corporate bankruptcy law helped with the reorganization of insolvent firms, it wasn't clear whose proper and effective law was best: British? U.S.? German? French law? National disagreements often emerged as experts embraced standards that happened coincidently to be rather close to the way things were done in their own home country. Experts also disagreed about whether it was better to frame standards at the level of general guiding principles (which would allow for more local variation) or to specify definite rules that ensured some measure of standardization across countries. Complicating still further these professional and organizational differences is the fact that the various forums in which proposals were made and negotiated varied considerably in their internal structure. Some were basically informal conferences in which the usual experts were rounded up and set the task of discussing an issue, but others (e.g., UNCITRAL) had formal deliberative proceedings in which delegates participated and then voted on a particular proposal. Since many of the same interested parties participate in multiple forums multiple times, it is clear to them (as well as to us) that such parties are differentially empowered across forums. To give an example,

the U.S. government possesses a powerful influence over the IMF by virtue of the size of its financial contribution to the IMF. By contrast, in a setting like UNCITRAL, the U.S. can send a delegation, but so can all other member countries. Operating through the IMF privileges the U.S. much more than via UNCITRAL. Clearly, such internal structural differences affect what kinds of understandings, agreements, and endorsements emerge.

The creation of new standards is heavily influenced by real-world events. During the late 1990s, the major international financial institutions were simultaneously devising standards, norms, and principles for bankruptcy law, and at the same time advising particular countries (especially in East Asia) about how to revise their bankruptcy laws. Revision of national law and promulgation of international standards went on at the same time. Contrast this with the early 1990s, when many transition economies passed new bankruptcy laws, again with the advice of the IFIs. At that point, however, the IFIs did not use their advisory activity as an occasion to codify underlying principles of good bankruptcy law. The dramatic failure of East Asian economies motivated a more systemic and less ad hoc consideration of bankruptcy law than did the even more dramatic failure of socialism and subsequent transition to capitalism.

Propagation of global norms, standards, and models occurs through the kinds of channels identified by DiMaggio and Powell (1983), and it is easy to think of examples of each of the mechanisms they discuss: mimetic isomorphism (e.g., when Australia follows the lead of Britain), coercive isomorphism (e.g., when the IMF forces a country to change its laws as a condition of bailout loans), and normative isomorphism (when professionals and policy specialists use their authority as experts to define certain laws as appropriate or best). It is obvious that all three operate in the field of corporate bankruptcy law, albeit at different times and in different ways. But it is not obvious that they will lead here to the kind of outcome emphasized by DiMaggio and Powell, namely, *isomorphism* (their term for *convergence*).

We address these questions throughout the following sections of the book. After we introduce our theoretical framework, Part I examines in detail the activities of diverse global institutions as they struggled during the 1990s to apprehend the importance of bankruptcy law, as they came to an internal and external consensus about what "good" law is, and as they began to promulgate models and standards of "good" law so that various countries would change their own laws. In Part II the three country case studies indicate how

the balance between global and local forces played out in particular situations. Part III elaborates how much the effects of global pressures are mediated by and filtered through local national situations, even when countries are heavily dependent on global institutions (as during a financial crisis). Such mediations hold true for both the enactment of formal law and its implementation, and for recursive patterns between law-on-the-books and law-in-action. In conclusion, we reflect on the theoretical and pragmatic implications of our research for understandings of globalization, law, and markets.