

Annelise Riles, *Collateral Knowledge: Legal Reasoning in the Global Financial Markets*

Chicago: University of Chicago Press, 2011. 312 pp. \$27.50.

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Received: 28 June 2012 / Accepted: 28 June 2012
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Annelise Riles's *Collateral Knowledge: Legal Reasoning in the Global Financial Markets* is a fascinating book that deserves a wide readership in STS. As an anthropologist, Riles takes us close to the work of global finance, not, as is often the case, by focusing on the action of stock trading or high-level policy discussions but by concentrating on back-office efforts to keep financial transactions on track. From an ethnographic location within the offices of the Bank of Japan, she demonstrates the centrality of mundane backstage efforts to make the finance machine work. She also shows the mutual entanglements between such work and high-level legal, economic, and political theorizing.

There are several reasons that this book is highly relevant for the *EASTS* readership. Empirically, along with Hirokazu Miyazaki's *Arbitraging Japan* (2012), it offers one of the most nuanced analyses available within the blossoming field of social studies of finance. It adds to this literature by emphasizing the importance of legal reasoning and the complicated relations between global finance and private and public law. Regionally, the study is based in Japan and thus offers a counterpoint to the heavily Western-centric emphasis of most available STS studies of finance. At the same time, it poses questions concerning the analytical usefulness of area demarcations such as East Asia or Europe, in a "global" context. Politically, the book offers suggestions for how to create a more sustainable set of finance practices, an issue of huge importance in these days of market instability. Finally, the book is valuable as an analytical intervention in ongoing STS discussions.

1 A Collateral Entry Point

Collateral Knowledge begins by noting how, in a contemporary context where everyone is "decrying the weak legal, analytical and ethical foundations of the global swap

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markets” (1), “collateral” has survived intact, as an unproblematic, private technique of regulation. In abstract form, it may appear as if only two general options are available when it comes managing global finance: the path of privatization or the path of government regulation. Yet, these options “largely miss the mark” (9). And to see how they do so, it is crucial to look to the “set of routinized but highly compartmentalized knowledge practices” (10) through which global finance operates. The term *collateral* is used in two complementary ways in this argument. Technically, collateral refers to what is pledged as security for repayment of a loan. However, Riles also talks of collateral *knowledge*, knowledge that practitioners of global finance themselves view “as of no particular consequence or worry” (20). Such collateral knowledge and the practices that go with it sustain markets from the margins and, in doing so, bring new forms of governance into being.

2 Documents and Forms

Riles zooms in on the “documentation people” of the Bank of Tokyo, who in the late 1990s spent significant effort dealing with documents for the International Swaps and Derivatives Association (ISDA). The ISDA is a “powerful global private organization” (42). And when its work is criticized, it is usually because it is seen to embed certain “norms” for conduct, shared and propagated by powerful groups. But this leaves unaccounted for the practices of tailoring ISDA agreements to make them “fit” with the state laws of Japan. If one looks at the “touchdown points,” where private and public law meets, Riles demonstrates, what is found is not shared norms but rather projects that “demand creative work,” work instantiated in material practices of documentation.

Riles emphasizes again and again that what is central about these documents is not their meaning: they are never *read* but simply “completed” (50). It is misguided to look for shared norms embedded in documents, for what matters are the aesthetic criteria that guide the completion of forms. Indeed, insofar as these forms determine what must be filled in and obviates the need to take anything else into account, “collateral is the precise opposite of social norms, what makes norms superfluous” (55).

3 Technocracy in Action

The study of ISDA agreements highlights that private and public law cannot be understood as two radically separated domains. They are, rather, “inexorably entangled” (85). This observation is pursued in a chapter on the “technocratic state.” Aiming to update Japanese regulations to correspond better to the exigencies of the global market, financial bureaucrats sought to replace a number of legal categories with others “that rationalized existing market practice” (90). In this context, creating regulatory models based on the ideal of private law became the explicit interest of finance bureaucrats in the ministry of finance.

As Riles shows, this happened not simply because of market pressure, but also because of the wishes of bureaucrats themselves. Yet they did not aspire to give up

public law in favor of market deregulation. Rather, Riles describes their efforts as a balancing act, entailing simultaneously an insistence on keeping “distance from the workings of the market” and a “desire for deep involvement with market ‘realities’” (108). We are thus witness to a process of mutual entanglement between private law and public law, to a process characterized by extensive collaboration across these boundaries, to a situation in which the private is already inside the state and vice versa.

4 Transparency

The regulatory state has been under unceasing fire from deregulators over the last twenty years. The Hayekian critique of state planning has been updated in contemporary public choice theory. It emphasizes the unwieldiness of technocratic practice, which, based on the belief that everything can be planned and controlled, is always left behind by the swiftness of changing markets. Further, this argument goes, bureaucracy and technocracy shroud themselves in a mantle of esoteric expertise and disable the public from knowing the basis of decisions. In Japan, too, the traditionally highly esteemed financial bureaucracy came under heavy attack for its lack of transparency and its close relations with market agents.

What holds Riles’s attention is not the issue of transparency per se but, rather, “the unintended consequences of economic theory on technocratic life and practice” (117). “What difference does it make,” she asks, “when certain academic terms become the currency of politics?” (118). Asking this question, she challenges the notion that academic ideas are invariably “too distant” from the real world to have much impact. Instead, she argues, the terminology of transparency and its conceptual underpinnings “shaped the very parameters of regulatory politics, framing the contours of the possible” (119).

After a series of “corruption scandals” in which regulators had been caught wining and dining with market agents, stringent rules were put in place. Riles shows, however, that the bureaucrats’ intertwining with market representatives had little to do with “particular pecuniary and political incentives” (126). Important was, rather, the effort to keep attuned to what was going on in the market, to be able to respond quickly and efficiently to new situations. Accordingly, one of the key outcomes of the transparency measures was that, as one senior banker said, “we don’t know anything about the market anymore” (125). Transparency thus had the paradoxical consequence of making bureaucrats less responsive.

Noting that if one takes literally the definition of transparency proffered by Transparency International (a nongovernmental organization that monitors and publicizes corporate and political corruption), it might be concluded that the entire Japanese regulatory system is corrupt (130), Riles suggests that the Japanese case offers a counterpoint to public choice theory, not because Japan is truly “corrupt” but instead because public choice theory “enshrine[s] some deeply held American views about human nature and motivation” (139). Accordingly, Riles points to the irony that, around the peak of the transparency “craze,” voices began to be heard calling for “new forms of public-private co-operation” (127). Thus, the very kinds of relationships between bureaucrats and market actors that had been dismantled in the name of transparency reemerged “as a possible model and example” for the future.

5 Collateral as a Legal Fiction

In “Placeholders,” Riles explicitly engages Friedrich Hayek’s critique of financial regulation. Hayek is right, Riles suggests, in pointing to the difficulties bureaucracies have in dealing with change. Yet his analysis is one-sided, asymmetrical, because he does not pause to consider whether markets are *any better*.

Taking the reader into the recesses of financial back offices, Riles shows how the assumptions of public choice theory made inroads even into the “payments system division” of the Bank of Japan. Here the existing payment system, which “cleared” all transactions at specified times of the day, was replaced with a new, supposedly more rational and transparent system, based on “real-time” settlement of deals. Riles shows how this system itself created temporal problems that could be handled only by legal regulation of a particular kind.

Real-time settlement faced problems because “many forms of market exchange work” not in real time but “by means of a time lag” (163). While waiting to finalize a transaction, the “fates” of market participants “are intermingled” (163). Now, collateral is precisely the tool that “places limits on those mutual entanglements” (164). Yet the legal status of collateral remained unresolved, because it was situated at the intersection of different national and international laws. Its uncertain status thus gave rise to a “flurry of legal argumentation” among Japanese bureaucrats. But this did not, of course, stop the market, which continued to operate on the basis of the “legal fiction” that collateral was an already settled legal issue. Legal fictions, Riles reminds us, are statements “consciously understood to be false” (172). And thus, for the “time being” it was simply “deemed” that collateral was specified according to the law of New York.

We might wonder why anyone believed in this. Riles’s answer is that no one did, because belief was not a relevant category. As a placeholder, collateral was seen as “just a technique,” as something that could be acted on “as if” factual. Collateral, Riles argues, is then simply a “technique for working with and in the meantime” (173). It is a technique for holding in abeyance the question of belief, in order to ensure the functioning of the finance machine. But legal fictions, like dreamy economic assumptions, are not *unreal*. Indeed, over time, they come “to take on a cultural reality” of their own (174).

6 A Hollow Core

Addressing “virtual transparency,” Riles proceeds to focus on an “episode in legal transplantation.” Specifically, she discusses the making of a “netting law that would validate derivatives dealers’ contractual agreement to net out their obligations in the case of default” (185).

Her analysis contrasts the efforts of two legal experts: Professor Shindo, a senior specialist in civil procedure, and Professor Kanda, one generation younger, from the faculty of law at the University of Tokyo. We are shown in painstaking detail how Shindo articulates his “opinion” about the netting problem, through layers upon layers of analogical reasoning. In contrast to this traditional approach to legal argumentation, Kanda, inspired by the Chicago school of economics, strove to “subordinate legal

theory to neoclassical economic theory” (199). His “neoliberal” approach aimed to specify “an entirely new *statute* affirming enforceability that would supersede all legal arguments” (198). In Kanda’s work to give form to transparency, Riles suggests, it is rendered in *virtual form*. The statute seems in line with market conditions but “nothing more,” since its content “remains unspecified.” The statute has a virtual, hollow core (202).

It is tempting to view the work of these two figures along dichotomous lines. Whereas Shindo is the grand figure of tradition, Kanda represents globalization; whereas Shindo analogizes, Kanda makes international comparisons; whereas Shindo is unrepentantly contextual, Kanda aims to introduce global law to Japan. Yet, Riles says, both offered coherent responses to “the entanglements in the global financial markets” (210). And though their responses were elicited in different legal genres, both illustrate how the “transformative power of law” is an effect of its “unreal and reflexive quality,” its deliberately collateral position, to the side of market realities (213–14). But while Shindo’s form of legal knowledge positioned Japan “as a culturally distinct, and therefore unique, entity,” Kanda’s Chicago-inspired aesthetics invokes “an image of Japan as one of a number of similarly situated jurisdictions” (212).

Even if our ultimate concern is with “weighty political matters,” Riles suggests, there is insight to be gained by looking into the minutiae of these legal considerations. For questions concerning the role of the state *vis-à-vis* markets “turn on something far away from the vocabulary for theorizing neoliberalism in social theory and law—the aesthetics of legal knowledge” (215).

7 From Design to Technique

In the concluding chapter, Riles addresses the real-life applications of her study. Central to this chapter is a move from “design to technique.” If, she suggests, one aims to “democratize the practice of global financial regulation” (223), then this is best done by focusing on the techniques of regulation already in play.

The central point here is twofold. First, her analyses indicate that many more actors than usually assumed are important for market governance. Second, she insists that “imagining alternative knowledge practices” is best done starting from existing practices rather than by designing utopian new architectures.

Moving closer to the interrelations between *epistemology*, *aesthetics*, *materiality*, and *virtual sociality*, Riles forcefully argues, makes us realize that Hayek’s “mystique of the private” is not what accounts for the specificity of global finance (231). For what changes between the realms of the public and the private is not human motivation but, rather, particular ways of working with legal technique. One of those characteristics is their very “fictional,” yet performative, quality. Thus, Riles asks, “what if we were to accept that fiction is at the core of market practice?” (232).

Riles reiterates the importance of looking to the form and aesthetics of regulation rather than focusing on its hollow “content.” If the problem with current material practices is not that they are guided by heavy-handed insider norms but, rather, that they are “culturally and socially thin,” then the relevant question is how to thicken them (233). Here she returns to the fundamental problem with conceiving market

actors as rational, a picture she refers to as “breathtakingly crude” (235). In contrast, a focus on “mundane aspects” provides “a golden opportunity for intervention” (237).

Yet, though she offers a number of suggestions, those recommendations are also rather vague. She proposes that an inside view of global finance highlights the importance of “glitches,” which should not be seen as “embarrassing failures” but rather as “indigenous firewalls” that may help to slow the speed of global transactions (239–40). She further suggests that insofar as her back-office informants “begin to see a wider role they can play in encouraging market reform from the inside, they can become effective advocates and collaborators” (237).

Finally, Riles asks, “What would market reform look like if . . . we focused more attention on developing and redirecting the practical legal techniques that are already contributing in practical, day-to-day ways to market stability?” (244). While a “radical change in perspective,” this would require “no new laws, no new policies, not even a change in these lawyers’ existing roles” (244–45). What, then, would it require? It would simply oblige “all of us individually” to “take action to exploit the options and possibilities we already have . . . every day to create more breathing room, more space, and hence more practical stability in the system.” This is a view, finally, in which “hope comes from creating small opportunities for change, small spaces for reflection, and then letting these opportunities unfold” (245).

8 *Collateral Knowledge and STS*

Collateral Knowledge is rich both in ethnographic detail and analytical implication. It offers a series of important insights into global finance and law, several of which are resonant with STS. Thus, it is somewhat surprising to note that Riles is at pains to distance her work from STS scholarship.

The critique of STS appears on and off in *Collateral Knowledge* but is made explicit in Riles’s article “Collateral Expertise: Legal Knowledge in the Global Financial Markets” (2010). In this article, she takes the sociology of finance promoted by scholars like Michel Callon and Donald Mackenzie to task for “unwittingly” substantiating “one of the core ideological claims of finance, that it is a discrete world whose activities are proto-scientific” (795). The consequence is that all questions are seen as questions of knowledge. This contrasts with the collateral, marginal view enabled by ethnography among back-office informants, where the problem is often a keenly felt *lack of knowledge*.

From this location, Riles says, “the wondrous sociotechnical networks” of STS “quickly begin to crumble and dissipate” (2010: 796); in *Collateral Knowledge* she notes that the “picture of smooth translatability and collaboration” collapses (62). But does this description fairly capture an STS mode of analysis? In actor-network theory, for example, Bruno Latour has long emphasized that network stability, far from something that can be assumed, must always be seen as an *achievement*. Stability is not the baseline but a precarious outcome of heterogeneous work. There is no picture of smooth translatability and collaboration, and thus Riles’s suggestion to focus on “glitches” (64, 239, 240) is not a counterargument to actor-network theory but an exemplification of one of its points. At the same time, Riles is obviously not herself uninterested in knowledge practices.

Citing Joan Fujimura (1992), in *Collateral Knowledge* Riles argues that STS takes an interest in “standardized packages” of theory and technology, which make it possible “to *locally concretize the abstraction in different practices* to construct new problems” (62). But she continues to argue that precisely this interest disables STS analysis from dealing with “glitches.” Yet, Fujimura herself uses the terminology of glitches and evidently takes keen interest in them (1996: 171). And insofar as Riles’s own stated ambition in *Collateral Knowledge* is to look into “routinized but highly compartmentalized knowledge practices” (10), it is unclear precisely how this differs from Fujimura’s ambition.

From a pragmatist analytical perspective closely related to that of Fujimura, Susan Leigh Star has argued that the relation between the visible and the invisible is of central sociological importance (1991: 265). To get this relation firmly into view, it is important to “study the unstudied,” the marginal (266). Here, too, we seem not to be worlds apart from *Collateral Knowledge*. Indeed, Star puts to use the pragmatic sociologist Anselm Strauss’s notion of articulation work, defined as “work that get things ‘back on track’ in the face of the unexpected,” though it is “invisible to rationalized models of work” (275) in a manner that, in some ways, closely resembles Riles’s project to thicken up descriptions of global finance and law.

Riles does not discuss Star’s work in *Collateral Knowledge*. But the question of their relative similarity or difference is relevant because of the clear-cut distinction Riles posits between a pragmatist viewpoint on global finance and her analysis. Since Riles’s analysis rehabilitates legal forms and fictions, it is not surprising that she needs to distance her view from *legal* pragmatism. Thus, she argues that her “placeholders” are “opposite of ways of thinking about the future such as philosophical pragmatism that focus attention on the ambiguity and open-endedness of the present” (176).

Yet, much of Riles argument has a distinctly pragmatist flavor. For example, one might draw attention to the interest of pragmatist philosopher John Dewey in “facts as being born from reflections on ‘interruptions to experience’” (Star 1991: 274). Again, this view seems quite congenial to Riles’s fascination with gaps, breakdowns, and glitches.

Nevertheless, Riles’s differentiation between her analytical modus and that of pragmatism is important, and it occurs to me that it is significantly related to her interest in taking legal form seriously. Indeed, this interest does give her analysis a somewhat different orientation from most actor-network theory and pragmatist STS analyses, since it aims to specify a mode of operation that characterizes law in particular. Several times Riles refers to German scholar Gunther Teubner, whose analyses of law are inspired by the systems theory of Niklas Luhmann. It is a defining feature of Luhmann’s theory that different systems operate according to their own self-reproducing (autopoietic) logics. Though Riles’s legal forms and aesthetics are by no means identical to Luhmann’s systems, they do share the aspiration to specify what is particular about law as a system. This distinctiveness is indeed difficult to get into view insofar as one upholds a rigorously “irreductionist” approach in the spirit of actor-network theory or pragmatist sociology, since one is then obliged to focus on the heterogeneity and variation of actors and, accordingly, tends to downplay consistency and form.

Of course, as a good ethnographer, Riles *also* emphasizes variation. In fact, I would propose that the tension this creates—between legal form and aesthetics and the varied

projects, activities, and technologies in which such form is put into play—though not to my mind quite analytically resolved, is one of the central points of interest of *Collateral Knowledge*. It certainly gives food for thought for an STS analytics obsessed with heterogeneous networks.

Nevertheless, Riles also proves to be a good pragmatist. And nowhere is this clearer than in her political and practical recommendations.

9 Politics and Pragmatism

Riles's normative project is indeed strikingly pragmatist in its anti-utopianism and its focus on politics on the ground. Here is a striking change of tone from her edited volume *Documents* (2006), in which she criticizes Geoff Bowker and Susan Leigh Star's *Sorting Things Out* (1999) for its analyses of the practical politics of categories (2006: 14–15). In that analysis, Riles described Bowker and Star's aim as the demystification of technology by digging up submerged conflicts from underneath "layers of obscure representation" (1999: 47). To Riles, this analytical project illustrated a problematic "desire to *instrumentalize* academic knowledge," an urge to be "connected and relevant to the world" (2006: 15). In *Collateral Knowledge*, however, this urge is no longer seen as problematic since it is proudly on display.

As Riles highlights throughout *Collateral Knowledge*, the politics of global finance law is not at all obscured but rather "hidden in plain view" (146). Even so, Riles does her own digging into obscure representations, for example, when she asks what makes technical legal expertise, which is "explicitly framed as 'nonpolitical' but 'expert'" (189), so powerful.

Showing the political within the avowedly nonpolitical domain of technical legal expertise is indeed core to Riles's concluding argument, which itself aims at nothing if not instrumentalization, and does so precisely by eliciting legal technicalities "as profoundly political practices" (223). To my mind this locates Riles's work right *alongside* projects such as Bowker and Star's. And indeed, Riles's recommendations are worth taking seriously precisely because they are innovative, anti-utopian, and pragmatic. It is certainly important to think carefully about the epistemological, material, aesthetic, and "virtually social" dimensions that shape global finance and propel it in particular directions.

Though it may "generate hope," I am not convinced that the call to get each of us to take individual responsibility for exploiting available options and opportunities will do the job of reorienting global finance. Even so, there is no doubt that the innovative solutions that are required to somehow steer global finance in another direction are not to be found exclusively, and perhaps not even significantly, at the level of grand designs. Riles's excellent study points the way forward and shows also why there is much more work to be done.

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