

# Book Note: The Electronic Silk Road: How the Web Binds the World Together in Commerce, by Anupam Chander

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## Citation Information

Weyman, J. Tosh. "Book Note: The Electronic Silk Road: How the Web Binds the World Together in Commerce, by Anupam Chander." *Osgoode Hall Law Journal* 51.2 (2014) : 739-741.  
<http://digitalcommons.osgoode.yorku.ca/ohlj/vol51/iss2/17>

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**Book Note****THE ELECTRONIC SILK ROAD: HOW THE WEB BINDS THE WORLD TOGETHER IN COMMERCE, by Anupam Chander<sup>1</sup>**

J TOSH WEYMAN

THE RISE OF GLOBAL cybertrade in services (“Trade 2.0”) is examined by Anupam Chander in *The Electronic Silk Road*, which puts forth proposals aimed at overcoming associated legal and regulatory implications. Part I contains a variety of case studies examining the history and challenges of Trade 2.0. Examples from Bangalore to Silicon Valley demonstrate that existing frameworks, developed over millennia of trading in goods, remain inadequate to both enable and regulate Trade 2.0.<sup>2</sup> Part II sets out a framework for freeing trade in services while protecting state capacity for self-regulation.<sup>3</sup>

Chapter one discusses the organization of production and the rise of global service provision. Chander argues that the associated increase in cross-border contracting necessitates a complementary legal infrastructure for dispute resolution, which is explored further in chapter seven.<sup>4</sup>

In chapter two, Chander discusses the rise of Silicon Valley, California, as the world’s leading electronic service provider.<sup>5</sup> Chander examines the legal framework that fostered Silicon Valley’s success and presents case studies that highlight the legal challenges its enterprises have faced in operating globally. Chapter three turns to Bangalore, India, and discusses the diasporic, economic, and regulatory phenomena that advanced its position as the “world’s back office.”<sup>6</sup>

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1. (New Haven and London: Yale University Press, 2013) 278 pages.

2. *Ibid* at 4.

3. *Ibid* at 10.

4. *Ibid* at 19.

5. *Ibid* at 36.

6. *Ibid* at 59.

Chapter four examines the “pirates of cyberspace”: companies located in offshore jurisdictions providing services that are banned in the jurisdiction of consumption.<sup>7</sup> While attempts to shut down The Pirate Bay<sup>8</sup> and WikiLeaks<sup>9</sup> have had limited success, political pressure was ultimately successful in pushing Russian authorities to shut down AllofMP3.<sup>10</sup> Chander thus demonstrates that companies seeking safety in offshore havens are not entirely immune to efforts aimed at blocking their services.

In chapter five, Chander asks: “Who makes the rules that govern the ways that Facebook connects a seventh of humanity?”<sup>11</sup> To answer this question, he examines case studies from around the globe, concluding that complex tensions between Facebook’s own corporate policies, user regulation, and the laws of various nation-states have together influenced the rules that govern this global social network.<sup>12</sup>

Chapter six begins Part II of the book. Chander summarizes the legal challenges that electronically tradable services face and introduces an ameliorative framework aimed at both liberalizing and regulating Trade 2.0. Freeing Trade 2.0 requires technological neutrality: the application of the same legal regime to both online and offline versions of the same service. It also requires a dematerialized architecture for services infrastructure and dispute resolution, a proposal discussed in Chapter seven.

In chapter eight, Chander advocates for global harmonization of legal frameworks governing cybertrade in services, a proposal directed at freeing Trade 2.0 and benefiting service providers and consumers. Cognizant of the potential for both regulatory capture and a race to the bottom, he argues that harmonization must be balanced with “glocalization”: in certain circumstances, nation-states should require that foreign service providers comply with local laws rather than favouring those of their de-camped home jurisdiction.<sup>13</sup> In an effort to balance local regulatory autonomy and Trade 2.0 liberalization, Chander suggests this simple mantra: “harmonization where possible, glocalization where necessary.”<sup>14</sup>

Chapter nine contains a final proposal that global service providers operating in totalitarian states should respect human rights and “do no evil” through their

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7. *Ibid* at 87-88.

8. The Pirate Bay, online: <<http://thepiratebay.se>>.

9. WikiLeaks, online: <<http://wikileaks.org>>.

10. AllofMP3, online: <<http://www.AllofMP3.com>>.

11. *Supra* note 1 at 113.

12. *Ibid* at 140.

13. *Ibid* at 169.

14. *Ibid* at 11.

operations.<sup>15</sup> This requires that a “corporation’s presence does not, at the very least, make people worse off, in terms of human rights.”<sup>16</sup>

Chander’s work combines a detailed history of Trade 2.0 with legal and political analyses that highlight barriers to cybertrade in services. His ameliorative proposals are simplistic, yet detailed analysis demonstrates their potential validity. *The Electronic Silk Road* should prove of interest to legal scholars, technological entrepreneurs, politicians, and regulators seeking to understand the evolving world of Trade 2.0.

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15. *Ibid* at 196-199.

16. *Ibid* at 199.

