Contents

Pro	ologue	page x11
Aci	knowledgements	xxvii
Int	troduction	1
	What we talk about when we talk about the rule of law	3
	Rule of law promotion as a field	6
	The rule of law at home and abroad	9
	The theory and the practice of rule of law promotion	12
	Part I: the rule of law as term of art	14
	Interlude: colonial precursors	17
	Part II: theatre of the rule of law	18
	Part I Parameters: 'rule of law' as a term of art	27
1	Society	29
	The immanent rule of law	29
	Dicey: 'the habit of self-government'	30
	Oakeshott: a 'moral association' (the jus of lex)	35
	Habermas: mutual respect among strangers	38
	Summary: the 'modern' rule of law	41
	Between state and society	45
	The public sphere	45
	A tripartite distinction	53
	Conclusion	55
2	Economy	57
	Two perspectives on law and the state	59
	Dicey on droit administratif	59
	Weber on 'compulsory political association'	62

X CONTENTS

	The realist critique: four charges of judicial bias	66
	Bias one: the choice of rights	69
-	Bias two: the choice of policy	70
	Bias three: the choice of evidence	72
	Bias four: the blindness to bias	73
	After the realists	75
	The rule of law and welfare as mutually incompatible	77
	Social rights within a rule of law framework	83
	Conclusion	84
3	Sovereignty	89
	Aristotle: Nomarchy (the sovereignty of law)	89
	Law's umpire	93
	The Aristotelian tradition	96
	Agamben: the law of sovereignty	98
	Sovereign exception	99
	Sovereign extension	101
	Sovereign expansion	104
	Conclusion	106
	Interlude Precursors: colonial legal intervention	109
	Part II Theatre of the rule of law	123
4	Market	125
	US foreign assistance	125
	The world according to USAID	128
	The World Bank	131
	After 1989: governance and PSD	132
	The economy of law	138
	Conclusion	147
5	State	149
	The United States	149
	The United Nations	155
	The rule of law and order?	162
	The lure of law	166
	Conclusion	173
6	Public	175
	The theme: modernisation	176
	The reform constituency	183

	CONTENTS	Xi
Lead roles: public and private		187
Governance		190
Corruption		191
Privatisation		193
A public sphere of private investors?		194
Supporting roles		195
The judiciary: autonomy and prestige		196
Civil society: public education		204
'The poor': investors in waiting		207
Denouement: global integration		213
Conclusion		217
		040
Conclusion		219
D 17 1		
Bibliography		233
Index		287

A Company of the Comp