

The Game of Legislation: A Positivist Account of Rational Law-Making and Its Normativity

According to a *widely shared view* in contemporary legal philosophy, legislation is best understood as a planning orchestration based on shared intentions, which can be explained through an expansion of Michael Bratman's model for shared cooperative activities (SCA). The present essay explores an alternative model for legislation and its normativity. In stark contrast with this widely shared view, it will be argued that *rational legislation* is best understood as a *strategic interaction*, phrased in terms of a parsimonious, semi-formal version of *game theory*. Strategic interaction and transient equilibria are the ultimate sources of legal normativity. Rational law-making is not merely a matter of sharing intentions and beliefs for the common good of the citizens. It involves a sophisticated process of bargaining, negotiating, and voting, which takes place within a framework of *imperfect competition* and *unreliable behavior*.

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