

Smart Contracts and Smart Legal Contracts

The Ethereum platform is said to enable ‘smart contracts’ to run without human interference on a global computer. This week, we will explore what smart contracts and smart legal contracts are, as they are different beasts, though people don’t always distinguish between them in common discourse. Will contracts become fully automated? Will lawyers need to learn to code, and will judges need to read software code to interpret contracts? How do smart contracts and smart legal contracts fit into our existing legal framework? We will explore the brave new world of contracts and blockchain technology.

READINGS:

Kevin Werbach and Nicolas Cornell, *Contracts Ex Machina*, 67 Duke L.J. 313 (2017)

Available on Westlaw, Lexis, etc.

Jeremy Sklaroff, *Smart Contracts and the Cost of Inflexibility*, 166 U. Pa. L. Rev. 263 (2017)

Available on Westlaw, Lexis, etc.

Christopher Clack, Vikram A. Bakshi, Lee Braine, *Smart Contract Templates: foundations, design landscapes, and research directions*, arXiv: 1608.00771, 2016.

<https://arxiv.org/abs/1608.00771> (there is a link to download a PDF of the article on the right of the website.)

Dan Selman, *REALLY Smart (and Legal!) Contracts*, Medium, March 27, 2018.

<https://medium.com/@Clause/really-smart-and-legal-contracts-a77fcd1d0d10>

REFLECTION QUESTIONS:

What are ‘smart contracts’? What are they supposed to do?

What are smart ‘legal’ contracts? How do they differ from smart contracts?

Who creates smart contracts? Lawyers? Coders? Both?

Who creates smart legal contracts? Lawyers? Coders? Both?

How do smart contracts fit into contract law? How do they envision enforcement of contracts happening? What is the role of judges, lawyers, or the legal system generally in a world of smart contracts?

Why do some say ‘smart contracts’ is a misnomer?

How might smart contracts or smart legal contracts transform the practice of law? What skills do lawyers need in a world of smart contracts or smart legal contracts?