

Foreword

The way capitalism is organized and governed is changing. A regulatory explosion – the proliferation of different mechanisms of control at both the national and global level – is balancing the effects of neoliberal reforms and is creating a new global order that is characterized in important ways by regulation, regulocrats, regulatory agencies and regulatory networks. The widespread expansion of regulation is rather striking and puzzling. In an era of liberalization, privatization and deregulation, the number, forms and sources of regulation were expected to be on the decline. Convergence on liberalization as a system *sans*-regulation was portrayed as the desired outcome by some and a horror scenario by others. The possibility that change will result with more regulation and that *étatist* forms of regulation will be mainly accompanied with international and voluntary forms of regulation was not on the agenda. By the early 1990s scholars had started to point out that deregulation was really a misnomer for the emerging reforms. Instead they had suggested that the notions of ‘better regulation’, ‘*reregulation*’ and ‘international regulation’ best captured the change.

What we are learning to better appreciate nowadays is that the notion of ‘regulatory explosion’ captures and conveys better the nature and the implications of the changing political, social and economic environment in the age of governance. The evidence is only slowly accumulating through various indicators. My own attention and awareness of the phenomenon grew from a study of the restructuring of the modern bureaucracy and the rise of regulocracy as an alternative form of governing. In a study with Jacint Jordana of regulatory agencies across 16 different sectors in 49 countries from the 1920s through to 2002, we found that the number of regulatory agencies rose sharply in the 1990s (see Figures F.1 and F.2). Indeed, the rate of establishment increased dramatically: from fewer than five new autonomous agencies per year from the 1960s to the 1980s, to more than 20 per year from the 1990s to 2002 (peaking at almost 40 agencies per year between 1994 and 1996). By the end of 2002, we could identify an autonomous regulatory agency in about 60 per cent of the possible sector niches in the 49 countries. Probably more than anything else, it was the establishment of these agencies that made the regulatory state an attractive term for social scientists.

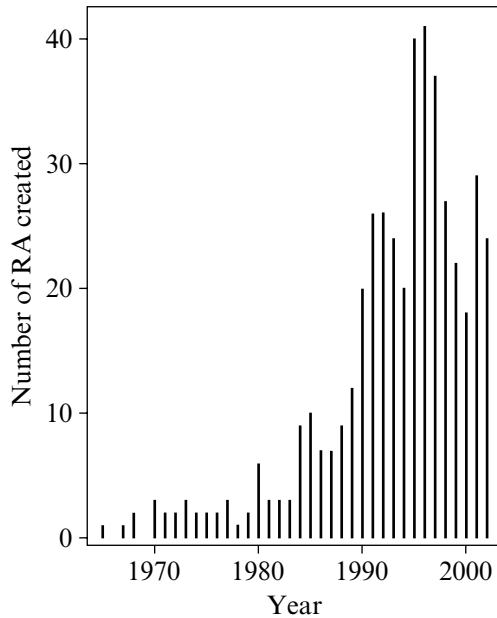


Figure F.1 Expansion of the number of regulatory agencies across 16 sectors of 49 nations, 1960–2002

Taken exclusively on its own, the widespread creation of regulatory agencies may indicate a restructuring of the state or even the rise of ‘a regulatory state’. Yet, the explosion in the number of regulatory agencies is *only* part of a wider phenomena and the simultaneous expansion of the regulatory society and global regulations. As a matter of fact the co-expansion of voluntary as well as coercive regulation, national and global, civil and statist all testify to the shortcoming of a focus on the transformation of the state. The notion of ‘regulatory capitalism’ captures much better the changes around us than the notion of a ‘regulatory state’ which denotes a state-centred perspective. Regulatory capitalism is a political, economic and social order where regulation, rather than the direct provision of public and private services, is the expanding part of government. In this new order legal forms of domination are increasingly conditioned by functional rather than territorial considerations, and power is allocated and regulated along functional demarcation lines. The distribution of power, and the corresponding form of interest intermediation in each arena, are therefore shaped by the particular interaction of civil and state forms of regulation and may result with varying degrees of social, economic and political effectiveness and legitimacy.

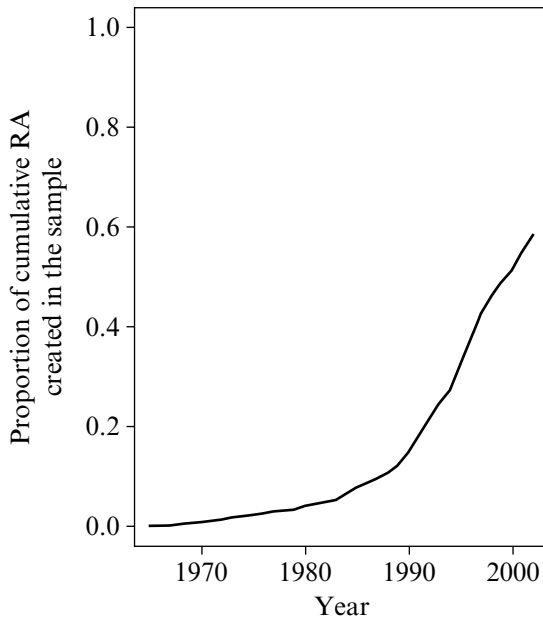


Figure F.2 Increase in the proportion of regulatory agency niches filled for 16 sectors across 49 nations, 1960–2002

On this background it is not surprising that the study of regulation and governance, once fragmented across disciplines and subject areas, has emerged at the cutting edge of paradigmatic change in the social sciences. Regulation, especially in its soft decentred and fragmented forms, becomes a major issue on the agenda of disciplines that deal with international relations, international political economy, global governance, international relations and international law, institutional economics, public administration, public policy and comparative politics. Scholars from disciplines with well-established interest in regulation such as Law and Society, Law and Economics, Criminology and American political development are increasingly finding themselves interacting with a legion of scholars from other disciplines.

Some of the interest in the study and effects of regulation can be safely ascribed to the rise of regulation and rule making as a major form of governance. Much of the rest is due to the contribution and inspiration of John Braithwaite's scholarship and his personal qualities. John's work, which does not respect disciplinary boundaries, places regulation both as a core concept, and as a major puzzle for the social sciences. The success of this

project may affect not only the study of regulation but also the scientific standing of the social sciences more generally. This book suggests that we can be cautiously optimistic about our ability to overcome the challenges ahead of us.

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