

# Preface

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This is an important book. It focuses on a question that has been put since statehood emerged: what is to be regulated by the state? The subject has great actuality, too. In a world of interdependency, in which, for example, economic, social and environmental problems are of a growing international character, in which national borders are disappearing and international non-state actors play important roles, the question remains: what is to be regulated by the state? Nowadays this question must be extended to the many international legal bodies, the international institutional framework.

The answer or answers to that question are influenced by points of view from at least two dimensions: a theoretical dimension and a practical one. The theoretical dimension, which contains ideological elements, implies a view on the role of the state, on what is the *'bonum commune'*, on the relation between state and society, on the role and responsibilities of individuals within a polity. It implies judgements about the role of law and the rule of law. It is about Justice and its meaning for contemporary and future relations.

The practical point of view concerns effectiveness and efficiency. Once a certain policy has been considered necessary, it may be effective to stimulate self-regulation in one of its manifestations. That may lead to non-intervention by the state or by another official legal body; it may lead to a combined strategy of state law and non-state regulation.

Non-state regulation can be seen as a matter of principle and as a matter of practice, in that order. In fact, the latter is probably the result of a development in state regulation. In the period in which the rule of law started as a leading orientation for the organization of a polity, particularly the national state, there was not much room for non-state regulation next to state regulation. Non-state law was only valid when recognized by law-creating bodies of the state. But the lesson has been that non-state regulation *de facto* exists and that it may be important to use it as a tool for ordering society and societal relations. Although it is tempting for states and their governments to assume that they can 'rule' their countries, the idea of a manipulable society has been abandoned. Besides, state law itself needs the cooperation of the citizens concerned. Here we enter the area of 'governance'.

In this connection I would like to add the notion of 'trust'. States and other legal bodies should trust their citizens, their people; this implies that

their officials operate in a way that people can trust government and state officials.

It is challenging to transfer this issue to the international level of (non-) regulation.

This book arrives at a good moment. Many governments are confronted with the boundaries of their possibilities because of, for example, internationalization, societal complexity, new challenges. Nevertheless, they have to be concerned about the well-being of their people and have the task to order society thereto. In this respect, I would like to mention that deregulation doesn't necessarily mean fewer rules. Rules may be very necessary to make it possible for people to live together peacefully. The question is particularly who will make the rules and how specific rules have to be; how much room they leave.

In this book, both aspects – the theory and practice of state regulation and non-state law – are discussed in a broad perspective. I welcome it with pleasure. It will contribute to the essential discussion about a major problem of our time and times to come, as mentioned here before. I hope it will stimulate many people, citizens and officials, to reflect on government, governance and law. And on Justice.

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