

Abstracts

An empirical analysis of corporate risk disclosure practices

Santhosh Abraham

In the aftermath of recent corporate failures standard setters have been searching for better models of corporate governance to correct the perceived lack of transparency in the capital markets. This paper is intended to add to the recent debate on corporate governance and disclosure practices by examining the effect of listing in a stricter regulatory regime, internal corporate governance mechanisms and ownership structure on corporate annual report risk disclosure in the UK. Drawing from the content analysis literature we use a disclosure index methodology in our study to create a total risk disclosure index. We also subdivide the total risk disclosure index into its component parts of voluntary and compliance disclosure.

The results based on our preliminary sample of 50 firms in the FTSE 100 show the positive effect of regulation and independent non executive directors on risk disclosure. We find a negative relationship between long term relationship investors and risk disclosure, suggesting that they benefit from private information gains. In light of the new mandatory OFR statements that firms will have to produce as of April 2005 our study is policy relevant since it speaks of the importance of regulation, corporate governance and ownership structure in determining the structure and volume of risk a firm publicly discloses.

Precautionary management strategies for GM foods

Maryam Al-Alami

This paper, which is based on work in progress, discusses the use of the precautionary principle as a risk management tool. The precautionary principle (PP) has been used in food policy. At times it has guided market choices. At other times it has posed challenges. This is because in the governance of emerging technologies there is a tendency to "bureaucratise the risk management of everything".¹ From its conception, the PP has led to controversy for many reasons, most highlighted when dealing with risks to the environment. The main reasons are because the PP has challenged established ways of thinking to do with assessing and communicating these risks. Furthermore, its implementation poses difficulties and challenges for political actors. Its adoption has indicated that "ignorance"² could often be acknowledged to be the main condition in many areas where technological choices are made which have possible long term consequences. Under such conditions, GM foods are used as an example of an established technological "emergence"³, i.e. a technological category, like the newly emerging nanotechnology, that has emerged for which a framework for regulation has to be maintained that is "resilient"⁴ and "socially intelligent".⁵ By using the Sudan I recall in England, this paper attempts to highlight important areas to consider when managing risks to health from GM foods.

Resolving land-use planning dilemmas by agreement: A Story of Regulatory transformation?

Tola Amodu

Regulatory contracting in the public domain is not, as is often asserted, a post-modern phenomenon. Whilst governance strategies have shifted from a command-orientated emphasis, evidence shows that within land-use planning, a use of quasi-contractual instruments (predominantly agreements) has a long history. The process of agreement is a consistent trend within the domain, and dates from the early 1900's. It is used to secure efficient land allocation and community benefits (whether on-site or off-site provision) through the individuated legal form, often supplementing the imposition of conditions on the grant of planning permission.

Government archives point to a level of variety in regulating contracting practice that challenges the assumption that a use of quasi-contractual instruments for regulatory ends is both an innovative phenomenon and uniform in character. Studying the evolution of planning agreements points to the adoption of multiple strategies of control by Government. The continuing use of agreements allows me to question whether the particular modes of

governance are context specific or if some more general conclusions regarding how Government attempts to regulate contracting practice can be drawn.

Researching vaccine 'health scares'. Ethical issues and dilemmas

Janine Arnott

Vaccines are widely regarded as one of the most successful interventions in medical history. However, since the first vaccine was introduced in the early 19th Century there have been repeated controversies about their safety that provoke hostile and highly emotive public debates. The ongoing MMR case is one such example with the reported link between the MMR vaccine and autism sparking a public 'health scare' despite numerous scientific and epidemiological studies having refuted any such link. However, the controversy continues and take-up rates for MMR remain below that required for herd immunity.

My research looks at how vaccine controversies are constructed at the level of public debate. It examines the views and experiences of four 'social groups': the media, professionals, policy makers and campaign/voluntary groups. The research combines documentary analysis with interviews and aims to inform public health policy by exploring contemporary theories about risk and public health. This paper looks at some of the ethical issues involved in researching a highly emotive and contentious issue by discussing issues such as gaining access, confidentiality, maintaining objectivity and 'responsible and sensitive reporting.'

Governing Critical Information Infrastructure Protection: Self-Regulation and Public-Private Partnership Revisited

Dan Assaf

This paper analyzes one aspect of a broad range of governing instruments employed by governments in order to address the problem of protecting critical information infrastructures (CIIs). These governing instruments lie anywhere between direct, command-and-control regulation at one end and self-regulation and public-private partnership at the other, with variations lying in between. Currently, many countries seem to follow the U.S. policy and adopt a non-interventionist approach, namely endorsing self-regulation and public-private partnership. This tendency is not as straightforward as it may seem. It should be analyzed and explained, so I will argue, in the wider contexts of both the New Governance theory and the paradigm shift in security governance. This paper thus aims at understanding the various reasons for the development of these governing arrangements as tools to enhance the protection of CIIs. The analysis suggests phenomena such as the preliminary absence of an authoritative hierarchy (as the basis for the spontaneous development of Internet security), as well as the presence or absence of incentive structures for various agents to provide security, as explanations to the tendency to employ such instruments.

"Who's afraid of market value?" Performance measurement and division of labour in UK pension fund accounting

Yally Avrahampour

This paper examines accounting and actuarial standards as social practices arising within contexts of professional interaction (Collins 1990, Hopwood & Miller 1994, Power 1997, White 2002:300). Archive data and oral history interviews are used to build on recent sociological studies of pension funds (Blackburn 2002, Langley 2005) to compare standard setting processes leading to the ICAEW's Recommendation N21 on pension accounting in 1960 and FRS 17 introduced in 2001. Different approaches to actuarial valuation methods are explained in the context of the changing role of performance measurement in the jurisdictional settlement (Abbott 1988) achieved between the actuarial and accounting professions.

The role of the "ban" in Canadian toxic substance regulation

Hugh Benevides

The discursive role of the "ban" concept is explored, in the context of federal government efforts in regulating toxic substances over the past thirty years. Ban language ("zero discharge", "virtual elimination" and "pollution prevention") occupies a position in chemical

risk discourse that is out of proportion to its actual implementation. While the ban language arises from commonly-understood metaphors of environmental crisis and figures prominently in various policy instruments, a culture of risk management has prevailed. The discursive relevance of ban language, and implications for the Government of Canada's legal obligations to protect the environment and human health through pollution prevention and precaution, are explored.

The work has current implications both for domestic regulation - such as the legislative review of the Canadian Environmental Protection Act, 1999 - and for international initiatives, including the forthcoming review of the Canada-United States Great Lakes Water Quality Agreement, and implementation of the Stockholm Convention on Persistent Toxic Substances.

Risk perceptions and regulation of pesticides: experts and lay-people

Anders Blok

Regulatory authorities in charge of environmental and health risk management are increasingly faced with problems of legitimacy in the public view. As socially restricted and technical expert systems, regulatory networks tend to exclude wider public groups from policy discussions and standard setting. In this paper, we focus on a particular environmental and health risk domain in a specific national context: regulations pertaining to the agricultural use of pesticides in Denmark. Drawing on the analytical concept of 'regulatory science', as developed by Irwin, Rothstein and others, we situate our study within discussions on the control of agrochemicals at European and national levels. Through qualitative interviews, we analyse how Danish pesticides experts participate in and evaluate the workings of regulatory science networks. To highlight the issues of public legitimacy, we contrast experts' preoccupations with views from 'ordinary' citizens on pesticide regulation. Four major themes emerge: the political economy of pesticides regulation; increasing Europeanisation of regulation; variation between risk domains; and the place of uncertainties in risk assessments. Tying these themes together, we highlight actor categories 'at risk' of exclusion from regulatory networks: politicians, academic researchers, NGOs, and the general public. Some implications for attempts to increase public legitimacy are sketched out.

Better Regulation Process

Lukasz Boberek

Better regulation process is the process of developing regulatory environment. It can be conducted in two ways. The first way is an outcome of centralized concept of regulation and it refers to the process of intervention in the area of law. The second way of developing regulatory environment refers to the decentralized concept of regulation. That second way focuses on undertaking of non-normative measures.

Giving explanation to the mentioned ways of developing regulatory environment I come to the conclusion regarding the problem of impact on risk. I managed to formulate the problem in mathematical formulas as well as in charts and graphs. These all lead me to concrete conclusions which regard the risk and regulation. Last but not least I try to generalize the correlation between the impact on development of the economy and the impact on businesses and business perspectives for enterprises and entrepreneurship.

Key Drivers for Alternatives to Pesticides

David Buffin

The main proposition is that current agricultural pest management methodology is unsustainable. It is founded on a chemical pesticide paradigm that is based on finite fossil fuels that will eventually run out. The process is also being increasingly criticised by a growing number of stakeholders, beyond that of public interest Non-governmental organisations. In summary I will ask: Do new European Union policy measures (covering alternatives) offer greater protection for health and environment? How will substitution towards fewer hazards be achieved in practice?

In order to answer these questions, I will investigate a number of research questions by interviewing key pesticide stakeholders. Firstly I will scrutinize the existing pesticide

regulation regime by describing the dynamics among pesticide protagonists and critics. In particular I will assess the level of precaution covering pesticide regulation. Secondly I will examine emerging regimes and assess whether regulatory, semi-regulatory or voluntary approaches will deliver safer alternatives; making a comparison with the non-pesticide chemical EU REACH process, which obliges the chemical industry to demonstrate the safety of their products. Finally I will address the extent to which, and why, state pesticide regulation, at the EU and member state level, is being replaced with corporate and civil society initiatives.

Auditing in the public interest? The market for bad apples

Thomas Carrington

A common explanation of the need for and rise of financial audits come in the form of agency theory, which posits that independent auditor reports would be voluntarily provided. Other suggests a more active "public interest" where regulation, often in the aftermath of corporate scandals, holds a central role in a historical explanation of auditing. Auditing is, hence, not an activity solely between managers and shareholders. This is a view that also the profession embraces, manifested in e.g. the name of the American Institute of Certified Public Accountants, and in this organisations principles of professional conduct. But how central is the public interest to the audit profession? The paper at hand addresses this question by examining the market for the companies in most need of scrutiny, the bad apples of the corporate world. An examination of auditing standards and firm policies suggest that from a public interest perspective the matching of auditors and auditees are a product of what might be called a reverse selection where the worst companies become audited by the worst auditors. This is explicated to be a result of risk management based on an insurance logic, at the expense of assurance.

Management Accounting on the Regulatory Agenda - A comparison of strategic reporting in Germany and the United Kingdom

Yasmine Chahed

Over the past decade, academics, businesses, and their advisors paid increasing attention to modern 'strategic' performance measurement systems. Recently, the issue also entered the 'regulatory space'. National and supranational regulators seem to assign decision relevance to the external reporting on the internally used key performance indicators (KPIs). This paper focuses on the related events in Germany and the United Kingdom. From 2006 onwards, German medium to large companies and British listed companies must report on their essential financial and non-financial performance measures as part of the annual report. These events dovetail European initiatives for 'improving' disclosure regulation in order to assist external parties in assessing the business' strategies and the potential for successfully achieving them. The research project employs the metaphor of the 'regulatory space', to evaluate the emergence of reporting on KPIs on the regulatory agenda and to analyse the dynamics among the various actors who shaped the final regulations.

From Business Risk Audits to Audit Risk Standards

Emer Curtis

This paper reports an investigation into the development of the 'Audit Risk Standards' issued by the IAASB in October 2003, which involved translating innovation in the audit methodologies of some firms, the widely reported Business Risk Audits (BRAs), into universal standards. Evidence from this study suggests that what has sometimes been presented as a coherent unified concept of the 'BRA' actually varied substantially even between the big firms of the time. The evidence presented suggests that there much debate about the conceptual basis of the BRA and also provides evidence of difficulties with the implementation of the BRA. Issues which caused much debate were the scope of business risks to be addressed, how the links between such risks and the financial statements should be articulated and the appropriateness of relying on high level controls. Institutional pressure on the US regulator to respond to recommendations of the Panel on Audit Effectiveness is identified as an institutional constraint on the development of the standards. The tension inherent in setting standards which serve not only the function of providing standards and guidance for auditors but also a benchmark against which auditors can defend their actions, is

also identified as having an influence on the development of the standards. The study provides evidence supporting the view that the IAASB is working hard to establish itself as a legitimate international regulator with primary focus on transnational audits (Humphrey, Jeppesen, Loft and Turley 2004). The resulting standards have retained the Audit Risk Model as the primary explanatory model of the audit while adding some of the features of the business risk approach, and in doing so seem to have extended the requirements of both previous standards and business risk audits.

Regulatory Agency Independence in Practice: A Comparative Analysis of Selected Issues in Telecoms for France and the UK

Paolo Dasgupta

A considerable body of literature has been written over the past two decades on independent regulatory agencies (IRAs). Independence in practice of such authorities both from governments and industry has, nevertheless, been assumed.

The presentation will focus on selected informal indicators shedding light on how regulatory decision-making takes place by looking at specific issues dealt with by the French telecoms regulator ART and the former UK telecoms regulator Oftel, to examine their respective independence in practice. The five indicators used to assess regulatory independence in practice are (i) the preferences of the actors involved, (ii) the types of processes that take place, (iii) who the participants in decision-making are, as well as (iv) the time-length of decision-making and (v) the outcomes of regulatory decisions compared to the initial preferences of the actors.

These five indicators constitute an alternative and valuable way to evaluate regulatory independence compared to formal institutional design approaches. Their application helps question the assumption portraying regulators as independent authorities only because of given statutory provisions. The evidence indicating how regulators act upon different issues is examined by adapting Nordlinger's framework on state autonomy and verifying which one of the three types of autonomy he has defined applies.

Regulating presence: policies towards foreign students' visas in Britain and France

Anneliese Dodds

The prerogative of government to restrict access to the national territory is infrequently questioned. However, the reasons employed by government for particular approaches to foreign visitors are often based on competing public policy goals, and the implementation of such policies often depends on the cooperation of non- or quasi-governmental actors. This article demonstrates the importance of these two factors for the regulation of foreign students' visas.

In both Britain and France, visa rules and procedures were significantly tightened in the late 1970s and the 1980s before being loosened in the late 1990s. These changes partly reflected both countries' strategies to encourage more foreign students from Western and emerging economies into domestic HEIs. However, they have also been affected by other pressures on the visa system, especially the perceived need to control the entry of 'sensitive' nationalities and to restrict illegal immigration.

Furthermore, they reflected each governments' relationships to higher education institutions (HEIs). Crucially, opposition to the government's goals was less frequently coordinated amongst British than French HEIs, with non-compliance and protest often coordinated across the French system through the HEIs' peak associations.

Interpretation and Legitimacy in Charity Regulation

Samatha Evans

This research seeks to illuminate, through ethnographic research, the regulation and legitimisation of charities. It addresses the hypothesis that 'new regulatory thinking is impacting on the dynamics of legitimacy between charity regulators and those they regulate'.

The organisations selected for this research, the Charity Commission for England and Wales and the Charities Directorate (a programme of the Canadian Revenue Agency) based in Ottawa, Canada, both have as their overriding function, the regulation of charities. Both are experiencing major structural, procedural and ideological changes that reflect broader modes of regulatory thinking about what it means to be a modern regulator. These changes are directing policy development and redefining regulatory stances, impacting on the dynamics of legitimacy between themselves and those they regulate.

The effects of economic regulation on innovation in the postal sector

Cátia Felisberto

The liberalization of the postal sector has important consequences on the economies of scale in delivery, the Universal Service Provision and the innovation in the sector. With the liberalization of the sector it becomes difficult for the incumbent to ensure the Universal Service and there are welfare losses in terms of the economies of scale. More innovations are often cited as the major benefit from competition when confronted with the previous issues. Moreover, innovation is considered to be essential for economic development, social progress and welfare gains. However, until now the effect of market liberalization, work sharing and other forms of postal regulation on innovation have not been explicitly modelled. We try to fill this gap by presenting a model that predicts the effect of regulatory decisions on innovation incentives in letter markets. Our model focuses on process innovations which are by large the major innovations within the postal sector.

We compare four different regulatory scenarios: postal monopoly, end-to-end competition, and access regulation with and without bypass. These regulatory regimes represent the current and/or planned regulatory environment of developed countries. Quantitative results based on model parameterization will allow us to compare the innovation incentives, and the effects of innovation on welfare.

Towards a precautionary risk policy in the EU? A policy analysis comparing the regulation of mad cow disease and transgenic plants

Robert Fischer

The aim of my dissertation is to analyse risk regulation policy under the conditions of scientific uncertainty and ignorance by the European Union. Further questions are: How is the relationship between science and governance organised? How can the European policy making be understood? What are the effects of risk regulation under the conditions of scientific uncertainty and ignorance? Is there a change in the relationship between science and governance?

The theoretical background of my project is a combination of risk sociology (particularly the theory of reflexive modernisation) and policy analysis (mainly European regulation theory). The aim is to develop an analytical framework for political scientists to investigate the policy of risk regulation in the general context of reflexive modernisation. On the basis of this theoretical background my basic hypothesis is that the European Union is on the way towards a precautionary risk policy.

Therefore I have developed a risk typology in order to classify risks and political decision making. The risk typology will be applied to two case studies: mad cow disease and transgenic food.

The implementation of a European directive in England and Spain: the role of national policy networks

Monica Garcia-Quesada

Analyses of implementation of EU directives have conventionally focused on the assessment of the levels of effective implementation existing in different EU member states. "Goodness"

or "badness" of fit between directive demands and national institutional arrangements have been the principal reasons given to explain difficulties and implementation gaps. However useful these accounts are to understand the role of national institutions in the implementation of EU laws, they say little about mediating factors that explain variances in the manner in which member states comply with directive demands. This research aims to contribute to recent burgeoning literature on Europeanization mechanisms, which analyse national strategies put in place to comply with EU directive demands. With this aim, this research analyses how the Urban Waste Water Treatment Directive adopted in 1991 has been implemented in Spain and in England, two countries that have faced strong adaptational pressures to meet the terms of the directive. The analysis will examine four aspects of the national strategy to comply: how these countries have interpreted law concepts; what instruments for implementation they have used; what redistribution of available resources has taken place as a result of implementing the directive; what measures exist for monitoring and enforcing the directive. Particular attention will be given to the role played by the policy network actors in Spain and in England in the process of adjusting the directive demands to their domestic preferences.

Regulatory science in the engineering of human tissue

Ingrid Geesink

Tissue engineering is a form of regenerative medicine, where principles from engineering and life sciences are applied to create therapeutic human implant technologies to restore and repair tissue. In Europe, tissue engineered products are at the borderline of existing regulation of medical devices, medicinal products and biologics, creating a 'regulatory vacuum'. New EU legislation is being developed, but at present there is national variation in policy, leading to confusion and uncertainty.

In my research I consider emerging tissue engineered technologies in the context of new regulatory policy in Europe, in order to examine the various discourses of benefit, risk, ethics and expertise that are deployed in pursuing interests in relation to them. The current regulatory hiatus threatens potentially beneficial innovations, something compounded by public concern about risks of the use of tissues and cells in medical products. Whilst generic regulatory risk categories are established, specific risk vectors associated with particular techniques remain open.

Regulatory science brings together the relation between regulatory policy and scientific expertise, and the role of scientific and clinical evidence (and uncertainty) in decision making. In particular I analyse EU decisional processes (comitology) in regulatory science, where scientists engage in wider debates about policy and regulation.

Local risk management

Mathilde Gralepois

Local risk management has entered French local public institutions since the early 90's. A movement towards global and inter-sector risk management has been emphasized by the development of other public policies. Sustainable development policies have linked ethical, environmental and economic factors. The "City-center policy" (Politique de la Ville) has tried to deal with housing, as well as social and urban violence issues in disenfranchised areas of cities.

Here, we study the internal organization and the strategic administrative structure in France, as well as the actors' system, in selected local institutions, in the recent evolution of local risk management. There are few such cities and they remain isolated: most cities still adopt a sector-based approach. In that case, each sector deals with a certain type of risk. Risks are taken into account but by traditional city departments, such as 'Civil security', 'Public Health' or 'Environment'.

Local risk management is a recent concept, as well as a means for the state to act on local policy. Yet, rather than reinforcing municipal police and fire departments, some local institutions have chosen to integrate risk management with urban, environmental, social and economic development and even democratic strategy. This paradoxical situation remains political powers imbalanced.

Risk and Welfare: Managing Uncertainty in the Allocation of Welfare Benefits

Susan Gratton

Risk analysis has been used to structure discretionary decision-making in the regulation of social programs such as child welfare, immigration and penal reform. From a legal perspective, risk analysis arguably provides these regimes with an objective framework for achieving discretionary justice in accordance with the rule of law. My thesis is that risk analysis may do the same for welfare regulation. In the absence of effective standards for allocating welfare benefits, many claim that administrators are influenced by moral or political norms. I suggest that risk analysis offers a more legitimate tool for achieving legal accountability. In contrast to the direct risks posed by criminals or potential immigrants, welfare administrators manage the indirect risk that scarce social resources will fail to reach recipients with the greatest relative need. In this context, as in other social contexts, risk shares a symbiotic relationship with need. My paper will explore this connection and will address the challenge of reducing decisions about need into assessments of probability and magnitude of harm. It will conclude by recommending risk regulation as an imperfect but viable alternative in the quest for accountability within welfare administration.

Regulation through EU agencies

Martijn Groenleer

Independent EU agencies have become pervasive features of the European Union's administrative space. Formally, most of these agencies have a limited mandate. Some agencies, however, have acquired a significant level of autonomy. They seem to have developed into more than technical instruments. They are not merely 'used' by the European institutions, but play an autonomous role in the regulation of EU policies.

Their autonomous development contrasts with prevailing knowledge on EU agencies. Most International Relations and EU integration theories focus on the behaviour of (individual) EU member states or the European institutions. Agencies are considered tools through which the European Commission and the member states act. An organisational perspective sheds a different light. Agencies may well develop their own ideas and pursue their own agendas, separate from the European institutions that have created them.

In this paper, European agencies are therefore studied as organisations. The paper adopts a sociological institutional approach to understanding EU agencies as more or less autonomous actors in European governance. It aims to provide an account of the creation and early development of EU agencies by exploring the causal mechanisms that affect the development of these agencies.

The impact of regulation on market risk in the US telecommunication sector

Daniel Grote

This paper analyses how the market risk of telecommunication companies in the United States was affected by regulatory changes on federal and state level. For a sample of 15 regulated telephone companies, 14 offering local and regional calls in 48 U.S. states, one company (AT&T) offering long distance calls, the influence of the type of regulation for each company in each year (1984-2004) and state on the individual market risk of the company in the same year is estimated. Using daily stock market prices, risk is measured by the single factor capital asset pricing model and the 3-factor Fama-French model.

Since market risk influences the costs of capital, the risk-regulation relationship is an important issue for the financing of regulated companies and for financial markets. It also has a direct influence on the desired efficiency and investment incentives of regulated companies. In addition the effect of regulatory changes on market risk can also be used to show, whether the market participants really perceived those changes as such or whether the terminology and process only appear to be very different.

The first results seem to support theory that market risk under rate-of-return regulation is much lower than under price-cap regulation.

The idea of risk communication

Madeleine Hayenhjelm

The general understanding of the concept 'risk communication' is very wide and includes a broad range of practices, which seems to indicate that 'risk communication' is an umbrella term for all sorts of communications on risks, including both technical and democratic approaches, one-way communication as well as two-way. This general understanding is very well summed up in one of the few existing explicit definitions, formulated by Covello, Von Winterfeldt, and Slovic (1986): "Any purposeful exchange of information about health and environment risks between interested parties".

This is a wide definition intended to sum up the activities generally referred to as risk communications, but there seem to be a gap between this wide concept and the practices actually referred to. I will argue for an inclusive view of risk communication practices and for a wide scope of risk communication theory. I will distinguish between seven different kinds of risk communication compatible with the above definition and conclude that only three of those include practices commonly referred to in the risk communication literature

Managing risks in the hospital: form of response combined with performance injunctions and the social reinforcement of safety requirements?

Julien Husson

The hospital is surrounded by risk but it does not know what to do. The medical crises which we have faced during these last years contribute by the "media resonance" to a "sudden" collective awareness of hospital risk. The social requirements of security become increasingly large and if yesterday we tolerated human error, today we do not. This rise in aversion to the risk contributed to the increasingly litigious nature of healthcare services and led consequently to an exponential inflation of insurance premiums. Parallel to our entrance in a judicial era, the hospital reform engages the establishments in a search for organizational performance. Sources of costs, disorganization of services and the loss of motivation of personnel, we think that the risk and the undesirable event seem a means of making "medically legitimate" management decisions. If quality is no longer mobilizing, the risk can seem a catalyst of change. We based our proposition on a research-action study carried out within the 2nd and 3rd largest French University Hospitals and whose results highlight that the creation of an observatory collecting medico-managing analysis of the risks can constitute a pillar of the hospital governance and for this reason an instrument of reorganization.

Perspectives on a cognitive turn in banking supervision

Sven Kette

In June 2004, following a 5-year period of Consultation, the Basel Committee on Banking Supervision has published a revised Framework to govern the capital adequacy of internationally active banks. Within the elucidations of Pillar 2, guidelines for an upcoming qualitative banking supervision have been set under the title 'Supervisory Review Process'.

The research project to be presented examines the possibilities and boundaries of such a qualitative banking supervision and discusses them under the general topic of 'Cognitive Governance'. Therefore the starting point will be the analysis of the structures and operations within the consultative process. It will be argued that problems, which are grounded on an undissolvable non-knowledge, are temporalized. Thus, instead of solving problems within the phase of rule finding, the problems have been displaced into the phase of rule-application by the elaborated Rule. In consequence the problem of how to cope with non-knowledge re-occurs in the phase of rule-application. That leads us to the question: What are the chances of a qualitative banking supervision for dealing with non-knowledge and where have boundaries to be proposed?

We use a cross-country sectoral case-study to look at the influence of legal norms and conventions on the governance of contractual relations between broadcasters and television producers. Based on evidence from the study of firms in the UK and Portugal, we explore how transaction cost economics and evolutionary game theory may help us to understand the effects of regulative structures on the development of a market in television production. Three

particular regulative structures are examined: the use of compulsory quotas for independent productions, the creation of codes of guidance for the negotiation of broadcasting related rights, and the emergence of relations based on preferred dealing. These regulative structures are believed to have an ambiguous and unanticipated effect on the development of a market in television production.

Regulating culture. HSE regulation in the Norwegian petroleum sector

Jacob Kringen

The regulatory regime for health, safety and environment (HSE) in Norway has followed two related paths. First, there has been a gradual shift from specific and detailed requirements to more purpose-oriented and functional rules. Second, regulations have increasingly focused on organizational features, typically requiring regulatees to implement systems of risk management. The underlying idea has been to promote the development of self-governing organizations. In a recent regulatory reform, the concept of "HSE-culture" has been introduced, requiring companies to develop a "good and sound HSE-culture". This might be interpreted as yet another element along the same line of regulatory philosophy, this time also including the "hearts and minds" of the regulatees. It has generated some demanding challenges for the petroleum authorities (notably the Petroleum Safety Authority - PSA), both in terms of interpretation and enforcement. Large "culture-programmes" have been introduced in the industry, not always corresponding well to agency notions about risk prevention and management. My research explores how the concept of HSE-culture is interpreted and used among agency officials and in the industry (including trade unions), and how these views and practices reflect different and partly contradictory views on organizational risk.

Limits of statistical calculus for risk management in organizational contexts

Mathhias Kussin

In June 2004, the Basel Committee on Banking Supervision passed the so called "Basel II" framework for "International Convergence of Capital Measurement and Capital Standards", whose implementation will imply several innovations in banking supervision in order to align regulatory capital to the underlying risks by encouraging better systematic risk management practices. This paper focuses on one of the most prominent aspects: the measurement and quantification of operational risks which originate from human error as well as from failure of information technology in the global banking system. With banking supervision including operational risks in the framework as a dominant factor for capital requirement, banking organizations are forced to develop new techniques of risk management.

Taking operational risks into account this paper tries to illustrate that the statistical calculus, originally being a specific characteristic of organizational operations, paradoxically meets its limits of efficiency especially when it comes to the organisation's self-observation. Presumably, this is connected with the particular structure of the organisation as a social system as well as the genuine treatment with risk contexts in modern society.

The circularity of quality: A new relationship between auditing and society?

Tobias Lindeberg

Control of control is a key feature in Michael Power's (1994) 'Audit Society'. Indeed, the quality of auditing, and other quality assessment schemes, appears to be a generic issue. Quality assessment of products is an illustrative example: The ISO 9000 certification scheme assesses the quality of systems that assess the quality of products. The quality of certifying bodies is in turn assessed by accreditation bodies. Until the 1990's the quality of accreditors was not assessed regularly. Accreditation was conducted with reference to legality (i.e. authorisation by national parliaments). Since the establishment of The International Accreditation Forum and their 'peer review' framework, the quality of accreditors has been assessed regularly. The peer review is a framework that allows the accreditors to assess the quality of each other and hence make the control of control circular.

This paper analyses the circularity of quality assessment using The International Accreditation Forum as a case. Such a circular closure could be perceived as perversion: the audit society at its most extreme. However, drawing on communicative systems theory this paper suggests a

different conclusion: that a referential closure of quality marks a new relationship between audit and society, not just a radicalisation of the relationship as we know it.

The Private Governance Dimension to Banking Regulation: Discourses of Risk and the Composition of the Basel II Capital Adequacy Accord

Heather McKeen-Edwards

The completion of the latest Capital Adequacy Accord (Basel II) marks a significant shift in banking regulation. Expanding from the flat rate of the 1988 accord, the new rules draw on a number of different conceptions of risk creating different sites for institutionalization and activity. For example, the discourses of operational risk have increased the scope of regulation to activities traditionally framed as corporate governance, altering regulatory spaces within banks. Yet these discourses also alter the regulatory space of the entire financial services industry, affecting different actors and institutional compositions more broadly. Traditionally capital adequacy is regarded as state-based, an international accord by a committee of bank regulators from the twelve most industrialized countries. However, this presentation will look at how the discourses of risk management legitimate the formal incorporation of self-regulatory and private governance elements into the regulatory space through the inclusion of internal measurement models and credit ratings respectively. Moreover, the new accord has enhanced the roles of quantification and calculation in encouraging the increased use of mathematical risk models. Both of these trends are particularly interesting in light of growing recognition of the accord's impact on other parts of the sector, in terms of potential losses and opportunities for commercialization (like the sale of mathematical models). Both movements also mirror regulatory trends in other economic sectors. This presentation focuses on one case within a larger dissertation project examining different constructions of risk throughout the financial services sector and their relationship with claims to expert knowledge and status.

What can policy makers learn from mental health homicide inquiries?

Nell Munro

Homicides by people with mental disorders are both rare and unpredictable events. Nevertheless, some of them attract widespread publicity and generate considerable public concern. This paper looks at the findings of independent inquiries into homicides committed by people who have been in receipt of mental health services, and asks how they have contributed to policy debates about the risk posed by dangerous people with mental disorders.

It will utilise the Social Amplification of Risk Framework (Kasperson et al. 1998) to analyse how homicide inquiry reports serve both to amplify some aspects of the risk presented by people with mental disorders but also to attenuate others. The response from policy makers to the findings of homicide inquiry reports has been inconsistent, with certain recommendations leading to highly controversial proposals for legal reform, whilst others have been almost entirely ignored. This study seeks to explain these inconsistencies by analysing differences in the ways in which the public, mental health professionals and national level policy makers perceive the relevant risks. It will also consider to what extent the risk of homicides by people with mental disorders can be reduced, and whether reforms to national level policy are likely to contribute to any reduction.

The Ghost of the TAC Machine: On the operationalisation of the precautionary approach in ICES' fisheries advice

Kåre Nielsen

Fisheries management in the North East Atlantic has since the mid 1970s centred on Total Allowable Catches (TACs) as the main management instrument. The International Council for the Exploration of the Sea (ICES) is responsible for assessing fish stocks and formulating an annual advice for management bodies. The TACs are normally based on scenarios of future catches and their effects on stocks. The production and use of these scenarios form a key component of the advice. The question of the uncertainty of the scenarios highlights complexities in the organization of the boundary between science and politics in this field.

This paper attends the way the precautionary approach has been worked into the form of the ICES advice on management of fish stocks. The Precautionary Approach in ICES advice

centres on precautionary reference points, which are defined thresholds of fishing mortality rates and spawning stock biomasses. The PA points identify what stock states, given a certain risk level, can be certified as being within precautionary limits. This way of implementing the Precautionary Approach was practical in conforming to the established advisory framework. However, I argue that it constrains the forms of uncertainty that can be expressed, and I give examples to illustrate uncertainty that is not accommodated by this advisory framework, and thus not communicated in the advice.

The Regulation of the Electricity Sector in Turkey: Recent Changes and Powers and Functions of the Energy Market Regulatory Authority

Elvin Evrim Ozcan

Liberalization movement of electricity sector in Turkey started in 1984 with the enactment of new laws. Since 1984 the electricity sector in Turkey dominated by State-owned companies. Although the enactment of new laws, they did not provide for the electricity sector opening up to competition. After the adoption of Electricity Market Law in 2001, the electricity market was opened to competition in 2002. Following the adoption of the Electricity Market Law, Turkey has set up an Energy Market Regulatory Authority to monitor the energy sector. Even further legislative and administrative changes need to be made important steps have been taken in the regulation of electricity sector. In so doing, the presentation might be divided into three sections. First, a brief background will be given about the liberalization movement of electricity sector that started in 1984. Next, an assessment will be made about the regulation and the methods used for the regulation of electricity sector with the enactment of Electricity Market Law. Finally, the functions and powers of the Energy Market Regulatory Authority will be analysed in comparison with the powers of Turkish Competition Authority.

Managing Invasive Pests: a sociological perspective on the collective management settings of plant health risks

Giovanni Prete

In a context of global warming and trade globalisation, a rise in the pressure of "invasive alien species" and agricultural pests has been announced as one of the future major problems for agricultural production in the next decades. Few studies have been carried out by social scientists on those issues. Studying the social dimension of the management of those problems by heterogeneous actors is the main aim of my PhD Research. During the conference, drawing on the results of an exploratory work (an exploratory case, a bibliographical work and the carrying out of a series of interviews among experts of various organisations affected by plant health problems), I will present my research strategy. Thus, I will explain how I intend to use a case study approach and to mobilize Organisation Sociology, Political Science and Science Studies in an inductive perspective in order to account for the collective management of situations that are constructed as risks. At stake in that research is the building of a medium range collective action theory. At a more general level, the research will intend to elaborate a reflection on the change in Knowledge production regimes and on the consequences of those changes.

From human factors to organisation in the expertise of nuclear safety

Grégory Rolina

The safety of nuclear plants has always been a highly important goal. As a result of the Three Mile Island (TMI) accident in 1979, a new approach of safety was developed, that consists with better taking into account man and his working conditions. In the case of the French nuclear safety organisation a new actor emerges : the human factors expert. A study of the works carried out by these specialists since 1983 shows that the object of expertise has significantly evolved. Whereas man-machine interface conceptions were the dominant issues in the post-TMI years, the organisational phenomena occupy an important place today. It is then interesting to draw parallel with recent research, which reveals all the organisational choices among the causes of dysfunction and the criteria of reliability. In addition, if its object changes, the methods of expertise must also be updated. In the absence of a reliable organisation model, the expertise cannot be just a simple evaluation compared to a predetermined reference frame.

Road safety - an irrational goal?

Holger Rosencrantz

Every year, about 1.2 million people are killed in road accidents and about 50 million are seriously injured. The rate is increasing, particularly in developing countries. In 1997, the Swedish parliament adopted the so-called "Vision Zero", according to which no one shall be killed or seriously injured on the roads. Although there is no date for which the goal shall be achieved, an interim target has been set for 2007; ten years after the adoption of Vision Zero, the number of annual road traffic fatalities shall be reduced to 50 % of the 1997 level. Unfortunately, this number - about 530 - has almost remained the same since 1997. Compared to international standards, Sweden has a relatively low number of per capita road traffic fatalities, but part of the idea behind Vision Zero is to set an example for other nations. Since 1997, several industrialised countries have set similar targets.

The presentation will deal with the criticism that has been targeted against the Swedish Vision Zero. How much should road safety cost? Given that road safety is not the only societal goal there is to achieve, is it unethical to set such an ambitious goal as Vision Zero? Is it even rational?

"Local" numbers against the rules of the single market. The case of Venice against the European Commission

Rita Samiolo

Studies on governmentality have characterised modern government as a process of "action at a distance" allowed by the "enrolment" of people and objects around the formal programmes expressed by governing centres. Collective action is seen as the result of alignment rather than imposition, the acceptance of a form of "regulated freedom" mediated by the canons of the many expert systems of modern western societies.

Statistics, economics and the forms of accounting and calculation on which they are based have been seen as central to the development of such modes of exercise of political power, and still provide fundamental technical tools for law-making and regulation. Such techniques are seen not only as enabling the task of governing modern economies, but also as "performative", i.e. they provide representations of reality which can actively shape individual and collective action.

In particular, accounting standards, statistical norms, economic calculations, and the hardware and software devices to obtain and transmit them, have been seen as fundamental to the shaping of markets. The single market fostered by EU policies makes no exception, based as it is on a discipline defined by (controversial) statistical norms and economic rules.

This paper will explore the institutional confrontation - carried out in a legal-economic discourse based on economic measures - between such standardising discipline and the claims to specificity and uniqueness characterising a national policy of state aid in support of an economically depressed area in Italy: the city of Venice and its lagoon.

Theorising the new politics of science

Adam Spencer

Regulatory policy in Britain has altered significantly over recent years. A closed, consensual policy style that was contrasted favourably by some scholars (e.g. Jasanoff 1986,) with the approach of the United States, has given way to an open and participatory style. Recent studies (e.g. Rothstein 2003, Loftstedt 2004) have shown that this new model is itself not without problems. Also observed is a reduction in state capacity following the adoption of New Public Management policies by Conservative governments to tackle what they saw as the problem of the 'big state'. Increasingly, non-governmental actors have become involved in the policy. This shift is often characterised as a change from 'government' to 'governance'.

Policy networks have been used by many scholars to theorise governance. Science and Technology Studies (STS) authors have written extensively on the use of science in the policy process, the role of the expert, and the resolution of scientific controversies. This paper

attempts a synthesis of policy network analysis and insights from STS. It is argued that such a synthesis can provide a rich understanding of the policy process involving science. This is illustrated by two ongoing case studies from UK animal health policy.

Waste regulation in Italy and Germany. A responsibility dilemma?

Eliza Squerzanti

In the realm of the risk technologies such waste management is often difficult to predict the effects exerted on the environment by the implementation of innovative technologies and technological instruments. The use of scientific knowledge and the participation of experts to the decisional process seems to be one of the possible solutions to cope with uncertainty and risk.

This study, concerning a comparison between the German and the Italian waste management regulation, considers the different actors participating in the legislating process, focusing on their intentions for using scientific knowledge and for allocating responsibility. Two different participation models could be pointed out: the German one, where the participation of experts is more regulated, opposed to the Italian, where the participation of experts is often unstructured and informal. These two models emphasize not only two different ways of policy making, but also a two ways of understanding the role of science during the regulating process.

Poland at risk? The problem of GMO in the new EU-members

Piotr Stankiewicz

One of the most discussed global problems of technological risks is the issue of genetically modified organisms (GMO). After the EU-accession of the CEE countries and the opening of their markets, the new EU-members have also exposed themselves to the risks connected with the cultivation of GMO (and many other global risks). In the debate about accepting or not the cultivation of GMO in Poland we are facing a tangle of interdependencies, economic and political interests that go far beyond scientific issues. Different agents are trying to force their own definitions of situation concerning the risks of GMO.

In my research I am trying to identify what are the subjects of power, which are able to define risks. I am looking for a fruitful theoretical framework which would enable to assess global risks in the new EU members states and answer following questions: is the EU able to work as an efficient mediator between the level of global institutions and companies and national states; who has the power to define the risks; what are the subjects of power; does the EU provide the member states with instruments of risk assessment?

Designing a Special Legal Framework for Deposit-Taking Microfinance Institutions in Uganda: Some Methodological Issues in Using Private Interest Theories

Stefan Staschen

My PhD thesis looks at the design and enactment of a law regulating deposit-taking microfinance institutions in Uganda. I try to analyse the policy making process both with reference to public interest theories of financial regulation and to private interest theories (i.e. new political economy theories, interest group theories, public choice theories) about policy change.

For the presentation, I would be interested in discussing three methodological issues that arise when I use private interest models to explain policy change:

How can I attribute goals (i.e. estimate individual utility functions) to relevant actors without walking into the trap of inferring their goals from observed behaviour and thus simply stating a tautology?

How can I measure to what extent MPs are influenced by special interests in their constituencies if there is only voice voting (no roll call voting) and thus there is no records about individual voting behaviour? What is the importance of the salience and complexity of the issue at stake?

To what extent can I establish common goals of interest groups and when is it also important to look at the role of individuals in these groups (cf. the literature on personalisation of politics)?

The natural, the contaminated and the counterfeit

Ayo Walhberg

Herbal medicine is often promoted as a "gentler, less aggressive and less toxic" alternative to modern pharmaceuticals in both Vietnam and the United Kingdom. Yet the very 'naturalness' of herbal remedies has come under increasing challenge from a number of herbal product recalls by health authorities on the grounds of reported adverse effects due to contamination by heavy metals, microbials or undeclared synthetic medicines. Regulatory authorities are increasingly warning consumers that 'natural does not necessarily mean safe' and that in some cases these medicines are 'not so natural after all'. In this paper I trace the problematisations of herbal medicines that have informed and justified national programmes to reconcile the problem of the gentle yet potentially dangerous herbal medicines over the past few decades in Vietnam and the UK. In doing so, I argue that public health protection strategies no longer aim to marginalise or discredit these medicines, as they did to a large extent in the past, rather they now aim to responsabilise the cultivators, harvesters, producers, sellers and users of herbal medicines.

The Politics of Financial Regulatory Reform and the Privatization of Risk

Jonathan Westrup

Among the four largest EU states, divergent patterns of reform have emerged over the past decade with respect to the institutional design of financial regulation, a key component of a modern political economy. Britain and Germany, despite their very different political and economic institutional frameworks, have both opted to change fundamentally their regulatory structures by creating single financial regulators while France and Italy have maintained the functional separation between banking, securities and insurance regulation. This paper will argue that neither an American regulatory hegemony hypothesis nor Europeanization can explain the observed variation in institutional choice. Instead, the paper looks to the increased political salience of financial regulation as the key causal mechanism in the four cases, triggered largely by the "privatization of risk" following government decisions to encourage the transfer of pension risk from the state and the firm to the individual. In the British and German cases, these changes have given center-left political parties the incentive to create powerful new regulatory actors that both strengthen the state's ability to oversee capital and savings markets while also limiting the ability of independent central banks to influence regulation. The privatization of risk has not occurred to the same extent in the latter two cases thereby explaining the lack of political impetus to reform their regulatory structures.

Comparative EFT Regulation

Paul White

This research proposal is concerned with a comparative legal analysis of the current 'self-regulation' of unauthorised consumer Electronic Funds Transfers (EFT) in Australia by means of an industry code of conduct ('EFT Code') vis-à-vis the United States who have broad, substantive legislation governing unauthorised consumer EFTs, the US Electronic Funds Transfer Act (1978) ('US EFT Act').

In view of the very limited prior research undertaken to date and given the significant increase in the incidence of unauthorised EFT transactions in Australia in recent years, and, in non-compliance by card-issuers with the EFT Code at large, the specific aims of this qualitative, multi-disciplinary study are:

- To examine the rationales for government regulation of unauthorised consumer EFT transactions and the economics of liability allocation;
- To critically appraise the thesis that industry alone should be left to self-regulate EFT;

- To assess compliance and monitoring of the EFT Code by relevant regulatory bodies and stakeholders;
- To undertake a detailed comparative legal analysis of the substantive provisions of the EFT Code and US EFT Act using actual case examples from the Australian Banking Industry Ombudsman; and
- To report findings and recommendations to better address the regulation of unauthorised consumer EFT transactions in Australia based on comparative law method as well as economic efficiency/administrative convenience criteria and regulation cost/benefit analysis.

Regulation of the Chinese Market as an economy in transition

Quianlan Wu

Market needs regulation as market failure has been regarded as inevitable. Competition law has become one important tool chosen by an increasing number of countries to regulate market along with other tools. However, question arises at when markets like those in China is transforming from a command economy system and are expected to play a bigger role in the system, how should and could the markets be most effectively regulated?

Inclusiveness of Foreign Investors in Post-Approval Standard-Applying: A Mechanism Constituting Regulatory Competitiveness in Developing Countries

Yin Xiao

The paper will explore the relationship between the characteristics of inclusiveness of foreign investors in regulatory regimes and their competitiveness in attracting foreign direct investment (FDI). By analyzing the contrasting fortunes of several regions in China, the study claims that inclusiveness of foreign investors in post-approval standard-applying constitutes a plausible mechanism for enhancing the competitiveness of a regulatory regime. This can be understood in terms of better regulatory implementation, improved coordination and transparency, limited administrative expropriation and manipulation and enhanced commitment and credibility of local governments and officials -all these are seen to create a desirable environment for FDI.

Competition and regulation in UK social housing

Jeff Zitron

This research explores the factors that influence whether and how firms bid for UK public-private partnership (PPP) contracts. It seeks to explore whether a conflict exists between the public sector's desire to maximise competition in PPP bidding and its regulatory aims (e.g. in what circumstances, if at all, do regulatory regimes deter bidders?) The paper reports on continuing research concerning the new regulatory regime being established by the Housing Corporation, the UK executive agency that funds and regulates private sector providers of social housing. To date, non-profit distributing housing associations have been the Housing Corporation's only client and almost solely dependent on the Corporation for funding. Eligibility for Housing Corporation funding has recently been extended to profit-making bodies and the Corporation is keen to encourage a competitive market. The Corporation believes that the framework used to regulate housing associations would not be appropriate for regulating commercial firms. Also, for various reasons, housing associations are now less dependent on the Corporation for financial support, and are increasingly vocal about their perceived regulatory burden. The research seeks to explore the regulatory implications of changes to the social housing sector and, in particular, the influence of regulation on the competitiveness of the market.