LSE risk&regulation
MAGAZINE OF THE CENTRE FOR ANALYSIS OF RISK AND REGULATION
31
SUMMER 2016

engagement

what, for whom, and by what means?

imprint

risk & regulation is also published on **carr**'s website:

www.lse.ac.uk/CARR
www.lse.ac.uk/riskandregulationmagazine

risk & regulation: **carr** review
No 31 Summer 2016

Editors
Martin Lodge and Andrea Mennicken

Assistant Editor
Lynsey Dickson

Published By
Centre for Analysis of Risk and Regulation, London School of Economics and Political Science, Houghton Street, London WC2A 2AE, UK

Enquiries
Centre Administrator, Centre for Analysis of Risk and Regulation, London School of Economics and Political Science, Houghton Street, London WC2A 2AE, UK.

Email: risk@lse.ac.uk
Telephone: +44 (0) 20 7955 6577
Fax: +44 (0)20 7955 7420

www.lse.ac.uk/carr

Design and Art Direction
Harald Müller

Printed By
Hobbs the Printers Ltd

Photography and Illustrations
Adobe Stock: Anatolii, studybos, lazyllama, panino129, Peter Atkins, by-studio, velvet-ocean, merc67, Paulista, Mara Zemgaliete, lovegtr35, BestForYou, Eskymaks, UTOPIA, Stephan Morris

ISSN 1473-6004
Online ISSN: 1473-6012

carr
centre for analysis of risk and regulation

contents

Editorial 03
Martin Lodge and Andrea Mennicken

Engaging regulation 06
Martin Lodge and Andrea Mennicken explore the significance of contemporary enthusiasm for more engagement in regulation

Does it matter if beneficiaries participate in transnational non-state regulation? 09
Mathias Koenig-Archibugi and Kate Macdonald point to significant impacts of participation

Quantification, Administrative Capacity and Democracy (QUAD) 11
Introduction to **carr**'s newest large-scale research project

Out of the shadows 12
Tommaso Palermo, Daniel Martinez and Dane Pflueger discuss entrepreneurship, accounting, and the construction of legal markets for cannabis in Colorado

Can regulation build a better market for securitized bank loans without risking taxpayer bailouts? Not if banks are the only buyers 14
Rasheed Saleuddin highlights one of the many esoteric regulatory rule changes that may not be in society's best interests

OTC regulatory reform: risks of the clearing obligation from a competition perspective 17
Yaiza Cabedo advocates tougher oversight of over-the-counter markets

Predicting quality failures in higher education 20
Alex Griffiths notes the limitations of a data-driven, risk-based approach for predicting failure

The LITER good agency principles 24
Annetje Ottow discusses how competition and regulatory agencies should navigate complex environments

States of crisis 26
Lydie Cabane argues for a crisis management that tackles the root causes of crisis

The refugee crisis and the limits of administration 28
Björn Christian Paterok highlights the difficulties for day-to-day crisis management in the administrative context of Germany

carr news 32

carr people 34

editorial

Engagement has become a key theme in contemporary regulation. Calling for more engagement is being promoted as a recipe to enhance the legitimacy of regulation and regulators; it is said to offer enhanced information to customers, and promises to facilitate greater participation in decision making and implementation. The current interest in engagement goes beyond the traditional debates about account-giving and account-holding by regulatory bodies to citizens and their representatives alike.

This issue of *risk&regulation* is devoted to advancing knowledge of, and in engagement processes. As in other regulated sectors, engagement has become a term that is widely bandied around in the British higher education landscape, especially in the context of the so-called impact and knowledge exchange agenda. Whatever the merits of this new emphasis, and the resultant rise of an impact industry, the underlying idea that social science research should be important and public-minded is central to **carr**'s work.

carr provides space for high level comparative and cross-disciplinary research activity, and a venue for exchange across academic and practitioner perspectives in order to enhance scholarship and improve public policy. This issue of *risk&regulation* offers a number of perspectives on engagement. Mathias Koenig-Archibugi and Kate Macdonald raise the critical question that engagement processes need to consider who the actual potential benefactors (such as workers) are supposed to be, and how different forms of representation and engagement affect regulatory standards. The question of 'who benefits' is therefore of particular importance when the focus is on complex production chains. A related set of questions emerges from the contribution by Tommaso Palermo and colleagues who, in the context of studying the liberalization of cannabis in Colorado, trace how activities to bring cannabis 'out of the shadows' have affected the development and structure of cannabis markets.

Engagement also means participating in 'unhelpful' findings that go against the grain of current policy orthodoxy. Alex Griffiths highlights the potential difficulties of moving towards a risk-based approach in higher education. That regulators have to continuously engage with a particular set of dilemmas is the starting point for Annetje Ottow's contribution. Based on her academic and practical experience, she puts forward five principles to guide agency decision making. Questions of engagement are usually also raised in the context of involvement during rule making and monitoring. The articles by Rasheed Saleuddin and Yaiza Cabedo on different aspects of regulatory responses to the financial crisis argue, in their different ways, for greater engagement in regulatory politics in order to reduce the potential for further scandal and crisis.

carr's own research builds on existing international collaborative links with other leading researchers in different disciplines. We are developing the research theme of regulation and quantification which has been featured extensively in the previous edition of this magazine. **carr** has been awarded a prestigious ESRC grant under the Open Research Area programme for the study of Quantification, Administrative Capacity and Democracy (QUAD). Andrea Mennicken provides in this edition a short overview of the key themes of this new project and we will present emerging findings in the coming issues of *risk&regulation*.

Our other major research project on transboundary crisis management (TransCrisis) in the EU is progressing in a context of increasing uncertainty about the wider problem-solving capacity of the European Union. This issue features an article by Lydie Cabane, TransCrisis research officer, on the rise of crisis management in the modern state. To facilitate engagement with the actual world of transboundary crisis management, there is a contribution from the world of practice. Björn Paterok's article gives insight into the challenges the German federal administration faces in the context of managing and accommodating refugee flows.

Knowledge of and in engagement processes requires considerable resources – and we are extremely grateful for all the support and advice that helps **carr** play its role in engaging in and with the worlds of research and practice. We hope you enjoy this issue of *risk&regulation*. **Martin Lodge & Andrea Mennicken**

Engaging regulation

Martin Lodge and **Andrea Mennicken** explore the significance of contemporary enthusiasm for more engagement in regulation

The claim that regulators, other governmental actors, corporations and not-for-profit organizations, including universities, should 'engage' with those affected by their actions is unlikely to generate much opposition. Yet, no matter how much agreement there is about the importance of engagement at one level, debates about engagement – engagement for what, for whom, and by what means? – expose fundamental concerns about relationships between different parties, and therefore also about understandings of democracy. We discuss each concern in turn.

One principal question concerns the purpose of engaging in engagement. Several rationales can be distinguished, ranging from the enhancement of choice, of participation, to the enrichment of 'experience', and enhancement of legitimacy. Enhancing choice is about encouraging the kind of conditions that allow individuals to exercise meaningful choices, including the provision of more information/transparency which will permit better informed choices, thus reducing sub-optimal selections due to the complexities involved in distinguishing between different goods and products.

Engagement can, however, also be about ensuring 'satisfaction' with a particular service or product. Here, the idea is to find out more about customer preferences; for example, in water, it might be about probing into potential trade-offs between concerns about price levels and the extent of leakages or the degree of water pressure. More investment to address the latter will affect the former (i.e., higher prices). In this case, engagement is aimed at enhancing the responsiveness of organizations to particular constituencies that goes beyond the standard complaints handling procedures of the past. In turn, it also might facilitate understanding among affected constituencies of the various choices that regulated organizations have to face; for example, about levels or types of investment. Finally, engagement can be about the encouragement of participation, at the rule making and/or enforcement level. Emphasis here lies in the inclusion of individuals and organizations with an interest in shaping decision making and monitoring regulatory and corporate activities.

Taking engagement seriously, therefore, requires reflection about the various understandings of engagement. It is unlikely that there will ever be a full consensus on what engagement means, but for the contemporary enthusiasm for 'more engagement' across regulatory circles to advance, it will be important and inevitable to clarify the purpose of (different) engagement types and to distinguish between different activities that are undertaken in its name.

The second principal question relates to representativeness. No engagement process can aspire to mirror the diverse preferences of various stakeholders. Selecting 'representative' individuals and organizations that have sufficient resources and interest is challenging – and it raises questions of institutional design, such as the subsidization of particular interest representatives (an idea developed by Ayres and Braithwaite in their classic Responsive Regulation). Engagement does not necessarily come naturally to all organizations; regulators may prefer their econocratic models over mediation processes, firms are likely to prefer the comfort of gaming regulators over debating with rowdy customers, and customer advocacy groups are ambivalent about directly engaging with firms and regulators about their models. More generally, bringing together different 'users' with overlapping interests might lead to mediated outcomes which all parties can accept. However, in the case of fundamental conflicts, it is less likely that different parties will be able to agree.

The question about representativeness raises further issues. One is whether engagement should be about 'users', 'consumers' and 'customers' or about 'citizens' whose lives are fundamentally shaped by the presence and quality of particular essential services. It is problematic to develop a profile of the 'average user', and it is debatable whether specific attention needs to be devoted to particular, vulnerable individuals. Such concerns are particularly prominent when it comes to public services affecting potentially highly vulnerable individuals, for example, in care homes, prisons or schools, but they also arise in relation to utilities more broadly. Infrastructures and essential services might be regarded as 'services' on a par with supermarkets and hotels, but they might also be seen as critical for enhancing social and economic mobility. These questions extend to other areas as well. Taking the case of the liberalization of cannabis and its regulation as an example (see the article by Palermo and colleagues in this issue), it clearly matters whether a regulatory regime incorporates the views of patients, or of recreational users, or both. Similarly, Mathias Koenig-Archibugi and Kate Macdonald (this issue) highlight that engagement processes are not just about the user, they are equally about other potentially vulnerable individuals, namely workers, as in the case of child labour, and producers.

Defining engagement in terms of user/customer or citizenship has wider implications for the role of regulation and of regulated services; for some, user engagement allows for market-type engagement with services roughly equivalent to satisfaction ratings used in the hotel industry and other online rating systems. Such rating systems may, however, not be regarded as sufficient when talking about the significance of particular services for economic and social life. Defining engagement for citizens rather than customers highlights not just the central role of certain industries in social, economic and political life. It

pushes also for an understanding of regulation that seeks to widen participation and, arguably, enhance democratisation.

Forms of representativeness can be further distinguished along two dimensions. The first dimension pertains to questions of individual versus collective representation. One theme that has gained increasing traction is that the focus of engagement processes should move from the individual to the community level. Defining the boundaries of a 'community' is, however, also highly problematic. In some areas, defining a community might be relatively straightforward where certain geographical or natural boundaries (such as water catchment areas) make defining a community feasible. However, defining a community in the context of fluid and mobile populations is far more difficult, even when leaving aside questions of multiple 'community identities' (e.g., ethnicity, socio-economic status, gender, age). In some places these identities might be overlapping, in others, however, such identities might be cumulative and divisive. Such problems are further accentuated by so-called transboundary problems. These are problems that cut across geographical and organizational boundaries, and make the definition of what the relevant community is – and what the decision making rules might be – highly problematic.

The second dimension relates to time. In view of growing concerns about sustainability, there is a question whether the current generation of customer-citizens will discount the future to the detriment of future generations. Even though some might argue that thinking about the future encourages companies to invest in 'gold-plated' costly and inefficient spare capacities and that therefore the inclusion of current customers will provide a welcome counter-weight to put downward pressure on costs faced by current generations. How to induce long term thinking and the interests of future generations into engagement processes in the present represents a serious challenge.

The third principal question relates to questions of technique. The preferred method of engaging is certainly related to the underlying rationale. Engaging with customers on the basis of complaints relates to understandings that engagement is largely about advancing choice. In such models, engagement is largely about developing better tools to identify problems and complaints in order to understand customer choices better. However, many regulatory bodies have increasingly moved to more pro-active forms of engagement, whether it is through the extensive use of surveys and focus groups, or through the inclusion of engagement fora into consultative, if not decision-making processes.

Engaging with stakeholders has become, as noted, a central theme in contemporary regulation. **carr** has accompanied this process in comparative research that began with an initial investigation into recent changes in Scottish and English/Welsh water regulation (Heims and Lodge, 2016a, 2016b). This led to a much wider discussion about the origins of the interest in engagement processes, particularly across economic regulators. These discussions revealed considerable differences in motivation. They also highlighted the importance of regulatory bodies in guiding and mediating these processes, while noting the challenges for customer and/or citizen representatives to fully engage in these processes, for example because of asymmetries in technical knowledge and expertise and unfamiliarity. The questions raised by formalizing engagement processes beyond these initial quasi experiments are at the centre of contemporary regulatory conversations.

Debates about engagement may merely be seen as an interesting detail for those fascinated by the world of regulatory to-ing and fro-ing. However, understanding engagement also offers important insights into more general debates about regulation, marketization, and political order. Engagement on its own offers no panacea for fewer regulatory crises or for advanced citizenship. On its own, no matter in what form, 'engagement' might not lead to superior outcomes. Engagement processes may simply wither away as the interest of various parties fades. Or they may lead to blockages and 'populism', for example when particular groups come to dominate the process. Or they may lead to dominance by the well organized over the highly diffused, and they may offer a convenient cover for influential actors seeking to capture regulatory decisions. Advancing knowledge of and in engagement processes requires sensitivity to such issues, to advance critical debate about conditions and consequences of engagement, and not to push for engagement for its own sake.

References

Heims, E. & Lodge, M. (2016a) Closing time? Regulatory agencies and consumer engagement in economic regulation' in Regulatory agencies under challenge, **carr** Discussion Paper 81. London: LSE.

Heims, E. & Lodge, M. (2016b) 'Customer engagement: towards a new era in economic regulation' in Customer engagement in regulation, **carr** Discussion Paper 82. London: LSE.

Martin Lodge and **Andrea Mennicken** are Director and Deputy Director of **carr**.

Does it matter if beneficiaries participate in transnational non-state regulation?

Mathias Koenig-Archibugi and **Kate Macdonald**

point to significant impacts of participation

Transnational non-state regulatory initiatives are increasingly common in areas such as labour standards and environmental sustainability, often presenting themselves as innovative means through which the lives of marginalized communities in developing countries can be improved. Our focus here is on a number of prominent non-state regulatory schemes that have been established to regulate the labour standards and living conditions of marginalized workers and their families, particularly those located in poorer countries. We refer to the actors whose interests on regulatory standards and policies are ostensibly meant to protect as 'beneficiaries', although the question of whether they actually benefit or not requires separate and careful analysis.

Some form of participation or representation of beneficiaries in regulatory decision making is often considered to be intrinsically desirable, for instance, because its absence would undermine core values of democracy. It is often further observed that the effectiveness and wider distributional consequences of transnational regulatory processes can depend importantly on who participates in these processes, and what form such participation takes. Yet there has been little empirical study of how different modes of beneficiary engagement in transnational non-state regulation affect regulatory processes and outcomes. Does participation or representation of beneficiaries actually make a difference for the rules adopted and their application?

In what ways do beneficiaries participate in regulatory decision making?

First, it is instructive to briefly review how, and to what extent, beneficiaries are typically included in these kinds of regulatory decision making processes – either through their direct participation, or more indirect forms of representation.

Scanning the landscape of transnational labour regulation, we find that mechanisms to ensure the direct participation of beneficiaries are often absent. One example of a regulatory initiative that offers little opportunity for beneficiaries to participate is Rugmark. This scheme was one of the earliest private initiatives to regulate working conditions in exporting sectors of developing countries, with a focus on the elimination of child labour from the production of carpets in India, Pakistan and Nepal. This initiative has established no clear process to enable children or their parents to participate in determining which kind of programme would be in their best interest. Studies of the initiative have noted how disconnected it is from members of local communities, who were not involved in determining the rules of the programme and do not play an active role in its implementation.

The absence of beneficiary participation also characterizes many other non-state regulatory systems, albeit often less starkly. The intended beneficiaries of the Fair Labor Association (FLA) – a prominent non-state labour regulation initiative—have very few formal opportunities to shape managerial decisions. Their ability to influence those decisions informally are greatly constrained by the limited knowledge possessed by many regarding the substance of FLA decisions, the procedures through which these decisions are made, and in many cases the very existence and purpose of the Association. Beneficiary input is limited also in the implementation stage, since the FLA, like other schemes, arranges for monitoring to be carried out both by professional compliance staff contracted by member companies, and by 'independent' audits arranged in a selection of facilities by the FLA Secretariat.

The exclusion of beneficiaries from regulation and implementation is certainly not inevitable. A number of prominent regulatory initiatives have established mechanisms to enable *representatives* of beneficiaries to participate. One clear example of beneficiary engagement through representative structures is offered by the case of Fairtrade International (FLO). Although the majority of positions on the FLO Board are held by stakeholders from consuming rather than producing countries, delegates of Fairtrade certified producer organizations hold four out of 13 positions on the FLO Board.

While most instances of beneficiary involvement in transnational regulation involve reliance on representatives, there are a few examples of direct beneficiary participation in rule making, whereby ordinary workers or smallholder producers are given opportunities to input directly into standard setting processes, at least on an informal and ad hoc basis. In the case of FLO, for example, beneficiaries can participate directly in FLO governance through events such as a biennial stakeholder Forum, and Regional Producer Assemblies held regularly between Forums. Direct involvement of beneficiaries can occur also at the implementation stage. An example is the Urgent Appeals system operated by the Clean Clothes Campaign (CCC) – a trade union and NGO alliance dedicated to promoting international labour standards – which was created in the mid 1990s. Workers themselves, in conjunction with local trade unions and NGOs, trigger the procedure by requesting help from the CCC and providing information on alleged labour rights violations.

Does it matter if beneficiaries participate?

As the above examples demonstrate, a range of institutional approaches are available through which participation of beneficiaries in regulatory decision making can be facilitated. Yet in many cases of transnational non-state labour regulation, such institutional mechanisms are weak, indirect, or even

non-existent. Does this matter? As we noted above, a lack of participation opportunities may be considered intrinsically problematic from the perspective of democratic principles. But does it also make a difference for what regulatory schemes *do?*

Let's consider the example of Rugmark again. If the families in India's carpet belt had been given more voice, would the content of Rugmark's rules have been different? And would such differences have brought about significant changes in the welfare of beneficiaries? The answer is probably yes to both questions. On top of parents' wish list are schools with no teacher absenteeism and no discrimination on grounds of poverty and caste, and the provision of food, clothes, shoes, and books to children attending schools, without the need to pay fees. By contrast, parents often express scepticism or opposition to measures such as prohibition of child labour and inspections. Rugmark India spent about half of its licence fee income on monitoring and administration and the other half on social programmes, such as primary schools for children in carpet weaving areas. If the intended beneficiaries had been in charge, it is likely that a much greater proportion of the income would have been spent on schooling and income replacement. Conversely, it is very likely that the content of Fair Trade rules would have been significantly different if producer organizations had not had formal representation on the FLO Board. For instance, this formal representation of beneficiaries proved to be crucial in enabling producer representatives to secure the increase of the minimum price for coffee and the social premium paid to producer groups against the initial opposition of some managers of fair trade organizations in consuming countries.

What about beneficiaries' involvement in implementing regulations? There is a long-standing controversy over the relative merits of monitoring rule compliance through professional auditing companies as opposed to worker-based mechanisms, such as the CCC's Urgent Appeal system

described above or the similarly worker-oriented complaint and investigation procedures used by the Worker Rights Consortium (WCR). On the basis of an analysis of all 805 factory audits conducted by the FLA between 2002 and 2010, one major study found that violations in areas such as minimum wages, hours of work, health and safety are much more frequently detected than violations of freedom of association. This study makes two interesting comparisons. One compares the FLA audits with a different procedure available in the FLA system: the third party complaint mechanism. A third of complaints were about freedom of association violations, while only 5 percent of violations detected by FLA audits concerned freedom of association. This shows that when worker representatives take the initiative, they are more likely to highlight violations of freedom of association rights. The other notable comparison was between the findings of FLA auditors and those of inspections by the WCR, whose strategy is to encourage workers to present complaints and then investigate them. This study found that the WRC is six times more likely to find freedom of association violations in factories than the FLA (Anner, 2012).

While more research needs to be done, we know enough to conclude that the way beneficiaries are involved or represented has significant consequences for both processes and outcomes of transnational regulation, with regard to the content of rules, the application of rules, and associated patterns of welfare and regulatory effectiveness (Koenig-Archibugi and Macdonald, 2013). Such causal relationships have important implications for both theorists and practitioners of transnational regulation, and are worthy of greater attention than they have received in the regulatory literature to date.

References

Anner, M. (2012) 'Corporate social responsibility and freedom of association rights: the precarious quest for legitimacy and control in global supply chains.' Politics & Society 40(4): 609–44.

Koenig-Archibugi, M. & Macdonald K. (2013) 'Accountability-by-proxy in transnational non-state governance.' Governance 26(3): 499–522.

Mathias Koenig-Archibugi is Associate Professor in Global Politics in the departments of Government and International Relations at the LSE and a **carr** research associate. **Kate Macdonald** is Lecturer in Public Policy at the School of Social and Political Sciences, University of Melbourne.

Q U A = D

quantification, administrative capacity and democracy

carr project receives ESRC funding under the prestigious Open Research Area award scheme

Andrea Mennicken and Martin Lodge have been awarded a prestigious grant of £591,000 by the Economic and Social Research Council under the Open Research Area (ORA) for the Social Sciences programme to study relations between quantification, administrative capacity and democracy (QUAD).

The project is being conducted in collaboration with the Centre de Sociologie de l'Innovation at Mines ParisTech (France), the Faculty of Sociology at Bielefeld University (Germany), the Department of Management Accounting and Control at Helmut-Schmidt University Hamburg (Germany) and the Institute of Political Science at Leiden University (Netherlands). The three-year research project is supported by more than €1.9 million in research grant funding awarded through the Open Research Area (ORA) for the Social Sciences programme by the Agence Nationale de la Recherche (ANR, France), Deutsche Forschungsgemeinschaft (DFG, Germany), the Economic and Social Research Council (ESRC, UK) and the Nederlands Organisatie voor Wetenschappelijk Onderzoek (NWO, Netherlands).

Through quantification, public services have experienced a fundamental transformation from 'government by rules' to 'governance by numbers', with fundamental implications not just for our understanding of the nature of public service itself, but also for wider debates about citizenship and democracy. This project scrutinizes the relationships between quantification, administrative capacity and democracy across three policy sectors (health/hospitals, higher education/universities, criminal justice/prisons) and four countries (France, Germany, Netherlands, UK). It offers a cross-national and cross-sectoral study of how managerialist ideas and instruments of quantification have been adopted and how they mattered. More specifically, it examines (i) how quantification has travelled across sectors and states; (ii) relations between quantification and administrative capacity; and (iii) how quantification has redefined relations between public service and liberal democratic understandings of public welfare, notions of citizenship, equity, accountability and legitimacy.

More details about the project can be found on the carr website:

www.lse.ac.uk/carr

Out of the shadows

Tommaso Palermo, **Daniel Martinez** and **Dane Pflueger** discuss entrepreneurship, accounting, and the construction of legal markets for cannabis in Colorado

On 6 November 2012, voters in the state of Colorado passed the ballot measure, Amendment 64, outlining a statewide drug policy for cannabis. The measure called for the regulation and taxation of the existing medical market for cannabis and also the creation of a new recreational market for anyone over the age of 21. Since then, regulators at the Marijuana Enforcement Division (MED) of Colorado's Department of Revenue have been busy working to create twin regulated markets for the production, manufacture and use of cannabis in such a way that generates revenues, limits overuse and misuse, and avoids diversion into the illegal markets and neighbouring states.

In this article we report preliminary observations on two ways in which activities to bring cannabis 'out of the shadows' have affected the development and structure of cannabis markets. These observations are based on interviews conducted in 2015 with MED regulators, entrepreneurs, consultants and software designers, as well as visits to retail, manufacturing and cultivation facilities in Colorado.

From seed to sale

Central to the creation of legal markets for cannabis has been the development and extension of the Marijuana Enforcement Tracking Reporting Compliance system (METRC). METRC is a 'seed to sale' inventory accounting system that embodies a 'full traceability' mode of governance that seeks control through complete knowledge of the supply chain (Lezaun, 2006).

METRC was developed by a supply chain software development firm, Franwell, for the regulation of cannabis markets. It involves physically tagging each plant over eight inches, recording the plant's 'events' as it moves between different locations and across different stages of growth, harvest, processing, and manufacture. METRC produces a digital space in which the entire supply chain of each market can be seen. This digital market provides for the boundaries and contents of the physical markets to be identified, examined, and probed. It is only by setting the METRC content alongside physical content that the extra or missing, mis-labelled or mis-weighed product and activities can be seen.

METRC constructs the possibility for a distinction between the legal and illegal, and medicinal and recreational markets through governance processes associated with 'big data' (Amoore and Piotukh, 2015). Indeed, the regulators that employ METRC may not know much about the intricacies of cannabis such as the biological differences between different strands. But they do know about the plant's life cycle and its processing, manufacturing, and sale, as averages and norms. From the METRC data, for instance, they are able to know that 'Durban Poison' loses weight and hence water, more quickly after harvest that another strain.

This mode of governance is predicated upon another world of meticulous data input, constant surveillance and auditing. Everything from waste disposal to trimming practices are standardized and controlled. This requires the continual addition of new layers of management control in the form of inspection processes, standard operating procedures, additional inventory systems, grow management technologies – a tangible example of how things need to be made auditable for compliance processes to occur (Power, 1997).

Entrepreneurship and 'canna-stigma'

The ongoing activities to construct legal markets for cannabis in Colorado have also been heavily influenced by cannabis' history and status as a 'contested commodity' (Radin, 2001). Despite the passage of Amendment 64, cannabis continues to have an uneasy relationship with the legal market. This is partly the case because of its classification at the federal level as a Schedule 1 controlled substance, and also because of the residual negative connotations of cannabis (the so-called 'canna-stigma') which linger from a nearly 50-year 'war on drugs' in America.

Cannabis' contested status has shaped the developments of markets in Colorado. Regulatory requirements preclude many established firms from operating in the market, create new barriers to entry, enforce a state-by-state market segmentation, and effectively exclude market participants from access to much banking and sources of capital. These conditions create a lucrative space for businesses to emerge to fill basic business functions such as advertising, security, banking, insurance, legal and tax advice, almost exclusively for the cannabis industry. They also, however, create new spaces for innovation. They produce unique challenges for businesses that existing products and services are not equipped to solve. The solutions that emerge sometimes require radical innovations with relevance to ancillary and wider markets. For example, one Denver-based company innovated an 'exit bag' that met Colorado's new regulatory demands for childproofing. The new product had demand in the tobacco and other ancillary markets where no such regulations applied.

The contested status of cannabis has also allowed for market developments to become intertwined with social movement and political ambitions. Many of the market participants we spoke to highlighted the inseparability of market activities and their strategy to 'bring cannabis out of the shadows'. For some, this ambition entails the blending of social, environmental, and economic ends to show cannabis as a source of social goods. For others, this ambition involves treating cannabis strictly as an economic good, just like the widgets of economic textbooks.

Bringing cannabis out of the shadows

Cannabis has, for decades, operated in the shadows. But recent legislation in Colorado and other states have necessitated the remaking of cannabis as something else. We have drawn attention to some of the regulatory apparatus as well as the work of entrepreneurs that contribute to bringing out of the shadows the precise features of cannabis in Colorado. For regulators, the main task is to give visibility to the plant as something that can be tracked. For entrepreneurs, it is to give visibility to cannabis as an entrepreneurial object. In so doing, counter-intuitively, entrepreneurs can take advantage of market's stigma and regulatory boundaries.

The cannabis market in Colorado provides us with an opportunity to generate unique insights into the governance and constitution of markets as acts of making the clandestine an object of visibility through regulation and innovation. Ongoing research in this field will allow us to probe the ways in which markets, governance, entrepreneurs, and various forms of mediation and accounting bring stability to the world around us, and constitute certainty about things that might otherwise be contested.

References

Amoore, L. & Piotukh, V. (2015) 'Life beyond big data: governing with little analytics.' Economy and Society 44(3): 341–66.

Lezaun, J. (2006) 'Creating a new object of government: making genetically modified organisms traceable.' Social Studies of Science 36(4), 499–531.

Power, M.K. (1997) The Audit Society. Oxford: Oxford University Press.

Radin, M.J. (1996). Contested Commodities: the trouble with trade in sex, children, body parts, and other things. Cambridge, MA: Harvard University Press.

Tommaso Palermo is Lecturer in Accounting at the LSE and a **carr** research associate.

Daniel Martinez is Assistant Professor in Accounting and Management Control at HEC Paris.

Dane Pflueger is Assistant Professor of Performance Management at Copenhagen Business School.

Can regulation build a better market for securitized bank loans without risking taxpayer bailouts? Not if banks are the only buyers

Rasheed Saleuddin highlights one of the many esoteric regulatory rule changes that may not be in society's best interests

The European Central Bank (ECB) and the Bank of England – as the dominant regulators of the European financial system – have an opportunity to fix the broken securitization market that has the promise to bring growth potential back to the anaemic Eurozone, but not in the way the bankers desire. *Regulating Securitized Products* addresses what went wrong in securitizations such as those for US subprime mortgage loans, and applies the latest regulation and finance theories to develop a framework for securitization regulation in a post-crisis world (Saleuddin 2015).

Securitization involves the transformation of a portfolio of (usually) credit contracts such as small business loans into at least two 'tranches', one junior taking the first losses to the portfolio, and one senior that does not suffer any principal or interest loss until the loss absorption capacity of the junior one is exhausted. The worst pre-2008 concept in financial markets was to place a large amount of these securities in highly leveraged vehicles with the result that the risk was kept within important sectors of the financial system, all the while relying on liquid markets and market price-based triggers to achieve the illusion of safety. Contrary to the generally accepted view of securitization, Acharya, Schnabl and Suarez (2013) showed without a doubt that most securitization during the global financial crisis actually moved non-bank risk (e.g. subprime loans) to the banking system without capital being set aside for this additional risk burden. In 2007–09, those institutions exposed to a toxic combination of (i) unfortunate credit risks (i.e. poor-quality US mortgages) hidden in opaque and illiquid long term assets and (ii) equally hidden, short-dated and contingent leverage were forced to sell securitized bonds to repay fleeing short term lenders. What began as a crisis isolated to US subprime lending spread to other asset classes, leading to the most severe financial crisis since the Great Depression. It is clear from this recent crisis that the developed world financial sector had been characterized by: (1) the innate fragility of fractional reserve banking; (2) mispriced government guarantees (explicit and implicit); and (3) inadequate margin of safety within the regulated sector for the tail risks taken.

Soon after the crisis, regulators and politicians vowed to introduce tough new rules for banks to protect the public against harmful financial market volatility as well as to prevent banks from resorting to the public purse for their survival. One such significant attempt in the US to make financial markets safer and less likely to need a taxpayer-funded bailout was passed into law in 2010 as the Dodd-Frank Act. But as time passes and lawmakers and regulators work through each aspect of a new regime, there is pressure to water down any proposed tough new limits, and such dilution becomes more likely as public attention wanes. In fact, we have recently been witnessing a meeting of the minds among those charged with protecting our interests and the banking industry. If you believe bank lobbyists, politicians, many regulators, and often, the financial and popular press, without lighter regulation for securitization in Europe the markets will dissolve and a major driver of economic growth will be removed through the 'ignorance' of the regulators.

It should come as no surprise that the financial industry is resisting increased regulation as memories of the crisis fade. As economist and ex-member of the Bank of England's Monetary Policy Committee Charles Goodhart (2014) observes, '[i]f regulation is to be effective, it must have the effect of preventing the regulated from doing what they want to do'. The overriding issues in fixing global finance are that the scale of the problem is so vast, while many problems have complicated, difficult to implement, and most importantly, highly contested 'solutions'. As a result, as Goodhart writes, 'the financial crisis has spawned a ferment of ideas for improving regulation. As with most fermentation, some rather odd ideas have bubbled up.' I have found, however, that it is very difficult for the public to involve themselves in what are often highly technical arguments, while on the other hand lobbyists have unparalleled access and resources. As regards the specialized subject of securitization, potential public interest groups, academics, regulators and politicians generally fail to comprehend market microstructures that only experienced market participants can fathom, while financial practitioners are not only highly biased, but also extremely well informed as to the state of financial markets.

Of course, we know that regulators can be cognitively, if not actually, 'captured' or that they can start to take on attributes of the industry. That is, those responsible for controlling the industry can begin to think like the regulated and be influenced by their interests. The shared language of experts in the same field (on both sides) can also lead to homogeneity of thought. Worse still, regulators can descend into deference to industry, as was observed in the last crisis. This can be considered capture on the ground. As such, cognitive or cultural capture of supervisors is the dark side of the idea of shared language facilitating regulation. As a result, rules intended to prevent unwanted behaviour can, for many reasons, be remade during the supervisory and enforcement process on the ground. Financial practitioners are generally ideologically inclined to resist regulation, and most financial experts learned the same flavour of economics and politics. As such, the power of market liberalism to interfere with day-to-day regulatory activities should not be underestimated, and this can affect the morale of regulators, the budgets and the personal viewpoints of those charged with protecting the financial system.

This bias towards industry is highlighted by the recent behaviour of regulators and politicians in relaxing – on more than one occasion since the original draft rules were released – the rules that determine how much capital banks must hold when they purchase other banks' securitizations. Unsurprisingly, the tendency for the banking sector to accumulate securitized product risk as identified by Acharya and others has not diminished post-crisis, and most all parties involved in making regulation – *regulators and politicians included* – tend to support banks in their attempt to do so. As argued in my book, there are many reasons why this re-leveraging is a bad idea, yet few are in a position to contest such a powerful coalition of public and private sector interests.

The key argument for allowing very low capital requirements (less than 2 per cent for the most senior 'AAA' tranches, allowing for 50 times leverage) for banks holding securitizations is that most asset classes did not experience the distress that occurred in the subprime mortgage sector in the US. Unfortunately, there is a lot of hubris that passes for real analysis here. Most importantly, the avoidance of major meltdowns in many underlying asset classes beyond US subprime was only possible through unprecedented efforts by central bankers and state policy makers, resulting in the largest ever global injection of liquidity, combined with overwhelming relief efforts for borrowers. In Ireland, for example, there were foreclosure moratoria and other protections put in place that allowed some reflation to save some homeowners, even while Eurozone interest rates were cut to zero. Crisis level defaults and recoveries in the more

benign banking portfolios should by no means be viewed as the worse possible case in designing capital requirements. Capital requirements should be set so that tail risk in such products cannot bring down the financial system (again!).

The key questions to be answered when regulating esoteric markets such as those for securitization are not being answered. Can the risks to the financial system from allowing banks to hold other banks' securitization with very low capital charges be justified? Can bank holdings of securitization, as contemplated by the most recent capital requirements, allow for more capital to enter the banking system (in order to back increased lending to the real economy in Europe)? Well, the regulators themselves actually state that increasing bank holdings of these products is not the answer. For example, the Bank of England's David Rule (2015) believes that 'a sustainable securitization market needs to be based on genuine risk transfer and not regulatory arbitrage, requiring a broader, real money investor base'. Mario Draghi, current president of the European Central Bank, has often mentioned likewise. That is, while the ECB and others call for lower capital requirements for banks so they can hold more securitized products, they readily admit that the only way that the securitization channel can help the lending market to expand in Europe is for it to allow new non-bank sources of funding and capital to enter the market. The problem cannot be solved by banks taking the funding and/or credit risks of other banks.

The bottom line is that banks and their supporters, including many politicians and bureaucrats, are campaigning for lower capital charges for banks (and more regulation of bank 'competitors', among other pro-industry rules). They are winning. Regulatory theory provides us with the tools to recognize when the public is being excluded from an important regulatory conversation, and the methods to design and enforce

better regulation in the public interest (see, for example Balleisen and Moss, 2010). My book (Saleuddin, 2015) provides a thorough explanation of the structure and operation of the markets for securitized products, documents how theory and previous experience can (and should) guide regulatory practice, and a full reckoning of the public policy implications of basing, as my works suggests, future regulation on an understanding of the risks of such products as well as the motivations of all market participants. Only by fully understanding the markets themselves can our policy makers and regulators design and police an environment that protects the global financial and real economies from crisis while not overburdening a banking industry that is used by most of the productive elements of our global economy. Given that a major policy window is closing and final rules are in the process of being written, I hope it is not too late for informed yet less biased views to be heard and heeded.

References

Acharya, V., Schnabl, P. & Suarez, G. (2013) 'Securitization without risk transfer'. Journal of Financial Economcs 107: 515–36.

Balleissen, E. & Moss, D. eds (2010) Government and markets: toward a new theory of regulation. Cambridge: Cambridge University Press.

Goodhart, C. (2014) 'A ferment of regulatory proposals', in V.V Acharya, D.D. Evanoff, T. Beck, G.G. Kaufman and R. Portes (eds), The Social Value of the Financial Sector: too big to fail or just too big? Singapore: World Scientific Publishing Company.

Rule, D (2015) 'Simple, transparent and comparable securitisation'. Speech delivered at Global ABS, Barcelona. 17 June.

Saleuddin, R. (2015) Regulating securitized products. Basingstoke: Palgrave Macmillan.

Rasheed Saleuddin is a hedge fund manager at Canadian investment firm West Face Capital, and a PhD scholar at the University of Cambridge Endowment for Research in Finance, focusing on interwar US financial regulation. His views are his own.

OTC regulatory reform: risks of the clearing obligation from a competition perspective

Yaiza Cabedo advocates tougher oversight of over-the-counter markets

In the aftermath of the financial crisis, regulatory reforms have sought to improve financial institutions' risk management in order to prevent another Too Big To Fail (TBTF) scenario that would result in taxpayer bailouts. One of the key regulatory innovations has been the introduction of disclosure in over-the-counter (OTC) markets, which represent an epicentre of systemic risk, given their opaqueness and unregulated nature. Recent scandals such as the manipulation of Libor (FCA 2013) or Forex (US Department of Justice, 2015a) rates indicated a pattern of oligopolistic power and abusive practices in financial markets. This has put emphasis on the need to address anti-competitive behaviours. However, in the context of this article it is argued that new rules, including the introduction of a clearing obligation, rather than reducing, may further concentrate market risks and strengthen a small club of banks which already have a dominant position in financial markets, especially in OTC.

Prior to the financial crisis, the United States and the United Kingdom in their non-interventionist approach towards OTC markets, allowed for a lack of transparency between 'sophisticated parties' (i.e. parties with financial expertise) and, thereby, facilitated the emergence of risky, highly leveraged products that could not have been traded in regulated markets, but were tradable as OTC products. As a consequence, OTC markets saw an exponential growth since 2000, reaching $680 trillion of notional value in 2008 (Bank for International Settlements, 2008). They became critical in the escalation of systemic risk. It was only after Lehman Brothers collapsed that market supervisors fully came to terms with the fact that we had no data to account for systemic risk levels including the interdependency among OTC participants. Thus, in order to stop a 'defaulting domino effect', governments diverted trillions of public money to bail out TBTF entities.

To prevent this from happening again, the 2010 Dodd-Frank Act and the 2012 European Markets Infrastructure Regulation introduced transparency and systemic risk controls through mandatory reporting and clearing for standardized OTC products. On one side, reporting involves disclosing fundamental details of OTC transactions to a *Trade Repository* that operates as a private register, which market supervisors can access. This implies that private shareholders – most of them major OTC participants – are in control of this data. This constellation raises conflict of interest and asymmetric information issues.

On the other side, *clearing* is a mechanism that removes bilateralism in OTC by executing standardized trades through a central counterparty (CCP). CCPs are private, composed of banks – the 'clearing members' – and are generally owned by dominant OTC participants. This presents potential conflicts of interest. The clearing obligation neutralizes credit risk in the case of counterparties' default because it mutualizes losses among clearing members. This means that a party in a transaction executed through a CCP no longer represents a risk, since the CCP, to all purposes, becomes the new counterparty. To cover their exposure, CCPs require 'eligible' collateral through margin calls. This framework is supposed to contribute towards risk mitigation. In practice, risk is now more concentrated in the hands of a small group of clearing members because CCPs are not adequately capitalized to respond to counterparties' defaults. They themselves could therefore become TBTF. Nonetheless, these dangers can be averted by making transparent current conflicts of interest in OTC to assure fair play, and improving CCP risk management and stress testing, which, as yet, remains vague and unfinished.

Why should we be concerned about potential abuses? Recent cases such as the Libor or Forex manipulations have pointed to a pattern of oligopolistic practices in OTC performed by a club of market makers. This included the likes of Barclays, UBS, Citigroup, Deutsche Bank, RBS, JP Morgan, Bank of America, HSBC, Goldman Sachs, BNP Paribas, Credit Suisse, Morgan Stanley, Lloyd's, Societe Generale; some of which, ironically named themselves 'the mafia' or 'the cartel' in online chatrooms through which they

rigged Forex market (US Department of Justice, 2015b). It is not coincidental that the same banks (13 of the 14 above) were also involved in an investigation by the European Commission in 2013 regarding Credit Default Swap (CDS) OTC markets (European Commission, 2013). Preliminary conclusions suggested the presence of coordinated behaviour together with ISDA (International Swaps and Derivatives Association) and Markit to prevent other parties from gaining access to the CDS market. Unfortunately, these are not isolated cases. In 2014, the European Commission investigated four 'cartel' banks for manipulating Swiss francs' interest rates (EUR-Lex, 2014): they were accused of rigging the 'bid-ask spread' – the difference at which a market maker is willing to sell and buy a product, and this blocked third parties from competing on equal terms.

As can be seen, misconduct has repeatedly occurred. Market watchdogs need to be vigilant as clearing presents new opportunities for anti-competitive practices. Why? In the first place, to operate in OTC it is now mandatory to become a clearing member and, notwithstanding the non-discriminatory principle regarding access criteria, CCPs have margins for discretion. Non-accepted entities, in order to continue trading in OTC, will need a clearing member who takes its transactions to the CCP, in exchange for a certain price. This can entail access barriers and margin squeezes that could exclude parties from OTC. The Clearstream case is an example of anti-competitive behaviour as the European Court confirmed in 2009 that Clearstream had violated competition rules by refusing to supply certain clearing services and by applying discriminatory prices to its client, Euroclear Bank. Furthermore, there are other asymmetries to address in the current design. For example, a non-member hiring services from a clearing member must disclose its positions to those clearing their trades, which are, at the same time, major participants in the same market. Again, this mechanism leads to a conflict of interests and asymmetric information between OTC parties. In the context of anti-competitive business culture, clearing members could see incentives to take advantage of clients' information.

Simultaneously, markets become more concentrated and risky. CCPs have now large systemic risk exposure because, in case of default, they will have to absorb losses of (a) clearing members and (b) parties trading through a clearing member of the CCP. The problem is that regulators are not sufficiently strict in their surveillance of CCPs' risk management and their default fund capitalization. But, what would happen if CCPs' bail-in system failed? Could a CCP default?

A pro-active commitment of market authorities is required towards competition law enforcement to stop abuses of dominance and market disruptions, and towards capital controls and CCPs risk management. However, in order to develop a new market culture, regulatory reforms and financial technology development must work together. 'Entrepreneurial states' (Mazzucato, 2013) should not limit their role to fixing market failures, but engage in long-term investment to lead innovation in markets. New systems as 'blockchain', an open trading platform technology, represent new opportunities that need to be explored to improve transparency and trust in financial markets.

References

Bank for International Settlements (2008) 'BIS quarterly review: international banking and financial markets development'. Basel: BIS Press <http://www.bis.org/publ/qtrpdf/r_qt0812.pdf> (last accessed 29 February 2016)

EUR-Lex (2014) 'Summary of Commission decision of 21 October 2014 (Case AT.39924 – Swiss franc interest rate derivatives)'. <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52015XC0228(02)> (last accessed 29 February 2016)

European Commission (2013) 'Statement on CDS (credit default swaps investigation.' <http://europa.eu/rapid/press-release_SPEECH-13-593_en.htm> (last accessed 29 February 2016)

FCA (2013) 'Internal audit report: a review of the extent of awareness within the FSA of inappropriate LIBOR submissions' <http://www.fca.org.uk/static/documents/fsa-ia-libor.pdf> (last accessed 29 February 2016)

Mazzucato, M. (2013) The Entrepreneurial State: debunking public vs. private sector myths, London: Anthem Press.

US Department of Justice (2015a) 'Attorney General Lynch delivers remarks at a press conference on foreign exchange spot market manipulation'. <http://www.justice.gov/opa/speech/attorney-general-lynch-delivers-remarks-press-conference-foreign-exchange-spot-market> (last accessed 29 February 2016)

US Department of Justice (2015b) 'United States of America v. Barclays PLC'. <http://www.justice.gov/file/440481/download> (last accessed 29 February 2016)

Yaiza Cabedo is at the Universitat Autonoma de Barcelona. She visited **carr** in the academic year 2015/16.

Predicting quality failures in higher education

Alex Griffiths notes the limitations of a data-driven, risk-based approach for predicting failure

Since 2010 the UK has seen rapid growth in the number of new higher education providers. This growth, aided by reduced barriers to entry to the higher education sector, and concerns over the quality of the new provision it has brought, has been a key driver in successive UK governments pushing for the introduction of a data-driven, risk-based approach to regulating quality in higher education (BIS, 2011; Quality Assessment Review Steering Group, 2015). For the regulator, the Quality Assurance Agency for UK Higher Education (QAA), to prioritize its oversight activity based on freely available performance data has its attractions as high quality providers are allowed to prosper when freed from the burden of unnecessary regulation, and low quality provision is quickly targeted and addressed, and all of this is achieved at a reduced cost to the taxpayer.

A data-driven, risk-based approach, however, relies on one central assumption: that the available data is actually helpful in prioritizing the regulator's activity. Whether or not this is the case has been the focus of an ESRC-funded PhD at King's College London. Our analysis suggests that there is no way to reliably prioritize higher education providers for review despite the wealth of available performance data.

Research design

The research was premised on the fact that we had the outcome of all QAA reviews comparable to today's approach and access to vast amount of historic performance data. This allowed us to investigate whether those providers who were judged 'unsatisfactory' after a review could have been identified in advance using data available at the time. If so, then, in principle, a data-driven, risk-based approach to quality assurance could have been used effectively in the past and our research findings could help inform future risk-based approaches. If it proved impossible to identify high risk providers, even with the benefit of hindsight, our research would suggest that any risk-based approach is unlikely to succeed in the future.

We made use of modern machine-learning techniques to, in effect, try every possible weighted combination of indicators to separately develop the best predictive model for universities, further education colleges and 'alternative' providers. To be as comprehensive as possible we considered not just the indicators in their given form, but also how each provider's performance had changed over time and, where appropriate, standardized indicators by academic year to account for sector-wide shifts in performance over time.

Results

Across all the provider types very few indicators had a strong correlation with the outcome of QAA reviews. Those that did supported the prediction of a small number of 'satisfactory' providers but were of limited use for predicting 'unsatisfactory' providers.

For universities we had 1,700 indicators derived from a wealth of data sources including student surveys, the outcome of previous reviews, complaints raised with the QAA, and staffing, student, research, applications, finance, and overseas activity data.

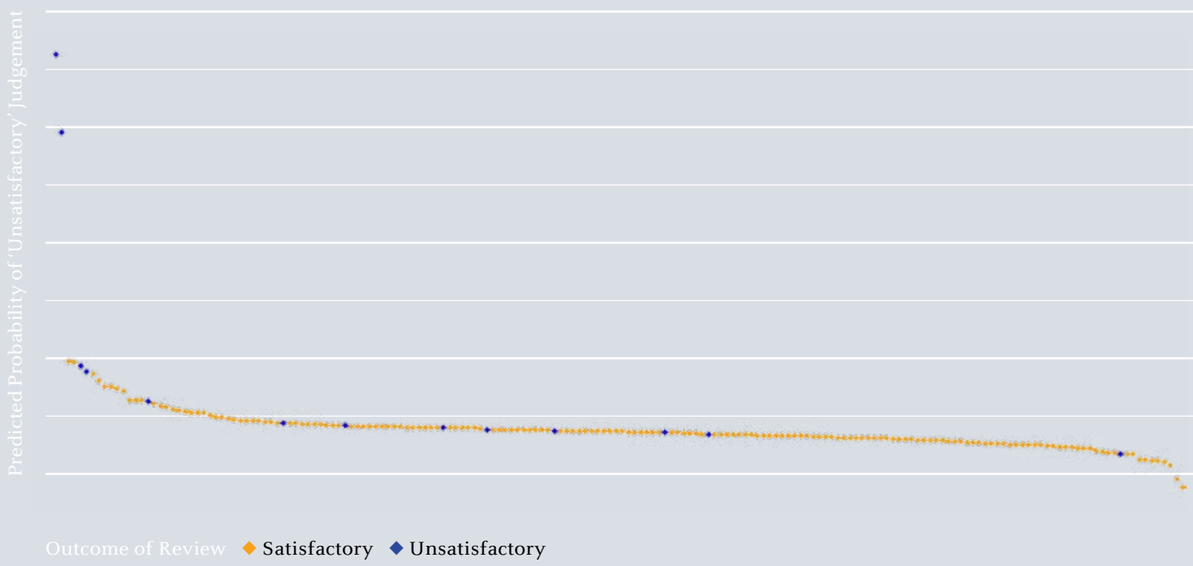
Figure 1 shows the predicted probability of a university being found 'unsatisfactory' prior to the review, ordered from most to least likely, mimicking the order in which the QAA may be expected to prioritize each university, and the subsequent review finding.

Despite the abundance of data the best model was very poor at predicting the outcome of QAA reviews. Had the QAA carried out their reviews in order of the predicted probabilities, 174 out of the 184 reviews that took place would have been required to discover all 'unsatisfactory' provision and 92.5% of those universities reviewed would have been judged 'satisfactory'. Moreover, with the predicted likelihood of being judged 'unsatisfactory' differing little between universities natural variation in scores would play a large part in the perceived risk posed by each university. Finally, when applied to new data the model produces some questionable results.

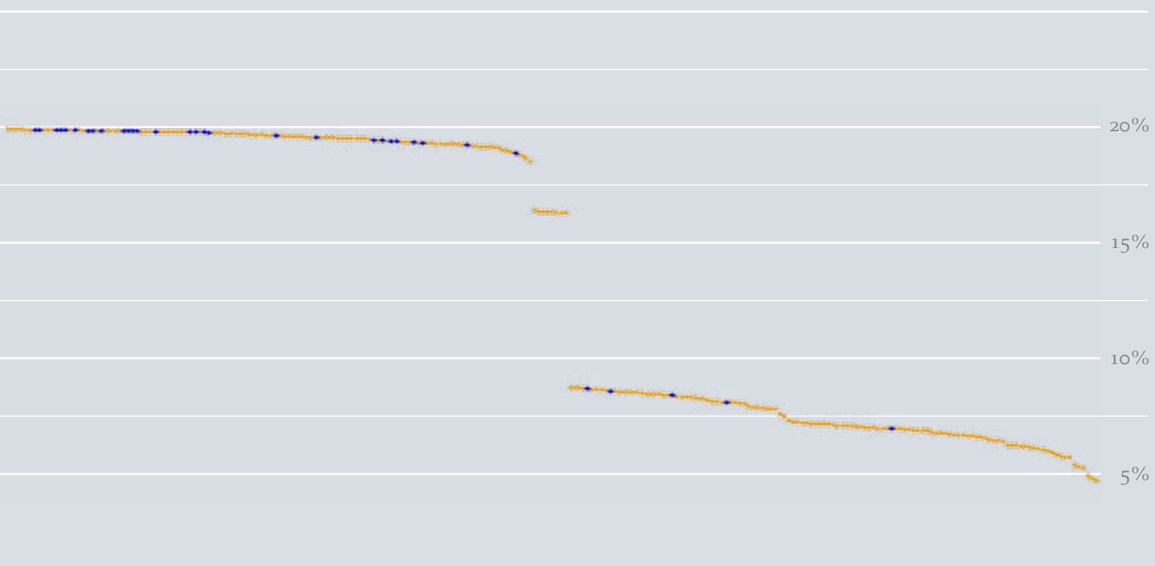
The results were similar for further education colleges. The best model required nearly all providers to be prioritized before all of the 'unsatisfactory' provision judgement would have been discovered. However, when the model was tested on new reviews which have taken place since the analysis was conducted, the resulting predictions were worse than chance. The QAA would have be better off doing to the exact opposite of what the model suggested.

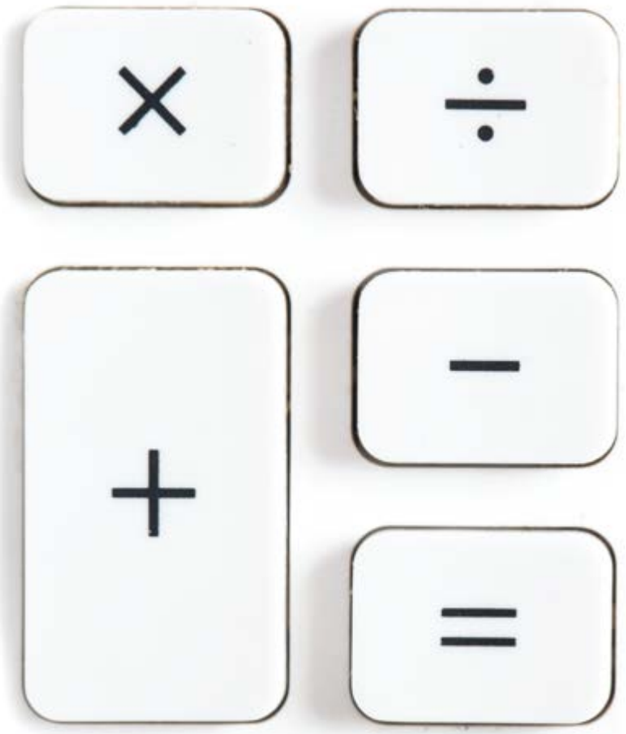
Alternative providers offered the greatest promise. There was a clear pattern for younger providers with no prior experience of regulatory reviews and limited funds were significantly more likely to be judged 'unsatisfactory' than more established alternative pro-

Predicted Probability of Receiving an 'Unsatisfactory' Review Judgement: **Universities**



Predicted Probability of Receiving an 'Unsatisfactory' Review Judgement: **Alternative Providers**





viders. But, the overwhelming majority of providers would still have had to have been reviewed in order to have discovered all 'unsatisfactory' provision. Reassuringly, the model performed similarly when predicting the outcome of additional reviews.

The most promising finding, true for each of the models, was that the overwhelming majority of the 'unsatisfactory' providers were predicted as being in the 50% of providers most likely to be judged 'unsatisfactory'.

Discussion

The results raise a number of interesting points.

First, regardless of how we define success it is likely any predictive model will disappoint. If it is considered unacceptable to allow any 'unsatisfactory' provision to go undetected then a data-driven, risk-based approach will fail as no model can successfully prioritize all 'unsatisfactory' provision. If it is considered acceptable to allow some 'unsatisfactory' provision to go undetected then the approach is still unlikely to succeed; although the models describe an historical situation satisfactorily, when applied to new data the best models still perform poorly. Either way high quality providers will be prioritized for review, and be unfairly stigmatized as a result, whilst low quality providers will go undetected.

Second, why, despite having the benefit of hindsight and undertaking a comprehensive analysis, could we find no model which could reliably predict the outcome of QAA reviews? There is no shortage of possible explanations: inconsistency in QAA reviewer decisions, concerns over the accuracy of the metrics, the inability of indicators to capture human behaviour, the metrics and the QAA simply measuring different things, or the contested, ambiguous and often changing nature of 'quality' in higher education to mention just some.

Third, if no combination of indicators could reliably inform a risk-based approach in higher education how many other regulators are labouring unknowingly with the same impossible task?

Recent noises from the higher education sector suggests a shift in approach to the interpretation of indicators by a panel of experts familiar with each provider's context (Kimber, 2015; BIS, 2015). How much this undermines the 'rational' and 'objective' prioritization that helped make risk-based approaches attractive to begin with, and perhaps more importantly, whether this leads to an improvement in risk predictions, is yet to be seen. The established literature on the skill of expert judgements does not suggest it will. Hundreds of studies in fields as diverse as medicine, education, finance, and even the forecasting of the future value of Bordeaux wines have consistently shown that the predictions of cheap, simple, rules-based models outperform experts and their unconscious biases (Meehl, 1954; Ashenfelter, 2008; Kahneman, 2011: 234–44).

References

Ashenfelter, O. (2008) Predicting the quality and prices of Bordeaux wine. Economic Journal 118 (529): F174–84.

BIS (2011) Higher Education: students at the heart of the system. Cm 8122. London: Department for Business Innovation & Skills.

BIS (2015) Fulfilling Our Potential: teaching excellence, social mobility and student choice. Cm 9141. London: Department for Business Innovation & Skills.

Kahneman, D. (2011) Thinking, Fast and Slow. New York: Farrer, Strauss and Giroux.

Kimber, I. (2015) Metrics and Quality: do the numbers add up? <http://wonkhe.com/blogs/metrics-and-quality-do-the-numbers-add-up/> Accessed 2 November 2015.

Meehl, P.E. (1954) Clinical Versus Statistical Prediction: a theoretical analysis and a review of the evidence. Minneapolis: University of Minnesota.

Quality Assessment Review Steering Group. (2015) The Future of Quality Assessment in Higher Education. <http://www.hefce.ac.uk/media/hefce/content/whatwedo/learningandteaching/assuringquality/qareview/discussion/QAR_Discussion.pdf> Accessed 15 January 2015.

Alex Griffiths is an ESRC scholarship doctoral researcher at King's College London.

The LITER good agency principles

Annetje Ottow discusses how competition and regulatory agencies should navigate complex environments

Over the years it had become apparent to me that the same basic principles were coming back time and time again when we discussed and sought to understand the framework in which market and competition authorities operate, not only within national context, but also at European and international levels.

These five principles can be identified as legality (L), independence (I), transparency (T), effectiveness (E), and responsibility (R). Taken together, these LITER principles drive good agencies; they are fundamental to a framework for agency design and actions. These five fundamental principles can be applied across a wide range of regulatory and supervisory bodies and agencies. Furthermore, they are of paramount importance in assessing independent agencies' work and behaviour.

Dilemmas of the agency

In the day-to-day work agencies are continuously confronted with a range of dilemmas. Five agency dilemmas can be identified – and the LITER principles can guide agencies in tackling these.

The first and most tricky dilemma is the *regulatory dilemma:* whether to intervene or not. Calls for greater supervision following a crisis or incident are accompanied simultaneously by the fear of supervisory and regulatory overkill or the fear of excessive intervention. This dilemma means independent agencies are continuously under pressure when deciding whether to intervene. Secondly, there is the *trust/distrust dilemma:* agencies are highly dependent on the organizations they supervise for obtaining the relevant information, but, at the same time, they are required to keep a distance to avoid (the impression of) capture. Thirdly, agencies have to address the *cooperative/punitive enforcement style dilemma.* In practice, that choice is not a matter of choosing one or the other, but rather a matter of knowing when a specific approach, or combination of approaches, is required.

Fourthly, agencies have to balance between the interest to ensure transparency and the need to respect confidentiality. This *openness/confidentiality dilemma* can put agencies in a difficult position – to what extent do they need to protect the private interests of regulated organizations, or should they allow the interest of the wider public in greater openness to prevail?

Finally, there is the *efficiency dilemma:* market and competition authorities need to act promptly if they are to achieve their objectives. However, this need for efficiency can conflict with the need for carefulness as the various interests involved must be balanced against each other, the procedures followed must be fair, and any measure taken must be proportionate. The need for carefulness can, however, slow down the decision making process and therefore be criticized for reducing the agency's efficiency.

The LITER principles

What 'good' agency principles are, is inevitably, a matter of subjective choice. In my book, Market and Competition Authorities, I develop five broad principles. They contain the most common benchmarks that independent agencies and their stakeholders can use as a general framework.

Legality principle

The constitutional principle of legality is of particular importance: it forms the basis for all other principles and should influence any action by an independent agency. Following this principle, unilateral administrative action should be exercised on the basis of and in accordance with the legislative mandate authorized by Parliament. However, a mandate only offers limited guidance: agencies will always have to exercise their discretionary powers on the basis of complex legal and economic assessments. In a rapidly changing environment that is being driven by developments in technology, it is essential for powers, instruments, and procedures to be able to keep pace with these developments. An inadequate or delayed response to such changes will result in failure to meet the objectives of regulatory oversight. An independent agency requires flexibility in its decision-making powers; if its legislative mandate is too tight, it will be unable to intervene appropriately, and the purpose of the regulation will not be achieved.

Independence principle

Independence has long been considered an essential element in any market and competition supervision. Market and competition authorities, for example, are expected to apply rules and regulations impartially and independently of the interests of market parties, and also of the political arena. Independence from market parties is necessary in order to create a level playing field and to ensure market confidence in impartial decision making. A sufficient degree of independence is seen as an essential ingredient in allowing proper enforcement of policy more generally, and, therefore, also of competition policy. Ensuring independence also requires that board members have sufficient expertise and leadership qualities – board members represent an important buffer against capture and undue influence. The right expertise and leadership is key for organizational success.

Transparency principle

Market and competition authorities are bound by the need for transparency. Their procedures have to be seen as fair, accessible, and open. They need to make sufficient room for consultation and stakeholder participation. Decisions and interventions have to based on sufficiently reliable and sound justification, and legal and economic reasoning. Transparency can create certainty and better compliance, and thus prevent enterprises from committing infringements. Transparency also includes accountability. Independence of an agency is reinforced by transparency and accountability.

Effectiveness principle

Oversight has to be effective. Interventions have to meet objectives and innovations in instruments should be encouraged. Central to effectiveness is, therefore, a focus on enforcement. Enforcement styles and instruments need to consider how compliance is achieved in effective and efficient ways. Nevertheless, enforcement-related activities need to be seen in the light of other activities; they should therefore not come at the expense of advocacy or compliance work. Ultimately, it will always be difficult to establish an optimal level of enforcement. However, it is essential that effectiveness is seen in light of an efficient use of resources – inputs in terms of effort and work force, and the resultant costs need to remain reasonable and affordable.

Responsibility principle

The responsibility principle applies to both agencies and corporate actors. Agencies need to take responsibility for their actions, but, at the same time, they should encourage companies to take responsibility for their actions. They should not become reliant on regulators to make decisions for them. Instead, companies need to be encouraged to take responsibility to comply with rule and to manage risks themselves.

Market and competition authorities operate in a complex environment that is characterized by conflicting stakeholder demands. Balancing the various interests of the authority and stakeholders in an objective and impartial manner is critical for achieving the goals of the legislation imposed. Applying the five LITER principles can help agencies achieve these goals.

Prof. Annetje T. Ottow is Dean of the Faculty of Law, Economics and Governance, Utrecht University, The Netherlands, and professor of public economic law at that faculty. She is also non-executive director to the board of the UK Competition and Markets Authority, a member of the supervisory board of the Dutch legal helpdesk (Het Juridisch Loket) and she was Vice President and non-executive board member of OPTA, the Dutch Post and Telecommunications Authority. She is the author of Market and Competition Authorities: good agency principles (Oxford University Press, 2015).

States of crisis

Lydie Cabane argues for a crisis management that tackles the root causes of crisis

Crises are everywhere and so is crisis management. Across the world, governments continuously have to deal with crises and prepare for them. Besides preparing for extreme events such as pandemics, terrorist attacks and major disasters, public authorities recurrently deal with health scandals, floods, urban riots, industrial accidents, technological breakdowns, extensive opposition to mega projects, or the prolonged effects of the financial meltdown. Crisis has become a regular feature of governing today; this implies readiness to manage a range of events that hold the potential to destabilize social, economic and political fabrics.

Over the past fifteen years, numerous western states have adopted crisis management as bureaucratic reform in the wake of a series of different crises. A series of scandals and crises in the 1990s (BSE crisis in the UK, food related scandals in Germany and Belgium, tainted blood and asbestos in France) challenged states' legitimacy and efficiency. One response was the creation of agencies to tackle risks and prevent further major crises. Since then, states have developed contingency planning, crisis rooms and permanent crisis management units across ministries at every level of government. Temporary as well as permanent structures were added on top of routine bureaucratic organizations: Within sectoral ministries, structures were added to specifically tackle crises within their specific domain, whereas structures at the top were to ensure coordination across multiple agencies and actors.

As part of their preparedness, these organizations and actors regularly undergo simulations, exercises and scenario planning for unexpected events. Reforms of the long-standing structures in civil security were implemented throughout the 2000s to reinforce crisis management within the state and to diffuse a culture of 'resilience' (in the UK notably). The European Union has also put forward its own set of new regulations, organizations and resources to enhance crisis management in the EU. These tools have also been diffused to member states (Boin et al., 2013).

How can we explain this upsurge of crisis management in government? The most common line of explanation points to the complexity and instability of our contemporary world. Major environmental transformation, economic globalization, complex financial systems, climate change, deregulation and emerging global governance structures have made our societies more complex and unstable, dependent on fragile networks, and highly vulnerable to even the smallest disruptions. Yet, since the 19th century, states have sought to develop ways of protecting individuals, societies and their territories against risks and hazards that threatened their existence. So what has changed? One suggestion is that scales of intervention have been modified with multi-level governance as crises are increasingly often of a 'transboundary' nature and their resolution requires interventions that go beyond national level and states' capacities (Ansell et al., 2010).

Another line of explanation suggests that the current concern with emergencies is characteristic of a state of exception and an increasing concern over security issues and terrorism (Agamben, 2005). This perspective offers a persuasive account for the reforms that led to the creation of the Department of Homeland Security in the USA in the wake of the 9/11 terrorist attacks. Such concerns have also been present in Europe and contributed to the rise of crisis management at the European level and accelerated reforms of civil security at member state level. Yet, this framework does not take into account the plurality of contexts and bureaucratic ambiguities in the implementation of such policies. These perspectives also fail to address the role of experts in portraying the world as unsafe and promoting such visions.

In other words, while pointing to important aspects, many of these explanations do not fully account for what is going on. In particular, the literature on crisis often fails to take into account the role of the state. In fact, the wider transformation of the welfare state and of regulation in the current context of market-oriented government reforms and cost cutting exercises helps to shed light on the upsurge of crisis management in government. In many ways, crisis management is a response to the 'depleted state' (Lodge, 2013). Various trends over the past decades have called into question the role of the state in a globalized economy, with the emergence of supra- and sub-national sources of power that contest the state's monopoly in a range of policy domains. In the wake of reforms that transformed the role and capacities of the state and resulted in several high profile failures, crisis management offered state officials the opportunity to demonstrate their capacity to provide security and, more importantly, to decouple the reforms from failures that could undermine their benefits and justification.

Crisis management enables states to deal with the consequences, but not with the root causes of crisis. It allows the state to put forward some responses, without questioning the policy options that led to the crisis. Leaders can easily point out to exogenous causes, to the surprise and their lack of anticipation in order to eventually (re)assure their own legitimacy and that of state institutions and the state more generally. By focusing on the risk event, the goal of crisis management is to return as quickly as possible to the prevailing order without addressing the root causes of the failures, while compensating the victims for their losses. Thus, crisis management helps to reaffirm the legitimacy of the state at exactly the time when it is put into question.

Although crisis management purports to manage a range of events, it does not help to make sense of these situations by focusing solely on their consequences. For example, after the recent terrorist attacks in France, executive leaders implemented exactly that kind of strategy: the use of emergency management and laws served to maintain the legitimacy of the executive power, but did not at all address the social, cultural and political crises that formed the background to these events. The problem with such strategy is that tackling the root causes of the events lies not within the realm of the agencies, departments or units in charge of crisis management, but befalls upon other organizations. These have little incentive or interest in trying to figure out what could actually go wrong in the policies they pursue.

By investing in crisis management, European authorities erect barriers against questioning the policy decisions that lie behind the crisis. This is not just a blame prevention strategy; it avoids suggesting that certain policies have led to failures and crises that could have been avoided, or at least anticipated. Thus, it prevents the questioning of those political reforms that have sought to reduce the welfare state by advocating self-regulation by individuals and markets. This appears clearly, for instance, in the promotion of preparedness and resilience discourses in lieu of actual risk prevention and reduction policies. Furthermore, crisis management itself adopts the language of budgetary orthodoxy in order to suggest that public authorities have to be ready to face a wide range of threats, on the one hand, but that, given budgetary constraints, they need to make informed choices on their priorities and allocate resources accordingly, on the other. This is all the more so the case since budget deficits have become a source of vulnerability as they provide major lenders (sovereign, international or private entities) with leverage on national policies.

Crisis management is a response to the crisis of the state in the current political and economic context. Acknowledging this is essential for making sense of crisis management. It reveals how crisis management appears, not just as a response to a more complex, unstable world, or to some new security threats, but as a cornerstone of reforms of the state in this context. Understanding this is also key to promoting new ways of preventing and responding to contemporary crises affecting our world in ways that actually tackle the root causes of these events, instead of sidelining them.

TC

The TransCrisis project (full name: Enhancing the EU's Trans-boundary Crisis Management Capacities: Strategies for Multi-Level Leadership) is a three-year project funded by the European Union under the Horizon2020 programme. **carr** is the co-ordination partner in this network of eight organizations. Other partners involve: Crisisplan (Arjen Boin), the University of Utrecht (Femke van Esch), Central European University (Nick Sitter), Institut Barcelona d'Estudis Internacionals (IBEI, Jacint Jordana), University of Catania (Fluvio Attina), University of Stockholm (Mark Rhinard) and ThinkTank Europa (Maja Rasmussen). More information can be found under the project website www.transcrisis.eu.

References

Agamben, G. (2005) State of Exception. Chicago: University of Chicago Press.

Ansell, C., Boin, A. & Keller, A. (2010) 'Managing transboundary crises: identifying the building blocks of an effective response system.' Journal of Contingencies and Crisis Management 18(4): 195–207.

Boin, A., Ekengren, M. & Rhinard, M. (2013) The European Union as Crisis Manager: patterns and prospects. Cambridge: Cambridge University Press.

Lodge, M. (2013) 'Crisis, resources and the state: executive politics in the age of the depleted state.' Political Studies Review 11(3): 378–90.

Lydie Cabane is a member of **carr** and a research officer on the Transcrisis project. A longer and modified version of this article (co-authored with Olivier Borraz, Sciences Po Paris) will be published in September 2016 in a volume edited by D. King and P. Le Galès on The Reconfigurations of the State in Europe (Oxford University Press).

The refugee crisis and the limits of administration

Björn Christian Paterok highlights the difficulties for day-to-day crisis management in the administrative context of Germany

Transboundary crises stretch administrative capacities to their limit – and beyond. The TransCrisis project suggests that certain key tasks can be identified that will make it less likely that a crisis will be seen as being mismanaged. The challenges of transboundary crises do not just relate to their impact across boundaries, but that they occur within a multi-organizational context. What, then, are the challenges in transboundary crisis management, looking in particular at the refugee crisis management responses that have emerged over recent months in Germany? This article cannot do justice to the multi-layered challenges that arise from the refugee crisis. However, by focusing in particular on the administrative side of crisis management, the following offers a particularly insightful case, not just because of the salience of the issue in domestic and EU politics across the European continent and beyond. The need for inter-governmental co-ordination within Germany raises particular problems as crisis management is a constitutional matter for the Länder (states), as well as between Germany and its neighbouring countries.

Take information first. One challenge is to know how many refugees are likely to arrive at any given time. As is well known, two routes have been taken by refugees – one via the Mediterranean which generated the tragic headlines in the first half of 2015 in particular, the other, via Turkey and Greece that has become increasingly prominent in terms of traffic flows. However, it is not just the geography of the flow that has changed. Whereas the route via the Mediterranean mostly attracted male refugees, the route via the Balkans has seen a much larger share of families. One explanation for such changes is arguably the overall safety of the latter route in contrast to the former, another the increasing reluctance by EU member states, especially Germany, to offer families the opportunity to be reunited later. Be that as it may, there are ways in which to monitor refugee flows and thereby prepare capacities accordingly (see UNHCR). However, such trends can only offer so much advance information: unilateral decisions by other countries' governments or a strike by ferries or among bus drivers in Greece and/or Macedonia can disrupt refugee flows for days.

This leads straight to the problem of co-ordination. Crisis management is institutionalized across German federal and Land (state) administrations. Across Länder, provisions exist that allow units flexibly and temporarily to become crisis centres by drawing on additional resources. Plans exist as to how these crisis units should interact with other departments and levels of government. Such plans face difficulties when having to negotiate across different ministerial portfolios. They also come under strain as public pressure increases and the limits of initial arrangements become apparent. For example, at the federal level, following considerable criticism, the overall responsibility for dealing with the refugee crises was moved from the Interior ministry to the Chancellery in November 2015 by taking on responsibility for the initial registration, accommodation and redistribution of arriving refugees. The federal ministry for the interior continued to be responsible for asylum, the ministry for transport was responsible for the transport of refugees to initial and subsequent accommodation, whereas the ministry for labour was tasked with labour-market integration measures and the defence ministry for the accommodation of refugees in federal property.

The actual strain on administrative capacities emerged in particular as refugees increasingly arrived via the 'Balkans route'. This meant that almost all refugees arrived in Bavaria, placing the regional and local administrations under considerable strain, especially during the late summer months of 2015. This strain led to two responses. One was an informal agreement with Austria. In exchange for the promise to accept refugees by not insisting on the 'Dublin convention', Austria agreed to transport only a certain number of refugees (250 per hour) to a limited number (five) of particular border locations. This enabled the German administration to register and manage refugee flows.

The second response was an inter-governmental agreement among Land prime ministers to share out refugees. In September 2015, the responsibility for redistributing refugees was transferred to the federal level, in particular to the Federal Office of Civil Protection and Disaster Assistance (Bundesamt für Bevölkerungsschutz und Katastrophenhilfe – BBK). Since then, the refugee crisis has been arguably 'normalized' in a continued state of relative uncertainty. Germany was divided into five administrative areas to facilitate co-ordination at the highest level. Rail and bus capacities have been provided to transport up to 15,000 refugees. One priority was that 'ordinary' transport (such as the railway timetable) should not be interrupted. Responsibility for this aspect of the refugee crisis was transferred to the Bundesamt für Güterverkehr – a federal agency responsible for monitoring and controlling freight traffic. This, in turn, had an impact on co-ordination, as this agency's style was seen as far more hierarchical than the consensual decision making that is characteristic of the crisis management domain.

Once refugees had been distributed to the different Länder other co-ordination challenges appeared. Refugees were first registered and their medical health assessed. After that, they were moved to local authorities (with considerable differences across Länder) where they were usually placed in communal temporary accommodation, such as youth hostels, school gyms and other forms of vacant accommodation. At this point, refugees came under the responsibility of the agency

responsible for asylum. The aim here was to ensure that those whose asylum request had been granted were able to enter the labour market as soon as possible, with individuals being able to move freely across Germany. One of the emerging pressures on the system was, therefore, the coping and speeding up of asylum applications and transferring successful cases to the federal agency responsible for employment. Earlier, in September 2015, in the light of criticism regarding the slow registration process, the head of the responsible agency for migration and refugees (Bundesamt für Migration und Flüchtlinge) was replaced. The incoming head (Frank-Jürgen Weise) continued as head of the federal agency for employment. The functional explanation was that such an arrangement would enhance administrative processes to facilitate the integration of asylum seekers into the labour market. By early 2016, over 770,000 refugees were awaiting a decision regarding their asylum status. This backlog existed despite the expansion of processing capacity (from 600 to 6,000 individual requests per day). In parallel, there was also a noticeable change in the ways different Land governments started to enforce deportation orders (about 5 to 10 per cent of all requests were rejected). In contrast to previous practice, Land governments of all party political colours began to deport more extensively.

Underpinning all these practices is a high degree of ambiguity about actual numbers. The official system ('EASY' - Erstverteilung von Asylbegehrenden) claimed, for example, that Germany had received 1,091,894 asylum seekers during the whole of 2015, whereas an alternative recording system noted that 1,056,125 refugees had been 'received' via the federal redistribution system since 7 September 2015 alone. The latter number did not include other refugees outside the system which also involved an uncertain number of refugees who registered on multiple sites and occasions. The problem of multiple registrations was accentuated by EASY, as it registered refugees on the basis of nationality, gender, and family status, but not by name and biometric authentication. One effect of EASY was to concentrate certain nationalities of refugees in particular locations. EASY- generated numbers were used to distribute refugees according to a particular system, called the Königsteiner Schlüssel which calculated each respective Land's obligation on the basis of tax income (two-thirds) and size of population (one-third). This system was copied from an inter-governmental arrangement to allocate research resources.

Since the terrorist attacks in Paris in November 2015, the question of having a robust system of registering each refugee has risen on the agenda, although it was never far away even before those events. Difficulties with tracing individual refugees and with multiple identities being exploited, concern rose further on the agenda following the killing of an armed individual suspected of being an ISIS sympathiser in Paris in January 2016, and the arrest of a suspect in a German refugee facility one month later. Since late 2015, the federal authorities have started to develop more extensive registration requirements for all refugees – earlier attempts were faced with problems as refugees were unable to present papers and only limited checks could be conducted. At the time of writing, there was enough capacity to register 5,000 refugees per day. However, there has been no uniform system for sharing information, and, as of early 2016, information taken by federal authorities at the point of initial registration in Bavaria could only be fully accessed by police forces, not by Land administrations. However, over time, there was a gradual and ad hoc adoption of a common information system that allowed a close monitoring of refugees' movements within and outside refugee homes and centres. Even then, refugees moved across European borders (and back), creating further challenges for systems of monitoring and managing refugee flows.

The day-to-day management of refugees offers distinct insights for transboundary crisis management even when it is not the focus of high level political debates, EU summits or geopolitical conflicts. It has the potential to generate different crises, such as the impact on the refugees themselves, the potential for social unrest as refugees' destinies remain uncertain, or more broadly, the uncertain consequences for social integration. It highlights the difficulties of adjusting to an unforseeable situation when the limits of administration are quickly exposed, and where much of the coping relies on the inherent resourcefulness of individuals to leave their comfortable life in the office cubicle to work on the front line and span organizational boundaries, and to co-operate on the basis of direct contact rather than (absent) procedural requirements. The refugee crisis offers a perfect example of crisis management in action. It highlights both the substantial resources and flexibilities within the German federal system, and the limits of co-ordination where territorial and organizational jurisdictions and decision making styles clash, where 'control' is hardly possible in the face of numbers and the lack of technologies, and when political decisions elsewhere and future refugee flows remain unpredictable.

Reference

UNHCR <http://data.unhcr.org/mediterranean/country.php?id=502> (last accessed 29 February 2016)

Björn Christian Paterok co-ordinates the transfer of refugees to and within the German state of Thuringia. He is writing in a personal capacity.

carr news

carr news

Congratulations to Kavita Patel, our TransCrisis project manager, for the award of her PhD!

Eva Heims has been appointed to a lectureship at the University of York from the beginning of the academic year 2016–17.

Congratulations to Slobodan Tomic for the award of his PhD.

carr publications

Accounting, culture and the state
Ingrid Jeacle and Peter Miller, *Critical Perspectives on Accounting* (2015), doi:10.1016/j.cpa.2015.10.001

Building the behavioural balance sheet: an essay on Solvency 2
Michael Power, *Socio-Economic Newsletter* 17(1): 45–53 (2015)

Civil service reforms, public service bargains and the dynamics of institutional change
Philippe Bezes and Martin Lodge, in F. van der Meer, J.C.N. Raadschelders and T. Toonen (eds), *Comparative Civil Service Systems in the 21st Century,* Basingstoke: Palgrave Macmillan, pp. 136–61 (2015)

How accounting begins: object formation and the accretion of infrastructure
Michael Power, *Accounting, Organizations and Society* 47: 43–55 (2015)

La cause des catastrophes: Concurrences scientifiques et mise à l'agenda des catastrophes dans un monde transnational
Lydie Cabane (with Sandrine Revet), *Politix, Revue des sciences sociales du politique* 111 (3): 47–67 (2015)

Les catastrophes: un horizon commun de la globalisation environnementale?
Lydie Cabane, *Nature, Sciences et Sociétés* 23(3): 226–33 (2015)

Protecting the 'most vulnerable'? The management of a disaster and the making/unmaking of victims after xenophobic violence in 2008 in South Africa
Lydie Cabane, *International Journal of Conflict and Violence* 9(1), 2016

Valuation and calculation at the margins
Andrea Mennicken and Ebba Sjogren, *Valuation Studies* 3 (1): 1–7 (2015)

Whitehall in the Caribbean? The legacy of colonial administration for post-colonial democratic development
Martin Lodge, Lindsay Stirton and Kim Moloney, *Commonwealth & Comparative Politics* 53(1): 8–28 (2015)

carr discussion papers

Regulatory agencies under challenge
Frank Vibert, Sebastian Eyre, Eva Heims & Martin Lodge, Christel Koop, Lindsay Stirton

Customer engagement in regulation
Sharon Darcy, Roger Darlington, Sebastian Eyre, Cosmo Graham, Eva Heims & Martin Lodge, Stephen Littlechild, Trisha McAuley, Richard Moriarty

carr seat

Customer engagement in regulation
Eva Heims

carr seminars

Ethical regulation?
Christopher Hodges

Publicity as 'cause or cure' for corporate harmful behaviour
Judith van Erp

States of crisis
Olivier Borraz and Lydie Cabane

The sovereignty of numbers: measurement & power under neoliberalism
Will Davies

Fifteen years on: the Kursk submarine rescue failure
Anette Mikes

From elites' protection of banking interests to 'capture at a distance'
Leon Wansleben

Good agency principles
Annetje Ottow

,

carr events

As part of the 'Regulation in Crisis?' seminar series, **carr** organized a roundtable on 'Customer engagement in economic regulation' in December 2015. This brought together participants from across the regulated sectors in the UK to discuss their experience with customer engagement processes. Speakers included Stephen Littlechild, Trisha McAuley, Sharon Darcy, Sebastian Eyre, Cosmo Graham and Richard Moriarty. Eva Heims and Martin Lodge presented findings on their research on customer engagement in water regulation in England/Wales and Scotland.

Together with Solvencyiiwire, **carr** organized a high level workshop on 'The Governance Trap?' in March 2016. This workshop brought together regulatory specialists to discuss the likely effect of the Solvency II regime on insurance markets. In addition, it facilitated exchange with other regulated industries on the theme of regulating corporate governance.

The QUAD consortium had its launch meeting in April 2016.

The TransCrisis consortium met in Barcelona in April to discuss progress across the different research activities. In particular, it discussed the role of European agencies and their role in crisis management responses. In late 2015, Kavita Patel and Martin Lodge contributed to a Horizon2020 meeting organized by the European Research Agency which brought together all consortia funded under the 'societal challenges' call.

carr talks

Lydie Cabane spoke at the IFRIS (Institute for Research and Innovation in Society) annual meeting on 'Inventer la santé globale. L'institutionnalisation des programmes de santé globale dans les universités américaines' in January 2016.

Bridget Hutter has been appointed to the Scientific Advisory Board of the Nordic multidisciplinary research programme on Societal Security and the Academy of Social Sciences Policy Working Group. In October 2015 she gave a Distinguished Scholar Seminar 'Regulatory Crises: regulatory encounters with disaster', RegNet, Australian National University; visited the University of Tasmania, Hobart, and gave a presentation 'Social Science Perspectives on Environmental Risk Regulation' to the Faculty of Law and the Institute for the Study of Social Change; was a Visitor at Monash Law Faculty and Centre for Commercial Law and Regulatory Studies and gave a presentation on 'The Future Proofing of the State' to a Futures Foundation Forum meeting in Melbourne. In November 2015 she participated in an R&D conference at the Norwegian Directorate for Civil Protection (DSB), gave a presentation on 'Risk Regulation Research and Risk Governance Practice' and joined a plenary session on 'National Risk Policy and Governance'.

Martin Lodge has been made rapporteur of the joint British International Studies Association (BISA)/Political Studies Association (PSA) working group on the Research Excellent Framework. He gave a talk on regulatory enforcement at the Brazilian electricity regulator (ANEEL) and on the assertion of legislative oversight in the UK (with Christel Koop) at the Department of Management, King's College London in late 2015. He presented papers on 'From Competence to Loyalty – and Back' (with Lindsay Stirton), and 'Exit or Loyalty' (with Chris van Stolk), and 'Explaining Assertive Legislative Oversight' (with Christel Koop) at the Political Studies Association annual meeting in Brighton in March. He also presented at the political science departmental seminar at Vanderbilt University in April.

Andrea Mennicken has been a Visiting Scholar at the Max Planck Institute for the Study of Societies in Cologne, April–July 2016. With Robert Salais, she organized a workshop on 'Quantification and Democracy' at the École Normale Supérieure Cachan, 28–29 April 2016. She was discussant of Stuart Elden's (University of Warwick) paper 'The Biopolitics of Birth: Foucault, the Groupe Information Santé and the Abortion Rights Struggle' at the December 2015 meeting of the Foucault, Political Life and History working group led by Colin Gordon and Patrick Joyce in London.

Mike Power has been appointed Associate Editor of Accounting, Organizations and Society as of January 2016. He was a panel member at the Behavioural Finance Forum on risk culture (<https://www.youtube.com/watch?v=MMaRgq6EuLQ>). He spoke at the Copenhagen Business School Public-Private Network on 'Leadership Challenges in Financial Services' in October 2015, and in December, on 'risk culture' at the SUERF/EY conference on the future of banking. He presented at the 'Gaming Metrics' conference at University of California, Davis, in February 2016.

carr people

carr directorate

Martin Lodge
Director of **carr**; Professor of Political Science and Public Policy, Department of Government

Andrea Mennicken
Deputy Director of **carr**, Associate Professor of Accounting, Department of Accounting

carr research staff

Lydie Cabane
TransCrisis Research Officer

carr senior research associates

Bridget Hutter
Professor of Risk Regulation, Department of Sociology

Peter Miller
Professor of Management Accounting, Department of Accounting

Michael Power
Professor of Accounting, Department of Accounting

carr research associates

Michael Barzelay
Professor of Public Management, Department of Management, LSE

Elena Beccalli
Professor of Banking, Faculty of Banking, Finance and Insurance, Università Cattolica del Sacro Cuore, Milan

Matthias Benzer
Lecturer in Sociology, Department of Sociological Studies, University of Sheffield

Daniel Beunza
Assistant Professor of Management, Department of Management, LSE

Gwyn Bevan
Professor of Policy Analysis, Department of Management, LSE

Julia Black
Professor of Law, Department of Law, LSE

Adam Burgess
Professor of Risk Research, School of Social Policy, Sociology and Social Research, University of Kent

Madalina Busuioc
Lecturer in Politics, Department of Politics, University of Exeter

Yasmine Chahed
Lecturer in Accounting, Department of Accounting, LSE

Damian Chalmers
Professor of European Union Law, Department of Law, LSE

David Demortain
Research Fellow, IFRIS, University of Paris-Est

John Downer
Lecturer in Risk and Resilience, School of Sociology, Politics and International Studies, University of Bristol

Hanan Haber
LSE Fellow, Department of Government, LSE

Matthew Hall
Associate Professor of Accounting, Department of Accounting, LSE

Eva Heims
LSE Fellow, Department of Government, LSE

Michael Huber
Professor of Sociology, Faculty of Sociology, Bielefeld University

Will Jennings
Professor of Political Science and Public Policy, University of Southampton

Silvia Jordan
Associate Professor of Accounting, Department of Accounting, Auditing and Taxation, Innsbruck University

Roger King
Visiting Professor at the School of Management, University of Bath

Mathias Koenig-Archibugi
Associate Professor of Global Politics, Department of Government, LSE

Christel Koop
Lecturer in Political Economy, Department of Political Economy, King's College London

Liisa Kurunmäki
Associate Professor of Accounting, Department of Accounting, LSE

Javier Lezaun
James Martin Lecturer in Science and Technology Governance, and Deputy Director of the Institute for Science, Innovation and Society, University of Oxford

Sally Lloyd-Bostock
Visiting Professor, Department of Sociology, LSE

Donald MacKenzie
Professor of Sociology, School of Social and Political Science, University of Edinburgh

Carl Macrae
Senior Research Fellow in Improvement Science, Centre for Patient Safety and Service Quality, Imperial College London

Kira Matus
Senior Lecturer, Department of Science, Technology, Engineering, and Public Policy, University College London

Linsey McGoey
Senior Lecturer in Sociology, Department of Sociology, University of Essex

Anette Mikes
Professor, Department of Accounting and Control, HEC Lausanne

Yuval Millo
Professor of Social Studies of Finance and Management Accounting, School of Management, University of Leicester

Juan Pablo Pardo-Guerra
Assistant Professor of Sociology, Department of Sociology, University of California San Diego

Edward C Page
Sidney and Beatrice Webb Professor of Public Policy, Department of Government, LSE

Tommaso Palermo
Lecturer in Accounting, Department of Accounting, LSE

Bartholomew Paudyn
Fellow, Department of International Relations, LSE

Nick Pidgeon
Professor of Environmental Psychology, School of Psychology, Cardiff University

Tony Prosser
Professor of Public Law, University of Bristol Law School, University of Bristol

Henry Rothstein
Senior Lecturer in Risk Management, Department of Geography and King's Centre for Risk Management, King's College London

Rita Samiolo
Associate Professor of Accounting, School of Management, Innsbruck University

Susan Scott
Associate Professor of Information Systems, Department of Management, LSE

Nick Sitter
Professor of Public Policy, Department of Public Policy, Central European University

Kim Soin
Associate Professor of Accounting and Management, University of Exeter Business School, University of Exeter

Lindsay Stirton
Professor of Public Law, Sussex Law School, University of Sussex

Brendon Swedlow
Associate Professor of Political Science, Department of Political Science, Northern Illinois University

Peter Taylor-Gooby
Professor of Social Policy, School of Social Policy, Sociology and Social Research, University of Kent

Mark Thatcher
Professor of Comparative and International Politics, Department of Government, LSE

Zsuzsanna Vargha
Lecturer in Accounting and Organization, School of Management, University of Leicester

Frank Vibert
Senior Visiting Fellow, Department of Government, LSE

Leon Wansleben
Assistant Professor of Sociology, Department of Sociology, LSE

Kai Wegrich
Professor of Public Administration and Public Policy, Hertie School of Governance, Berlin

carr visiting fellows

Elena Bechberger
Senior Policy Advisor, Monitor

Charles Borden
Partner, Allen & Overy, Washington DC

Anneliese Dodds
MEP for South East England

Julien Etienne
ICF International

Sebastian Eyre
Head of Energy Regulation, EDF Energy

Ed Humpherson
Head of Assessment, UK Statistics Authority

Jeremy Lonsdale
Senior Research Leader, RAND Europe

carr administration

Yvonne Guthrie
Centre Manager

Justin Adams
Seminars

Elizabeth Venning
Reception

Kavita Patel
TransCrisis project manager

carr intern

Richard Glasspool
Research assistance

Martin Rogers
carrSeat Video Production

Daniel Sippel
Research assistance

carr
centre for analysis
of risk and regulation