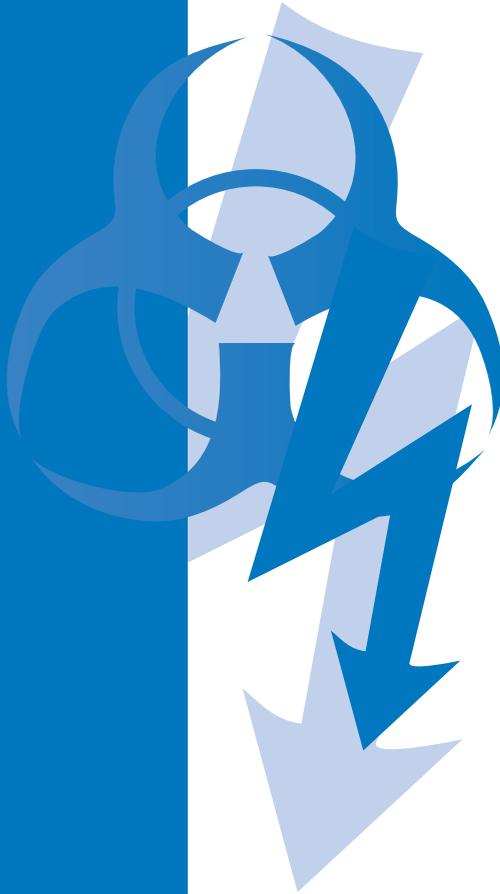




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CARR Discussion Papers **2000-2010**



THE LONDON SCHOOL
OF ECONOMICS AND
POLITICAL SCIENCE ■

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Discussion Paper, Launch Issue

Is Regulation Right?

Robert Baldwin

**Business Risk Management in Government:
Pitfalls and Possibilities**

Christopher Hood and Henry Rothstein

Risk Management and Business Regulation

Bridget M. Hutter and Michael Power

The launch issue of CARR's Discussion Paper Series brings together three essays on regulation and risk management. Baldwin's essay considers why regulators are vulnerable to criticism, and suggests that there is growing awareness among regulators and commentators that mechanical, technical or 'objective' approaches to policymaking have to be replaced with more democratic procedures that allow 'irrational' expressions of preference, and lay voices a genuine role in regulation – particularly where risks are at issue. Hood and Rothstein's essay examines how business risk management has been a growth point in corporate management in recent years. They argue in favour of a more generic approach that involves the integration of business risk management techniques into management control and organizational strategy in the public sector. Finally, Hutter and Power look into the relationship between the regulation of business and corporate risk management. They argue that, in practice, the distinction between regulation and risk management is becoming blurred as risk management blueprints influence the design of regulatory systems.

Discussion Paper 1, October 2000

**Regulating Government in a 'Managerial' Age:
Towards a Cross-National Perspective**

Christopher Hood and Colin Scott

At a time when some commentators are writing about the 'regulatory state' and others about the 'New Public Management State', the link between these two putative 'states' – the regulation of government – deserves to be explored. Accordingly, this paper discusses the accountability of modern executive government from a 'regulation' perspective. It aims to set the scene for a cross-national analysis of different styles of control and accountability in government from such a perspective. Such cross-national analysis is needed to bring out patterns of variety and change in the way regulation of government works in a small number of developed countries. It is needed to put the 'audit society' model highlighted by Power in comparative perspective and to focus on alternative ways of regulating government.

Discussion Paper 2, February 2001

The EU Commission and National Governments as Partners: EC Regulatory Expansion in Telecommunications 1979-2000

Mark Thatcher

Explicitly or implicitly, general models of European integration claim that EC regulatory expansion involves a struggle for power between Commission and national governments. The Commission is seen as a policy entrepreneur, taking the initiative to drive forward integration. It seeks regulatory expansion due to constraints on its expenditure. Neo-functionalists emphasise the Commission's ability to expand its role against the wishes of governments, thanks to the support of transnational groups and the European Court of Justice. Intergovernmentalists differ in their conclusions about the distribution of power (arguing that the Commission is generally unable to impose its preferences on member states), rather than the assumption that Commission and national governments are in conflictual competition with each other for power.

Discussion Paper 3, August 2001

The New Politics of Risk Regulation in Europe

David Vogel

This paper examines recent changes in the politics of risk regulation in Europe and compares them to developments in the United States. From the 1960s through the mid 1980s, the regulation of health, safety and environmental risks was generally stricter in the United States than in Europe. Since the mid 1980s, the obverse has often been the case: a wide array of European consumer and environmental regulations are now more restrictive than in the United States. In a number of important respects, European regulatory politics and policies over the last fifteen years resemble those of the United States between the late 1960s and the mid 1980s. They tend to be politicized, highly contentious and characterized by a suspicion of science and a mistrust of both government and industry.

Discussion Paper 4, January 2002

Critical Reflections on Regulation

Julia Black

Increasingly, regulation is being seen as 'decentred' from the state, and even from the well recognized forums of self-regulation. A decentred analysis has several strands, and seeing the nature and problems of regulation from a decentred perspective can be very stimulating. It opens up the cognitive frame of what 'regulation' is, enabling commentators to spot regulation in previously unsuspected places. It can prompt policy thinkers in academia and government to consider a wide range of different configurations of state, market, community, associations and networks to deliver public policy goals. But a decentred understanding of regulation also raises quite fundamental questions of the nature and understanding of regulation, the consequent role of the state, and our understanding of law. It means we can no longer escape the need to address the question of just what it is that is being 'decentred', of what it is that we want the concept of 'regulation' to do, and what some of the implications of that decision might be. The answers to these questions are at best contested and at worse simply incoherent. It is a debate which is sorely needed, however, and which it is the aim of the paper to promote.

Discussion Paper 5, February 2002

Embedding Regulatory Autonomy: The Reform of Jamaican Telecommunications Regulation 1988-2001

Lindsay Stirton and Martin Lodge

Globalization is said to have diminished the capacity of states to regulate their economies. However, while a body of doctrine has developed concerning the need for capable, independent regulation, there is relative paucity of theoretical discussion concerning the nature of state regulatory capacity, or how this can be enhanced (or is diminished). Existing accounts focus mainly on ability to manage technical complexity and the design of regulatory institutions. This paper seeks to extend the discussion using the idea of the 'embeddedness' of political and economic institutions developed by Mark Granovetter, Peter Evans and others. The challenges encountered in embedding a regulatory regime are illustrated by a detailed case study of telecommunications reform in Jamaica which, it is somewhat tentatively argued, represents a successful attempt to bring about embedded regulatory autonomy. The case study illustrates that, while aspects of globalization challenge national autonomy in regulating rapidly globalizing sectors such as telecommunications, other globalization effects may facilitate increased embedded autonomy within national regulatory regimes.

Discussion Paper 6, October 2002

Mass Media and Political Accountability

Tim Besley, Robin Burgess and Andrea Pratt

Mass media can play a key role in enabling citizens to monitor the actions of incumbents and to use this information in their voting decisions. This can lead to government which is more accountable and responsive to its citizens' needs. In spite of the intuitive plausibility of the proposition, there is comparatively little work in political economy literature that scrutinises the role and effectiveness of the media in fulfilling this function. A literature, however, is emerging which focuses attention on the importance of the so-called 'fourth estate of government' in the policy process. A key feature of the approach taken here is to focus on incentives the media have to produce and disseminate information.

Discussion Paper 7, October 2002

Neglected Risk Regulation: The Institutional Attenuation Phenomenon

Henry Rothstein

This paper considers the institutional factors that shape regulatory officials' perceptions of risks to human health and safety and their attitudes towards associated regulation. In particular, the paper considers the extent to which the perceptions of risk and regulation of officials responsible for monitoring and enforcement are aligned with regulatory requirements, and, if not, what factors explain those perceptions. Moreover, the paper considers the impact of officials' perceptions and attitudes on policy processes and outcomes. Empirically, the paper considers three UK risk regulation regimes: occupational exposure to radon, chemical migration from plastics food packaging, and BSE-related controls on specified bovine offal. Analysis of those cases suggests that conventional accounts that contrast 'rational' bureaucratic expertise against 'irrational' lay perspectives can miss the institutional 'irrationalities' that shape officials' perceptions of risk and associated behaviour. In particular, the paper suggests that complex risk regulation regimes are vulnerable to a phenomenon of 'institutional attenuation'. That term refers to institutional processes that serve to diminish inspectors' perceptions or awareness of a risk, and/or diminish inspectors' perceptions of the policy importance of associated regulations. Furthermore, the paper shows how such institutional attenuation can contribute to ineffective monitoring and enforcement of some risk regulation regimes.

Discussion Paper 8, October 2002

Social Licence and Environmental Protection: Why Businesses Go Beyond Compliance

Neil Gunningham, Robert Kagan and Dorothy Thornton

Traditionally, corporations which complied with the dictates of applicable legislation would have regarded not just their legal, but also their social obligations, as ending at that point. Socio-legal research suggests that corporations complied with law only for instrumental reasons (to avoid legal penalties) or, because 'regulations are taken to be a measure of societal expectations, and [are] thus interpreted as a guide to an organization's moral and social duties'. From this traditional point of view, corporations could be expected to take actions which went 'beyond compliance' only where they saw some self-interest in doing so, such as increasing profit, usually over the short-term.

Discussion Paper 9, October 2002

Conceptualizing Insurance: Risk Management Under Conditions of Solvency

Michael Huber

Risk management is most often called for when political conflicts about the handling of infrequent, high-impact events are at stake. Quite contrary to this tendency, in the financial sector, risk management focuses on frequently occurring events with relatively low monetary impacts. One of the critical institutions for this routine form of risk management is insurance. Although an important institution, insurance is, however, insufficiently researched and largely overlooked in the social sciences. It has even been considered, 'a virtually unknown industry'. In social science literature, insurance is not unknown as far as risk spreading, contracts, or risk assessment are concerned; they are analyzed in great detail. It is a conceptual void that does not allow for systematically bringing together industrial processes, organizational and regulatory features and risk management. In other words, although many aspects of insurance are analyzed from political, regulatory, decision-making and economic perspectives, these findings cannot be brought together to paint a comprehensive picture of insurance. Hence, for a better understanding of insurance and its specific forms of risk management, a comprehensive framework needs to be developed.

Discussion Paper 10, December 2002

Drivers and Drawbacks: Regulation and Environmental Risk Management Systems

Marius Aalders

In the literature on environmental risk management in firms, it is often proposed that environmental performance and innovation are driven primarily by external forces, such as regulatory or market pressures. But gradually, organizational forces in business itself are also suggested as drivers for the improvement of environmental performance. Many companies have adopted systems approaches in their corporate strategy. Organizational strategies include quality, health and safety, and environmental systems approaches. In systemizing, management companies seek to improve the evaluation of organizational performance. One of these systematic approaches involves environmental management. Systems of internal company environmental management include elements such as an environmental policy statement, an environmental programme, the integration of environmental management in business operation, internal monitoring, information, training and environmental reporting and auditing.

Discussion Paper 11, June 2003

The Open Method of Co-ordination and the European Welfare State

Damian Chalmers and Martin Lodge

Open Method Co-ordination (OMC) has been treated in the literature as the Lazarus of European integration. Developed at the Lisbon Summit, it has led to the reincarnation of the European Union, both in terms of what it does and how it does it. No longer is the European Union to be centred around the Classic Community Method (CCM) of supranational management of regulation. Instead, it is to be a decentred participatory process, in which national governments are no longer controlled and commanded by the imperatives of EC law, but rather commit themselves to review each other's programmes in the light of a series of mutually agreed standards and of domestic and transnational participatory processes. The European Council and its surrounding machinery is placed at the heart of the Union's policy process, and new types of Union-Member State relations are forged which are centred less around classical legal prescriptions, and more around diffuse national adaptation to a wide array of transnational norms, whose form and origin varies.

Discussion Paper 12, December 2003

Business History and Risk

Terry Gourvish

Comparative and Historical Perspectives on Business Risk and Antitrust in 20th Century America, Japan, Europe and Australia

Tony Freyer

The Risks of Working and the Risks of Not Working: Trade Unions, Employers and Responses to the Risk of Occupational Illness in British Industry, c.1890-1940s

Joseph Melling

CARR, in association with the Centre for Business History, University of Leeds, held a successful workshop on 'Business History and Risk' on 20 February 2002. The workshop, which was sponsored by the ESRC, brought together business historians, economists, accountants and risk analysts to develop an interdisciplinary discussion on understandings of risk by employers, workers and governments in different historical settings.

Discussion Paper 13, June 2003

Regulating Parliament: The Regulatory State within Westminster

Robert Kaye

The regulatory regime in which politicians operate goes much wider than the dedicated regulatory machinery: in addition to specialist institutions, political behaviour may be controlled by the actions of bodies for whom regulation is either only one of many functions, or even – as in the case of the media – a consequence of their activities rather than an objective. Importantly, many of these bodies may in fact have been busy regulating MPs for years. It is crucial not to assume that just because applying concepts of regulation to MPs is relatively new, that regulation itself is. This paper attempts to map the regulatory environment for British legislators, especially Members of Parliament. In doing so, however, it raises a further possibility: that the perceived rise of the regulatory state inside politics is a result of a narrow view of regulation; that in reality it is a move towards 'hard regulation' from softer forms, from 'etiquette to edicts'.

Discussion Paper 14, June 2003

Incentives, Choice and Accountability in the Provision of Public Services

Timothy Besley and Maitreesh Ghatak

This paper discusses a theoretical framework to study the issues of competition and incentives without relying on the standard profit-orientated 'market' model in the context of the debates about public service reform in the UK. It uses the idea that the production of public services coheres around a mission, and discusses how decentralized service provision can raise productivity by matching motivated workers to their preferred missions. Our focus on competition and incentives cuts across traditional debates about public versus private ownership and allows for the possibility of involving private non-profits. We also address concerns about the consequences of allowing more flexibility in mission design and competition on inequality.

Discussion Paper 15, June 2003

Precautionary Bans or Sacrificial Lambs? Participative Risk Regulation and the Reform of the UK Food Safety Regime

Henry Rothstein

This paper explores contemporary trends towards participative risk regulation and considers the impacts of participative reform on policy processes and outcomes. Using the example of reform of the UK food safety regime, the paper examines whether participative reforms, in the form of stakeholder decision-making, are able to deliver their promised benefits and if not, why not. Empirically, the paper examines how UK's Food Standards Agency used a stakeholder decision-making process to manage the potential risks from BSE in sheep in 2002, and the initial rejection of those proposals by the European Commission. The paper finds that the potential benefits of the stakeholder process were mitigated by a number of institutional factors, including: considerable interpretative flexibility in how to represent consumer interests and the concept of precaution; restricted openness and exclusion of key stakeholders; and the impact of the supra-national regulatory context. The paper concludes that broadening participation per se does not necessarily produce more democratic or robust policy outcomes than closed processes, although it may have some limited value in improving public confidence in the regulatory regime.

Discussion Paper 16, June 2003

The Invention of Operational Risk

Michael Power

Until the 'Basel 2' reforms to banking supervision, operational risk was largely a residual category for risks and uncertainties which were difficult to quantify, insure and manage in traditional ways. This paper examines the rapid emergence of operational risk from this low epistemic status to its institutionalization as a key component of global banking regulation. However, the meaning and implications of the Basel proposals have been fiercely contested by international banks and three key domains of policy controversy have been, and remain, particularly visible: definitional issues, data collection and the limits of quantification. Tensions in these three areas are discussed and reveal the significance of operational risk as a meeting point for diverse concerns and interests, and as a potential reinvention of a management knowledge hybrid between auditing and finance. The paper draws attention to the ironies and contradictions of this operational risk programme, which is part of a visionary project to extend 'enforced self-regulation' deep into the operations of banking, combining advanced technical modelling ideas on the one hand and softer corporate governance thinking on the other.

Discussion Paper 17, October 2003

Mapping the Contours of Contemporary Financial Services Regulation

Julia Black

The article draws on decentred analyses of regulation, which emphasise the fragmentation and hybridization of regulatory systems, to analyze contemporary financial services regulation, principally in the UK. The analysis focuses on actors, their regulatory capacities, the regulatory functions which they do or could perform, their interrelationships, and the ways in which they are or could be enrolled within the regulatory system. The article contrasts such an analysis with the more familiar 'toolkit' analysis, and argues that the enrolment analysis provides a mapping device which facilitates a more nuanced analysis of the nature of regulatory hybridity and fragmentation, and facilitates debates on the development of the regulatory system. It also provides a critical frame in which to assess the likely effectiveness, the adherence to normative values, and the accountability of the regulatory system as a whole.

Discussion Paper 18, January 2004

Reforming the UK Flood Insurance Regime: The Breakdown of a Gentlemen's Agreement

Michael Huber

The floods of summer 2002 in Central Europe and China, recurrent earthquakes in Turkey and Japan and frequent hurricanes in the USA and Central America challenge the economic fundamentals of the societies exposed; unexpected effects through economic, financial and political 'channels' make intelligent risk management mandatory. One important element of an intelligent risk management strategy is an insurance system that is able to adapt to new situations triggered by e.g. climate change. This paper investigates the English flood insurance schemes as it is one of the few countries where private insurance schemes against flooding have already existed for more than half a century. Its detailed analysis should supply first indications about the assumed advantage of private over public insurance schemes. The quality of the insurance system is not measured in terms of how to handle routine situations or being economically efficient, but mainly in terms of its ability to adapt to new situations. The insurability of natural hazards is at stake. Analyzing the insurance regime and the main features of its reform, this paper illustrates the quality of insurance and the processes establishing the insurability of flood events in England.

Discussion Paper 19, May 2004

The Impact of Regulations on Firms: A Study of the Biotech Industry

Filippa Corneliussen

This paper investigates how the rapidly expanding biotech industry is regulated, and how these regulations impact on firms in practice. More specifically, it considers how much is known and understood about the regulations and their provisions, and about the regulatory apparatus in place for their implementation. Drawing on semi-structured interviews carried out with founders, managers and senior scientists in start-up biotech firms, the paper illustrates that the socio-legal literature's characterization of small firms as less compliance orientated is too neat. Small firms do not necessarily have a limited knowledge and comprehension of the law. Nor do they necessarily have low levels of motivation to improve and maintain health and safety standards. In fact, the opposite may be true. Small firms may approach the regulatory ideal where the routines, procedures and precautionary measures prescribed by regulations permeate the organizations.

Discussion Paper 20, May 2004

Justifying Non-Compliance: A Case Study of a Norwegian Biotech Firm

Filippa Corneliussen

This paper draws on an incident of non-compliance in a Norwegian biotech firm to explore the justification behind regulatory infringement in a small, high-tech organization. A number of interpretations are possible: the firm may lack attention, ability or knowledge to comply; it may have violated the regulations on the basis of principled disagreement, or on the basis of an interpretation of adequate compliance; the non-compliance may have resulted from a rational calculation of risks and opportunities. Rather than supporting one particular interpretation, the case study highlights the very complex, messy and 'un-boxable' nature of firm behaviour.

Discussion Paper 21, June 2004

Access to Justice Within the Sustainable Self-Governance Model

Stephen Tully

Little attention has been given to the development and operation of non-state models of global governance and the extent to which they conform to principles of good governance. Focusing primarily on issues of access to justice and secondarily on the independence of such bodies from the industries which they purport to regulate, this paper argues that adjudicative mechanisms established by non-governmental organizations (NGOs) and firms may not produce outcomes which are considered 'just' by them. Part one locates dispute resolution as a narrower aspect of participation in decision-making, identifies several deficiencies of the state-centric model in the provision of justice and outlines collaborative NGO-corporate arrangements. Part two provides an account of one NGO-corporate arrangement, portrays its principal function and governance structure and identifies the relevant procedural aspects for initiating its private adjudicative arm. The case study considered in part three involves recourse by the Royal Forest and Bird Protection Society to the objections procedure of the Marine Stewardship Council with a view to challenging the certification of the New Zealand hoki fishery as well-managed and sustainable. Finally, it is argued in part four that the lack of independence and limited remedies available to such arrangements does not merely fail to realise justice but has wider ramifications for the continued governance of corporate-NGO arrangements.

Discussion Paper 22, June 2004

Corporate-NGO Partnerships as a Form of Civil Regulation: Lessons from the Energy Biodiversity Initiative

Stephen Tully

This paper will assess the prospects of so-called 'civil' regulation, or the ability of non-governmental organizations (NGOs), to regulate commercial behaviour within the institutional setting of a partnership. The selected case study involves an initiative between five conservation NGOs and five energy firms seeking to integrate biodiversity considerations into upstream oil and gas development projects within, or adjacent to, environmentally-sensitive or protected areas. Part one describes the concept of 'civil' regulation, identifies its principal characteristics and considers the potential for partnerships between corporations and NGOs. Part two provides an overview of the Energy and Biodiversity Initiative in the context of dialogue between the business and NGO communities with respect to the commercial role for conserving biodiversity. Finally, part three identifies consequential lessons for collaborative arrangements between NGOs and corporations, assesses the prospects for partnerships as a regulatory device and identifies the prerequisites for effectively controlling corporate behaviour through this mechanism.

Discussion Paper 23, September 2004

Creation of a Market Network: The Regulatory Approval of Chicago Board Options Exchange

Yuval Millo

The paper analyzes the historical events that surrounded the evolution of the world's first exchange for financial options – Chicago Board Options Exchange (CBOE) – one of today's most successful derivative exchanges. The detailed narrative is focused on the relations between the American securities regulator, the Securities and Exchange Commission (SEC), and the developing options exchanges. The analysis shows how the regulatory values of the SEC, framed by the political and social circumstances of the time (1968-1973), underwent a dramatic transformation. This transformation was accompanied by the formation of a dense network of connections between the regulator and other market participants, as a result of which the proposal to set up an options exchange turned from a threat to the realization of the SEC's goals to an important regulatory asset.

Discussion Paper 24, September 2004

The Battle for Hearts and Minds? Evolutions in Organisational Approaches to Environmental Risk Communication

Andy Gouldson, Rolf Lidskog and Misse Wester-Herber

In recent years there has been a great deal of discussion on the potential for a shift away from modernistic or technocratic approaches to decision-making on risk towards more open, inclusive and deliberative approaches. This paper adopts an approach which analyzes not the social but the private costs and benefits of such a transition, and the influence that various institutional factors such as the presence of trust amongst stakeholders can have on these. With these factors in mind, the paper considers the reasons why some organizations have taken the first step in this transition by exploring the potential of what the paper terms more communicative approaches to environmental risk management. It then goes on to evaluate the early experiences with such approaches. The analysis finds that at the organizational level the pros and cons of opening up and engaging are quite finely balanced. For the organizations surveyed, the nature of their activities, the significance of formative events and the failure of more traditional forms of risk communication impelled them to experiment with new approaches to risk communication. Such experiments had mixed effects – in some contexts they enhanced the legitimacy of the organizations and built trust amongst stakeholders, whilst in others they did the opposite. The paper concludes by suggesting that in the long run a broader opening up of decision-making processes may result in what might be termed a reverse Pyrrhic victory: in some cases battles will be lost, but in the long run the war will be won.

Discussion Paper 25, January 2005

Learning and Interest Accommodation in Policy and Institutional Change: EC Risk Regulation in the Pharmaceuticals Sector

Jürgen Feick

The purpose of this paper is to formulate hypotheses about the emergence of marketing approval regulation for human-use pharmaceuticals in the European Community since the beginning of the 1960s. Focusing on the developmental and institutional logic of the regulatory structures at different points in time, it highlights the way in which policy learning and actor interests have shaped the resulting regulatory policies and the way in which a variety of interests have been accommodated in the institutionalized procedures. At the same time, this analysis sheds light on the asymmetric distribution of influence especially in the implementation process.

Discussion Paper 26, September 2004

Business Regulation: Reviewing the Regulatory Potential of Civil Society Organizations

Bridget M. Hutter and Joan O'Mahony

Definitions and conceptions of regulation have changed over the past fifty years. Conceptual boundaries have expanded, moving from technical and narrowly defined meanings that refer specifically to state intervention in the economy, to broader definitions of regulation that encompass non-governmental forms of regulation and also supranational regulation. Traditional notions of government regulation have been supplanted by the notion of 'layered webs of regulatory influence': a move that has been captured in the shift in language from government to governance. An important part of this shift from government based regulation to broader regulatory governance is the attempt to establish dialogues with civil society organizations (CSOs). Increasingly, these organizations are being incorporated into regulatory decision-making processes often very directly and formally, in an attempt to democratize participation in regulatory decisions. The growing recognition of CSOs makes this an opportune moment to consider what is currently known about the position of civil society organizations in the regulatory sphere. This paper gives a broad overview of the role and potential of CSOs in regulating business. The key issues are established through a consideration of diverse and disparate literatures which span a number of disciplines. We argue that while CSOs have the potential for significant influence over business and government regulatory agendas, there are some serious issues which may limit their regulatory prospects.

Discussion Paper 27, October 2004

Digital Technologies and the Duality of Risk

Claudio Ciborra

The aim of this essay is to study the multiple links between risk and digital technologies such as information and communication technology (ICT). It sets the ground for the empirical analysis of risks connected to the design and deployment of ICT infrastructures in a variety of settings: corporate, public organizations and government.

Discussion Paper 28, March 2005

Decentralization of Economic Law - An Oxymoron

Myriam Senn

The interest in decentralizing governance is increasing worldwide. In Europe too, a policy of decentralization is being applied. In economic law, notably in both the cases of EC competition and financial services law, new rules are in the process of being introduced. In competition law, the regulation on the implementation of the rules on competition has led to a decentralized model of law enforcement. In financial services law, the directive on markets in financial instruments has proposed the introduction of a four-level rule-making model, which may represent a participative, decentralized approach, but has resulted in a centralization of that process, while the enforcement remains decentralized. This essay provides a brief overview of these models of regulation. Then, it examines these regulatory structures and focuses on the question of the impact of the decentralization process in the context of decentred understandings of regulation. It points to the paradox of law being decentralized where it is a centralized function and thus represents an oxymoron. The paper argues that decentralization results in an oxymoron depending on the function of law considered. The overall purpose of the paper is to contribute to a better understanding of governance through decentralization.

Discussion Paper 29, November 2004

From Risks to Second-Order Dangers in Financial Markets: Unintended Consequences of Risk Management Systems

Boris Holzer and Yuval Millo

The notion of risk is central to modern society, both as a productive and as a troublesome concept. On the one hand, risk refers to a situation of opportunity. Only those who undertake a risk, bear the uncertainties and face the potential adverse consequences, may gain the rewards. On the other hand, risk refers to fundamental uncertainty: at the time of risk-taking one cannot know for sure whether the opportunity concerned will be realized; in the worst case, the costs incurred might be greater than any benefit. Risk therefore increases the scope for both rational and seemingly irrational decisions: without the willingness to undertake a risk some opportunities may never be realized; the costs of an unsuccessful risky decision, however, may be intolerably high and may thus disqualify the whole enterprise in hindsight.

Discussion Paper 30, February 2005

Regulatory Experiments: Putting GM Crops and Financial Markets on Trial

Javier Lezaun and Yuval Millo

Sometimes regulators become experimenters: they try ideas out before implementing them, put novel schemes to the test in order to predict their likely impact, or conduct pilot programmes before executing new policies. Regulators find experiments very expedient, as they allow them to forecast the probable consequences of their actions before making irreversible decisions. In some areas of policy-making experimentation is becoming a normal phase of regulatory practice. Regulatory experiments are, however, a peculiar type of governmental action, with particular epistemological and political dimensions. Through them regulators try to produce new knowledge about the world, but also to test the resilience of new regulatory instruments, and to persuade broad audiences of the effectiveness of their plans. How can we begin to analyze this form of regulatory intervention?

Discussion Paper 31, November 2004

Modernization, Partnerships and the Management of Risk

Liisa Kurunmäki and Peter Miller

The terms 'modernization' and 'partnership' are fundamental to an ongoing transformation of the contemporary political lexicon in Britain. A new regulatory programme is emerging in which the incitation to innovate and co-operate takes centre stage, supplanting the harsh language of markets and competition that characterized politics and public policy in the 1980s and 1990s. Inter-professional co-operation, and the possibility of creating hybrid entities, is central to this new model of regulation. Partnership working, as specified in the Health Act 1999, is one of the principal mechanisms through which this has been promoted. Instead of coercion by the state or the untrammelled workings of the market, an injunction to cooperate is placed upon professionals and experts of varying kinds. The 'modernizing government' programme, originally outlined in the White Paper *Modern Public Services for Britain: Investing in Reform*, and later presented in more detail in the *Modernizing Government White Paper*, exemplifies this transformation. This programme holds out the promise of improving public services by promoting innovative joined-up working between agencies and experts that provide complementary services to citizens.

Discussion Paper 32, February 2005

Is the Market Classification of Risk Always Efficient? Evidence from German Third Party Motor Insurance

Reimund Schwarze and Thomas Wein

The efficiency of market-determined risk classification in automobile insurance is a lasting matter of controversy. It can be traced back to the 1950s and received broad economic attention in the 1980s when spiralling car insurance premiums in the US were blamed on tariff regulations prohibiting the use of sex, age and location as risk characteristics. In a mirroring move the EU saw a heated political and legal debate on the use of special tariffs for foreigners, in the 1980s, which resulted in a legal ban of 'discriminatory' tariffs for mandatory insurance schemes in many European countries. The latest blow against risk classification in car insurance comes with the EU Employment and Social Affairs' draft directive on gender equality which proposes to prohibit gender specific calculation of all private insurance products, including non-mandatory branches such as life, private health or comprehensive car insurance.

Discussion Paper 33, March 2005

The Attractions of Risk-based Regulation: Accounting for the Emergence of Risk Ideas in Regulation

Bridget M. Hutter

Recent decades have witnessed a massive growth in academic studies of risk and the rapid development of a risk industry. In many respects risk has become a new lens through which to view the world. This can be seen in business, government and also in academic studies where conversations about risk grow ever popular. Regulation is no exception and during the 1980s/1990s regulatory discussions in a number of countries incorporated an imperative to adopt risk-based strategies and tools, in some cases heightened by the state's co-option of corporate risk management systems. This discussion paper will draw on the British experience as its main exemplar but in the expectation that this case can provide insights which help us to understand and explain the emergence or absence of risk-based ideas elsewhere. We will focus on some prominent examples of risk-based regulation, and critically examine why risk approaches, tools and language appear to have gained currency and the related issue of their merits and limitations.

Discussion Paper 34, May 2006

Government by Elicitation: Engaging Stakeholders or Listening to Idiots?

Javier Lezaun and Linda Soneryd

There is a new centrality of the public to science and technology policy, and a variety of public consultation mechanisms are being widely applied to elicit opinions from citizens on matters concerning novel technologies. The paper explores how legitimate constituencies of science and technology are configured and managed in public consultation exercises. We build our analysis on two recent examples: the 'GM Nation? Public Debate' on the future of food biotechnology in the UK, and a Transparency Forum recently carried out in Sweden on the risks of mobile telephony. We consider the paradoxical combination in these exercises of a tendency to produce static images of the public, with a valuation of mobility – of citizens, of their opinions, and of the issues at hand – as a key outcome of deliberation. Through a particular attention to the drawing of distinction between 'stakeholders' and the 'general public', we argue for the need to reflect on the politics of consultation, and to develop a new vocabulary to evaluate their worth. In this regard, the discussion concludes with a reflection on our changed views of the citizen vis-à-vis the idiot – understanding the latter, in the classical sense of the term, as the individual who minds exclusively his or her private affairs.

Discussion Paper 35, August 2005

Enterprise Risk Management in Action

Anette Mikes

Enterprise risk management (ERM) has recently emerged as a widespread practice in financial institutions. It has been increasingly codified and encrypted into regulatory, corporate governance and organizational management blueprints. A burgeoning literature of regulatory and practitioner texts is indicative of the apparent diversity of ambitions, objectives and techniques that constitute the ERM agenda. Making sense of these developments is a challenge. Presenting field-based evidence from two large banking organizations, this paper argues for the existence of systematic variations in ERM practices in the financial services industry. The cases illustrate four risk management ideal types and show how they form the 'risk management mix' in a given organization. The paper attempts to explain the differences in the two risk management mixes pointing towards firm-specific and institutional pressures. The latter suggest that the cases are likely to be reminiscent of ERM practices in other financial services organizations, and are thus indicative of the current co-existence of alternative models of ERM. In particular, two types of ERM models are postulated: one driven by a strong shareholder value imperative ('value-based' ERM), the other corresponding to the demands of the risk-based internal control imperative ('strategic' ERM).

Discussion Paper 36, December 2006

Translation and Standardization: Audit World-Building in Post-Soviet Russia

Andrea Mennicken

Within the past thirty years or so, the government of social and economic life has occurred increasingly through international and non-governmental forms of rule and regulation. Yet little is known about the dynamics that international audit standardization projects create below the global level of economic and regulatory activity. This paper examines effects of global audit rule-setting on local organizational forms and practices through a detailed empirical investigation of the use and circulation of International Standards on Auditing (ISAs) within a large post-Soviet Russian audit firm. In the firm studied, much of the appeal of the ISAs was rooted in desires to develop an internationally-oriented business strategy as well as link up with Western audit markets. But the standards became embedded in locally partitioned hierarchies of expertise and credibility. On the one hand, the global aspirations of the firm continued to be couched in former socialist practices of command and control. On the other hand, the accomplishment of compliance with the international standards came to be highly dependent on the definitional powers of the West, represented by the big international audit firms and multilateral organizations, such as the World Bank or the EBRD. The ISAs turned out to be of lower status than the names of the international audit firms and their networks. Becoming defined as working in accordance with international standards became closely linked to the firm's ability to position itself, and the standards respectively, within one of these networks. The paper examines the transformations that the firm underwent in re-defining itself in terms of a globally-oriented business strategy and discusses the implications this had for the roles and relevance of the international auditing standards.

Discussion Paper 37, May 2006

The Role of Non-State Actors in Regulation

Bridget M. Hutter

Within the past thirty years or so, the government of social and economic life has occurred increasingly through international and non-governmental forms of rule and regulation. Yet little is known about the dynamics that international audit standardization projects create below the global level of economic and regulatory activity. This paper examines effects of global audit rule-setting on local organizational forms and practices through a detailed empirical investigation of the use and circulation of International Standards on Auditing (ISAs) within a large post-Soviet Russian audit firm. In the firm studied, much of the appeal of the ISAs was rooted in desires to develop an internationally-

oriented business strategy as well as link up with Western audit markets. But the standards became embedded in locally partitioned hierarchies of expertise and credibility. On the one hand, the global aspirations of the firm continued to be couched in former socialist practices of command and control. On the other hand, the accomplishment of compliance with the international standards came to be highly dependent on the definitional powers of the West, represented by the big international audit firms and multilateral organizations, such as the World Bank or the EBRD. The ISAs turned out to be of lower status than the names of the international audit firms and their networks. Becoming defined as working in accordance with international standards became closely linked to the firm's ability to position itself, and the standards respectively, within one of these networks. The paper examines the transformations that the firm underwent in re-defining itself in terms of a globally-oriented business strategy and discusses the implications this had for the roles and relevance of the international auditing standards.

Discussion Paper 38, December 2006

Analyzing the Higher Education Regulatory State

Roger King

This paper explores the notion of the higher education regulatory state and particularly the relationship, if any, between regulatory scholarship more widely and research on higher education governance. It suggests that the regulatory state in an age of governance requires both 'centred' and 'de-centred' analyses. It argues that there is no convincing case for regulatory exceptionalism for higher education in comparison with the study of other sectors and that a regulatory lens offers new insights for both regulatory and higher education researchers. The paper recognizes convergences in regulatory approaches in previously quite disparate national systems of higher education but suggests that key differences can be identified. The notion of 'regulatory intermediation' is introduced to describe critical groups at the interface of the regulator and the regulated in higher education, to link centred and decentred regulatory approaches, and to help understand how regulatory delivery is discharged and amended. A recent research project by the author on quality assurance auditors is used to explore the retention of tacit and peer traditions within more overtly formalized methods for external evaluation of universities. Finally, a brief comparison of the different worlds of the regulatory state as found in higher education, healthcare, legal services, and accountancy is undertaken, particularly to illustrate how the regulatory state plays out differently in various policy sectors.

Discussion Paper 39, May 2007

At No Serious Risk? Border Control and Asylum Policy in Britain, 1994-2004

Will Jennings

In the post-9/11 era, the British government's formulation and administration of policy relating to immigration controls is increasingly organized around the notion of 'risk', and mobilized through the state's technologies of inspection and measurement. This paper considers colonization of asylum policy in Britain, between 1994 and 2004, by the concepts of risk and risk management. It then modifies the thermostatic model of policy-opinion responsiveness for empirical analysis of the interactions of policy, bureaucracy and public opinion in the control and administration of asylum by the Home Office in Britain, over the period between 1994 and 2004. This paper draws upon methods of time series regression and intervention analysis to estimate responses of specified policy outputs to (i) changes in public opinion and (ii) interventions by government. These enable discussion of the co-existence of responsiveness and risk in this particular policy domain.

Discussion Paper 40, December 2006

Accounting, Hybrids and the Management of Risk

Peter Miller, Liisa Kurunmäki and Ted O'Leary

This essay addresses the implications of accounting and hybrids for the management of risk. It suggests that the management of organizations is rapidly being transformed into and formalized around the management of risk, while much of the real management of risks occurs elsewhere. We argue firstly that hybrids are one of the key sites where uncertainty is managed beyond the formalized practices of risk management. Secondly, we argue that the management literature on hybrids has been too focused on organizational forms, and has neglected the hybrid practices, processes and expertises that make possible lateral information flows and cooperation across the boundaries of organizations and firms. Thirdly, we argue that accounting practices are central to these issues, yet these practices are often neglected by the wider management and organizational literatures. Accounting, we suggest, is constantly engaged in a dual hybridization process: seeking to make visible and calculable the hybrids that it encounters, while at the same time hybridizing itself through encounters with a range of other disciplines.

Discussion Paper 41, June 2006

Business Risk Management Practices: The Influence of State Regulatory Agencies and Non-State Sources

Bridget M. Hutter and Clive J. Jones

The influence of external organizations and pressures on business risk management practices has hitherto been examined through the influence of state regulatory regimes on businesses. This literature concentrates on key socio-legal concerns about the influence of the law in social and economic life which is an important source of information about business risk management practices. However most of this work does not clearly differentiate the importance of state regulatory regimes relative to other external pressures on business. We know that the sources of regulation and risk management are diversifying, as are the tools and techniques employed to manage and regulate risks. What we do not have is much empirically informed research about the range of sources influencing the business world and in particular the weighting of influence exercised by them. In this paper we will explore the different external pressures upon business risk management through an empirical study of the management of food safety and food hygiene risks. A broader objective is to throw some further light onto the debate about regulation within and beyond the state.

Discussion Paper 42, July 2007

Fighting Fires in Testing Times: Exploring a Staged Response Hypothesis for Blame Management in Two Exam Fiasco Cases

Christopher Hood, Will Jennings and Brian Hogwood, with Craig Beeston

This paper tests a 'staged-response' hypothesis about the blame management strategies of public officeholders facing blame firestorms in the media after serious failures in the public-exam system for school-leavers in Scotland in 2000 and England in 2002. The authors develop a method for systematic analysis and comparison of the behaviour of officeholders confronted with such firestorms and construct time series intervention models to estimate the impact of strategies upon the next day's blame level. The findings do not fit the hypothesis precisely, but are consistent with the underlying thrust of theories of blame avoidance. The findings also raise questions over claims about the effectiveness of presentational strategies for managing blame, the idea that administrative delegation can protect ministers in parliamentary systems when being criticized for operational failures, and that the appointment of inquiries is used to put tricky issues into the political 'long grass'.

Discussion Paper 43, May 2007

Interrogating the Unknown: Risk Analysis and Sensemaking in Airline Safety Oversight

Carl Macrae

The initial identification of risks in organizations is one of the key challenges of risk management. This research investigates how weak signals of emerging risks are identified and interpreted within airlines. An ethnographic study of airline flight safety investigators was conducted to examine the interpretive work of risk analysis and the sense-making processes employed to identify risks. The findings suggest that the perception and use of organizational ignorance was central to this work. Risks were identified by constructing and enlarging small moments of doubt, where current knowledge was found to be questionable or suspect in some way. These sense-making processes were supported by an analytical culture organized around assumptions that organizational knowledge is inherently limited, partial and fallible.

Discussion Paper 44, May 2007

From Green Fields to Green Felt Tables and Back: The Origin of Index-Based Derivatives

Yuval Millo

The introduction of index-based derivatives is one of the most important developments in post-war financial markets; today these contracts are amongst the most commonly traded financial instruments. Yet, no sociological accounts based on empirical material have focused on the creation of index-based derivatives as a social and political institution. This paper offers index-based derivatives as a topic for sociological investigation. Focusing on the creation and regulatory approval of the first exchange-traded index-based futures in the early 1980s, the paper assesses empirical evidence collected through interviews with key figures who took part in the historical events, as well as extensive archival research. The paper makes two central claims. Firstly, that the nature of index-based financial markets is critically dependent on the nature of the qualification process it undergoes – a process through which the particular qualities are negotiated and attached to the products and in particular on the viability of the connections made between the financial contract and the assets on which it is based. Secondly, that qualification of products takes place within a network made up of heterogeneous agents, whose worldviews and motivations are frequently conflicting.

Discussion Paper 45, August 2007

Standardizing Through Concepts: Scientific Experts and the International Development of the HACCP Food Safety Standard

David Demortain

This paper deals with international standard-setting. Using the HACCP food safety standard as the basis of discussion, it considers the influence of scientific experts on the regulatory process. What is usually referred to as the diffusion or dissemination of soft or voluntary standards is here explained in terms of transferability of a regulatory concept. It is the ability of scientific experts to transform practices into a universal concept and, conversely, to develop technologies for users which translate the concept into practice, that explains why this reference has travelled so well across countries, industry sectors and historical periods. Scientific experts played a translating role between standard-setters and groups of practical users. This highlights the counter-intuitive distribution of power in standard-setting: while experts dominate the development of generic rules, official rule-makers (such as governments) assert their authority by developing alternative technologies for the appropriation of the standard by users and, sometimes, allow the latter to deviate from experts' universal concepts where these are shown to be problematic.

Discussion Paper 46, October 2007

Fishermen and Forecasts: How Barometers Helped Make the Meteorological Department Safer in Victorian Britain

Sarah Dry

In 1854, Admiral FitzRoy, acting as the first head of the Meteorological Department, initiated a project to distribute fishery barometers to poor fishing communities to help them predict poor weather. At roughly the same time, FitzRoy developed a controversial system of telegraphing weather forecasts to coastal towns to warn them of impending storms, the first of its kind in Britain. This episode serves as a case study in the role of tacit and formal knowledge in risk management and the construction of responsible users of scientific information. Rather than contributing to formal risk management in the new government office, the fishery barometers distributed by FitzRoy and the Meteorological Department were explicitly excluded from the wider project to map British and global weather. But by being excluded from the formal system, these barometers and their fishermen users were in fact able to contribute to the overall safety of the national system of meteorology. This study reveals that autonomous individuals can augment formalized risk management systems by remaining separate from them in key respects.

Discussion Paper 47, December 2007

Analyzing Near-Miss Events: Risk Management in Incident Reporting and Investigation Systems

Carl Macrae

This paper examines the practices that support an important risk management strategy in many organizations – analyzing and learning from past incidents of operational error and failure. Risk management has become an increasingly important managerial function, and a range of prescriptive standards and guidelines for risk management have been produced. The situated work practices that underlie risk management in complex organizations have, however, received little empirical attention. To address this gap, this paper presents a qualitative, inductive study of the operation of Incident Reporting and Investigation Systems (IRIS) in airlines. This research aimed to characterize and map the assumptions, beliefs, strategies and tactics that determine risk management practice in this setting. Practices of risk identification, risk assessment and risk resolution were examined and characterized through three innovative concepts: interpretive vigilance, organizational risk resilience and participative networks. Characterizing practice in this way allows a range of theoretical and practical implications to be developed concerning the place of organizational knowledge, control and culture in risk management.

Discussion Paper 48, December 2007

Building a Boundary Object: The Evolution of Financial Risk Management

Yuval Millo and Donald Mackenzie

The paper traces the intertwined evolution of financial risk management and the financial derivatives markets. Spanning from the late 1960s to the early 1990s, this paper reveals the social, political and organizational factors that underpinned the exponential success of one of today's leading risk management methodologies, the applications based on the Black-Scholes-Merton options pricing model. Using empirical data collected from primary documents and interviews, the paper argues that the remarkable success of today's financial risk management should be attributed primarily to the communicative and organizational aspects of the methods rather than to their accuracy or validity. The analysis claims that financial risk management became a boundary object – a set of instructions and practices that served as a common ground and as a basis for discussion and operation despite having quite different meanings to the different communities of practice involved. As risk management became an integral part of common organizational market practices (e.g. margin calculation and intra-portfolio coordination) the actual

content of the predictions that risk management systems produced became less relevant. In fact, a seemingly paradoxical shift took place: as the consensus around risk management systems was established, the accuracy and validity of the predictions produced by them became less important.

Discussion Paper 49, January 2008

Gammelfleisch Everywhere? Public Debate, Variety of Worldviews and Regulatory Change

Martin Lodge, Kai Wegrich and Gail McElroy

Cultural theory has attracted considerable interest in the study of risk regulation. There has, however, been a lack of a systematic interest in its claims and in methodological issues. In this paper, we present seven claims that are either directly drawn from central claims of cultural theory or from complementary theories and assess them in the light of one single case, failure in meat inspections in Germany. These claims are assessed through the analysis of argumentation in newspapers.

Discussion Paper 50, April 2008

Institutional Polymorphism: The Designing of the European Food Safety Authority with regard to the European Medicines Agency

David Demortain

This paper looks at the formation and designing of the European Food Safety Authority (EFSA). It seeks to assess the reality of institutional isomorphism in the European Union. It does so by analyzing why references were made during the formation of the EFSA to the European Medicines Agency (EMA), and the active differentiation of its design by actors involved in the process. The paper argues that institutional design is the encounter between a political decision to create an agency and the norms and practices that constitute sector-specific regulatory regimes. Institutional design across sectors derives from the same institutional principles, but detailed rules and structures eventually differ because they reflect the prevailing conception of the job of the future agency, such as assessing risks or approving products, which substantiate and legitimize the decision to establish it.

Discussion Paper 51, December 2008

Transnational Institution Building as Public-Private Interaction: The Case of Standard Setting on the Internet and in Corporate Financial Reporting

Sebastian Botzem and Jeanette Hofmann

This article sets out to compare processes of formal institution building in two transnational policy areas, the regulation of the Internet infrastructure and the regulation of corporate financial reporting. Both cases are concerned with regulatory arrangements beyond the nation state, in which standards are sought to reduce the uncertainty that actors face when interacting at the transnational level. The article focuses on changing actor constellations, arguing in favour of dynamic conceptions of transnational regulation and rule-making. Both cases demonstrate that the creation of regulatory institutions such as standards, codes or contracts is a dynamic and interactive process that involves both public and private actors. Based on a comparison of the regulatory arrangements we specify various phases of transnational institution-building and we suggest three mechanisms that help explain the observed institutional changes. Both cases illustrate that transnational regulatory institutions do not only reduce uncertainty, they also contribute to the creation of new forms of uncertainty.

Discussion Paper 52, March 2009

The Administrative Burden Reduction Policy Boom in Europe: Comparing Mechanisms of Policy Diffusion

Kai Wegrich

Much has been written on the diffusion of public management and regulatory reform tools. Available evidence suggests that cross-national policy diffusion is an increasingly significant phenomenon, especially in the European context. While internationalization of policy discourses and expert communities are regarded as key driving forces of policy diffusion, public management reforms are also said to be particularly vulnerable to mechanisms of 'diffusion without convergence'. This paper analyzes the case of policies aiming at reducing administrative burdens of regulations through the lens of the literature on policy diffusion. The diffusion of the so-called Standard Cost Model for measuring administrative burden between 2003 and 2007 is used as a case to explore the mechanisms facilitating policy diffusion in this domain. The analysis reveals patterns of rapid diffusion. This policy boom has been driven by a combination of different mechanisms of policy diffusion rather than by a single driving factor.

Discussion Paper 53, May 2009

When Failure is an Option: Redundancy, Reliability and Regulation in Complex Technical Systems

John Downer

This paper argues that redundancy in engineering, should be understood as a 'design paradigm' that frames regulatory assessments and interpretations of all complex technical systems, profoundly shaping decisions and judgements about modern technologies. It will further argue that the 'redundancy paradigm' used by regulators contains epistemic ambiguities that lead to imperfect predictions about the effects of redundancy in practice. By deconstructing the logic of redundancy in relation to aviation regulation, this paper illuminates much wider issues about technology governance.

Discussion Paper 54, June 2009

Watching the Watchmaker: On Regulating the Social in Lieu of the Technical

John Downer

This paper looks at the problem of expertise in regulation by examining the Federal Aviation Administration's (FAA) 'type-certification' process, through which they evaluate new designs of civil aircraft. It notes that the FAA delegate a large amount of this work to the manufacturers themselves, and discusses why they do this by invoking arguments from the sociology of science and technology. It suggests that – contrary to popular portrayal – regulators of 'high' technologies face an inevitable epistemic barrier when making technological assessments, which forces them to delegate technical questions to people with more tacit knowledge, and hence to 'regulate' at a distance by evaluating 'trust' rather than 'technology'. It then unravels some of the implications of this and its relation to our theories of regulation and 'regulatory capture'.

Discussion Paper 55, November 2009

Tools of Security Risk Management for the London 2012 Olympic Games and FIFA 2006 World Cup in Germany

Will Jennings and Martin Lodge

Mega-events such as the Olympic Games and the football World Cup represent a special venue for the practice of risk management. This paper explores management of security risks in the case of two sporting mega-events, the London 2012 Olympic Games and the FIFA 2006 World Cup in Germany. The analysis progresses in three stages. First, it explores three explanations that have dominated the literature on policy instruments and tools and introduces the generic tools of government approach developed by Christopher Hood. Second, it reviews the tools used for security risk management at the two mega-events. Third, it evaluates competing explanations of tool choice and degree to which these are consistent with organizational strategies of risk management at the events. The findings highlight the importance of national political systems in influencing tool choice.

Discussion Paper 56, November 2009

Modelled Encounters with Public Health Risks: How Do We Predict the 'Unpredictable'?

Erika Mansnerus

Encounters with risk, as Hutter and Power clarify, are events of problematization that 'place in question existing attention to risk and its modes of identification, recognition and definition'. Infectious diseases, as a public health risk, call for new ways of encountering their continuously changing, uncertain nature. When a new, emerging infection appears, or when vaccination coverage fails to provide population-wide protection, the preventive and protective measures against risks need to be re-assessed and developed further. Computer-based modelling techniques provide a set of tools for encountering public health risks. What kinds of model-based predictions are utilised in public health decision-making processes and on what basis do we rely on these predictions? These questions are addressed through a notion of modelled encounters with public health risks.

Discussion Paper 57, January 2010

Rights as Risk: Managing Human Rights and Risk in the UK Prison Sector

Noel Whitty

Discourses of both risk and human rights circulate on a daily basis in the UK prison sector. Little attention, however, has been devoted to one overlap: the co-existing demands of organizational risk management and Human Rights Act compliance. This paper begins by highlighting some of the shifts towards 'business risk' management in prison governance, alongside the increasing recognition that human rights have the ability to manifest as significant organizational risks (for example, legal or reputational). It then draws upon three 'rights as risk' prisoner case studies from across the United Kingdom which vividly demonstrate how human rights violations can produce legal risk, and what I term 'legal risk+', for a particular prison organization. By focusing on how actors outside the organization have transformed human rights non-compliance into different types of risk, some of the effects of failure to manage human rights risk in the prison sector are illuminated. The paper ends with a call for closer scrutiny of the potential of organizational risk management to result in rights compliance – whereby human rights are viewed through a risk lens, and not just a rights one.

Discussion Paper 58, January 2010

The Many Meanings of 'Standard': The Politics of the International Standard for Food Risk Analysis

David Demortain

This paper deals with the creation of international procedural standards. It studies the case of the international standard for risk analysis in food safety. The main argument of the paper is that the creation of one standard in one particular arena can reflect a diversity of relations to centrally composed rules and projects of harmonization, or regulatory languages. It is not sufficient to have a pre-established model of risk analysis, diffused by transnational experts, for a standard to be set. Creating a standard requires bridging the different regulatory languages that are expressed through the model. The emphasis on 'principles', or generic provisions, as a strategy to set standards - that is representative of the contemporary expansion of standards - can be explained as such a strategy of reconciliation. The paper studies both the origin of the risk analysis model, the two distinct relations of transnational experts and of governments (that of Tunisia in particular) to the model, and the production of a standard in the Codex Alimentarius (with particular attention to the positions of the Tunisian delegate), to highlight this presence of politics in international standard setting.

Discussion Paper 59, January 2010

The Impact of Regulatory Policy on Individual Behaviour: A Goal Framing Theory Approach

Julien Etienne

This paper presents a theoretical framework for analyzing regulatees' responses to behavioural expectations set for them in public regulation. It identifies the main variables and mechanisms through which regulatory policy may influence individual choices. The article builds on Siegwart Lindenberg's goal framing theory. The theoretical argument is supported by an extensive range of examples borrowed from the empirical literature on regulatory compliance. As such, it fills an important lacuna of compliance studies: the absence of a formal theoretical base capable of encompassing the numerous findings of the empirical literature. The theoretical framework also gives a consistent account of the cumulated influence of heterogeneous motives on (non)compliance decisions, and thus provides a better understanding of responses to regulation than there was before.

Discussion Paper 60, February 2010

Silence of Evidence in the Case of Pandemic Influenza Risk Assessment

Erika Mansnerus

During a pandemic, such as current H1N1 'swine flu', decisions are made with a sense of urgency. Yet, current policies emphasise the need to ground policies on evidence. This paper studies the tension that remains in decision-making processes when evidence is weak or 'silent' due to the sudden or unpredictable course of an event. The main focus is on the so-called 'known unknowns', factors of which we have only limited or weak evidence in the pandemic risk assessment processes. These processes cover, for example, monitoring the course of the pandemic, estimating the most affected age groups, and assessing population-level pharmaceutical interventions. This paper conceptualizes the 'unknown' within these processes as silence of evidence. As the case of pandemic risk assessment shows, a new, emerging situation has not yet accumulated a robust body of evidence for decision making. These uncertainties are conceptualized as silent evidence. In a similar way, historical and archaeological studies acknowledge that there is evidence that is not yet discovered, interpreted or found. This paper develops a new way to look at unknown factors that affect risk assessment under a pandemic by focusing on the tension that remains in decision-making processes under pressure.

Discussion Paper 61, March 2010

Anatomy of a Disaster: Why Some Accidents Are Unavoidable

John Downer

This paper looks at the fateful 1988 fuselage failure of Aloha Airlines Flight 243 to suggest and illustrate a new perspective on the sociology of technological failure and the question of whether such failures are potentially avoidable. Drawing on core insights from the sociology of scientific knowledge, it highlights, and then challenges, a fundamental principle underlying our understanding of technological risk: the idea that 'failures' always connote 'errors' and are, in principle, foreseeable. From here, it suggests a new conceptual tool for Disaster Theory, by proposing a novel category of man-made calamity: what it calls the 'Epistemic Accident'. It concludes by exploring the implications of Epistemic Accidents and sketching their relationship to broader issues concerning technology and society, and social theory's approach to failure.

Discussion Paper 62, April 2010

The Libertarian Origins of Cybercrime: Unintended Side-Effects of a Political Utopia

Jeanette Hofmann

Cybercrime and its potential ramifications exemplify 'one of those things that nobody wants' (Popper 1963). From today's perspective it would have been easy to foresee and at least partly prevent the mischief of cybercrime. One therefore wonders what early developers and users of the Internet actually envisioned, and how malpractices such as spreading damaging viruses relate to these visions. This essay approaches this question by interpreting cybercrime as an unintended consequence of the utopian dreams that flourished during the early days of the Internet. In itself a highly innovative activity, cybercrime can be seen as an ironic counterpart to the expectations of an egalitarian cyberspace whose technical and social norms condemned discrimination against any type of applications and uses.

Discussion Paper 63, May 2010

A Curious Reconstruction? The Shaping of 'Marketized' Forensic Science

Chris Lawless

The integration of science into policing functions continues to be a subject of considerable official concern. Sociological study of forensic science has demonstrated great promise in illuminating the dynamics of the law-science relationship, but has yet to be fully extended to issues relating to policing. This paper seeks to address the importance of extending research activity in this area by addressing the effects of broader political and economic trends on the development of forensic science and its use in criminal investigations. It focuses on the influence of 'liberalizing' policies on policing functions, which have extended to the provision of scientific support to the police. Forensic scientific services in England and Wales are now procured via a market-led system, and an economic imperative can be seen to have permeated strongly into this domain. With recourse to examples of a series of initiatives, I show how the application of liberalizing processes has permeated into the science-police relationship in various ways, leading to the emergence of assemblages which serve to differentially reconstruct the relationship between forensic scientists and their chief 'customers', the police. I argue that these differences in reconstruction reflect ongoing tensions between two different interpretations of scientific integration – one which is science-led and another which is police-led. Drawing upon these examples, I demonstrate how these tensions manifest themselves, but also show how these two interpretations co-exist. I show how an exploration of these initiatives aids understanding of how science, policing, and liberal modes of governance co-evolve.

Discussion Paper 64, June 2010

Enlisting Commitment to Internal Compliance via Reframing and Delegation

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Regulators in different countries and domains experiment with regulatory strategies that allow firms to adapt regulation to their individual circumstances, while holding them to account for the adequacy and efficacy of their self-regulation systems. In this article, I use the term 'Process-Oriented Regulation,' to denote this family of similar, albeit not identical, regulatory institutions, which include Management-Based Regulation and new forms of Principles-Based Regulation. Notwithstanding the diversity of labels and configurations of process-oriented regulatory institutions, a key question regards the extent to which they are likely to enlist firms' commitment to regulatory goals. To contribute to the emerging empirical research on this

question, the article analyzes financial firms' responses to a process-oriented regulatory initiative, which sought to transform the widespread culture of product 'mis-selling' in this industry. The article's main focus is on the strategies sought by internal supporters of this initiative to overcome their organizations' resistance and to attain managers' commitment to its implementation. It is suggested that under conditions of substantial discrepancy between regulatory expectations and firms' organizational and individual identities, commitment to process-oriented regulation entails its reframing into alternative business discourses and a leading role to non-compliance professionals and other managers in this process. These strategies, while neutralizing resistance and enhancing commitment, run the risk of altering regulatory goals.