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regulation in crisis

It is time to advance the debate

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welcome

This issue of Risk & Regulation marks a new departure in a number of ways. We hope that you will like the new design of the magazine. More generally, this is the first issue that has been produced since we have taken on the leadership of **carr**. We are grateful to Mike Power for his leadership, and to Martha Poon for having edited and modernized this magazine over the past few years.

carr's central ambition was and continues to be the promotion of leading international research in the field of risk and regulation. **carr** continues to bring together different research disciplines, and we have started some new initiatives to further strengthen exchanges and mutual learning between the worlds of practice and research. We continue to be committed to our multi-disciplinary approach that is characterized by its cross-sectoral and cross-national perspectives. In the next few years, we will organize our activities around three key themes: regulation in crisis; regulating for sustainability and innovation; and accounting, accountability and reputation. These three themes build on our earlier research, but also represent a new emphasis in our work and activities. The past few months have witnessed a number of events to advance our thinking on these themes. We have held workshops on 'risk cultures', 'existential risk' and the theme of 'accountability'.

This issue is devoted to the theme of Regulation in Crisis. It reflects our successful bid to the Economic and Social Research Council (ESRC) to hold a series of workshops on Regulation in Crisis. One starting point is whether it should be Regulation in Crisis with a '?'. This theme will inform much of our activities over the coming years as we note in a separate article. Other articles in this issue also touch on the theme of Regulation in Crisis, ranging from questions of organisational risk management and error correction (by Carl Macrae) to wider debates about how to encourage long-term decision making by policy makers (by Jonathan Boston). Regulation in Crisis also suggests that there might be a Crisis in Regulation. How contemporary regulatory regimes can deal with questions of sustainability and existential risks is a further theme in this issue.

An additional feature that characterizes **carr**'s work is its strong commitment to engaging with the world of practice. We were successful in receiving 'Higher Education Impact Funding' (HEIF 5) to organize a 'Regulators' Forum' for non-economic regulatory bodies in the UK. These regular meetings are to encourage a conversation among regulators about the common challenges that they face in their everyday life. Such topics range from issues of risk-based regulation, methods to identifying emerging risks, to questions of measuring regulatory performance. Unlike those UK regulators that are organized as part of the 'network of economic regulators', the Regulators' Forum invites regulatory bodies that, as yet, have not had the opportunity to informally exchange their experiences. Such meetings necessarily cannot be held in public, but we publish anonymized records of these meetings on the **carr** website. The website also includes the '**carr** seat': web-based videos in which we discuss the issues raised during Forum meetings.

Finally, we are very pleased that **carr** will be hosting the annual Helen Suzman lectures at the LSE. The first lecture will take place in the coming spring. Helen Suzman's promotion of the rule of law and her commitment towards public service has left a long-standing legacy in South Africa and beyond. The regulation of the public services is always a central theme in public policy and at the heart of much of **carr**'s research. The regulation of public life and services, and the protection of civil liberties and privacy in the age of big and 'open' data represent central challenges, and we will explore these themes in greater depth in the coming years.

We are greatly looking forward to building on **carr**'s legacy and we warmly welcome you to join us during our events, in our research, and other activities during these exciting times for the study and practice of risk and regulation.

Martin Lodge & Andrea Mennicken

The regulatory failings of the past decade have shown that regulatory practice is often based on overly narrow perspectives, which centre on organizational jurisdiction rather than wider systemic and inter-systemic aspects.

Regulation in Crisis?

It is time to advance the debate about regulation, argue

Martin Lodge and **Andrea Mennicken**

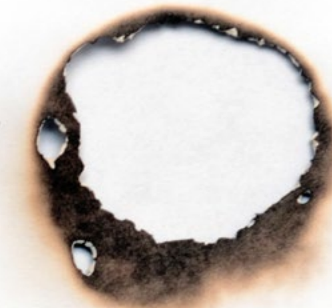
Regulation has been at the forefront of much contemporary policy debate, whether it is because of the meltdown of financial markets, healthcare scandals (take for example the Stafford hospital scandal), regular food-related scandals, the risks posed by climate change, or concerns about the safety of large-scale industrial installations. In view of such crises, failures and global regulatory challenges, it is time to reconsider the regulatory agenda. **carr** has a long-standing and recognized history in the study of risk and regulation. Over the coming three years, **carr** will advance the debate about the future of risk and regulation research and practice through an ESRC-sponsored seminar series on the theme of 'Regulation in Crisis'. The seminar series' central focus will be on whether, and, if so, how regulation is itself in crisis. This questioning takes place in the context of the observed failures over the past decade which have given rise to debates as to how regulation needs to be reshaped in order to deal with crisis. Furthermore, such a context also gives rise to the question as to whether regulation as a field of study is in crisis.

It is certainly not the case that the worlds of research and practice have been unaware that policy sectors have been in crisis. We also do not lack analyses of individual regulatory regimes and their shortcomings. Instead, what has been missing in much of the contemporary academic and policy debates is a view that looks across different sectors. We need a perspective that moves beyond a focus on single regulators (or regulatory agencies) towards an emphasis on acknowledging the highly diverse sets of actors that shape regulation and their interdependencies. Such an approach also offers a new perspective on the role of risk in regulation.

carr's agenda for a forward-looking conversation about 'Regulation in Crisis' is organized around three key themes:

› Regulation in (cases of) Crisis. The financial crisis exemplifies the wider challenges of how regulation is both a source of resilience and prevention, and of vulnerability. Regulation continues to be a site of high politics, whether this is in the area of environmental, financial or utilities regulation. Important lessons can be gleaned from the ways in which different political systems have responded to crises; how they have responded to risks emerging from old and new technologies; and how they have adjusted (or not) to less acute, but therefore not less important issues, such as climate change. There is also growing awareness, for example, by the OECD, of the need to understand better the governance of high-level risks (i.e. those risks that constitute a direct threat to the viability of large numbers of individuals; see also the article on Existential Risk in this issue). One particular controversial theme in this context has been the extent to which regulatory regimes dealing with risk should be precautionary, or whether they should rely more on 'trial and error'.

› Regulation (itself is) in Crisis. The regulatory failings of the past decade have shown that regulatory practice is often based on overly narrow perspectives, which centre on organizational jurisdiction rather than wider systemic and inter-systemic aspects. More systemic, if not cross- and inter-systemic perspectives are required to consider the cascading and other effects that emerge from often little appreciated regulatory interdependencies and complexities. Current regulatory regimes are characterized by considerable over- and underlaps; they are accused of lacking sufficient technical expertise, of being over-responsive to political and economic interests, and of being unable to deal with unintended consequences and surprise. The financial crises, nuclear incidents (such as the one in Fukushima following the deadly Tsunami), and food safety incidents (such as the horsemeat scandal) have highlighted how contemporary orthodoxies towards regulation have come under increased challenge, whether this relates to standard setting, enforcement, or information gathering aspects – for example limited analytical capacity of regulators to detect and assess capabilities and motivations of regulatees. Technological change and internationalized production chains add a further regulatory challenge, as existing regulatory regimes can be seen as both a source of support and a barrier towards innovation and development. In other words, regulation is said to suffer an effectiveness crisis in the sense of failing to produce intended outputs and outcomes. In addition, it is said to suffer an efficiency crisis as regulation is accused of generating unintended burdens on citizens, NGOs, business, and taxpayers. Finally, regulation is also suffering a futility crisis in being accused of not being powerful enough to tackle undesired behaviours.



› Regulation (as a field of study) is in Crisis. One of the key challenges for the worlds of practice and research is to adapt towards changing political, economic, social and administrative contexts. This adaptation requires a re-consideration of the dominant theories in which regulation has been approached. We need to scrutinize the understandings that have underpinned studies of regulation including notions, such as 'independence', 'interests' and 'capture'. We need to find new ways for scholarship and practice to engage with each other. And we need to develop tools and theories that enable investigations of regulatory interdependencies, transboundary regulatory challenges, and inter-systemic effects.

Regulation has become a central battlefield for political ideas and different programmes of governing, especially in the US, as conflicts over the Dodd-Frank financial reform act regarding financial regulation have highlighted. But it has also been an area of considerable political sensitivity in the UK.

The study of regulation needs to adjust to this changing context and consider its theories and methods to accommodate the changing political, administrative and socio-economic context. In the UK and wider Europe, regulatory scholarship lacks a central initiative to reflect on 'regulation in crisis' unlike in the US where the high-level Tobin Initiative has been set up to offer an academically informed contribution to the highly partisan US debate about regulation. However, that initiative is solely US-focused; we want to provide a genuinely international platform for debate and regulation theory advancement. In the US, debates in regulation are largely focused around issues of 'capture', assuming a clear division between state and non-state spheres. In contrast, European approaches to regulation have a far longer tradition of considering regulatory authority as being shared between state and non-state actors. Over the coming years, **carr** will consider implications of these continued transatlantic differences for research and practice.

carr's interest in *Regulation in Crisis* is not to score political points, to criticize particular (parties in) governments, or to condemn certain regulatory approaches. Instead, we are interested in publicly-minded interdisciplinary research by advancing conversation and dialogue amongst academics and practitioners from different fields of regulation research and practice. To generate new knowledge, we build on **carr**'s established strengths and reputation, namely a commitment towards multi-disciplinary insights and approaches, a tolerance towards different methodological approaches, and a commitment to cross-sectoral and cross-national perspectives. In addition, **carr**'s activities will continue to emphasize the importance of an informed and constructive dialogue between the worlds of practice and research.

Specific themes that the **carr** ESRC seminar series will address include: the regulation for sustainability; the governing of critical infrastructures and resilience; transboundary regulatory challenges; relationships between regulation and risk management; the roles of private organizations and civil society in risk regulation; and the roles of calculative devices, including accounting instruments.

Regulation, risk and governance will always be contested and prone to unintended consequences and failure. Tensions will always exist between those that seek greater flexibility and discretion, and those that demand greater consistency and predictability. There will always be boundary issues between the worlds of politics, regulation and corporate power. The theme 'Regulation in Crisis' acknowledges these inherent dynamics and tensions; what we will develop is a platform for debate that scrutinizes existing practices and conceptualizations of regulation, that moves beyond siloed and outdated understandings and approaches.

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

Close Calls: The invisible work of risk management

Carl Macrae considers the importance of learning lessons from aviation safety

Aviation is a remarkable industry, but its achievements have largely become invisible. Air travel is often merely an interruption – and something of an uncomfortable one – in our busy schedules. It has become entirely unremarkable to span half the globe in a single sitting: to eat dinner, catch a movie, enjoy a few glasses of wine and perhaps a short nap whilst being propelled at 900 km an hour, suspended 10 km above the Earth. As it happens, I am writing this article in the departure terminal of a large airport, waiting to do just that. Few of the people around me seem awestruck by the marvels of the jet age, at least outwardly or appear to be waiting in terror, or even mild trepidation, despite our impending launch into the sky.

One of the most remarkable things about modern commercial aviation is the way it has tamed the considerable risks of transporting huge numbers of people at high velocity across the inhospitable reaches of the lower stratosphere. The safety record of modern air travel is striking. Accidents involving large commercial jet planes remain extremely rare, with only sixteen fatal accidents in over 65 million hours of flight in 2013.

The recent loss of a Boeing 777 in March 2014, likely somewhere in the Indian Ocean, and the apparent downing of another over Ukraine in July 2014 are deeply tragic events. One of the most compelling and horrifying aspects of these events is not simply that they happened, but that they both, for radically different reasons, have eluded proper investigation and explanation. One of the most basic premises of risk management in aviation is that disasters will be systematically investigated and must ultimately act as a source of future improvement and reform.

Learning from failure, and reports thereof

Since the first faltering experiments in powered, controlled flight, aviation has largely advanced through failure. It is telling that the first fatal air accident in the UK resulted in the untimely death in 1910 of one Mr Charles Rolls, of the recently formed automotive and aero-engine manufacturer Rolls-Royce. He was piloting a Wright Flyer. Two years later saw the UK's first formal air accident investigation, foreshadowing a century of increasingly sophisticated efforts to investigate failure to improve flight safety.

The airline industry remains deeply preoccupied with risk and reliability, and one of the groups that is the most preoccupied is the small professional community of flight safety investigators. The term flight safety investigator brings to mind images of the teams that crawl over accident sites and pick through twisted wreckage. But in truth, few flight safety investigators do this sort of work. Most work in airlines and are responsible for the oversight and monitoring of flight safety across an airline's operations.

And one of the main responsibilities is to review, assess and investigate reports of minor safety incidents, near misses and operational failures of various kinds. Modern airlines operate well established safety reporting programmes that gather brief reports from front line staff of any events that might impact flight safety. These events can often seem indistinguishable from the mishaps and complications that characterize ordinary organizational life. They include everything from pilots' confusion over radio call signs, data incorrectly entered into flight computers, lost or misplaced tools in the hangar, mis-set circuit breakers, to damage to aircraft while on the ground.

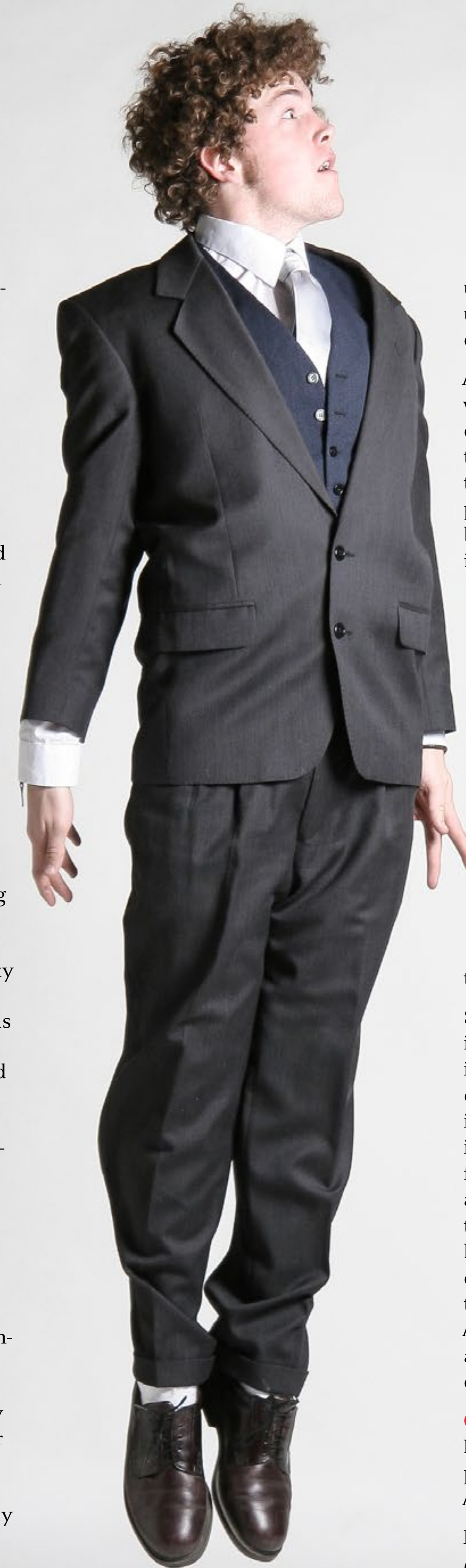
A typical medium- to large-sized airline might see tens of thousands of such reports from flight crew, engineers, cabin crew and ground staff each year. All airlines operate a suite of safety monitoring and risk management programmes. But analysing and learning from minor incidents and failures such as these still sits at the heart of airline risk management, and offers an important mechanism for both uncovering and addressing emerging risks.

The sharp end of safety

The work of flight safety investigators is full of paradoxes. Their primary aim is to manage the risks of catastrophic accidents: events that they very rarely see and work continually to avoid. And the primary resources to manage these risks are brief moments when bad things don't happen: incidents, anomalies, close calls and errors where it might be clear that something did not go quite right, but it is far from clear whether something is seriously wrong.

Flight safety investigators work to transform moments of risk into sources of resilience. This is deceptively complex and challenging work. It presents a set of deep interpretive challenges and places investigators at the sharp end of risk management. Investigators, like many other types of risk managers, are faced with a mass of data and events on possible modes of failure. They are presented with a proliferation of weak signals and potential warnings, some of which may hint at catastrophic risks that are lurking in the operational background, just off stage and out of sight – but many which will not.

The work of analysing, assessing and investigating flight safety incidents is therefore as much about making close calls as it is about analysing them. Investigators must continually make fine-grained and consequential judgements regarding what to pay attention to or ignore, what matters and what – for now, at least – does not. These are high stakes and consequential judgements at the very earliest stages of risk management. Mistakes made here can leave risks hidden and unnoticed, lying latent deep within the organization, and ready to bite in surprising ways.



The invisible work of risk management

It is the complex, consequential and nuanced world of flight safety investigators that I explore in my new book, *Close Calls*. Through detailed ethnographic research I explored and documented the often invisible work practices of risk management that play out around near miss and close call events, and the specific challenges and strategies of flight safety oversight. And, like flight safety investigation itself, this revealed a number of surprises.

One surprise concerned investigators' working model and practical theory of risk. The formal tools they use would be recognizable to many who work in risk regulation, focusing on estimates of severity, frequency and the future likelihood of adverse outcomes. But in practice, flight safety investigators are deeply sceptical of the relevance and utility of these tools in their daily work. Instead, their assessments of risk rely on fine-grained and sophisticated assessments of organizational capacities for control, understanding and cognizance in different areas of operations.

Another surprise is the status of and relationship with uncertainty. Risk management is commonly viewed as the cataloguing, processing and control of uncertainties. But at this very early stage and sharp end of risk identification, flight safety investigators are involved in the active production of uncertainty. They work at the very edge of formal knowledge to uncover new and previously unrecognized risks, so one of their principal strategies of risk identification is to actively construct and ruthlessly enlarge any apparent gaps in current knowledge. At the earliest stages, risk identification involves the active production of uncertainty and doubt, and these are used as a proxy for potentially latent or newly emerging risks.

And then there is the surprise of what investigators do with these indications of ignorance: they spread them around. This is not just because they are professional pessimists, and pleased to see others equally troubled by signs of emerging threats. It is because safety investigation and improvement is a widely distributed social process. Investigators spread around ignorance in the form of questions, concern and connections as a means of initiating widespread activities of reflection and inquiry into the safety of operational practices. By creating and spreading doubts, investigators activate and guide the search for safety, creating and coordinating networks of engaged participants around their organization that span silos boundaries and hierarchies, connecting the operational front line to the executive suite and back.

So, when you next catch a flight – even if it is delayed, as mine currently is – spare a few thoughts for the small community of safety professionals doing this invisible work. Their day job is to continually worry about the small failures that disrupt organizational life, and to generatively use those events to test the practical assumptions, challenge the operational processes and explore the periphery of organizational knowledge around flight safety. Arriving safely at your destination is, after all, the result of a long sequence of non-events.

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His book, *Close Calls: managing risk and resilience in airline flight safety* is published by Palgrave Macmillan (2014).

Enhancing policy farsightedness

Exploring the intervention logics which underpin the many proposals on offer. **Jonathan Boston** explores proposals that seek to bring the 'long term' into policy-making

Over the years numerous proposals have been advanced across the democratic world to overcome, or at least mitigate, political short-termism and policy short-sightedness. But what intervention logics – or explanatory justifications – underpin such proposals, on what behavioural and other assumptions do these various logics depend, and how robust are they? This short article briefly explores these questions. But first, let us consider the context.

The context

The evidence suggests that governments often give inadequate attention to long-term issues, thereby putting at risk the interests of future generations. They tend, in other words, to govern for today, rather than tomorrow. Instead of displaying policy farsightedness, they frequently exhibit significant 'short-termism' or 'political myopia'. Moreover, such propensities appear to be deep-seated, widespread and enduring. According to Thompson (2005: 246), for instance, policy makers in democracies are 'systematically biased in favour of the present'. This bias, it can be argued, reflects a multiplicity of factors. Above all, there are the pressures on elected politicians to be responsive to voter preferences and interest group pressures, the tendency for voters to be self-interested and impatient, the complexity and uncertainty surrounding many long-term policy issues, and the fact that future generations possess neither a vote nor a voice. To compound matters, efforts to protect the global commons – especially the Earth's atmosphere and oceans – are complicated and constrained by weak international institutions and collective action problems (see Kaul et al., 1999).

The negative impacts of such pressures, considerations and constraints, it is argued, are evident across many policy domains (see Congleton, 1992; Gardiner 2009; Jacobs, 2011). Examples include:

1. under-investment in development and maintenance of major, long-term physical assets, such as energy, telecommunications and transport infrastructure, and water services;
2. under-investment in early intervention, preventative healthcare initiatives and other social policies which entail short-term fiscal costs in the interests of long-term benefits;
3. a reluctance to confront the long-term fiscal risks of current policy settings (e.g. with respect to state pensions and elder care);
4. unsustainable management of natural capital, including critical, non-substitutable natural resources; and
5. inadequate measures to mitigate human-induced climate change.

The long-term economic, social and environmental consequences of such short-sighted policy settings are potentially serious, both in scope and scale. For instance, with respect to human-induced climate change, there is the risk of causing a massive loss of species and inflicting severe, large-scale and irreversible damage to critical biophysical systems. Such ecological damage will impose significant costs on future generations.

Reform proposals

Concern over governmental short-termism and inter-generational buck-passing has prompted numerous proposals to encourage more long-term thinking and better protect the interests of future generations (e.g. see House of Commons, 2007; Oxford Martin Commission, 2013; Stiglitz et al., 2009). In fact, there are so many different ideas and suggestions on offer that even listing them would be a major undertaking.

The various proposals can be broadly grouped into the following 'solution types':

1. new and/or stronger international institutions (e.g. with decision rights to manage and protect global public goods);
2. constitutional amendments designed to constrain the decision rights of legislators and policy makers by imposing, for instance, a duty on governments to safeguard the interests of future generations and/or to protect a healthy environment;
3. the delegation of certain governmental decision rights to independent (expert) bodies;
4. the reform of electoral arrangements and/or legislative institutions (e.g. to lengthen the term of Parliament, reduce the voting age and reform the rules surrounding campaign finance);
5. new procedural requirements for decision making, for instance, to require policy makers to consider the interests of future generations or undertake regular planning and foresight processes;
6. new 'commitment devices', such as legal requirements for governments to commit to certain long-term policy goals, or abide by substantive policy rules designed to ensure sustainability;
7. new and/or stronger institutions with specific guardianship roles and/or mandates to protect the interests of future generations;
8. new and/or stronger institutions (legislative, executive, etc.) with specific long-term analytical and advisory responsibilities;
9. new conceptual frameworks, analytical tools, methodologies and performance measures, with more holistic and/or future-orientated dimensions;
10. creating a better enabling environment for long-term decision making by governments (e.g. by

encouraging more long-termism in the private sector);

11. encouraging more farsighted political leadership; and
12. securing the 'moral enhancement' of the human condition (e.g. via genetic engineering).

Within each of these 12 categories many different policy proposals have been advanced, with numerous possible variations in terms of their specific design features. Many proposals, of course, have already been implemented. Many countries, for instance, have constitutions which include provisions designed to protect the interests of future generations. Likewise, many countries have delegated certain decision rights to expert bodies (e.g. relating to regulatory matters, the implementation of monetary policy, etc.), often with the aim, at least in part, of reducing the risks of short-termism. Guardianship-type bodies, long-term think tanks, strategic units, planning agencies, foresight exercises, horizon scanning, and various kinds of 'commitment devices' are also widely used, as are mechanisms designed to encourage prudent long-term decision making by citizens/consumers (e.g. auto-enrolment in pension schemes). In more recent years, a number of countries have established institutions specifically designed to undertake advocacy on behalf of future generations, and considerable analytic work has been conducted to develop better, more holistic and future-oriented policy frameworks. This includes concerted efforts to take into account the economic value of ecosystems services and to incorporate changes in natural capital stocks into national accounts and related performance management systems. It remains to be seen, of course, what difference these latter approaches will make to decision making and policy outcomes, including fiscal, social and environmental sustainability.

Intervention logics underpinning proposals to protect the future

Each specific proposal for enhancing policy farsightedness rests on at least one 'intervention logic' (IVL). Each IVL provides a 'logic chain' (or series of logically connected steps) which explains why a particular intervention (e.g. requiring regular, comprehensive horizon scanning by government agencies or the periodic preparation of long-term fiscal statements) is likely to reduce policy short termism. In some cases, of course, a particular intervention might be expected to impact on decision making and/or policy outcomes through two or more IVLs. It is likely, however, that one particular logic chain will be more important than the others. Be that as it may, each IVL rests on a series of assumptions. An obvious way to test the merits of any proposed intervention, therefore, is to identify and scrutinize the relevant assumptions and consider the extent to which, or the circumstances under which, they are likely to hold.

To illustrate, Table 1 outlines four specific proposals to enhance policy farsightedness. In each case, the main IVL is summarized, as are the core assumptions, the main risks and problems, and the evidence to date on the effectiveness of the interventions in question. Of course, the information provided in Table 1 is highly generalized. The validity of the various assumptions will clearly depend, at least in part, on the specific nature of the proposal in question and the political context in which it is being considered. Further, the information in Table 1 is insufficient to enable the various proposals to be properly assessed with respect to their feasibility, cost effectiveness or overall merits.

The proposals outlined capture only some of the IVLs underpinning the many and varied ideas for enhancing policy farsightedness. A full analysis of such logics is beyond the scope of this short article, but in summary four main IVLs can be identified. That is to say, the various proposals generally depend on one or more of the following mechanisms to achieve their desired goals:

1. Changing the motives of decision makers – or what might be called 'internal drivers' (e.g. values, norms, goals, priorities, etc.) – so that they have a greater desire to seek good long-term outcomes;
2. Enhancing the capacity to make and implement farsighted decisions (e.g. via robust information, sound research, systematic foresight processes, holistic policy frameworks, competent and efficient administration, etc.);
3. Changing the formal constraints within which decisions are made (e.g. the constitutional rules, procedural rules, substantive policy rules, etc.); and
4. Changing the political incentives facing decision makers (e.g. via changes to public opinion/preferences, political culture, the balance of political forces, accountability arrangements, etc.).

These IVLs are not, of course, mutually exclusive. Potentially all four could be employed simultaneously via a combination of policy initiatives. What is not clear from the existing academic literature is which particular logic (or combination) is likely to be the most effective, in which policy areas and under what conditions. Moreover, each of these four mechanisms – changing motives, capacities, constraints and incentives – embrace a wide range of possible sub-mechanisms. For instance, there are many different types of constraints, and such constraints are likely to work in different ways, depending on their nature and the circumstances of their application. Similarly, there are many different types of political incentives. How these affect decision makers is likely to depend on personality and ideological factors, assessments of the current political constraints and opportunities, the stage of the electoral cycle, and so forth.

Standing back from the particulars, farsighted decisions are more likely in a context where most, if not all four, of the mechanisms are operating simultaneously. For instance, efforts to enhance environmental sustainability (and hence, for instance, to protect biodiversity and the wellbeing of future generations) will almost certainly be most effective in circumstances where:

(a) decision makers have a strong desire to protect the environment based on their ethical values and policy preferences;

(b) there is the capacity to make and implement more farsighted decisions e.g. because of the richness of the available evidence base and the quality of the institutional delivery mechanisms;

(c) decision makers are constrained by various rules which give weight to principles of sustainability e.g. the precautionary principle and rules to protect aggregate stocks of natural capital); and

(d) there are strong political incentives for decisionmakers to place a high priority on environmental considerations e.g. because of the kind and quality of the policy analyses being undertaken and the strength of environmental advocacy.

The absence of one or more of these conditions, while not necessarily fatal, seems very likely to make prudent long-term policy making more difficult. For instance, the risk of long-term policy failure is bound to increase where the evidence base or analytical capacity is weak and/or administrative capability is limited.

Sound domestic policy frameworks, of course, are not enough. Wise environmental stewardship by individual nations, for instance, can readily be undermined by deficiencies in other countries or by inadequate international governance of the global commons. Likewise, responsible fiscal management in some countries may be undermined by imprudent fiscal policies elsewhere or by the poor identification and management of systemic financial risks. Moreover, it is by no means clear what combination of policies will help establish, or best sustain, the necessary capacities, motives, constraints and incentives. This matter deserves careful investigation.

Accordingly, some hard, rigorous thinking is needed about the merits of the various intervention logics that can be identified. Such an analysis will help clarify how specific policy proposals are expected to work and why these expectations might be thwarted – or at least not fully realized. It will also help in evaluating the effectiveness of the different reform options on offer and the conditions under which specific interventions are most likely to make a constructive contribution to the overall goal of protecting the interests of future generations. For instance, what particular kinds of commitment devices appear to generate the most effective constraints on decision makers or have the greatest long-term impact on political incentives?

Of course, if the causes of short-termism are as deep-seated as Thompson and many others believe, then we need to be utterly realistic about the extent to which the problem can be 'solved'. But as with other 'wicked' policy problems, this certainly does not eliminate the possibility of improvement. And this must surely be our goal: after all, our futures, and those of generations to follow, depend on it.

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Table 1: The intervention logics underpinning four proposals to enhance policy farsightedness

Proposal	Intervention logic	Core assumptions	Risks and problems	Empirical evidence
Insert specific wording in constitutions to protect the interests, needs and/or rights of future generations (or to protect a healthy environment)	Decision-makers in democracies can be constrained by the rule of law (legal authority) to give greater protection to future generations	› The constitution is able to be changed › The new provisions are appropriate and justiciable › Relevant cases come before the courts › The courts give weight to the relevant provisions and are willing to override the legislature › The courts are authoritative and their rulings are adhered to	› Some democracies lack an entrenched written constitution › One or more of the assumptions is not valid › The revised constitution results in less protection for future generations than expected and is difficult to change	› Few relevant cases have been brought before the courts in countries with specific constitutional protection for future generations (or the environment › Little impact on policy or overall outcomes
Establish institutions (legislative, executive, etc.) with specific long-term analytical and advisory responsibilities (e.g. a Parliamentary Committee for the Future, a Sustainable Development Commission)	Institutions of this kind can encourage policy farsightedness by changing the structure of political incentives – via better information, risk identification, analysis of long-term issues and options, contributing to enhanced political debate, public understanding and accountability	› The institution is adequately resourced › Analyses are rigorous, with clear policy implications › Reports attract political and public attention, and prove persuasive › Governments change policy settings in response	› One or more of the assumptions is not valid › The institution is not durable	› Many institutions of this kind have been created › Many have not survived › Few appear to have had a significant or on-going influence on policy
Require regular fiscal (or environmental) sustainability reports by an independent agency (e.g. the Office for Budget Responsibility) – and require a timely government response	Regular reports of this kind can encourage policy farsightedness by changing the structure of political incentives – via better information, risk identification, analysis of long-term issues and options, and mandatory government responses contributing to enhanced political debate, public understanding and accountability	› The institution is adequately resourced › Analyses are rigorous, with clear policy implications › Reports attract political and public attention, and prove persuasive › Governments change policy settings in response	› One or more of the assumptions is not valid › The credibility of the institution is undermined › Regular reporting is discontinued	› Many countries have instituted regular reporting of this kind, especially on fiscal sustainability matters › There is as yet little evidence of such reports having had a major impact on policy
Institute substantive policy rules for maintaining aggregate stocks of natural capital (e.g. at the national level)	Such rules serve as commitment devices, and can constrain decision makers and change the political incentives they face – via new and better information, specific goals/targets, etc. contributing to changes in public attitudes/values, and enhanced accountability for performance	› The policy rules are clear and enforceable › There are adequate mechanisms for enforcement › There are few, if any, override provisions › The relevant information is available (or can be generated) to ensure effective implementation and compliance › Sub-national decisions do not undermine national-level policy goals › Climate change and other external shocks (e.g. invasive species) do not undermine policy goals	› Reaching agreement on meaningful and enforceable rules, especially for non-renewable natural capital, may be difficult › One or more of the assumptions is not valid › Maintaining aggregate stocks may be insufficient where significant ecological damage or degradation has occurred	› Such rules have yet to be implemented › Global application would be necessary for goals to be fully realized

Money matters with climate change

Putting a focus on finance is driving the private sector to clean up its act when it comes to carbon emissions, says **Robert Charnock**

The world's governments are failing to deliver climate change agreements in the timeframe needed to keep global temperature increase below 2°C. So civil society organizations (CSOs), from campaigning non-governmental organizations (NGOs) to accounting standard setters, are ramping up the pressure on companies to force them to be more mindful about the business risks climate change will bring.

CSOs have become increasingly frustrated that international binding agreements for limiting warming to 2°C will only come into force by 2020 – woefully late to stem potentially catastrophic climate change. To stimulate action, two like-minded CSOs, the Carbon Tracker Initiative and Ceres (Coalition for Environmentally Responsible Economies), recently teamed up and persuaded 75 major institutional investors to demand more details of the financial risks facing fossil fuel companies due to climate change.

Board members of fossil fuel companies are being bombarded with letters from their shareholders demanding that they take this matter seriously. As a result of this so-called Carbon Asset Risk initiative, Shell and ExxonMobil have been cajoled into publishing reports that analyse the financial risks that climate change poses to their long-term business.

This has led to a profound knock-on effect in financial circles. Financial institutions are becoming increasingly aware of the operational, regulatory and reputational risks posed by climate change.

For example, high-cost deep water and Arctic oil exploration activities could be seen as financially risky if governments agree to stick to a carbon budget. This could significantly reduce the value of future oil, gas and coal reserves. Financial institutions are now looking for new ways to measure and manage the climate risk in their investment portfolios.

Organizations are also under scrutiny from other CSOs. Well-known bodies such as Rainforest Action Network and World Wildlife Fund are putting pressure on a host of financial institutions to measure and disclose the carbon emissions produced as a result of their investment and lending activities. Such campaigns are also encouraging the financial sector to redirect investment flows onto a low carbon and lower risk pathway. As a consequence, carbon intensive industries could find it trickier to attract funding.

Armed with new carbon accounting practices, NGO groups such as BankTrack are putting organizations that bankroll climate change under a magnifying glass. BankTrack has attacked organizations with such activities, branding them 'climate killer banks'.

'By naming and shaming these banks, we hope to set the stage for a race to the top, where banks compete with each other to clean up their portfolios and stop financing investments which are pushing our climate over the brink. We want banks to act and we want them to act now' (Schücking et al. 2011).

A wide variety of CSOs are demanding such 'voluntary' disclosures of carbon emissions and climate risks. As the quasi-regulatory work of civil society becomes increasingly sophisticated, the distinction between voluntary and mandatory disclosure is blurred, if retaining any definition at all.

My research is revealing how standard setters like the Greenhouse Gas Protocol and the Climate Disclosure Standards Board are building on this momentum and developing new measurement and reporting practices for the financial sector. If financial institutions adopt these new practices, their investments will gain the kind of transparency CSOs are looking for. This CSO-driven systemic change could permeate the global financial system.

CSOs will harness this new transparency to further increase pressure on investors to revisit the risks associated with their investments. The carbon intensive sectors will face increasing pressures from financiers who become aware of such risks.

Systemic changes such as this are normally imposed by authority of the state. In this case CSOs have overtaken the process and effectively become quasi-regulators. Studying this process has the potential to reveal the new kinds of symbiotic relationships between state and civil society. Regulation no longer lies solely within the state's domain.

Governments are sitting up and watching how businesses are reacting. The UK's Department for Environment, Food and Rural Affairs (DEFRA) has already incorporated the Greenhouse Gas Protocol's standards into its mandatory reporting requirements that came into force in 2013. With this set of standards being the dominant accounting framework, why would any resource-strapped government department want to change such a widely accepted and adopted system?

Now Standard & Poor's, the rating agency, is getting in on the act and is working with CSOs to assess which fossil fuel companies face downgrades if tougher climate rules are implemented.

As part of my research I am observing the Financed Emissions Initiative – a standard-setting project developing ways to measure the emissions that are financed by investment and lending activities. Coordinating the project is the United Nations Environment Programme Finance Initiative (UNEP FI) and the Greenhouse Gas Protocol, the dominant standard setter for greenhouse gas accounting.

So where is all this heading?

Next year there is likely to be a legally binding agreement aimed at limiting the increase in average global temperature to 2°C. This will be forged in Paris in late 2015 at the Conference of the Parties to the United Nations Framework Convention on Climate Change. This will add more pressure on organisations to factor climate risks into their business strategies. The carbon intensive industries will be put into the spotlight and could face a barrage of questions. By adjusting their operations today, industry will avoid major upheaval when this binding agreement comes into force in 2020.

It's what Lord Stern always said. If we delay it will cost business more in the long term.

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On crossed wires? Utility regulation in the limelight

Martin Lodge and **Jon Stern** consider contemporary debates surrounding the British utility regulation model

As the UK gears up for the next general election, utility regulation has once again received considerable political attention. Whether it is on the issue of railway passenger franchises and fares, or retail energy prices, the politics of utility regulation are once again matters of live political concern. Public comment has concentrated on the behaviour of the regulated companies and regulators, as well as the viability of regulatory instruments. UK economic regulators have recently launched a network to institutionalize knowledge exchange and to highlight the benefits of contemporary utility regulation. Outside commentators and much of the political world, in contrast, continue to raise concerns regarding the accountability of regulators and the influence of the corporations running regulated industries.

In the light of these contemporary debates, it is worthwhile to reflect on the legacy of the British utility regulation since the early days of privatization. After all, it is now over 30 years since the initial privatization of British Telecom (BT). The initial thinking behind utility regulation, most of all formulated in the 1983 Littlechild Report, deserves re-examination. The Littlechild Report made the case for a competition and incentive-driven framework that was characterized by supposedly light-handed regulation, most of all based on the RPI-X (price-cap) formula. More generally, the British 'regulatory state' for utilities became associated with the rise of quasi-autonomous regulatory offices that were supposed to oversee the privatized provision of utility services, in a more predictable and transparent way than had been undertaken by ministerial departments in the age of public ownership. One key ambition was to eliminate 'politics' (or, at least, day-to-day politics) from utility regulation, and, in particular, the annual negotiations by the utilities with the government on investment and prices. A second ambition was to rely increasingly on competition in the supply of these services rather than organized monopoly; a trend that can be diagnosed by the structural reforms that were witnessed in the late 1980s and 1990s in those industries that had been privatized.

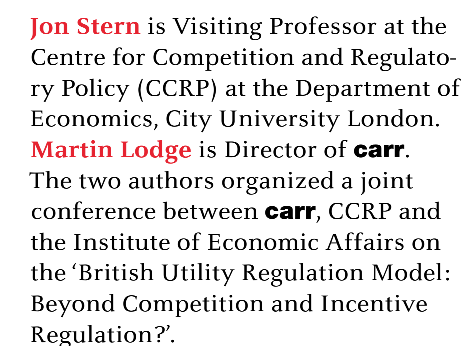
The ideas underlying the Littlechild Report are now moving into their fourth decade. Such an age is usually associated with signs of mid-life crisis. Youthful enthusiasm gives way to fatalism, if not scepticism. So what kind of arguments are shaping the contemporary debates? Three different views of the legacy can be distinguished.

One is the *consolidation view.* According to this view, utility regulation in the UK has become increasingly embedded in UK institutional arrangements. While there may be regular debates about ownership, and public criticism about price rises and investment plans, this view regards the principles of competition and autonomous economic regulation as relatively firmly embedded in the UK political economy. This view would also argue that the initial ideas have shown sufficient flexibility to adapt with the times, such as in the way in which RPI-X has been evolving over time, and how the relationship between regulators and politicians have adapted. Most of all, the recent changes to UK competition law that saw the creation of the Competition and Markets Authority in April 2014 (by merging the Office of Fair Trading and the Competition Commission) further strengthened the 'concurrency' provisions in the legal relationship between competition and regulatory agencies. These concurrency provisions are seen as further developing the role of competition and markets in the wider context of economic regulation. In other words, the consolidation view regards the legacy of the past 30 years as generally successful, and probably sufficiently robust to maintain its momentum over the coming decade and beyond.

A different view can be characterized as an *existential angst* perspective. There are different strains to this argument. One strain would suggest that economic regulation of utilities is facing considerable challenges that appear to threaten the legacy of competition and incentive-based regulation. One such challenge is the growing shifting of responsibilities and public policy objectives onto supposedly economic regulators. This ever expanding jurisdiction, which it is argued, follows more a logic of political convenience than bureaucratic empire building, raises issues not just in terms of over-reach; it also raises issues about legitimacy as supposedly 'economic' regulators are ever more required to engage in value choices regarding issues of fairness, the environment, and efficiency (and others) that might be better placed in the hands of elected politicians. A different strain, keen on a 'light touch' approach towards regulation, would argue that recent interventions particularly in energy regulation, especially those justified as being based on 'behavioural economics', are highly paternalistic and erring on the wrong side of the supposed trade-offs between potential market and regulatory failure. According to this view, these challenges, and threats to the original ideas underlying utility regulation, are likely to become ever more prominent as issues such as climate change are likely to rise even further up the political and regulatory agenda.

Finally, the *fiasco view* would suggest that the initial aspirations of the utility regulation reformers have not remotely been met. Instead, utility regulation is lurching from crisis to crisis. This does not mean that these observers wish to return to the state-of-play of the pre-1983 age, rather they critically point to the effects and dynamics that occurred subsequently. Again, this view is represented by a number of different strains. For some, the key criticism of the regime has been the power of the corporate entities that have entered the UK market. Insufficient attention, according to this view, has been paid by regulators and elected governments to the political power of these industries and investors in them. Others have argued that the regulatory instruments of the 1980s which emphasized efficiency have become ill-suited in an age that requires incentives for private investment into infrastructures. Most of all, it is suggested that utility regulation (particularly in energy) has become hyper-politicised with regular bouts of political excitement over price increases, ownership, and regulatory decisions. Thus, the supposed promise of the regulatory reforms of the 1980s – that utility regulation would become a technocratic exercise has been defeated by off-stage lobbying by various groups leading to growing boundary conflicts between electoral politics and supposedly autonomous regulatory institutions.

These three views are not meant to provide an exhaustive picture of contemporary debates regarding utility regulation in the UK; indeed, it is quite possible that protagonists of these different views would hardly agree on anything among each other. Nevertheless, the three views delineate different approaches that include competing values and priorities. They emphasize some issues, while downplaying others. Debates surrounding these views are, furthermore, not only restricted to the UK. For example, Germany has witnessed local referendums over the future of (privatized) ownership of local infrastructures over the past few years. Questions about how to attract private investment into carbon-low energy generation have been raised across EU countries and beyond. In all these countries, the problems seem to have been greatest in energy (and electricity) regulation and much less in telecoms and ICT, with rail and water somewhere in between.



What is noticeable, however, is that these different views are not in direct communication with each other. Politicians, regulators, regulated companies, and other interested parties have tricky choices to make as to how to navigate across this complex space and decide which views (and factors) they think are most crucial. However, such choices should involve more open engagement between these views – and the competing strands within them.

Furthermore, whatever one's outlook, the past 30 years have shown that economic regulation of utilities will always remain in the political limelight, given the industries' importance of social and economic life. The issues of the balance between competition and regulatory principle, between supposedly 'independent' regulation and electoral politics, between discretionary and flexible regulation on the one hand, and demands for greater consistency and 'predictability' on the other, are at the heart of utility regulation. As concerns about the trade-offs between investment needs, the recognition of social and environmental obligations, and the impact on prices become ever more prominent, it is therefore hardly surprising that utility regulation will remain at the centre of the political agenda.

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Advancing Governance Innovation – the importance of administrative capacities

Martin Lodge and **Kai Wegrich** make the case for placing administrative capacities at the heart of governance innovation

For decades, the call for innovation in public services has been a constant feature among consultancies, government reform reports, and international organizations. The contemporary age of austerity has added further pressure on organizations to seek 'innovative' solutions to deal with policy problems, whether they relate to dwindling resources for enforcement activities, or the ability to finance social services. Too often, the call for 'innovation' resembles the proverbial solution searching for a problem. We suggest that a focus on administrative capacities is essential in moving debates about governance innovation forward.

What, then, are administrative capacities? After all, bureaucracy and 'public administration' are not usually seen as sources for innovation. They are interpreted as being the problem rather than an essential ingredient for successful outcomes or innovative practices. If innovation in public policies is to be found anywhere, then it is said to emerge among collaborative and hybrid arrangements that minimise the role of 'bureaucracy'.

In his day, Max Weber defined two essential sources of administrative capacity, namely those of subject expertise (Fachwissen) and professional expertise (Dienstwissen), the latter being defined as knowledge of the kind of fancy procedural footwork that is often required to phrase policies, stage-manage ministerial appearances, and manoeuvre legislation through parliament. For others, 'neutral competence' is seen as one of the essential features of bureaucracy which is often contrasted, unfavourably, with political loyalty.

We can distinguish four capacities that are required in any policy area. These might be organized within public administration, they may be outsourced to private providers, or they may be procured from third sector parties. These four capacities are:

- Analytical capacity, namely, the capacity to assess and analyse developments, interpret information and engage in blue-sky thinking;
- Regulatory capacity, namely, the capacity to monitor, inspect and enforce;
- Co-ordination capacity, namely, the capacity to bring different actors together to facilitate co-production within areas that are characterized by a dispersal of authority;
- Delivery capacity, namely the capacity to 'make things happen' at the policy frontline, whether this involves, for example, the delivery of letters, schooling or counselling.

Each of these capacities raises considerable challenges in itself. Regulatory capacity, for instance, is about the competent exercise of discretionary judgement when it comes to enforcement and inspection. How problematic such an exercise is, has become particularly prominent in the financial crisis. Both regulators and regulatees had limited knowledge about the nature of new financial products, there was limited questioning of the capacities and motivations of regulatees to comply with regulatory requirements, and there was also a political reluctance for regulators to act in any other but a light-handed way.

Focusing on particular examples of supposedly innovative practices in public governance further highlights the contribution that a focus on capacities can make. One example is the contemporary fascination with Nudge, the idea that individuals' decision making can be manipulated so as to perform fewer sub-optimal, and actually preferred choices. Thus, individuals do not have to opt in into organ donation schemes, rather they have to opt out. Similarly, individuals are moved towards earlier tax repayments by being sent friendly letters that highlight the social norm of early tax payment. Nudge therefore appears as a low cost device. However, it also requires considerable capacities. For one, it requires analytical capacities to understand social norms, to know the motivations of the target population, and to understand the mechanisms as to why some types of 'nudges' seem to work rather than others. Nudge also requires considerable delivery capacity. For example, this includes the ability to actually print letters and signs, and handle pension and organ donation systems that are likely to grow in complexity if nudges prove successful. Similarly, Nudge requires regulatory capacity to ensure that individuals are not bullied into 'opting out' and to ensure that private actors comply with disclosure requirements, and it requires co-ordination capacity as interventions are likely to cut across different ministerial portfolios.

Social impact bonds (SIBs) provide a further good example to explore the implications of innovative governance proposals for administrative capacity. SIBs seek to enhance the delivery capacity of social services by drawing on a combination of market mechanisms that link third sector service delivery with public sector performance measurement. Private sources of funding are used for upfront investment, whereas taxpayers' resources will only become involved once the programmes are said to be successful. Regardless of the merits of this innovation, SIBs require considerable administrative capacities. For example, they require analytical capacities regarding trends in demands for public services and the design of meaningful performance management systems. Indeed, analytical capacities are challenged by often highly problematic attempts at measuring performance, especially where the link between public service and measured outcome is, at best, indirect. They require regulatory capacities as the performance of these services require monitoring, and they demand co-ordination capacities that bring together diverse actors in the delivery of social services.

Putting administrative capacity at the heart of debates about policy innovations is unlikely to gain immediate attraction. Wannabe reformers in government want concrete examples of supposedly successful interventions, not a conversation about capacities and capacity bottlenecks, especially if the removal of these bottlenecks threatens established perks and privileges. Furthermore, in a period of financial austerity where public bureaucracy is ritually seen as a problem, where staff numbers are slashed, thus removing institutional memory, and where cutbacks (or top-ups) are usually ad hoc, it may be naïve to expect debates about what actual skills and competencies are to be expected of public servants.

So what should be done about administrative capacity to facilitate innovation? Firstly, it requires a willingness to engage with the question as to what capacities are expected of bureaucracies. Secondly, it also requires an understanding of the potential challenges and limitations that emerge when seeking to develop innovative policies in an age of dispersed and resource-impoverished authorities. Thirdly, reform debates should not start with pre-packaged solutions, but with the actual problems that are supposed to be resolved. Fourthly, it also suggests that reform efforts should be oriented towards developing capacities in innovative ways rather than frantically hunting around for fine-sounding policy innovations. In the end, policy innovations are not an indicator of better, i.e. problem-solving government.

Governance, as is well known, means steering. Whatever the merits of different policy innovations, failing to consider what capacities are required for steering represents the equivalent of Hamlet without the Prince. International, national, regional and local administrative systems are central to the design and operation of goods and services that 'real people' consume; they are the backbone of any governance regime. We cannot lose sight of the demands on administrative capacity, even in an age of the hollowed out or depleted state.

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Existential risk: challenges for risk regulation

Kira Matus highlights why existential risks deserve to be taken seriously

There is a trend in many areas towards attention to 'big' risks. Financial regulation has become increasingly concerned with so-called systemic risks. Others, and not just Hollywood blockbusters, have been attracted to the study of civilization-destroying catastrophic risks. Indeed, the OECD has become increasingly interested in 'high level' risks and ways in which different national governments seek to prepare for and manage actual events, such as the aftermath of major earthquakes, or the response to a terrorist attack. The notion of 'existential' risk might be adding to the cacophony of emerging 'big' risk concerns. However, existential risk deserves special attention as it fundamentally adds to our understanding of particular types of risks, and it also challenges common wisdom regarding actions designed to support continued survival.

What is existential risk? We can approach this question by looking at several attributes. The first attribute is what, in fact, is at risk. One set of existential risks are those that threaten survival. These are the acute catastrophes, i.e. the idea that particular events' impacts are likely to extinguish civilization. Such risks have been identified when it comes to asteroids, nuclear war, and other large-scale events that undermine the possibility for survival in general, or, at least, in large regions. A second set is based on the idea that existential risks are not just about physical survival, but about the survival of ways of life. In other words, certain risks are seen as threatening established ways of doing things, cultures, social relationships, and understandings of the 'good life'. There is, of course, much disagreement about what the good life constitutes, and therefore there will always be disagreement as to what exactly an existential risk constitutes.

A second attribute is the degree to which an existential risk is triggered by a single catastrophic incident. Existential risks arise not merely from one-off large incidents, such as earthquakes, tsunamis, nuclear meltdowns or, indeed, asteroid hits. Rather, existential risks are about complex, inter-related processes that result in cascading effects that move across social systems. The overall impact of these system changes could result in the types of physical or cultural destruction that is the focus of the first two perspectives.

Whether triggered by catastrophic events or complex cascades, standard operating procedures are unlikely to be sufficient for dealing with existential risks; instead, this is a space in which improvisation and creativity are required. A third attribute of existential risks is the challenge they present to standard approaches to risk regulation. Existential risks are defined by their cross-systematic nature; a failure within one system (say, finance) has not just catastrophic implications for the sector in question, but threatens the survival of another system (say, the environment, as funding for particular measures dries up). In other words, the focus of existential risks is not just on the systemic level, it focuses on the cross-systemic dimension that is even more difficult to predict and assess than attempts aimed at establishing activities that are of 'systemic' relevance by regulatory systems that tend to be narrowly focused and independent from each other.

Existential risks are characterized by a fourth feature, namely the idea that existential risks lead to responses based upon fear. Individuals are confronted with fears about their survival (death) and about the meaning of their lives. This aspect of existential risk is particularly troublesome in an age of low trust in authority and, consequently, a political style that is intolerant of 'blame free' spaces. In the absence of confidence in public authority, few options remain. For some, the solution will rely on framework plans, pop intellectuals and other fashionable ideas that seem to offer redemption from the fear of extinction. Others will prefer to 'go it alone' and seek to develop their own plans for survival, noting that risk taking is, after all, an individual choice. Others, again, will deny the legitimacy of public authority and veer towards those choices that have been legitimized by their own communities. Finally, some will deny that existential risks exist in the first place. In other words, individual responses to existential risks vary considerably and pose challenges for any risk management and communication strategy.

Existential risks therefore pose considerable difficulties for instruments of risk management and regulation. For one, regardless of probability, the severe impact of a particular risk makes resource and attention allocation decisions problematic. Interdependencies, threshold effects, and non-linearities make calculations regarding existential risks highly speculative. Furthermore, existential risks also lead to demands for deterministic statements ('is it absolutely safe'), a view that neither suits the risk-language of probabilities, nor is likely to attract much popular acceptance. Finally, while it might be possible to list a few existential risks at any point in time, attention is highly partial and changing. Today's high profile existential risks (and, therefore, tomorrow's cinematic blockbuster) might quickly move to the background as the news agenda shifts; yesterday's attention to environmental issues might quickly turn to public health or terrorism related topics.

What, then, can be done about existential risks? The list of sources of failures when it comes to existential risks is long, ranging from the 'failure of imagination' (of the 9/11 Commission report) to the 'failure of initiative' (in the case of the tragic events of 22 July 2011 in Norway). There are also some 'good news' stories, such as the self-organizing voluntary co-operation among communities in the immediate context of disasters as witnessed in Norway and the post-earthquake efforts in New Zealand's Christchurch. One of the most common recipes is to call for 'resilience'. Apart from an emphasis on capabilities for 'bouncing back' rather than seeking to prevent risks from occurring, there is little agreement as to what resilience actually is, or how it can be achieved. It is therefore, for example, questionable as to whether resilience can actually be designed. There are frameworks in high risk industries (such as oil platforms) that seek to measure resilience at the plant level, but whether such indicators can be developed for complex communities that are faced not with single events, but cascading effects, is more questionable. Furthermore, it is also questionable how far resilience can be taken since there is little scope for bouncing back after a major asteroid hit. In some (or many) cases, change and adaptation may therefore be unavoidable.

Resilience implies that individuals have a responsibility for managing risks. This, again, raises considerable problems for resilience. First responders and other types of crisis managers might be willing to undertake continuous crisis and emergency training, and read commission and inquiry reports to draw lessons. However, it is highly unlikely that high level politicians and, let alone, populations at large will consider insights from weighty and learned inquiries. How to communicate resilience strategies to communities (and to politicians) is a key challenge. Finally, resilience requires a capacity to adapt that assumes a certain level of trust, in individuals and their co-operation, as well as in the backup resourcing by public authority. Whether such pre-requisites can be assumed or even engineered is, again, doubtful, especially in an age of cutbacks in public expenditures.

Existential risks therefore deserve specific attention when it comes to the study and practise of risk and crisis management. It points to the traditional themes that have featured in crisis management and the wider public management literature, especially in terms of inter- and intra-organizational learning and co-ordination. Furthermore, it points to particular existential properties that need to be taken into consideration when managing risks. These properties point not just to individual fears and distrust in public authority, they also point to the inter-related, cross-system nature of particular risks that pose a key threat for contemporary societies. How regulation and policy can be structured to be attentive to these complexities and interdependencies is an area that requires a great deal more academic and practical attention.

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He who binds to himself a joy
Does the winged life destroy;
But he who kisses the joy as it flies
Lives in eternity's sun rise.
William Blake
2015

The business of being good: a new language for social organizations

Julia Morley traces the shift towards the language of business

Over the last ten years, the language used in the social sector has begun to shift. Increasingly, those who engage in social activities for the good of humanity speak the language of business. For example, in 2009, a report by the consulting think tank Monitor Institute praised a Tanzanian distributor of solar panels funded by a non-profit mezzanine fund (Freireich and Fulton, 2009). More recently, on 15 September 2014, the Sydney Morning Herald commended a social enterprise backed by AUD$95 million in investment capital for producing a surplus of $8.3 million and delivering returns of 12 per cent to its investors. Even the Pope has endorsed a G8 initiative to encourage social impact investing, welcoming attempts to develop 'an international framework capable of promoting a market of high impact investments …'. Terminology such as 'mezzanine fund', 'surplus', 'social investor', 'return', and 'high impact investments' is markedly different from that traditionally used in the charitable sector, and is suggestive of a focus on transparency and efficient funding. For those interested in issues of market structure and regulation, this new way of talking about the social sector raises a number of interesting questions concerning accountability and market efficiency. Furthermore, the apparent move towards the commercialization of 'good work' raises moral concerns for everyone.

The linguistic shift in the social sector can be traced to structural and cultural changes in the 1990s. During this decade, the emergence of the social enterprise as an organizational form blurred the distinction between charitable and commercial activities. The term 'social enterprise' is not clearly defined and can be used to refer to a variety of different organizational forms (Teasdale, 2012). However, it is generally agreed that such an organization will use commercial strategies to maximize social value as it will re-invest most financial returns and social purpose must be its core objective. Social entrepreneurs provide the same kinds of social activities as charities, such as counselling young offenders, finding adoptive families for children in care or providing youth clubs in deprived areas, but they do so using innovative strategies and new funding sources, such as earned income from selling goods or services or from social investment. They may also attempt to deliver a combination of financial returns and social impact, known as 'blended returns' and many have registered as a new form of organization, the Community Interest Company (CIC). The CIC was introduced in the Companies Act (2006) to address the needs of social enterprises, allowing directors to be paid a salary and some financial distributions to be made, in contrast to the volunteer boards required by charities.

How are these changes in the organizational structures for doing good work connected to the language used by social organizations? The answer often given by social entrepreneurs is that they believe their chances of attracting funding are improved if they speak the same language as potential funders and can demonstrate their effectiveness. What might this mean for an after-school youth club aimed at reducing levels of criminal behaviour among local teenagers? Social investors might expect this kind of social enterprise to report 'outputs' such as an improvement in school grades and a reduction in both school dropout rates and criminal convictions. Those providing social investment funding may want social enterprises to demonstrate 'social impact', which is a somewhat nebulous term normally understood to be the long-term effect of their activities on the lives of both participants and members of the community. Some social enterprises go one step further and report their impact in financial terms. A report by New Philanthropy Capital has identified that Kickz, a UK social enterprise offering after-school sports clubs for young people in deprived areas, can generate financial savings of £17 million per year due to reductions in criminal behaviour. This, it claims, corresponds to a social return on investment of £7.35 for every £1 invested (Nevill and van Poortvliet, n.d.).

Many social investment intermediaries argue that social enterprises that do not adapt to the new environment of social investment will fail to attract funding, whereas those which embrace the new regime will prosper. Is this really the case, though? Some commentators, such as David Floyd of the social enterprise Social Spider, have pointed out that the supply of social investment funding is not as large as some have suggested. The £202 million of funding identified by Big Society Capital (2013) actually represents a very small part of the market for third-sector funding (Beanbags and bullsh!t.com). If this is the case, and other options exist for raising funds, why have social enterprises adopted business language, as if they are courting the attention of social investors? What – or who – might have persuaded social sector organizations to employ the language and practices of business?

To answer this question, we must turn to the activities of a group of elite investment professionals who have played an important role in disseminating the message that business approaches add value to social enterprise. These professionals have been involved in the creation of a number of different organizations within the new social investment space. These organizations include think tanks, such as New Philanthropy Capital and New Economics Foundation, which advise and provide training on social impact measurement; financial institutions, such as Big Society Capital, which provides liquidity and aims to stimulate investment, and other social investment intermediaries, such

as Social Finance and Impetus-PEF, which structure new ways of channelling funds to social enterprises. A significant proportion of the managers and advisers (and often founders) of these organizations have worked in private equity or investment banking, and many earned MBAs from world-class institutions, such as Harvard Business School and are well connected politically. They believe that their mission is to grow the market for social investment and improve accountability and efficiency in the social sector.

Using language peppered with terms such as 'private equity logic' and 'investment rigour', they argue that the use of business techniques will enhance the efficiency of social enterprises and lead to improvements in the effectiveness of interventions undertaken. Think tanks offer social entrepreneurs a plethora of opportunities for learning the language and techniques of impact-measurement or investment-readiness through training sessions or conferences. The website of the Investment & Contract Readiness Fund, developed by the Cabinet Office, argues that, 'as much-needed social investment impact funds become available, it is vital that social ventures are in a position to be able to take advantage of them to play a transformative role in how social value is delivered to our communities'. This statement lends weight to arguments that the supposedly 'evolutionary' change in the culture and language of the social sector in response to demand for social investment funding is, in fact, being orchestrated by social investment intermediaries and government agencies.

Impact measurement evangelists claim that the use of performance measurement metrics enhances transparency of social enterprises and allows social investors to make better funding decisions. But these calculations are not without problems. Academics such as Alex Nicholls (2009) of Said Business School have pointed out that commercial performance measurement tools may fail to reflect social value, particularly for social enterprises operating in spaces of 'market failure'.

It is well known that causal connections between social interventions and particular outcomes are extremely difficult to establish. Also, a double-counting of social savings may occur if multiple social enterprises address individual cases and all claim credit for outcomes achieved. And even if these technical problems can be overcome, the use of performance measures may be prohibitively costly. As a result of these problems, it may be difficult for some social entrepreneurs, particularly smaller organizations involved in long-term interventions, to attract social investment funding if it is dependent on the ability to demonstrate social impact.

Furthermore, it is well known by academics that the use of performance measures may generate undesired and unintended outcomes. A social enterprise facing short-term performance targets may be tempted to skew its social interventions towards those yielding short-term results, even if this is inappropriate for issues which require longer term interventions. There may even be a temptation for a social enterprise to 'game the system', by choosing to address easy-to-solve problems in place of harder ones, thereby enabling them to report higher success rates.

A different set of problems relates to the potential for the use of commercial language and tools to taint the altruistic actions of those working in social enterprises. Social scientists and moral philosophers have long questioned the effects of introducing any economic incentives to motivate altruistic actions. Since the 1970s, experiments have repeatedly shown that the commercialization of pro-social activities such as blood donation can have negative effects (Titmuss, 1971). Furthermore, profiting in any way from human misery by attempts to make financial returns may be viewed as morally unacceptable, diminishing not only the intrinsic value of such pro-social work to those committed to helping others but also possibly the trust of society in the motivation of such social enterprises. For these technical and moral reasons, we should be sensitive to the potential costs of introducing a new language of business in the social sector, even if it may deliver improvements in accountability and efficiency.

Given that we live in an age of austerity, it makes sense for the charitable sector to be concerned both with efficiency and attracting funding – and at the same time for funders to encourage social enterprises to maximise 'bang for buck'. On the face of it, the use of performance metrics and other business tools appear to encourage rigorous approaches to management and accountability. But their introduction is not without risk and the evidence of benefits mostly anecdotal. The social sector tackles hard problems that often have no easy solutions. Relying on management tools aimed at making organizations efficient and accountable may fail to deliver the desired outcomes, as complex social problems may be shunned, while public trust in the motivations of social enterprises may be damaged by their attempts to generate financial returns. It is not even clear that the shifting language of the social world reflects any fundamental change in the operations of social enterprises or if it is merely window-dressing. Given the infancy of the new market for social investment, the jury is still out on these questions. Watch this space.

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The everyday life of risk management

Mike Power explores how *riskwork* is being conducted within organizations

When thinking about risk management it is easy and understandable to focus extensively on disasters and accidents. These events are often spectacular and headline grabbing, and there seems to be no shortage of them. They generate public enquiries, diagnoses, blame and post-disaster introspection about what went wrong and how it might have been prevented. These disasters and near disasters are also a ready source of case studies and teaching materials, from Bhopal to BP, and from the collapse of the Maxwell empire to the failure of Lehman Brothers.

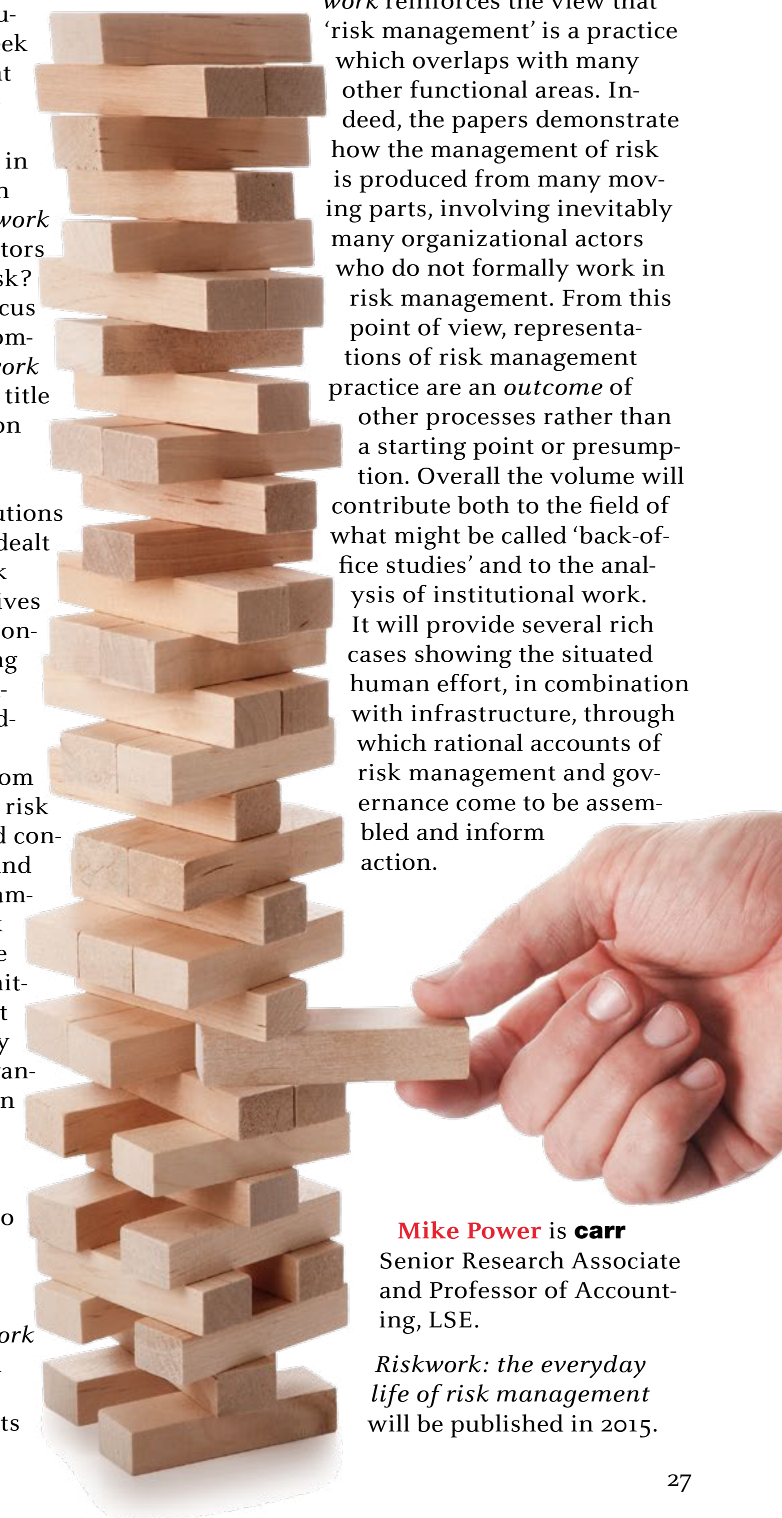
In 1978 Barry Turner highlighted the common patterns of what he called 'man-made disasters' in a book with that name. He drew attention to the warning signs about impending disaster and the missed opportunities to avert them. Many years later, but in a similar fashion, Diane Vaughan traced the Challenger disaster in 1986 to a culture of 'normalized deviance' fostered from the top to the bottom of NASA. And more recently in the United Kingdom a report entitled *Roads to Ruin* documented the common causes of a number corporate failures and accidents. Beyond the proximate causes of technical failure, all these studies identify defects in the management practice and values of the organizations studied.

In all these analyses, the origins of disaster are located at the more mundane level of organizational life, in routine operational errors, in failed legal compliance, in misdirected monitoring and control practices over traders. Yet the benefit of hindsight may exaggerate the imperfections of risk management practice, the study of which has tended to be in the shadow of disaster or other kinds of failure. Is it possible to study risk management practice without this implicit bias towards failure?

In May 2014 **carr** held a workshop to discuss risk management away from the heat of accidents and disasters, away from 'incubation periods' and 'deviant normalities' which precede them. The intention was to focus more neutrally on what people in organizations actually do when they seek to manage risk. What are the routines, values and instruments which get mobilized in risk management? In short, what kind of *work* do organizational actors do in the name of risk? The motif for this focus is a newly created compound word – *Riskwork* – and this will be the title of an edited collection of the proceedings.

The various contributions to the workshop all dealt with the work of risk management operatives and other organizational actors in producing the facts of organizational risk via spreadsheets and related documents. Away from the ideal designs for risk management we find considerable variation and contingency. For example, devices like 'risk maps' can on the one hand enhance commitments from different groups to projects by generating cross-organization assurance. On the other hand they can be a distraction and generate a compliance orientation to risk. Much depends on a whole series of other factors. More generally, this *riskwork* is characterized by a mix of ideas, people and material elements which enable organizational actors to make sense of risks and build the internal facts of risk management.

This micro-sociological focus of *riskwork* reinforces the view that 'risk management' is a practice which overlaps with many other functional areas. Indeed, the papers demonstrate how the management of risk is produced from many moving parts, involving inevitably many organizational actors who do not formally work in risk management. From this point of view, representations of risk management practice are an *outcome* of other processes rather than a starting point or presumption. Overall the volume will contribute both to the field of what might be called 'back-office studies' and to the analysis of institutional work. It will provide several rich cases showing the situated human effort, in combination with infrastructure, through which rational accounts of risk management and governance come to be assembled and inform action.



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Riskwork: the everyday life of risk management will be published in 2015.

carr news

carr publications

Accounting and the plasticity of valuation
Andrea Mennicken and Michael Power, forthcoming in A. Berthoin Antal, M. Hutter and D. Stark (eds) *Moments of Valuation: exploring sites of dissonance*, Oxford: Oxford University Press.

Accounting for values in prison privatization
Andrea Mennicken, in S. Alexius & K. Tamm Hallström (eds), *Configuring Value Conflicts in Markets.* Cheltenham: Edward Elgar.

Crowdsourcing and regulatory reviews: a new way of challenging red tape in British government?
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Different ways of blowing the whistle: explaining variations in decentralized enforcement in the UK and France.
Julien Etienne, *Regulation & Governance*, doi:10.1111/rego.12060.

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Martin Lodge and Christel Koop, *Journal of European Public Policy* 21(9): 1311–29.

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Science, badgers, politics: advocacy coalitions and policy change in bovine tuberculosis policy in Britain
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The politics of detection in business regulation
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The politics of information in EU internal security: information sharing by European agencies
Madalina Busuioc and Deirdre Curtin, in T. Blom & S. Vanhoonacker (eds), *The Politics of Information: the case of the European Union*, Basingstoke: Palgrave Macmillan.

The problem-solving capacity of the modern state
Martin Lodge and Kai Wegrich (eds), Oxford, Oxford University Press.

The regulatory state under the coalition government: volatile stability continued
Martin Lodge, *Political Quarterly* 85(2): 143–7.

The theory and practice of EU agency autonomy and accountability: early day expectations, today's realities and future perspectives
Madalina Busuioc and Martijn Groenleer, in M. Everson, C. Monda & E. Vos (eds), *European Agencies in between Institutions and Member States*, Alphen aan den Rijn: Kluwer Law International.

carr talks

Bridget Hutter gave a public lecture on 'Risk regulation and crisis: a social science perspective on global uncertainties', at the Princeton Institute for International and Regional Studies Research Community on Global Systemic Risk, Princeton University, in April.

Martin Lodge presented a joint paper with Christopher Hood on 'The strange survival of risk regulation' to the International Political Science Association conference in Montreal in July. He also delivered a paper on 'Colonial public service bargains', co-authored with Lindsay Stirton and Kim Maloney, to the American Political Science Association annual conference in Washington in August. He also gave talks at Ofcom, the National Audit Office, and meetings of the OECD on high-level risks and regulatory policy.

Andrea Mennicken was a Fellow at the Institute for Advanced Study in Berlin during the academic year 2013/4. She gave the key note speech at the Annual Meeting of the French Accounting Association conference in Lille in May. Her talk was on 'Custody, care and cost: accounting between economy and morality'. She was a member of the Scientific Committee of the EAA Congress in Tallinn, and its conference's Doctoral Colloquium Faculty.

Peter Miller was awarded an honorary doctorate from the Copenhagen Business School.

Mike Power contributed to the Latour and Accounting workshop at Sciences Po, Paris with a paper on 'The social life of accounting estimates' in May. In June, he spoke on 'Risk culture' at Mazars dinner, Centre for Audit Committee and Investor Dialogue, and on 'Accounting for research impact' at LSE's Governing Academic Life conference. In addition, Mike presented a paper and led a seminar on 'values and measurement' at the Edinburgh Culture Summit as part of Edinburgh Festival in August. He presented on 'understanding risk culture' at a workshop during the Institute of Actuaries GIRO conference 2014 at Celtic Manor in Newport in September.

carr events

carr organized, together with City University's Centre for Competition & Regulatory Policy, and the Institute of Economic Affairs, a conference on The British Utility Regulation Model: Beyond Command and Incentive Regulation? The event marked the 30th anniversary of the influential Littlechild Report. The conference covered regulatory dynamics in the UK, the industrialized and developing world.

carr further organized a range of one-day workshops. One workshop, organized by Mike Power, approached the concept of Riskwork. This workshop considered the day-to-day activity of 'risk work' across different organizational settings. The other on New Perspectives on Accountability, organized by Madalina Busuioc and Martin Lodge, brought together various social science disciplines to consider how the study of accountability in the field of regulation had changed in terms of theoretical and methodological innovations, as well as empirical findings. Finally, a workshop organized by Kira Matus and Martin Lodge, brought together research and practitioner perspectives on Existential Risk.

Finally, **carr** organized a launch event for the Hertie Governance Report 2014. A roundtable discussion focused on the issue of Civil Service Capacity and how capacity issues could be enhanced in a period of sustained austerity. Speakers included Christopher Hood (Oxford), Sir Richard Mottram (LSE), Nick Pearce (IPPR) and Steven Meek (Department of Education).

For more information on these events:

www.lse.ac.uk/researchAndExpertise/units/CARR/events/previousConferencesWorkshops/Home.aspx

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