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Regulation in Public Policy

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Multiple Meanings of Regulation

In its most essential definition, the term "regulation" means the setting of rules by some actors ("regulators") that steer the behaviour of other actors ("regulatees"). For instance, rules can prevent environmental pollution, protect consumers, or safeguard data privacy on the Internet. They can appear in each step of the policy cycle: policy formulation (Chapter ▶ "Formulation and Policy Formulation" by Howlett, this volume), agenda-setting (Chapter ▶ "Agenda Setting in Public Policy" by Breunig et al., this volume), decision-making, implementation (Chapter ▶ "Implementation and Policy Implementation" by Mazur & Engeli, this volume), monitoring, enforcement, and evaluation (Chapter ▶ "Evaluation and Policy Evaluation" by Jacob, this volume). However, besides a broad and common understanding of the term, there is no shared definition of "regulation". Within the political science literature, its meaning can vary significantly based on which actors regulate (regulators), which actors are subject to regulation (regulatees), and which regulatory tools (instruments) are employed (Jordana & Levi-Faur 2004).

In a first meaning, regulation indicates the state's competence to intentionally set authoritative rules that constrain individual and collective behaviour. The main aim of regulation as state intervention is to prevent human behaviour that can have negative implications on society. An example are rules banning smoke in public places that could harm the health of individuals. Since it involves rules, regulation is clearly distinct from distributional or redistributional policies that allocate resources (Majone 1997).

A second meaning of regulation indicates the intentional steering activity of the state (regulation as governance, see chapter ▶ "Governance in Public Policy" by Thomann & Wu, this volume). Steering foresees not only binding rules but also economic incentives. Examples include rules to prevent mergers that result in monopolies or economic incentives for companies to invest in renewable energy. The main aim of the regulatory state (Majone 1997) is to correct market failures. In terms of governance, the state (principal) delegates the adoption, implementation, monitoring, and enforcement of rules to both state and non-state actors (agents) at central, regional, local, and individual level, while remaining in charge of protecting the public interest.

In a third meaning, regulation encompasses all those mechanisms of social control – not only rules originating from the state – that influence

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both society and the economy. The effects of such regulation can also be unintentional, for instance, as a side effect of a specific policy. Regulation can result from a broad range of non-state actors, such as businesses and civil society, or from entities, such as the market. Hence, while the first (regulation as state intervention) and the second (regulation as governance) meaning of regulation point to a centralized activity mainly under the control of the state and its agencies, the third meaning (regulation as mechanisms of social control) implies the decentralized co-existence of several actors beyond the state (Thomann 2017).

In the applied literature on regulation, scholars tend to agree on three basic features of regulation. First, regardless of who regulators and regulatees are, regulation implies an intentional intervention of the former in the activities of the latter. Therefore, cases of unintentional or no intervention do not qualify as regulation. Regulation can have unintentional effects, but the act of setting rules is itself intentional. Second, the intervention is "typically direct – involving binding standard-setting, monitoring, and sanctioning – and exercised by public-sector actors on the economic activities of private-sector actors" (Koop & Lodge 2017, p. 105). Third, however, as a social phenomenon regulation has evolved over time: new forms of untypical regulation can be indirect, private-sector driven (regulators), public-sector targeted (regulatees), non-binding, and not focused on economic activities only. Behind the idea of regulation as such stands the assumption that the traditional regulator, which is the state, has progressively shifted its way to intervene in the economy and society away from redistributing resources toward setting rules.

From the Redistributive to the Regulatory State

After World War II, most parts of Europe lay in ruins. Public investments and nationalization of key state sectors were considered the only possible way for European countries to economically recover from the war. Therefore, a general tendency of the Western world was that the state enjoyed strong powers of discretionary planning and redistribution. The post-war state employed two out of the three traditional sources of governmental power – the monopoly over taxing and borrowing, and the capacity to spend – in order to stimulate economic growth. It did not focus on rule-making. As an actor directly intervening into the economy in order to redistribute resources, the post-war state was called a "welfare state" or a "Keynesian state", or simply a "positive state" (Thatcher 2002).

This framework progressively changed in the 1970s, when Keynesian policies could not prevent increasing unemployment and rising inflation rates. The reason for poor economic performance started to be identified in discretionary public expenditure and too generous welfare policies (Majone 1997). The positive state turned out to be too costly. Moreover, it proved unable to tackle the negative consequences of the end of the Bretton Woods systems (1971) and of the 1973 oil crisis. For the first time after World War II, it became clear that like markets states also could fail.

As a consequence, the state started to intervene in the economy not through the redistribution of resources but through the creation or removal of rules. In the Anglo-Saxon context first, and then in almost all West European countries, the new regulatory state engaged in the privatization of large parts of the public sector, increased competition through liberalization and removal of monopolies, a focus on supply-side economics, and a radical consolidation of welfare systems. This regulatory mode of governance was less control oriented and interventionist but deemed to be more efficient (Thomann 2017). However, as Majone (1997, p. 143) notes, this "did not result in proper laissez-faire, but rather in a combination of de-regulation and re-regulation at a different level of governance".

In the European context, European integration played an important role in the rise of the regulatory state. In the EU, the decision to establish a single market triggered an enhanced delegation of regulatory powers to supranational institutions in Brussels, which worked together with national authorities. Through a plethora of regulations

and directives, the EU removed obstacles to the single market and promoted harmonization of national legislation. Since member states were in charge of implementing EU policies, the EU's regulation promoted significant changes to national administrative systems, especially in the realm of competition policy. In turn, this empowered national authorities with new regulatory tasks, for instance in environmental or consumer protection policy. As a result, through the deepening of European integration, the interdependency between the EU and its member states, and between member states, has significantly grown – a process of Europeanization of policy making which ended up strengthening the regulatory state at both levels of government (Chapter ▶ "Europeanisation in Public Policy" by Radaelli, this volume).

The preceding sketched development points to an empowerment of the state as a regulator. Yet, with the increasing amount and scope of regulation, the state found itself unable to perform regulation alone. As a result, today the state is no longer the only regulator. In some cases, it has intentionally transferred its regulatory powers to some actors. In others, it has unintentionally lost those powers in favour of newly emerged actors.

Traditional and New Regulators

At the national level, the traditional actor performing regulation is the executive – specifically ministers with different portfolios – which acts upon a mandate of the legislative. As a bureaucratic legislator, the executive adopts administrative measures that include various own regulatory standards. The executive comprises administrative agencies at different hierarchical levels (Blauberger & Rittberger 2015). Although agencies tend to involve the addressees of regulation in a consultative process, they enjoy a certain degree of discretion. This mainly results from the agencies' scientific and technical expertise, which forms the basis of the legitimacy of their decisions (Chapter ▶ "Experts and Expertise in Public Policy" by Blum, this volume). Executive agents, such as member state authorities, inspectorates, and public servants, are in charge of enforcing the regulation. The national bureaucracy can vary not only in the degree of centralization but also in the institutional distinction between actors entailing regulatory tasks and actors in charge of applying and enforcing the regulation, both at the central and at street level (Chapter ▶ "Multi-level Governance in Public Policy" by Trein, this volume; chapter ▶ "Street Level Bureaucrats in Public Policy" by Cohen, this volume). Both can have generalized or specific competences. They sometimes share tasks as part of an administrative network (Thomann 2017; chapter ▶ "Policy Network" by Metz & Nguyen Long, this volume).

Because regulation has grown in scope and complexity, the state has increasingly felt the need to delegate regulatory tasks to independent agencies with strong expertise in their sectoral area. These independent regulatory agencies (IRAs) are neither directly elected nor bound to ministerial directions but they have received a mandate grounded in public law (Thatcher 2002). Prominent examples are the German Federal Network Agency, the European Environment Agency, and the U.S. Food and Drug Administration. Having legislative competences and relying on a high reputation as credible enforcers, IRAs can thus effectively support the state in its regulatory activity. Similar to IRAs but grounded in private law, Quasi-Autonomous Non-Governmental Organizations receive and spend public funds for the fulfilment of public tasks (e.g. services and counselling) but are partially under private control. Further regulatory actors are national courts, the European Court of Justice and experts' associations, such as employer's associations and unions (Thomann 2017).

The process of globalization has increased economic and financial trade and, thus, national interdependencies. From there stemmed the increased need for international regulation. Such development has resulted in transnational regulation, where states switched from regulators to being the main regulatees. Consequently, states have lost some of their powers in favour of forms of integration like the EU or international organizations like the United Nations, the World Bank or

the World Trade Organization. Other actors that increasingly play the role of transnational regulators are economic organizations (e.g. trade unions), corporations (e.g. Apple), international and national non-governmental organizations (e.g. Consumer International), the public (e.g. the media), and epistemic communities (e.g. a Task Force within the World Health Organization). Transnational regulation can vary in terms of target groups, geographical scope, and degree of formalization. It encompasses an increasingly large number of policy areas, including those that member states consider more strategic for their sovereignty – for instance, financial markets, nuclear energy, and food safety. Moreover, transnational regulation has created the need for arbitration bodies for settling international conflicts between businesses, investors, and states (Levi-Faur 2011).

Among the new regulators that emerged through globalization, private actors like businesses have grown in importance. They often engage in forms of private regulation which complements public regulation in those areas that are either too complex for national authorities to regulate or impossible to regulate by a single state (e.g. the world wide web). Sometimes, states accept this type of regulation also because they are politically unable to agree on certain rules through a treaty. Given their lack of expertise, states increasingly allow firms and industry associations to set their own codes of conduct. Similarly, the proposals for voluntary standards for trade have found increased acceptance if originating from actors not linked to states, like non-governmental organizations (Héritier & Eckhart 2008).

The distinguishing feature of private regulation – which can be both binding and non-binding – is that the state is neither involved in its content nor in its enforcement. Rather, transnational standard-setting institutions or specific and powerful businesses which might compete as standard-setters play a key role. Private regulation applies to a specific industry (e.g. cars or solar panels), product (e.g. sugar or steel), or process (e.g. steel extraction or nuclear fusion). States can also be subject to private regulation. For example, states members of the WTO need to comply with standards developed by a private organization, the International Organization for Standardization (Thomann 2017).

Traditional and New Regulatees

The traditional entity subject to regulation is the market. The state regulates markets primarily in order to ensure competition. It does so through different regulatory policies. First, the state seeks to prevent dominant positions of enterprises, particularly monopolies (so-called regulation-of-competition). Second, it performs targeted intervention in those strategic sectors that need specific regulation, such as the energy or the telecommunication sector (regulation-for-competition). In a third scenario, national competition authorities monitor the process through which corporations regulate themselves and monitor their compliance (enforced self-regulation) (Jordana & Levi-Faur 2004).

Deregulation aims at reducing barriers to entering and exiting markets through law or through an agreement between the state and associations representing economic actors. This is a "negative" form of regulation because existing rules that limit the action of social and economic actors are removed, without necessarily replacing them with new rules. Deregulation can also mean that some rules remain in place but become less restrictive and burdensome for the regulatees. This trend can be observed particularly in the case of policies regulating the environment, health, safety, and consumer protection (Majone 1997). In its extreme form, deregulation results in self-regulating markets – which neo-liberalism considers the optimal outcome. The regulation literature agrees that while deregulation fosters competition, a certain degree of regulation is needed because markets do not always produce the desired results (Thomann 2017).

What is specifically regulated? The scope of regulation can concern different phases of the behaviour of social and economic actors. Regulation can affect what an actor can do (regulation on behaviour, such as the prohibition of anti-

competitive practices), which costs it can claim for its goods and services (regulation of costs, e.g. through a price cap) and which message it can deliver, for instance as part of the advertisement of a product or content of a campaign. Moreover, regulation can address the achievement of certain results (regulation of performance) or the technology employed during the process of production of a good or the delivery of a service (regulation of technology). Licenses are a concrete example of entry regulation because it permits actors to engage in a specific activity (Levi-Faur 2011).

In a globalized international arena, states have increasingly become the subject of regulation. This is particularly visible in the case of European member states. From the birth of the EU in 1957 until the end of the 1980s, regulation in Europe mainly consisted of building a single market. The fall of the Berlin Wall in 1989 and the subsequent German reunification in 1990 radically changed the international scenario. As a reaction, the EU integrated new policy areas at the core of national sovereignty, such as monetary, fiscal, foreign, and security policy. As a quintessence of core state power, member states were reluctant to delegate strong fiscal competences to the EU. In fact, the EU budget is still limited (only ca. 1.5 per cent of the European Gross Domestic Product or GDP). Moreover, unlike the budget of federations, the EU budget cannot rely on own tax revenues. More than 70 per cent of its amount comes from national transfers. Since it was (and still is) politically impossible to grant the EU an independent power to tax and spend, as a compensation the EU could increase its competences only through fiscal regulation (Majone 1997).

When through the Maastricht Treaty (1992) member states agreed to adopt a common currency while retaining the competence over their fiscal policy, Germany and a number of northern European countries feared that some southern European governments could benefit from the common currency to undertake profligate spending which would have created negative externalities (spillovers) to the EU. To tackle this potential issue of moral hazard, the EU put in place a detailed mechanism of fiscal surveillance, meaning rules aimed at limiting the spending discretion of governments. Such rules represented the EU's shift from regulation of the market to regulation of governments (Schelkle 2009). In terms of content, the EU's fiscal rules embrace regulation on expenditures, most notably the 3 per cent deficit to GDP ratio and the 60 per cent debt to GDP ratio. Moreover, the EU's fiscal rules commit member states to submit detailed information to the European Commission on the content of the budgetary law, which the same Commission needs to approve. Similarly, member states receive so-called Country-Specific Recommendations on the main domestic reforms to be implemented. Governments not complying with the regulatory framework can face economic sanctions. As a reaction to the European sovereign debt crisis (2009–2013), fiscal regulation has become even stricter. Member states need to have a balanced budget and reduce their debt over the 60 per cent ratio by 1/20 every year. The peak of regulatory intrusiveness into national sovereignty is represented by the obligation to enshrine the balanced budget role into national constitutions (Zgaga et al., 2023). In terms of governance, the peculiarity of the EU's fiscal regulation is that regulators and regulatees coincide. Member states originally introduced fiscal rules in the Maastricht Treaty. Only they can substantially change this regulation by amending the European treaties through unanimity. Moreover, member states are also in charge – together with the Commission – of enforcing fiscal regulation. The intergovernmental governance of the EU's fiscal regulation explains the so far lack of effective enforcement of the rules. In addition, it poses problems of accountability because unlike spending programmes which are regularly audited, it is much more difficult to exercise control over regulatory programmes (Majone 1997).

Between Regulators and Regulatees: Regulatory Intermediaries

When replying to the question of who regulates whom, a twofold distinction can be drawn. If regulator and regulatees coincide, an actor

regulates itself. Such first-party regulation is typical of the business sector (Héritier & Eckert 2008). Under second-party regulation, the regulator can be clearly distinguished from the regulatee. The classic example is the state which regulates the business (Levi-Faur 2011). A third scenario, called third-party regulation, occurs when between regulators and regulatees there is a further group of actors called regulatory intermediaries (RIs). RIs use their power, capability, and authority to support regulators and regulatees. Marking a shift from two-party self-governance to polycentric self-governance, RIs appear in any type of regulation (public, private, and hybrid; national, international, and transnational; formal and informal). Examples of RIs include non-governmental organizations, inspection companies, private auditors and accreditors, and transgovernmental networks of regulatory agencies. They figure in the regulation of a broad range of different policy areas, including for example trade, agriculture, finance, and human rights (Abbott et al. 2017). Over the last decades, RIs have spread not only due to the rise of national and global regulation. The increased role of private regulatory actors and the professionalization of regulation have also favoured the growth of RIs as supporting actors (Chapter ▶ "Experts and Expertise in Public Policy" by Blum, this volume; chapter ▶ "Epistemic Community in Public Policy" by Vähämaa, this volume).

The literature has identified four main ways through which RIs support regulators and regulatees. First, they help regulatees to better understand and apply the rules, thus providing advice on the optimal mode of implementation. As such, RIs are implementing facilitators. Second, as RIs might be closer to the regulatees than the regulators, they use their expertise and resources to monitor compliance. Third, RIs as "trust builders" between regulators and regulatees act as a third party that fosters dialogue and exchange of best practices. Fourth, RIs might also directly enforce rules. In sum, RIs are a bridge between regulators and regulatees. It is thanks to them that information flows between regulators and regulatees circulate, up to the point that both might end up being dependent on RIs for their successful relationship. Crucially, RIs might try to pursue their own interests (regulatory drift). To do so, RIs can give up their third-party role and side with either the regulators or the regulatees. Moreover, they can engage in an attempt to change the content of regulation and/or steer implementation to their benefit. As a result, the activity of RIs is connected to issues of participation, transparency, legitimacy, and accountability. This holds true when one of the three regulatory actors captures one or both the others, but also when RIs change their hat by becoming either regulators or regulatees (Abbott et al. 2017). An increasingly important private RI on the international scene are credit rating agencies. They have become very powerful because their evaluations of debt sustainability strongly shape the government's capacity to borrow money on financial markets. Having been prominent during the sovereign debt crisis, credit rating agencies remain influential also today (Thomann 2017).

RIs point to a modern form of regulation which could be defined hybrid because regulators, regulatees, and RIs can be the state, the market, private economic actors, civil society, or a combination thereof. Regulatory openness to a plethora of actors implies that they can be multi-hat, that is easily switching from being regulators to become regulatees or vice versa. Alternatively, an actor can also play both roles at the same time. Moreover, hybridity might imply the combination of first-, second-, and third-party regulation. State actors, civil society, and business actors can share agenda-setting, adoption, implementation, monitoring, and enforcement (co-regulation). Alternatively, the regulatees can decide the rules themselves, while the regulator only checks the regularity of the process (meta-regulation). In enforced self-regulation, the regulatees are forced to set up a number of rules on which the regulators enjoy a veto power. Regulation is multilevel if different territorial levels (global, regional, national, sub-national, and local) or different functional and hierarchical levels share regulatory authority. The most prominent example of multilevel regulation is the EU (Levi-Faur 2011; Chapter ▶ "Multi-level Governance in Public Policy" by Trein, this volume).

In Europe, European regulatory networks (ERNs) perform the function of intermediaries between the EU and the member states. As transnational groups, they comprise public officials, non-state actors, and academic experts from EU institutions and member states. The aim of ERNs is to coordinate the activity of national regulatory agencies (NRAs) in order to develop norms, guidelines, standards, and best practices to facilitate the harmonized implementation of EU policies by the member states. By orchestrating ERNs, the Commission not only secures its influence over NRAs. It also gets expertise for the proposal of new policies. Unlike agencies (Thatcher 2002), supranational or intergovernmental networks usually operate on a voluntary, informal, and non-hierarchical basis. They do not have a mandate and they operate through non-binding, soft law. ERNs have been established in a broad range of policy areas, such as telecommunications, bank, electricity, and gas. Two examples are the Body of European Regulators for Electronic Communication (BEREC) and the Committee of European Securities Regulators (CESR) (Blauberger & Rittberger 2015). ERNs are a case of experimentalist governance, where EU policies are adopted and implemented through the interaction of EU institutions and member states, in consultation with civil society actors. The governance through ERNs balances national discretion in policy implementation with the requirement for governments to report to European institutions and other member states. In this peer review process, EU institutions can monitor member states. Both learn from each other's experience with the implementation of EU policies (Chapter ▶ "Experimental Governance in Public Policy" by Rangoni, this volume; chapter ▶ "Multi-level Governance in Public Policy" by Trein, this volume; chapter ▶ "Open Method of Coordination (OMC) in Public Policy" by Van Gerven & Vanhercke, this volume).

Variants of Regulation

The state's regulation has often been criticized as being too costly, lacking expertise, and being exposed to the risk of drifting away from the public interest. Therefore, specific processes, such as regulatory impact assessment (Chapter ▶ "Regulatory Impact Assessment in Public Policy" by Dunlop, this volume), risk-prevention approaches, and ex-post evaluation (Chapter ▶ "Evaluation and Policy Evaluation" by Jacob, this volume), have become increasingly common, at least in western democracies.

But how does the state regulate? Mainly through binding legal and administrative rules, monitoring, and enforcement measures (e.g. inspections and performance) which ultimately can also encompass sanctions. Regulation can vary in style, that is the standard way in which governments operate in order to design, adopt, and implement public policies. On some occasions, governments mainly rely on experts (Chapter ▶ "Experts and Expertise in Public Policy" by Blum, this volume). On others, they involve not only experts but also interest groups (Chapter ▶ "Interest Groups in Public Policy" by Varone & Eichenberger, this volume). Regulation can be open to public debate or develop behind closed doors (Chapter ▶ "Open Method of Coordination (OMC) in Public Policy" by van Gerven & Vanhercke, this volume). Moreover, regulation can be more or less binding for the regulatees and grant them more or less discretion. Regulation can be steered through various tools, like incentives, learning processes, and coercion (Thomann 2017).

Regulatory instruments are the tools set in place to meet the goals of regulation. Rules can vary in amount and degree of detail (regulatory density). They can also vary in terms of content (regulatory intensity). Formal intensity is about more or less strict mechanisms of monitoring, control, and enforcement. Substantial intensity refers to the temporal, personal, and substantive scope of restrictiveness. Furthermore, rules can display different monitoring, control, and enforcement mechanisms. Regulation in practice can vary from regulation "on paper" depending on a number of factors: how clearly the rules are formulated, which organizational structures are in place, and which attitude the implementing actors have vis-à-vis a given rule. Human and behavioural

factors, particularly cognitive and psychological mechanisms as well as interactions between regulators and regulatees, have practical implications on regulation (Chapter ▶ "Policy Instruments" by Capano, this volume; chapter ▶ "Behavioral Public Policy" by Reisch & Sunstein, this volume). With regard to legal instruments, besides laws and administrative acts at the national level, at the international level regulation can take place through directives, for example, in the EU or the WTO. Moreover, it can foresee quasi- and non-legal rules, and financial, market-, and information-based instruments. Examples of regulation include taxes, subsidies, public procurement policies, and an international tradeable permit system. Besides binding mechanisms, regulation can also rely on voluntary mechanisms. Voluntary mechanisms of regulation also take place at the global level and consist of non-binding and non-enforceable rules (soft law), for example, voluntary agreements, recommendations of good practice, setting of standards, and issuance of certification schemes. Governments and corporations voluntarily participate in – and comply with – these regulatory regimes. Examples of voluntary regulation are the non-smoking standards of the International Air Transport Association, the International Standard Banking Practices of the banking commission of the international chamber of commerce, and some global standards for the World Wide Web (Thomann 2017).

Self-regulation is a regime where one or several companies (or the industry as a whole) agree on constraining rules and enforce them on themselves (Héritier & Eckhart 2008). Therefore, in this type of regulation, which can embrace all steps of the policy cycle, the (typically private) regulators and the (typically private) regulatees largely coincide. However, for adopting and enforcing the rules, the industry can also involve external actors, such as consumer associations, government representatives, and experts (Chapter ▶ "Experts and Expertise in Public Policy" by Blum, this volume; chapter ▶ "Interest Groups in Public Policy" by Varone & Eichenberger, this volume). Through self-regulation, a regulator adopts formal or informal procedures, binding or non-binding rules and norms that it has a self-interest to comply with – with the state playing a subordinate, supporting, or parallel role. Self-regulation has emerged as an alternative to both state and market regulation. Famous examples are the private International Olympic Committee and the public-private World Anti-Doping Agency which jointly fight doping and the codes for medical ethics. Self-regulation can occur as a response to the threat by the state to adopt the regulation itself (as in the United States) or as part of an agreement between the public and the private sector (as in Europe) (Héritier and Eckhart 2008). Implementation and enforcement of self-regulation often occur through a combination of persuasion, social interaction, peer pressure, or market pressure on the one hand, and incentives and sanctions for non-compliance on the other hand. Reputation plays an important role: in most cases, actors comply with self-regulation because this assures them access to crucial information. In other words, non-compliance can become costly, particularly if countries grant access to the national markets only to those actors that are members of a certain regulatory regime (Thomann 2017).

In recent years, a new form of regulation – algorithmic regulation – has grown steadily. This type of regulation adopts algorithms, namely the collection of data and its combination in a process or set of rules, in order to reach specific regulatory purposes, like influencing the behaviour of individuals or mitigating risk to the community. Algorithmic regulation is largely used in the delivery of public sector services and in social media. States have relied on algorithmic regulation to contain the COVID-19 pandemic. Most notably, this has occurred through the use of COVID-19 alert apps in order to trace and contain the infection. While algorithmic regulation and artificial intelligence will remain key tools in the big-data automated decision-making process that characterizes certain public policies of our time (Chapter ▶ "Big Data-Automated Decision-Making in Public Policy" by Högberg, this volume), concerns remain about the legitimacy of decisions and the ethical implications on individual data protection (Ulbricht & Yeung 2022).

Research Gaps

As Levi-Faur (2011, p. 3) puts it, "regulation is hard to define, not least because it means different things to different people". Yet, the literature on applied regulation tends to agree on three basic features of regulation: intentionality, bindingness, and stateness (Koop & Lodge 2017). In most cases, regulation indicates the state's competence to intentionally set authoritative rules that constrain individual and collective behaviour (Thomann 2017). As such, although it can have redistributive implications (Thatcher 2002), regulation is clearly treated as separate from borrowing, taxing, and spending (Majone 1997). Yet, beyond this least common denominator shared by most scholars, the scope of the term "regulation" has significantly broadened over time. Today, it also includes private regulators and public regulatees. Moreover, regulation is no longer focused on economic activities only but it also increasingly constrains the discretion of governments. Last but not least, modern regulation can also be indirect, unintentional, and non-binding (Koop & Lodge 2017).

Although today a broad but shared conception of regulation within an interdisciplinary research agenda has emerged, at least four main limitations of existing studies can be identified. First, it often remains difficult to clearly distinguish between a very high number of definitions of "regulation". Therefore, future contributions should make more explicit the definitions that they use. Second, research is still clustered either within national or transnational studies. While the former tends to neglect new, untypical forms of regulation beyond the state, the latter focuses on power relations and accountability mechanisms and, thus, does not make use of the traditional analytical toolkit developed to analyse regulation across the policy cycle. A stronger inclusion of the interplay between national and transnational regulation could be beneficial to future studies. Third, research gaps remain in the study of practical implementation of regulation and its effectiveness, with particular regard to the global, private, and voluntary variants. Our knowledge about the conditions when regulatees comply with rules in the absence of state's enforcement remains scarce. This poses more general questions about how effectively the regulatory state is able to operate when it delegates powers to regulatory intermediaries – an influential third-party actor which deserves closer attention. Similarly, future studies should deepen research on the separation between regulators and regulatees. Fourth, research on regulation should approach the policy cycle in a more comprehensive way. It is necessary to put the different regulatory steps (from agenda-setting to evaluation) more closely in relation to each other in terms of actors and instruments – rather than treating each step as a watertight compartment. Last but not least, future contributions should not forget that "it is important to consider the implications of the subject matter for the technical, political and institutional context in which regulation operates" (Thomann 2017, p. 71). In this context, it is important to consider how regulatory tools can be tailored to the needs of specific target groups. While responsive regulation scholarship (Thomann 2017) focuses on including economic interests in regulatory design, more scholarship is needed that assesses how the effectiveness of and compliance with regulations depends on the fit between regulatory instruments and their targets.

Cross-References

- ▶ Agenda Setting in Public Policy
- ▶ Behavioral Public Policy
- ▶ Big Data-Automated Decision-Making in Public Policy
- ▶ Epistemic Community in Public Policy
- ▶ Europeanisation in Public Policy
- ▶ Evaluation and Policy Evaluation
- ▶ Experimental Governance in Public Policy
- ▶ Experts and Expertise in Public Policy
- ▶ Formulation and Policy Formulation
- ▶ Governance in Public Policy
- ▶ Implementation and Policy Implementation
- ▶ Interest Groups in Public Policy
- ▶ Multi-level Governance in Public Policy
- ▶ Open Method of Coordination (OMC) in Public Policy

- ▶ Policy Instruments
- ▶ Policy Network
- ▶ Public-Private-Partnership in Public Policy
- ▶ Regulatory Impact Assessment in Public Policy
- ▶ Street Level Bureaucrats in Public Policy

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