


## BOOK REVIEW

### **Introduction to Regulation and Governance Martino Maggetti, Cheltenham: Edward Elgar Publishing, 2025, 168 pp**

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It is difficult to overstate the importance of regulation as a modern tool of public policy and governance. But it is equally difficult to overstate the complexity of regulation and its contested nature. There are no first principles of regulation – no widely-accepted axioms or foundational precepts that provide a shared understanding of what regulation is (and what it is not), when regulation works well (and when it does not work), or how regulation can be used legitimately (and how its use is illegitimate). The challenge for any introductory text on regulation is to navigate this complex and contested terrain without overwhelming the reader, and perhaps communicate something interesting or insightful at the same time.

Martino Maggetti's *Introduction to Regulation and Governance* does not shy away from this challenge. It presents a remarkably comprehensive but accessible account of the key scholarly literature on regulation from a governance perspective, tracing influential ideas and concepts broadly along historical, institutional, functional and political trajectories. Its value lies in bringing an impressive range of contemporary regulatory scholarship together into something like a coherent whole, so that those interested in the phenomenon of regulation can readily pinpoint influential ideas and linkages in the vast literature, and chart a course for further research. This in itself is a remarkable achievement, and makes the book a useful addition to the regulatory scholar's shelf. At times, the book also seems to want to address a wider audience (policy-makers, businesses and citizens are all referred to on p 1), but the utility for these other classes of readers seems less obvious given the clear concern with intellectual ideas. While there is some use of practical examples and case studies, which might point to the practical utility of the book, these often seemed to be employed as a substitute for analysis of general principle rather than making specific conclusions more concrete or tangible. As a result, the real-world examples tend to be overshadowed by the principal task of synthesising the scholarship rather than providing a more concrete understanding of the issues being addressed.

The complex and contested nature of the regulatory project is made obvious in the first chapter. Maggetti frames his analysis around a “regulatory governance” approach (p 2), which serves to both provide a point of focus and signal the complexity of modern regulation. Regulation is treated as “a specific form of governance” based on rule-creation, monitoring and enforcement to enable “collective efforts by the state to steer the economy and society” (p 4). While the governance implications of regulation beget much

complexity, Maggetti is often keen to frame this complexity in terms of a complementarity where different approaches can co-exist. The introductory chapter concludes with discussion of public interest and private interest regulatory models, as well as a section devoted to the principal-agent model of delegation. These models are presented in formal terms, and the text offers a useful reminder that the theory of regulation does not always match up with the reality of regulatory practice.

Chapter 2, dealing with the advent of the regulatory state and its development, offers the most straight-forward discussion in the book. The regulatory state represents a core theme of modern regulatory scholarship, and it is a natural starting point for a governance-based perspective on regulation. Maggetti begins the chapter by tracing the American origins of the regulatory state, and then discusses the modern development in Europe (particularly alongside privatisation and liberalisation initiatives in the United Kingdom). This discussion includes a number of useful observations: that the development of the regulatory state is not slowing but continuing, that the range of regulatory tools and techniques is expanding, that the regulatory state involves a variety of regulatory models, and that regulation is often politically motivated and strategically deployed. This final point is a useful counterbalance to the still commonplace notion among regulatory professionals that regulation is a technocratic exercise. The essential political context of regulation is emphasised with almost deadpan delivery: “[i]ntervening political factors can either facilitate or, conversely, slow down, or even impede, regulatory reforms” (p 25).

Chapter 3 examines the poster child of the modern regulatory state, the independent regulatory agency. The standard markers of the regulatory agency are noted, being structural independence and functional expertise. While the United States was the first to take institutional non-partisan expertise seriously, the analysis notes that when other jurisdictions (particularly the United Kingdom) followed the path towards “agentification” it represented a fundamental reconfiguring of the modern state that we are still grappling with. A range of justifications are noted for the wide-spread proliferation of independent agencies that followed, adding complexity going well beyond the rudimentary principal-agent model. A *de facto* monopoly on expert knowledge can confer significant power on regulatory agencies, but there are associated risks of capture, illegitimacy and mission creep beyond core regulatory tasks. These are all discussed, but tangible solutions to these challenges are not readily forthcoming: instead, the chapter concludes simply by stating that “[t]he solution to these challenges can vary widely across sectors and countries, influenced by political and institutional contexts” (p 30).

Chapter 4 starts to complicate the analysis by addressing the European Union experience with networked regulation. This topic signals that the book is moving away from regulation understood as the rule-making authority of the nation-state and towards “the complexities of contemporary governance” (p 50). The European Union is, of course, the natural example to focus on. Since it was identified as a regulatory state,<sup>1</sup> regulation has been the central mode of governance in the EU as it works towards the project of harmonisation that underpins the single market. Regulatory dynamics are necessarily changed in this networked (as opposed to hierarchical) environment, and the resulting multi-level co-ordination is “complex” (p 53). Maggetti suggests that agentification within the European Union has been critical for formalising networks in this multi-layered polity (p 61).

Chapter 5 pushes the reader even further away from the paradigm of nation-state regulation by examining regulation that is not institutionalised politically. Transnational regulation is discussed first, focusing on the challenge of addressing regulatory issues of international scope without a definitive source of authority to provide an analytical or organisational reference point. After offering the conceptual tools of the governance

<sup>1</sup> See Giandomenico Majone, *Regulating Europe* (Milton Park, Routledge 1996).

triangle,<sup>2</sup> with its focus on relationships and spaces, and the ANIME model of regulatory process,<sup>3</sup> the discussion progresses into an extensive account of standardisation. The chapter then turns to look at self-regulation and its sibling co-regulation. Unless one is heavily invested in the decentring aspect of the modern governance perspective, it seems difficult to uncritically accept Maggetti's claim that such self-regulatory approaches are "challenging the nation-state monopoly over regulation for the public interest" (p 75). More traditional regulatory scholars and practitioners are still likely to see the risks associated with industry co-ordination as potentially overwhelming. The potential circuit breaker here is the role of regulatory intermediaries, which the chapter also discusses.

Chapter 6 takes on the subjects of regulatory performance and alternatives to regulation. It begins with a response to the common critiques of over-regulation and excessive "red tape," concluding that "what appears to matter is the quality of regulation rather than its quantity" (p 82). While this may sound platitudinal, many more policy advisors and elected officials should heed this advice. But regulatory quality is notoriously difficult to determine. Maggetti sees risk-based regulation as a way of potentially addressing this difficulty. The chapter then addresses "nudging" as a key alternative.<sup>4</sup> It is somewhat odd to treat nudging as an alternative to regulation, as it fits comfortably within the broad-based governance perspective that Maggetti employs. This focus on a single "alternative" approach perhaps also overlooks the potential for a more general discussion about the interplay between regulatory and market-based forms of governance.

Chapter 7 reframes the conventional if pedestrian concern with regulatory accountability in terms of engendering trust and populism. Trust is defined as a relational concept, reflecting the dynamic interactions that inform modern regulatory practice. There are benefits to engendering this kind of trust, in particular that it encourages compliance and eases the need for formal enforcement. But Maggetti also emphasises that trust should not overwhelm the impulse towards justification and accountability, which he frames in terms of a healthy degree of distrust towards the regulator. While there is empirical scholarship that shows a general perception of trust towards regulatory agencies, Maggetti notes the very real risk that new waves of populism towards governments (and bureaucratic structures in particular) can erode this trust. The populists' penchant for loyalty rather than expertise and centralisation rather than fragmentation of political authority can undermine the project of regulatory governance. Maggetti suggests that regulatory independence and autonomy is the key political battleground here.

Finally, chapter 8 discusses the future of regulation. It purports to offer a thematic conclusion by examining topical, emerging regulatory challenges. Unsurprisingly, those forward-looking topics are the big challenges of AI and climate change. Those looking for actionable insights may be disappointed, however. The themes that are emphasised are simply that modern regulation is dynamic and complex. In that vein, the chapter only goes as far as to conclude that "the uncertainty, technical complexity, opaqueness and rapid pace of AI development pose significant challenges for regulators" (p 114), and, in respect of pressing ecological challenges, "the regulator's well-tuned independence, accountability and trustworthiness become even more crucial" (p 116).

*Introduction to Regulation and Governance* invites two sets of critical comments. The first is that it exhibits both the strengths and limitations of the modern governance turn in regulatory scholarship. The strengths come from the ability of such a broad-based perspective to open up new insights and lines of inquiry into the difficult and sometimes

<sup>2</sup> See Kenneth W Abbott and Duncan Snidal, "The Governance Triangle: Regulatory Standards Institutions in the Shadow of the State" (2009) *The Politics of Global Regulation* 44.

<sup>3</sup> See Fabrizio Cafaggi and Andrea Renda, "Public and Private Regulation: Mapping the Labyrinth" (2012) DQ 16.

<sup>4</sup> See Richard H Thaler and Cass R Sunstein, *Nudge* (New Haven, Yale University Press 2008).

controversial subject of regulation.<sup>5</sup> This is what allows Maggetti to engage with the nuanced contextual factors that actually influence the theory and practice of regulation in such a sophisticated way. But the limitations stem from the fact that such a broad analytical sweep often brings with it a lack of focus. Where insights could have been offered, the text regularly only goes so far as to suggest that the issues involved are “complex.” Similarly, each chapter rounds off in a series of “concluding remarks” which do little more than briefly summarise the analysis already undertaken. Common themes, concrete analysis and actionable insights are difficult to come across.

Out of fairness to Maggetti it is perhaps worth mentioning at this stage that I tend towards a more traditional style of regulatory scholarship focused on the classic issues of understanding and applying regulatory policy to markets mechanisms through the authoritative rubric of legal process and form.<sup>6</sup> As such, I naturally tend towards a degree of personal scepticism when the governance perspective is presented as all-encompassing. Perhaps that scepticism is unwarranted given the undoubted influence that the regulation and governance movement currently enjoys. But even putting my own priors to one side, the second critical comment is that it would have been beneficial to engage more critically at the outset with the governance perspective being deployed. The limitations in the governance approach could then be justified as a product of a particular methodology, and perhaps allowed room to identify more focused analytical approaches as potential means of cutting through some of the inevitable complexity.

That said, to bring together such a diverse body of scholarly literature in a comprehensive and coherent way is an achievement to be commended. Maggetti will certainly find an appreciative audience for his efforts. Even those of use with a more sceptical mindset are likely to return to his pages to enjoy his lucid analysis and to catch the subtleties in regulatory thinking that we might otherwise have missed.

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<sup>5</sup> See Colin Scott, “Regulation in the Age of Governance: The Rise of the Post-regulatory State” in Jacint Jordana and David Levi-Faur (eds), *The Politics of Regulation* (Camberley, Edward Elgar 2004).

<sup>6</sup> The seminal account is still Anthony I Ogus, *Regulation: Legal Form and Economic Theory* (Oxford, Clarendon Press 1994).