

BOOK REVIEW/ COMPTE RENDU

Simon, F. C. *Meta-Regulation in Practice: Beyond Normative Views of Morality and Rationality*. New York: Routledge, 2017, pp. 240, hardcover, (9781138233720).

Governments are experimenting with new approaches to liberalizing industry from direct state control. Among such approaches are meta-regulatory frameworks, or ‘regulation for self-regulation’, characterized by stakeholder involvement in the development of regulatory standards through market mechanisms (2). How have such approaches fared? F. C. Simon tackles this question head-on with a comprehensive case study of the Australian retail energy sector as it underwent meta-regulatory reforms from 1999 to 2015. Drawing from the author’s own experience within the sector, *Meta-Regulation in Practice* shows that in practice, meta-regulation does not live up to meta-regulatory theorists’ lofty expectations about the potential for stakeholder consensus and responsive governance in self-regulated industries.

Simon’s central thesis concerns the incongruities between meta-regulation in *theory* and meta-regulation in *practice*. Meta-regulatory theory is a normative prescription for how complex markets should be regulated. From this view, regulation works best when industry coordinates with stakeholders, typically consumers and public interest groups, to produce their own regulations (24-5). This multiplicity of inputs to the regulatory process, combined with the threat of reputational damage to non-compliant firms and, in the last resort, the potential for state intervention, are thought to compel a broader and more ‘responsive’ consensus on regulatory norms than traditional *ex-ante* rule-making (4). In practice, Simon shows how these aspirational postulates fall apart: stakeholders fail to produce consensus, and political processes hamper the development of optimal regulatory norms, often to the detriment of stakeholders and firms alike. What accounts for this discrepancy? For Simon, the problem lies in meta-regulatory theory’s assumptions about how actors and markets behave. For meta-regulation to work, she argues, stakeholders must consistently signal actionable preferences to businesses, who must then (correctly) interpret and act on these signals. This requires not

only that businesses internalize the moral impositions of others concerning business practices – that is, they must account in their actions for the non-economic preferences of public interest stakeholders – but also that stakeholders and businesses act rationally to coordinate signals and responses (38). A tall order indeed!

Meta-Regulation in Practice draws heavily from systems theory – via Niklas Luhmann – to further make sense of these findings. From this view, regulatory development cuts across functionally distinct social systems that process events through distinct logics of communicative meaning (8). In the case of meta-regulation, these include the economic, political, and legal functional systems that process regulatory developments through logics of payment and markets, governance and power, and legality and norms, respectively. For Simon, meta-regulatory theory breaks down because it expects these functional systems to process issues and events through one another's functionally distinct logics. In other words, meta-regulation tasks economic, political, and legal systems with addressing one another's demands, even though each system is incapable of addressing these demands to the satisfaction of the others. This occurs, for example, when meta-regulatory theory predicts the development of stable regulatory norms (a legal function) through market processes (within the economic functional system; 213), and when it tasks firms (functioning economically) with addressing concerns about the distribution of access to energy services (a political function; 204). A key takeaway from this approach – aside from its heuristic utility in framing the analysis overall – is the insight that firms are fundamentally incapable of satisfying on their own terms the moral expectations of non-market actors, *even when* firms actually do try to act morally, because firms will inevitably generate moral interpretations that are incompatible with non-economic expectations.

Taken together, *Meta-Regulation in Practice* can be read as using a theory of how the world is – *i.e.*, systems theory – to critique a theory of how the world should be, *i.e.*, meta-regulatory theory. In that, it is successful. Readers will find lots to engage with beyond these particular theories, though, as the book taps into broader conceptual challenges across the study of politics, policy, and related fields. How can we measure policy effectiveness? How can we account for contingency in policy-making decisions? What does it mean for actors to act 'rationally'? How can we conceptualize the public interest? Simon addresses such questions directly, and challenges the assumptions through which they are sometimes resolved. Take, for instance,

the question of what constitutes the public interest. Too often this is answered with respect to industrial and commercial regulation via *a priori* determinations of practices that are good versus bad, beneficial versus harmful, desirable versus undesirable, etc. Simon shows precisely how such categorizations can mask, and thus prevent a full understanding of, the complexity, nuance, and subjectivity that characterize public interest concerns in practice. Hence where retail energy regulation is concerned, low prices are both good for citizens and potentially bad for the environment; disconnecting delinquent accounts is both a benefit for the market – and by extension, consumers – and a potential harm for vulnerable populations; and so on (216–7). In short, Simon challenges readers to consider the public interest as something that is constructed, rather than something that exists objectively ‘out there’ to be uncovered, met, or upheld – and it is this and similar such conceptual challenges that make the book attractive beyond the inner workings of its two main theoretical entry points.

Thus, while *Meta-Regulation in Practice* focuses emphatically on critiquing meta-regulatory theory, its value to the non-specialist in this area lies in the smaller lessons it teaches throughout. The catch here is that readers must extrapolate such lessons on their own. So, for example, while the book fits squarely within a long sociological endeavor to specify the role of markets in capitalist systems, it does not engage explicitly with that tradition. Indeed, Simon deliberately brackets off discussion of the wider neoliberal processes in which meta-regulation is embedded, even though such processes are surely relevant to the development of meta-regulation both in theory and in practice. This should not be read as a blind spot in the analysis – it is a justifiable consequence of the author’s focus – but it does highlight the sharp boundaries within which the discussion unfolds. Nevertheless, readers will have little difficulty generalizing the book’s major takeaways: that norms, interests, and morality are often more subjective than they seem, and that we should be weary of what markets can realistically accomplish (223). Scholars across a variety of fields concerned with the functioning of markets will find it a valuable read.

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