

Regulation of the State Systems: A Conceptual Framework

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Abstract: Regulation is the abstract concept when a state regulates her subjects with the legal imperatives then it shapes a material body. It may prescribe conduct, calibrate incentives, or change preferences through which an institution can control her subjects in a formal manner and a state runs through the same practice. The instrument of regulation include controls on market entries, prices, wages, development approvals, pollution effects, employment for certain people in certain industries, standards of production for certain goods, the military forces and services. It has two standard theories namely: the public interest theory and capture theory but the theories consider as the normative in character. Here we suggest another type of theory of the regulation of the state systems namely theory of regulation for legitimacy, which is primarily calculated as the realist theory in nature because the state fills she is the just another institution of the great society in terms of regulation and we incorporate three types of models of regulation of the state systems. The research article has been addressed with the qualitative and quantitative methodologies.

Keywords: Regulation, Public Interest Theory, Capture Theory, Theory of Regulation for Legitimacy

1. Introduction

The term regulation is one of the key words in the state system though it has hard to define in a definite periphery because it means different things to different people. Regulation is the abstract concept when a state regulates her subjects with the legal imperatives then it shapes a material body. It may prescribe conduct, calibrate incentives, or change preferences through which an institution can control her subjects in a formal manner and a state runs through the same practice. The instrument of regulation include controls on market entries, prices, wages, development approvals, pollution effects, employment for certain people in certain industries, standards of production for certain goods, the military forces and services. The economics of imposing or removing regulations relating to markets is analysed in regulatory economics. Power to regulate should include the power to enforce regulatory decisions. Monitoring is an important tool used by national regulatory authorities in carrying out the regulated activities¹ (Eraldo Banovac, 2004).

The term regulatory state refers to the expansion in the use of rulemaking, monitoring and enforcement techniques and institutions by the state and to a parallel change in the way its positive functions in society are being carried out² (Levi-Faur, 2011). The idea of the regulatory state is increasingly more attractive for theoreticians of the state with the growth in the use and application of rulemaking, monitoring and enforcement strategies and with the parallel growth of civil regulation and business regulation³ (Ian McLean (2004). State-mandated regulation is government intervention in the private market in an attempt to implement policy and it can be thought of as providing, distributing, and regulating. They bake cakes, slice them, and proffer pieces as inducements to steer events. Regulation is conceived as that large subset of governance that is about steering the flow of events, as opposed to providing and distributing. Of course when regulators regulate, they often steer the providing and distributing that regulated actors supply. Governance is a wider set of control activities than government. Students of the state noticed that government has shifted from

government of a unitary state to governance in and by networks. But the informal authority of networks in civil society not only supplements but also supplants the formal authority of government⁴. In this backdrop we are trying to understand of a conceptual framework of regulation of the state system in a general sense.

2. Survey of Literatures

Some relevant literature has been reviewed and made an understanding for our research area which has been captured under a research article in a simplest manner. One has predicted the study of regulation is also the study of the limits of control and the overt and covert resistance of rulers and their rules. In the age of governance, regulation is also the study of regulatory regimes in shifting levels, arenas and spaces of control. As a mode of control, regulation represents an alternative to taxing and spending on the one hand and nationalization and public ownership on the other. As a hybrid mode of control, regulation is not only control by government but also the control over government, control without government and shared forms of control⁵ (Levi-Faur, 2011). The notion states that the regulation has many fold roles in the state system, on the one hand through a state regulates her subjects or the institutions on the other hand it limits the statecraft and moderately controls. As a result the state is to be more delighted in terms of public policy making, at the same time the legitimacy of the state system will be ripped because regulation. Jacob Torfing argues the state, the economy and the civil society neither exists as unified social essences, nor do they provide the real structures of social bodies. So, the most importance point is that a regulation of the state can consolidates the economy and the civil society in a state system in a greater senses. For this very cause he also argued the politics regulation seeks to direct discourse analysis to the study of the conflictual formation and uneven articulation of the intra-societal spheres of state, economy and civil society⁶ (Torfing, 1998). But the regulation of the state system not merely helps to articulate scattered compartments of socio-political-economic affairs simultaneously it helps to maintain the state authority in the legal manner.

Stigler states that there cannot be many things in man's political history more ancient than the endeavour of governments to direct economic affairs. The need for state action or the need for state withdrawal from action has been a constant and fundamental theme of economics in its much shorter history⁷(Stigler,1975). The need for state action in terms of public policy has used to maintain economic development which is favouring for the subjects and institutions of a state, on the other hand when the state action loses her authority then the whole regulatory endeavour of the state system will collapses. So, he considered an economist analyses with the aid of economic theory, a specific problem in policy. If he found that competitive market did not solve the problem efficiently, he recommended that the state take over the solution of the problem with never a serious question on the comparative efficiencies of market and government. If the competitive market solved the problem well the economist suitably lamented the intervention of the state. The idea that minimum wage laws were the expression not of confused benevolence but of the well-informed desires of particular regions and classes of workers was not seriously considered by economists⁸ (Stigler,1975).

3. Research Gap and Objective

We gained knowledge of regulation and the state system in a general manner from the brief literature survey. Different authors have manifested their views on regulation and the state system but no one has discussed on the contours of regulation and the state system through which we can gain as to how the regulation reshapes the modern state system in terms of legitimation of public policies. So, we can find the void place from the above literature in terms of contours of regulation and the state system in that fashion and objective of the research paper is to draw an outline of the conceptual framework of the regulation of the state systems.

4. Methodology

Here quantitative research techniques and qualitative narratives have conjointly used for furnishing our research article in a scientific fashion. The qualitative research method refers to storytelling technique which is qualified in scientific manner but it is greatly subjective and based on inductive logic. But, on the contrary quantitative methods emphasize objective measurements and the statistical, mathematical, or numerical analysis of data collected through polls, questionnaires, and surveys, or by manipulating pre-existing statistical data using computational techniques. Quantitative research focuses on gathering numerical data and generalizing it across groups of people or to explain a particular phenomenon⁹. It draws an image of the particular phenomena in objective manner which is based on deductive logic. So, our article has been drawn a narrative scientifically on the need for political theories to better understanding regulation and the state system.

5. Regulation of the State System: a conceptual frame

Regulation refers to controlling human or societal behaviour by rules or regulations or alternatively a rule or order issued by an executive authority or regulatory agency of a government and having the force of law¹⁰. The study of regulation of the state system as a different discipline has been starting in the recent past. In this case, the main role was played by the Chicago School in 1970s and 1980s when the School could lay claim to an extraordinary swag of Nobel Prize winners such as Milton Freidman and George Stigler (1988), and preeminent law and economics scholars such as Richard Posner, who made regulation a central topic in economics¹¹. The United States of American state system is in under the big periphery of regulation despite it is a great free economic state. The foods Americans eat, the cars they drive, the medicines they take, and the financial institutions from which they borrow and to which they lend are all subject to some kind of regulation. For economists there are two standard theories of regulation: public interest theory and capture theory. The traditional public interest theory argues that government regulation arose to combat market failures, whereas the more recent capture theory claims that producers sought regulation to restrain competition¹² (Levi-Faur, 2011). But another theory of regulation namely regulation for legitimacy has made the state system for reshaping in the era of third millennium socio-political order. The theory of regulation for legitimacy manifests, when a state lies in the purview of the strict regulation, then she shows before the subjects that she is nothing but an institution as like as another institution who is in under the regulation then the process of legitimacy of a state is more settled.

The models of Regulation of the State System

The expansion of the state nowadays is generally via regulation and less via taxing and spending. The notion of the regulatory state is increasingly more attractive for theoreticians of the state with the growth in the use and application of rulemaking, monitoring and enforcement strategies and with the parallel growth of civil regulation and business regulation. The rise of the regulatory state in the Industrial Revolution can be traced to network regulation first instituted by William Gladstone in 1844¹³ (Giandomenico Majone, 1997. Ian McLean, 2004). The co-expansion of state, civil and business regulation at the domestic and the transnational arenas suggests that the notions of regulatory governance and regulatory capitalism are as usefully theoretically as the notion of regulatory state. Here we incorporate some specific models of regulation of the state systems which helps to understanding the conceptual frame of the regulation and the state systems. It has been divided into three parts: the parts are i) the Occidental model; ii) the Oriental and Fareast Model and iii) the Latin American Model

i) The Occidental Model: The Occidental model of regulation of the state system manifests that the different means of coercive power is the necessary to formulate regulation for states policy. Marc T. Law and Sukkoo Kim argues the use of force by the state is at the heart of all regulation, the scale and scope of regulation in America was

intimately tied to the nature and form of the state. History shows the early American subjects distrusted the centralised force of regulation but they consider local or regional regulatory authority who effectively used the common law to regulate public safety, trade, space, morality, and public health¹⁴ (Novak, 1996). The constitution of America (1781) made the country without strong centralised regulatory authority. It has no federal executive, no federal courts, no federal taxes, and no federal coercive authority over states. But they fills the existing constitution is too weak to meet the state system and after a short time they made a strong Constitution. The newly born constitution of America (1789) established a more powerful central government by instituting the executive branch, federal taxes, federal courts, and federal powers to regulate foreign and interstate commerce. But the fight over the nature and extent of the federal governmental powers implied by the new Constitution continued unabated over the next century. But the centralised regulation in the state systems have faced the serious question in terms of free economic state system and decentralised power blocks in 1970s in America.

ii) The Oriental and Fareast Model: India and China are the main parts of these regulating models of state system. Regulation covers all activities of private or public behaviour that may be detrimental to societal or governmental interest but its scope varies across countries. It can be operationally defined as taxes and subsidies of all sorts as well as explicit legislative and administrative controls over rates, entry, and other facets of economic activity¹⁵. Post-independence, India experimented with a socialist mixed economy model with the state retaining control over the commanding heights of the economy heavy industries and utilities. While private sector activity was allowed, the government tried to control it through a web of controls such as licensing and quotas in regard to intermediate goods imports and outputs. Such controls were complemented by high tariff walls. Thus, the government was not only a producer and regulator of strategic and important goods and services, it also exerted direct control over the output, and sometimes even associated prices, of private sector activity. But the scenes was changed in 1990, when India had adopted free market economy under the leadership of the then Prime Minister Mr. P. V. Narasimha Rao and it was the water shade incident of Indian regulation of state system.

Regulation in India can be mapped under three broad categories: i) economic regulation, ii) regulation in the public interest and iii) environmental regulation. i) Economic regulation aims at preventing or tackling market failure. This is achieved with rules that proscribe and punish market distorting behaviour. Examples in the Indian context include The Foreign Trade (Development and Regulation) Act, 1992 for facilitating imports into and augmenting exports from India and the Electricity Act of 2003, which allows State regulators to fix tariffs for power consumption, thus preventing suppliers from taking advantage of natural monopolies¹⁶.

ii) Regulation in the public interest covers areas where industries are failing to meet a standard or uphold something of public importance. This is different from market failure.

A classic case is of health and safety, where firms can fall short in protecting employees or the general public from harm. Although market competition can make firms more willing to address such issues, the standards adopted may not be adequate or uniform across the industry. In India, there is very little evidence to suggest that competition in its existing form has had a positive impact on quality. The Bureau of Indian Standards (BIS) created by the Bureau of Indian Standards Act, 1986 has been setting quality and safety standards for various products, some of which are mandatory. The existence of an authority like BIS helps in laying down rules, especially in a situation of low consumer awareness about quality. In fact, mandatory standards can help to enhance quality awareness and protect the consumer. A large number of mandatory standards are in force but the desired extent of enforcement has not been facilitated. Generally, business is more partial to standards developed internally –the so called voluntary standards.

iii) The third category is very important to saving our blue planet which is environmental regulation in India. The Government of India has enacted various laws to protect the environment through the Environment (Protection) Act, 1986 as the umbrella legislation. These set standards for emissions and discharge; regulation of the location of industries; management of hazardous waste, and protection of public health and welfare. According to the Act the term environment includes water, air and land and the inter-relationship among and between them. A policy framework to complement the legislative provisions has also been developed. Ministry of Environment and Forests is the nodal agency for environmental legislation. However, several states have also enacted their own legislation besides the major ones enacted by the central Ministry. The State Pollution Control Board (SPCB) established in each state, is responsible for implementing these legislations as well as issuing rules and regulations prescribing the standards for a clean environment. The activities of SPCBs are coordinated by the Central Pollution Control Board (CPCB). Environmental clearances for investment projects in India take a huge amount of time, and for certain types of investment projects such as power, the number of approvals required is higher than for others. Environmental issues around any industrial project are highly sensitive and quite often lead to civil society activism. Therefore, this aspect requires careful handling both by the central and state governments. Due to corruption, administrative delays, technical faults, popular protests etc., such clearances are time consuming and costly¹⁷. Thus India made a pathfinding role to the rest of the world in terms of environmental regulation of the state system.

The Chinese regulation of the state system is dependent upon the one political party dominated state system in which the infusion of key elements of markets into a socialist one-party state has created a capitalism with Chinese characteristics¹⁸ (Huang, 2008). The 'business of governing business' (Pearson 2005) has followed a distinctive policy process¹⁹ (Heilmann, 2008). In the area of financial services, for example, innovations were introduced by Leninist means in order to preserve the state's interests in key sectors of the economy. Clearly, the 'rise of regulatory capitalism' (Levi-Faur and Jordana 2005) has taken a unique turn in the

People's Republic of China (PRC). If the primary theoretical challenge is to identify hybrid forms of regulation that cloud the distinctions between the global and the national, it is still important to understand states in which the market and society are themselves subsumed by an all-pervasive political interest. In such cases, ideas of independent agency, due process and market correction act to conceal more than they reveal²⁰ (Levi-Faur, 2011).

iii) The Latin American Model: The Latin American countries have witnessed the complex regulatory structure emerged in the state system in 1970s because the countries have gone through the qualitative transformation in terms of the large-scale process of liberalization, privatization and democratization. Regulations in the state systems are not new in their Latin American countries. The subjects of Latin American countries was witnessed the strong regulation in everywhere in life in the colonial periods. A new era in the history of the Latin American regulatory state began after the 1920s, when many countries introduced regulatory innovations strengthening public intervention in many relevant areas. In the context of the post First World War era, the export oriented model of the traditional oligarchies began to break down, and states started to develop more active interventions, relying less on elite 'club' regulation and promoting regulatory institutional innovation among many other administrative reforms. Such innovation occurred first in the financial area, where recurrent banking crisis and a more sophisticated economic organization played a role, but wider state modernization strategies were also of crucial importance in updating other regulatory frameworks. These innovations combined current foreign models, mainly US-based, with those traditional institutional forms inherited from the colonial age that had remained almost unchanged during the nineteenth century. Not surprisingly, when Latin American governments first created 'modern' regulatory institutions, in many cases they named them superintendence's, continuing their local administrative traditions. Thus the link was established and restored, facilitating the blend of historical models with external influences in institutional design²¹ (Levi-Faur, 2011).

6. Conclusion

Before conclude the research article we mentions some findings and put suggestions which may be helpful for not only the researchers, policy makers but also society as a whole.

7. Findings

- A conceptual frame for regulatory state system have come up from the articles which will makes a new dimension of the statecraft ;
- The expansion of the state regulation and less via taxing and spending;
- The notion of the regulatory state is increasingly attractive for the researchers in terms of the use and application of rulemaking, monitoring and enforcement strategies;
- We have got three models and theories of regulation of the state systems: these are, i) the Occidental model; ii) the Oriental and Fareast Model and iii) the Latin American

Model and i) public interest theory; ii) capture theory and iii) theory of regulation for legitimacy respectively.

8. Suggestions

The study of the regulation of the state system is the recent phenomena. Scholars have suggested there are two different theories of regulation of the state systems. The theory of public interest: The *Theory* of regulation of the state systems explains, in general terms, that regulation seeks the protection and benefit of the public at large. Economists favour the public interest theory of regulation of the state system in terms of public good and the state can provide wide range of free market for the competitors. On the other hand the capture theory of regulation of the state systems provide insight into the close connection that tends to arise between a government regulatory agency and the industry it is charged with regulating. Federal, state, and local governments commonly create agencies designed to oversee and regulate specific industries²². The two theories of regulation of the state systems may be considered as normative theories of regulation but we suggest another type of theory of the regulation of the state system is the theory of regulation for legitimacy. It is not a normative in character but realist theory of regulation of the state system which states that regulation plays an important role as the safety valve of the state system though which a state can demands she is the just another institution of the great society. We conclude with a one line statement that our study of regulation of the state system lies in the rudimentary phase where it has ample opportunity to further study but if we inspire others to do work in that area, then we will be happy for that.

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