

The New Regulation

A Research Programme

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*The New Regulation. Organizational Patterns of Regulations –
Forms, Interaction, and Knowledge Base in the Fields of
Natural Environment, Work, and Health¹*

A Research Programme

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Introduction

The past few decades have witnessed an increased concern with regulation. Globalization – the increased interaction between people and organizations across national borders – brings regulation to the fore in political debates. Environmental and other risks accentuate the need for common rules. Not least, the transformation of the welfare state and of organizational structures highlights issues of regulation. De-regulation has been a hot topic in many countries, and states have striven to

¹ This research programme has been developed and formulated jointly by scholars at Score. The programme will be the basis for a large part of the research at Score during the coming four to five years.

reduce the number of detailed rules. Similarly, other organizations, such as companies, have advocated decentralisation, i.e. rules should be few and subordinate units given more freedom.

Actual developments are, however, more complex. In discussions of de-regulation and decentralisation the rules usually referred to are directives, i.e., rules that governments and other organizational leaderships have the authority to issue, and that are compulsory for the other members of the organization. When states and other organizations (Ahrne 1998) have de-regulated and decentralised they have reduced the number of central directives in some areas. However, in other areas the number of directives and other rules have actually increased. An example of this is European co-operation, which has led to many new rules. Moreover, new areas to be regulated have emerged in response to new technologies and new scientific findings. The number of other kinds of rules than directives have increased. Standards, rules formulated without reference to hierarchical authority, are produced by a large number of international governmental or non-governmental organizations (Brunsson and Jacobsson 2000). Also, states and other organizations try to regulate by forming agreements with each other or by creating common organizations. Rather than talking about de-regulation it may be more accurate to talk about re-regulation (Streeck 1996) or the new regulation.

Traditional regulatory forms based in formal organizations are dominated by hierarchy, monopoly for the rule-setter, and democratic or ownership based legitimacy. The new regulatory forms are more characterised by networks, competition among rules, and legitimacy based on expertise and scientific knowledge. States and other organizations seldom have a monopoly for their rules, instead there are many competing regulatory frameworks being created and regulators compete with each other. Regulators, who lack hierarchically based authority instead attempt to create authority for themselves by referring to their knowledge and expertise. In discussions of regulation, issues of power, democracy and legitimacy are at stake.

The new regulation occurs in a vacuum between traditional organizational directives and government legislation on the one hand, and common cultural norms on the other. In a world where interaction and exchange occur rapidly over long distances, shared norms based on geographical proximity and a common history are less important (Hannerz 1992). There is room for several new types of rules and actors. With this follows a dynamic interaction between various actors who wish to set rules for others, and between them and those who want to resist regulation.

In the research programme “The New Regulation” we will analyse processes by which various forms of regulation evolve and interact. The new regulation may seem chaotic compared with traditional regulation within single formal organizations, such as states. But various fields of regulation can also be described as organized systems, although the degree and kind of organization vary. Moreover, the actors on these fields are to a large extent formal organizations, and rule-setting as well as rule-following are to a large extent organizational processes. We are convinced that the use of organizational concepts and an organizational perspective will substantially add to our knowledge of the new regulation. We intend to study the changing organizational patterns of regulation in the fields of natural environment, work, and health comparatively. These are fields in which regulation is currently contested, but which differ in the type of actors involved, the need for co-ordination, the level of conflict, and the status of knowledge upon which rules are based.

The origins and characteristics of the new regulation: an organizational perspective

There are many legitimate arguments for regulation. Different kinds of regulation are fundamental for the functioning of society. Regulation can control, facilitate interaction and communication, and create order and meaning. An increased interaction, particularly

on an international and global field, seems to require common rules for the interacting parties. Common rules for sports provide an early example. International markets have been argued to require international product and accounting standards. Also, regulation can be the basis for differentiation between actors and their activities. In a more globalized and highly dynamic world it is not certain that it is easy to make distinctions. One can demonstrate one's distinctiveness and high status by referring to the rules one is following, or one can point to the inferiority of others by demonstrating that they are not following certain rules. In a similar way rules can be used for inclusion or exclusion in interaction processes.

In all, these arguments, needs and demands have given room for a great number of regulators and regulatory arrangements beside traditional, formal organizations and the binding directives that they can issue for their members. Formal organizations, be they states, corporations or others, have traditionally been seen as the main loci for rule-setting and rule-following. Organizational leadership has the legitimacy to formulate and implement rules for what organization members shall do or not do as well as controlling that their rules are followed. Formal organizations are, in this sense, local areas of regulation. The new regulation challenges and undermines much of the authority of local leadership to regulate their own organizations.

The new regulation has much of its cultural roots in strong universalistic ideas in modern society. Many actors, situations and problems are believed to be essentially the same whatever the organizational setting; to belong to the same category the world over and in all organizations (Strang and Meyer 1993). This leads to the idea and argument that the actors, situations and problems which are assumed to be basically alike the world over should naturally be treated in a similar way, be susceptible to the same general rules. All people have the same fundamental human rights whatever state they are citizens of or what corporation they work for; all organizations have to take into account their potential effects on the natural environment; experts on organizations such as management consultants identify the same kinds of problems and suggest the same kinds of solutions in organizations the world over. When such general rules become important the scope for organizations to form their own, local rules becomes more narrow.

Much general knowledge about these general categories is developed. Modern science covers almost every aspect of life and scientific knowledge, or what is claimed to be scientific knowledge, has a high standing. Science is a major source of authority in contemporary society (Thomas et al 1987). This further undermines the authority of organizations. The formal position of organizational leadership provides little authority in situations where leaders propose rules that can be shown to go against scientific knowledge, while other actors seen as representing general knowledge can achieve high authority without having the position as organizational leaders.

Science also points out new areas where the actual situation is bad or at least not optimal and which therefore are in need of regulation. For example, this development has been very clear in the area of the ever-expanding environment issues the last few decades, where it has led to more and more rules intended to restrict the behaviour of individuals and organizations (Boström 1999), but it can also be seen in other expanding fields, such as that of management, where it has led to a larger and more complex set of rules that is offered organizations as a help to achieve organizational goals (Furusten 1999).

Paradoxically, all these contemporary tendencies are combined with an increased tendency to see individuals and organizations as highly autonomous actors having the interest, capacity and responsibility to pursue their own goals (Thomas et al 1987). And by processes of globalization and individualization as well as by the formation of ever more formal organizations, there is an increasing number of such actors to take into consideration for the individual actor (Brunsson 1999, Brunsson and Sahlin-Andersson, forthcoming). This situation seems to generate a high degree of uncertainty. Given their alleged freedom, actors are likely to be interested in getting advice about rules for how to

act. They also tend to become uncertain of others' actions. Actors tend to demand rules that can make other actors' behaviour more predictable, and they often consider themselves having the right and competence to suggest such rules for others. Beck (1992) has developed a theory about the "risk society", that underscores the difficulties in steering and controlling in a global economy. Power (1997) talks about "the audit society" as an anxious society. There is no world state, which can regulate global processes with directives. Nor is there really a "world community" with common norms. Yet there is a strong demand for order, stability and regulation.

There are a great number of actors who provide rules for others, many of them organizations which provide rules for other than the organization's own members. There are organizations that provide open *standards*, rules that they think others should follow but which are not combined with the hierarchical authority of formal organization. Examples include organizations such as Amnesty International, the Worldwide Fund for Nature (WWF), the International Standards Organization (ISO) or management gurus, which all offer standards without access to hierarchical authority, although they differ in the extent to which they work for their standards to be followed, from trying to inflict them on others to offering them for a high price. Other rule-makers create formal organizations where they try to include those to be regulated, and thus make them accessible for organizational directives. Often these organizations have organizations as their members; they are associations of organizations or *meta-organizations*. Trade associations are formed in order to regulate certain aspects of market behaviour of the member firms. Sometimes organizations try to form various forms of agreements or *contracts* with important others in order to regulate the others' actions. In some cases, rules stipulated in a contract can become binding via the use of a kind of external hierarchical authority such as national courts; sometimes there is no such authority available, such as is often the case for contracts between states.

In many fields various regulators and forms of regulation make up a complex pattern of competition and interaction. And the rule-setters interact with others. There may be certification organizations checking whether the rules are followed. Often the actors involved in various forms of regulation of others try to enforce their rules by convincing other more powerful parties to include them in their demands on others. A big corporation may be convinced to demand that its suppliers follow a certain product standard. A state can be convinced to include a chapter on human rights in its legislation.

For regulators with a tradition to regulate their own members, such as states, the situation is becoming increasingly complex. Their authority is undermined, they meet a lot of competition from other regulators and they are under pressure to regulate new areas and re-regulate old ones. Some organizations that find themselves restricted by a great number of external rules find it urgent to exert influence on these rules. An important way to do so is to become a setter of general rules oneself, for instance by convincing an international organization to set appropriate standards, to form agreements on certain rules with important others or to form a new meta-organization together with others. Such reactions create even more regulation and tend to add complexity to the field.

Increased regulation through standards, contracts, and meta-organizations can be seen as both creating solutions and problems. It creates a global order, which would be impossible without it. It facilitates global co-ordination and co-operation (Brunsson 2000). At the same time, it creates new patterns of power. From a legitimacy and accountability perspective these forms of regulation are often problematic. For example, many standard setters have great influence without having the democratic legitimacy of legislators in democratic countries. And despite the fact that standards can be very important, it is hard to make the standard setters accountable.

The research programme "The New Regulation" has as its aim to develop a theory for how different organizational forms of regulation evolve and how they influence each other. The theory will be based on careful and extensive empirical studies of the three

regulatory fields of natural environment, work and health. The research concerns basic social issues such as the distribution of power, accountability and democracy. What we have called the new regulation has a critical impact on people's lives in contemporary society at both macro- and microlevels.

Research on regulation: towards an organizational perspective

In social science there has traditionally been a strong interest in the regulation of behaviour through commonly shared norms. In organization theory and political science studies of the creation and effects of written rules in formal organizations have a long tradition. Rules created in between organizations have been in focus more recently. In studies of international relations it has been analysed how states cooperate and construct international regimes, such as the Bretton Woods Agreement or GATT. Such regimes contain both written regulations and norms for co-operation (Ruggie 1975, Krasner 1983, Katzenstien et al 1998). International regimes can be seen as ways of regulating global markets in the absence of an authoritative body at the global level. Regimes have then been seen as "sets of governing arrangements..." that include "... networks of rules, norms, and procedures that regularize behavior and control its effects" (Keohane and Nye 1977), and as "... sets of implicit or explicit principles, norms, rules, and decision-making procedures around which actors' expectations converge in a given area of international relations" (Krasner 1983). The concept of regime brings new and complex regulatory arrangements to attention, but may exaggerate their stability and coherence.

A step towards a broader view of regulation is taken in the study of the development of governance systems via the formation of interest groups and the structuring of actor relations, as in the study of social regulation at the workplace by Whitley and Kristensen (1997) or Miller and Rose (1995). The latter focus on the ensemble of norms and practices, ideas and devices that seek to regulate and shape the worker and his or her work experience. The approach combines a discursive analysis with close examination of social practices in the workplace. The perspective also situates such "technologies" of regulation within a framework of transforming relations and alliances between diverse regulating authorities.

A related approach to the organization of industrial sectors and how they are regulated is represented by strands within economic sociology. As applied to industrial sectors, the concept of governance has there been applied to characterise the matrix of interdependent social exchange relationships that occurs between organizations within an industrial sector (Campbell et al 1991). In this tradition, the transformations of governance regimes are in focus and changes in governmental and non-governmental rules are analysed as integral parts of such transformations.

Thus, this branch of economic sociology shares with international relations the concept of governance, which has been developed to describe a situation where governing processes take place in the absence of a central authority or at least in the absence of an evident centre of regulation. The concept of governance indicates co-ordination of action in a situation of interdependencies. Structured co-operation between state as well as non-state actors creates order and control despite the lack of central and sovereign authority. Students of international relations have talked about governance without government (Rosenau and Czempiel 1992). Instead of one government, there are many actors such as international governmental and non-governmental organizations that very actively formulate and spread rules for others (Finnemore 1996). Political power becomes a very complex issue in contemporary, advanced liberal democracies (Rose and Miller 1992).

Like the governance literature, our programme aims to capture the complex interactions of a variety of regulators. However, a common view in the governance

literature is still that “the essence of governance just like that of government is to reach binding decisions” (Kohler-Koch 1999: 14). This view does not acknowledge such regulation that does not aim at creating binding rules, for instance various forms of “soft law” and standards, which can still fill a crucial regulatory function. Moreover, the concept of governance is too broad to capture the variety of regulatory mechanisms within in and between various policy fields. There is a need for more specific concepts to capture the principles of governance at place and the institutional dynamics they give rise to.

The governance concept has also increasingly been used by EU-researchers (e.g. Bulmer 1994, Marks 1996, Hix 1998, Kohler-Koch and Eising 1999). In the case of the EU, an established centre of authority can, arguably, be said to exist, but the concept of governance still indicates the complexity of regulatory processes and that there are no simple lines of hierarchies. The concept of multi-level governance has been used to emphasise that regulation and implementation take place in interactions of actors at the European level as well as at the national, regional and local level (Marks 1993). Regulation is developed in negotiations in networks (Jönsson 1999) and “EU governance” has been conceived of as network governance (Kohler-Koch and Eising 1999). Governance has also been studied nationally and sub-nationally as the emergence of policy networks (Rhodes 1997).

To conclude, we want to contribute to the existing literature on regulation in three ways. First, we wish to define the phenomenon of regulation more broadly, to include the variety of regulatory arrangements other than the legal, and larger in scope than local social technologies of regulatory practice. Secondly, we want to develop more precise concepts of “governance” to describe more fully the kinds and processes of regulation involved. Thirdly, and most importantly, we want to contribute to the development of knowledge on the variation in organizational forms of regulation, in the organizational processes by which rules are shaped, and the interaction between organizations in rule-setting processes.

How rules are created, received and implemented in organizations has been a classical theme in organization studies. The main focus has been on rules issued by the leadership of an organization (Weber 1964, March et al 2000). Over the last few decades, however, this theorising has begun to follow new paths. Researchers are now giving greater weight to the fact that organizations are embedded in society, which makes them susceptible to rules that come from their environment rather than from their own management. Here, we see a parallel in the treatment of regulation from the regime perspective and in organization theory. There is now an extensive literature on how organizations receive, translate and implement ideas, norms and rules in organizational fields or in society at large (among many others: Meyer and Rowan 1977, DiMaggio and Powell 1983, Brunsson 1989, Powell and DiMaggio 1991, Brunsson and Olsen 1997, Fernler 1996, Sahlin-Andersson 1996). There has also been a strong interest in how ideas, models and rules spread among organizations (Czarniawska and Sevón 1996, Røvik 1998). There has, however, been less research on how rules intended for others are produced. Yet many processes by which such rules are produced are organizational in character and can to a large extent be understood by the concepts, theories and methods of organizational research. In addition, the knowledge production and formation of expertise, which are important for authority in contemporary regulation, are also organized activities (Latour 1987, Rose and Miller 1992).

Research contributions in recent years in the new institutional school in organization theory (Meyer and Scott 1983), in cultural theory for complex societies (Shore and Wright 1997) and in the sociology of science (Callon 1986, Collins 1992) give insights in the conditions for modern forms of regulation, and provide a promising point of departure. Regulation is intrinsically linked to organization and there are several crucial aspects of the organization of regulation that deserve further research.

Issues for inquiry

Given the existing state of knowledge in the field, there are three broad issues that are particularly important to analyse from an organizational perspective. One is the emergence and functioning of different organizational forms of regulation, the second is the interaction between various regulating organizations and the third is the interaction between how knowledge is organized and how regulation is organized. These are the issues that will be analysed on the basis of empirical studies in the fields of natural environment, work and health.

Organizational forms of regulation

There is a great number of organizational arrangements used in regulation and one of our tasks is to try to map the repertoire of organizational forms of regulation that appear on the global scene. There is a great number of new labels for forms of co-ordination and we want to see to what extent these various labels also imply new methods of rule-setting. For instance, actors involved in the Europeanization process are talking about “soft law” or they are trying to create a “social dialogue”. We are interested in variations in the relation between those who formulate rules and those who are expected to follow rules from an almost total overlapping to cases when one organization has made it its task to formulate rules for an unspecified number of other actors who themselves have not been involved in the process of rule-setting.

As mentioned above one can observe at least three basic organizational forms for regulation besides setting directives for the members of traditional organizations, namely standards, contracts and meta-organizations. They represent different degrees of organization (Ahrne 1994, Brunsson and Olsen 1998). Standards imply the offering of rules only. In contracts the rules can be combined with commitment, clear boundaries as to whom they apply and under what circumstances, and in meta-organizations one has in principle full access to all organizational aspects, such as common rules, even directives, commitment, common resources and a centre of control. In practice, these organizational forms tend to come in various combinations and they tend to organize more parties than just those at the core. Standards are sometimes combined with control mechanisms such as certification procedures, or powerful “third parties” which enforce the standards. Third parties are agents who have power over others and who can be convinced to command these others to follow a certain rule. Such parties may be the public opinion or consumers, or big corporations with much power over their subcontractors, or states with legislative power. Contracting parties sometimes have access to an external centre with the right to decide in matters of disagreement. Meta-organizations on the other hand are not always able to use the full potential of their organizational instruments. The members may accept very few directives, their willingness to supply common resources may be quite limited etc.

We expect the kind of organization to matter. For instance, it matters whether international co-operation is carried out in a fairly strong meta-organization, such as the EU, or by international agreements among states, such as the Rio treaty or as open standards produced by Amnesty or ISO. We expect differences between different organizational forms when it comes to their ability to actually create rules. This might be easier for many standardizers than for meta-organizations. On the other hand some meta-organizations may be more successful in getting their rules adopted. The ability to actually implement the rules may vary among the forms, as may the ability to check the

implementation. Sometimes it is easier for external parties to check whether someone follows an open standard or not, than to check whether the members of a meta-organization or parties of a contract in fact do so. The forms differ as to how many actors the rules affect. They can be expected to differ in their ability to create legitimacy for the rule-producers as well as for the rules.

The effects of different forms will be studied comparatively in the programme. We will study how various forms work when it comes to rule-setting. We want to find out how decisions about rules are made and how they are legitimated, who are the actors involved and who are not involved and what actors have more power resources to formulate rules.

We will also investigate how various forms are established, what factors lead to the establishment of one form rather than another and how and why forms develop over time, sometimes being transformed into new forms. To be able to start a process of rule-setting among actors with rather different interests it may be necessary to use fuzzy concepts that do not make actors turn away immediately. On the other hand, such processes may create problems in later stages of rule-setting and rule-following. Are looser forms of rule-setting more common when relations of authority are contested and when there are more conflicts involved? To what extent are looser forms of rules steps towards more stable forms or are they very vulnerable arrangements? The development of forms can be expected to be dependent not only on the regulators but also on the regulatees and their demand for various kinds of rules. Regulation tends to take different forms when the regulatees want others to follow certain rules in order to facilitate co-ordination, compared to when they want rules for themselves in order to achieve differentiation and status. In the former case open standards seem to be fairly common, while meta-organizations seem to be common in the latter case.

Many regulators consider standards, contracts and meta-organizations worse alternatives than directives in, for instance state law, since they believe that the latter will involve a stronger control of the regulatees. Opponents of regulation often have the opposite opinion. It is not uncommon that the first group succeeds. For example, standards may be turned into directives in many important organizations; states can be convinced to transform a certain rule into binding law, or they can be convinced to threaten to do so. We will investigate how regulators and opponents try to support or hinder that standards, as well as rules in contracts and meta-organizations, are transformed into directives.

Interacting regulators

The new regulation often creates a complex pattern of rules that are often inconsistent. Practically anyone can issue standards, so inconsistent standards easily appear. Agreements among actors may be many and may contain very different rules, and many, partly competing meta-organizations can be formed. The result is often a great number of rules advocated by a large number of regulators. This is a situation much different from what one normally strives for in the case of rule-setting within formal organizations, where regulatory bodies traditionally spend much effort making their directives consistent.

The interaction in a regulatory field affects the number of rules and how consistent the rules are with each other. This in turn affects the discretion of regulatees. A situation with many competing rules sometimes gives a substantial freedom to choose what rules to follow, while more monopolistic situations, for good or bad, may give little leeway for regulatees. The interaction in a regulatory field affects what types of rules are produced. Are the rules standards or directives? Do they regulate procedures or substance, for instance do they regulate how companies should build management systems for environment control or what level of hazardous emissions they are allowed to produce? In

the highly conflictual field of environment we have seen that regulators prefer directives for substance while regulatees prefer standards for procedure. What rules individual regulators produce can be expected to be strongly influenced by the awareness of and interaction with other regulators in the same field. It is important to investigate how various patterns of interaction affect the number of rules, their consistency and their contents.

It is also important to understand how various patterns of interaction arise. One task is to analyse tendencies towards concentration or diversity of regulators in a field. Which conditions and mechanisms make a field become dominated by a few regulators and which lead to the number of regulators becoming large? For instance, why are international standards organizations for product standardization able to keep fairly strong monopolies while some parts of the environment field is filled with competing regulators? The conditions for entry to a regulatory field are important. When there are strong or several regulators in a certain area it may affect other regulators' chances of entry in different ways. The room for other regulators may disappear: there are already established regulators who are setting the rules. Or, the existence of strong regulators may have the opposite effect: it may create stronger opportunity as well as incentive for other regulators to appear: the established regulators may have created an understanding of the need for regulation of the field in general, and there may be many actors who would like other rules than the existing ones.

Regulators already established in a field may relate to each other in several ways. They may choose various strategies of interaction in a continuum from close co-operation to fierce competition. They may agree on dividing different parts of the field among each other, each regulator setting rules for one, exclusive area. They may co-operate in producing common or at least consistent rules, they may try to compete trying to attract as much support and adherence to their own rules or they may actively try to combat other regulators and their rules. In the first cases the result may be few, consistent rules, while the latter cases may produce a great number of inconsistent rules. We will investigate what conditions and processes give rise to different strategies for competition. We expect the level of conflict and the kind of knowledge referred to in the field to have a strong influence as well as the historical path by which the field became regulated. We will also analyse what strategies lead to success or failure under different circumstances, as well as what processes make some regulators more dominant than others. These investigations will also cover the more specific methods that are used in the interaction process. The kind of arguments used will be analysed. And how are systems for certification and accreditation used for competition? The regulators' ability to mobilize "third parties" is also important.

Finally, in a world of much regulation resistance to regulation becomes important to study. A common strategy for resistance is to try to develop rules oneself; rules that one considers better than the existing ones. In order to avoid open standards or state directives one may for instance create a trade association with its own rules. Under these circumstances the supply of rules creates an increased demand for rules and new regulators. We may also be able to find forms for resistance that do not increase the number of rules and regulators. We will investigate what strategies opponents of regulation use and how these strategies affect regulatory fields and the rules produced.

Regulation and knowledge

Scientific knowledge and its production are key elements in the new regulation. Organization is an important aspect of both regulation and knowledge production (Latour 1987). Knowledge and knowledge production may appear in regulatory contexts in multiple ways. First, new knowledge may appear as a force initiating or promoting a

regulatory process by indicating the existence of hitherto unknown problems. Second, the production of new knowledge may be initiated or promoted by a regulatory process already in motion. Last but not least, knowledge is a standard source for attempts to create authority for regulation and rules. These phenomena give rise to several issues for inquiry.

One broad issue concerns the effects for regulation and its authority when the knowledge base is moving fast. In fields where the boundary between “present state-of-the-art knowledge” and past “beliefs” recurrently is redrawn the rules run the risk of being founded on past beliefs rather than present knowledge. How does a regulatory setting handle fields, such as the fields of health and environment, where the knowledge production appears to rapidly move the knowledge-base? What are the mechanisms employed and what are their consequences on the regulatory process and the rules devised? Are there systematic variations in this respect between different regulatory contexts?

Another issue is the interaction between regulation and knowledge production. A regulatory context may stimulate the production of knowledge, just as the production of knowledge may stimulate regulatory activity. A regulatory process may also influence the knowledge production in that it may bring together different contending knowledge claims produced in formerly unconnected scientific communities.

In many fields it is highly contested what is true knowledge. We will investigate how contended knowledge-claims are transformed into an authoritative basis for rules, and what happens to the authority of rules and to authorization strategies when knowledge is highly contended. Some types of knowledge may more easily than others become the basis of rules. We have seen that the knowledge contained in management standards tend to have a very loose connection to academic management knowledge (Furusten 2000). We have also seen tendencies in the medical field to base rules on knowledge produced in accordance with standardised scientific methods rather than on more tacit knowledge (Lagrelius 2000).

What is considered true knowledge may also be affected by regulative activities. Disagreement on a regulation may sometimes spread into the sphere of knowledge production. For instance, attempts to regulate an area may disclose that knowledge is less strong than presumed. We will be able to see how conflicts transcend or are bound to one of the two spheres of knowledge production and regulation.

Three empirical fields: The natural environment, work, and health

Our research programme is based on a comparative strategy. We have selected three empirical fields in terms of matters that are at issue: the natural environment, work and health. The idea is that these fields demonstrate interesting differences in terms of dimensions such as the type of actors involved, the need for co-ordination, level of conflict, the forms of interaction and the status of scientific knowledge. In the case of the natural environment regulation is a relatively new phenomenon. The level of conflict is quite high, there is a diversity of actors and the need for scientific knowledge is strong, but the scientific status of knowledge is often highly contested. Health is a more established field, but there are also dramatic changes going on. Actors are fewer and the scientific community is more traditional with strong professional organizations. The field of work is characterised by much de-regulation and subsequent re-regulation. The knowledge base is in the social sciences with their much more obvious political and ideological connotations.

The natural environment: contested rule-making

The environmental field is characterised by strong conflictual political interests. Social movements have been active since the early sixties to put environmental issues on the political agenda and to strengthen the environmental consciousness of the public (Jamison et al 1990). The struggle has been successful in the sense that there is now a strong demand for solutions among politicians, state agencies, meta-organizations, enterprises as well as consumers. Social scientists have coined the term "ecological modernization" to capture this general trend (Hajer 1995, Mol 1997).

However, there are more good intentions than capacities for substantial social changes in a course to sustainable development. States have been relatively successful in dealing with problems like pollution with the help of so called "end-of-pipe" technologies but have difficulties in tackling different problems in a more anticipatory and systematic way. Environmental issues are often constructed as unbounded temporally and spatially and an unlimited number of actors participate in the creation of diffuse and abstract environmental problems. This leads to difficulties for states and political actors to manage them with traditional means and forms (Beck 1992, Lundqvist 1996).

This new situation gives room for new initiatives for rule-making among different kinds of actors. The environmental field covers different *forms* of rules characteristic of the new regulation: contracts, standards and meta-organizations as well as general conventions and principles. We are interested in finding out how new forms of rule-setting are established in fields where there are strong conflicting interests. What forms of regulation and what kind of rules will emerge?

One example of a common form of regulation in the environment field is eco-labelling. Eco-labelling illustrates how the basic regulatory forms can be combined. A number of organizations construct different standards. Many then create contracts with producers who get the right to use the eco-label. However, eco-labelling organizations also cooperate in different ways, for example in order to overcome resistance to standards. There is, for example, a meta-organisation for NGO:s called "Global Ecolabelling Network" (GEN), which represents the eco-labelling-interest before powerful meta-organizations such as ISO, UNEP (United Nations Environmental Programme) and WTO (World Trade Organization) and works for a harmonisation of different eco-labelling-programmes (meta-rules).

Compared to eco-labels the so called "environmental management systems" are standards more like descriptions for appropriate procedures (Power 1997). Standards like the ISO 14000-series, which has the quality-standards as models, has become broadly applied, above all within the industry. However, these standards are abstracted from any specific organizational and institutional context, and it is up to the enterprise itself to define goals, policies and operational measures for environmental consideration.

The United Nations Conference on Environment and Development in Rio de Janeiro in June 1992 accelerated an international trend towards more initiatives for formulating and negotiating international conventions and principles (Connelly and Smith 1999). These rules are often more related to specific issues than are environmental management systems, but they are also more abstract than the eco-labels and need to be translated to and concretised in local contexts (Boli and Thomas 1999).

Different actors are involved in rule-making processes in the environmental field in a rather complex way. The environment field provides many examples of complex patterns of *interaction* between different actors, which include co-operation, competition and conflict (Boström 1999). One topical example is the attempt to set rules for international trade, rules that respect the notion of sustainable development. This work takes place within the UN and within (and also outside, as in the protests in Seattle recently) the WTO. WTO is also involved in the GMO (genetically modified organisms) question. A recent protocol on biodiversity includes a notion on bio-security, which allows a nation to

stop a product if it is suspected to cause harm. However, the WTO principle maintains that there must be scientific evidence of harmfulness in order to stop a product. Thus competing principles meet and must be negotiated in concrete cases.

Due to its abstract, open and complex character, the construction and definition of environmental issues are, on the one hand, heavily dependent on scientific *knowledge* (Beck 1992, Hajer 1995). By this follows the growth of new areas for research and experts are given a great deal of authority in rule-making processes. On the other hand, scientific results in this area are particularly uncertain, contested and insufficient, which gives room for different risk definitions. There is no direct or unmediated connection between scientific evidence and the making of rules. One major drawback, with environmental management systems, for example, is that there usually are no "expert-criteria" for the judging of conduct (Power 1997). However, different actors, such as environmental organizations and consultants, can function as brokers (Sverrisson 2000) or as intermediary links between science and practice (Lidskog 1996) by translating and codifying knowledge into specific rules. In this field we expect of be able to see the development of new scientific fields in relation to the process of new regulation.

The field of work: in the wake of strong state regulation

The field of work has played a significant role in the formation of the nation state and continues to occupy a central place in national politics and identity claims (Stråth 2000). Traditionally, the state has had a vested interest in regulating these areas, and in determining the forms of regulation as well as the kinds of actors allowed on the scene (Furåker 1979, Tilly and Tilly 1998). Although the degree to which control over rule-setting has been in the hands of the state varies across nation-states, there is hardly a country that does not consider work a priority field.

The field of work is an area in which the "new regulation" manifests itself clearly and in politically contested ways, speaking to issues of democracy and citizenship. The recent move towards a de-regulation of labour markets spells a break in traditional policy-making. The de-regulation trend, assumed to foster mobility in labour markets and increased productivity, has opened up a new space for variation in the structuring of relations between employees and employers in the allocation of work and the distribution of responsibilities in the labour market. The concept of de-regulation, however, does not take into account the establishment of new and alternative forms of regulation, nor does it acknowledge the inertia of previously established rules.

A number of actors other than states now voluntarily take on responsibility for regulating particular areas. This is done in a variety of organizational *forms*. Meta-organizations, such as trade associations, set up rules for ethical conduct in particular businesses. A case in point is SPUR, the Swedish Association of Temporary Work Businesses and Staffing Services. SPUR has created an ethical code for corporations in the temporary staffing business in order to facilitate interaction between actors, and to keep state legislation and union activity at bay by providing a "voluntary authorisation" of its member organizations (Garsten 1999, Ahrne, Brunsson and Garsten 2000). Other regulators try to impose standards, such as the management standards TQM and the quality standard ISO 9000 (Furusten 1999). States and political actors also encourage and legitimise other voluntary initiatives of rule-making, such as local contracts between parties and the establishment of ethical codes of conduct.

The globalisation of labour markets challenges existing forms of regulation, leading to difficulties for states and political actors to manage and co-ordinate them with existing means of control (Dale and Cole 1999, Noon and Blyton 1997). We here observe various kinds of *interaction* between different actors, including co-operation, competition and conflict. Regulatory power is today to be exercised through a profusion of shifting

alliances between diverse organizations that seek to govern the field of work (Rose and Miller 1992). Apart from established bodies, such as the International Labour Organization (ILO), “new” actors, such as international trade organizations, transnational corporations and international interest organizations, try to enter the field and to create rules for others to follow.

Rule-setting in the field of work is also intrinsically linked to developments in *knowledge* and to the powers of expertise (Rose and Miller 1992). The relationship between work and education is a complex one (Tilly and Tilly 1998). Demands in the labour market do not always correspond to the supply of educated individuals, and the matching of workers and jobs is complicated by the inertia associated with the respective areas. The movement of individuals across organizational and national boundaries further accentuates the interdependency of labour markets and education. At a general level, we observe the making of new rules, meant to facilitate recruitment, auditing, and the transferability of skills and competence in labour markets. For example, the diffusion and development of MBA-programmes in Europe has been followed by regulation, ranking and accreditation of various kinds (Mazza, Sahlin-Andersson and Strandgaard Pedersen 1998). In management, the production of knowledge is also linked to the production and diffusion of ideology. Consultants and others act as middlemen, diffusing ideology with more or less connection to knowledge in the social sciences.

We believe that it is important to study the variety of new forms of regulation that are emerging in this field as well as the implications for the capacity of other organizations, such as states, the EU and corporations, to act. In the making of a common European employment policy, for example, the authority of the EU to impose binding obligations is relatively low. Instead, it depends to a high degree on various kinds of voluntarism (Streeck 1996, Jacobsson 1999). Pressure to adjust and conform arise from standards on convergence and action programmes, so called “soft law” initiatives, and from the transparency achieved by the use of social indicators and supervisory procedures. One of our aims is to contribute to the development of analytical tools for understanding the mechanisms of co-ordination between parties in the field of work, which have hitherto been described as pertaining to “governance” to a large extent. The use of concepts such as “soft law” and “ethical rules” point to the complexity of rules at work, and the often volatile character of such arrangements. A question of great concern here is whether the character of the new forms of regulation make a difference in the kinds of claims to authority and legitimacy that can be made and in the extent to which the regulators may exert power to impose the regulations on others? The role of meta-organizations, such as trade associations, and standard setting bodies, will be of significant interest here.

The field of health: a strongly regulated field in change

Regulation related to health has a long history. At present, however, societal changes are raising new demands and are putting new pressure on this well established regulatory field. Firstly, the continuous development of new medical treatments aimed at treating previously untreatable states of illness, together with an ageing population, an increasing proportion of life-style related illnesses, for instance obesity, and the emergence of new states of illness like “burn out”, are raising discussions about the financial responsibility of the welfare state. This in turn raises complicated regulatory issues involving discussions and judgements about, among other issues, distinctions between sickness and health; individual versus societal explanations of the cause of unhealth; and personal responsibility versus the responsibility of various organizations.

Although the field of health is both highly professionalised and founded in science, the field is not coherent. This is reflected in the large number of organizations involved in regulatory processes as well as the different *forms* of regulation. First, there are the large

number of organizations directly involved in regulatory processes at the international, European, national and local level whose recommendations come to vary (Abraham and Sheppard 1999). In each locus, there are furthermore several organizations. In Sweden, for instance, there are several national governmental agencies with different but overlapping jurisdictions. In addition, there are national and international professional and scientific societies more or less directly involved in production of standards, such as the Swedish Society of Medicine (SLS) and specialised societies such as the International Society of Hypertension (ISH). Here we are interested in looking at the *interaction* between all these parties and at what happens when there are competing standards around.

Another societal trend that affects the regulation of health is the decline of the authority of the medical sciences and the related emergence of new actors in the field of health care regulation. Among these new actors are new professional groups, for example health economists (Ashmore et al 1989, Arvidsson and Jönsson 1997). Although the profession is new, the rise of health economics is consistent with the long tradition in this field of being characterised by highly professionalised and science-oriented sub-fields. Other such new sub-fields include pharmacoepidemiology within medicine as well as the rise of new educational programmes such as a Master of Public Health.

Another, non-professional group whose role in regulatory decisions appears to be increasing is patients. In the late 1990's the arguments from patients played an important role in the decisions by a Swedish state agency to continue prescribing insulin free of charge and to subsidise the anti-obesity drug Orlistat (Xenical). The increasing amount of medical information available on the Internet indicates that the role of patients in regulatory decisions will be further strengthened in the next few years. From a regulatory point of view then, interaction in the field of health is becoming increasingly dispersed and fragmented. Will the appearance of new actors with new interests lead to more conflicts in the fields, and what are its effects on regulation?

What is often expected to form the basis of regulatory decisions concerning health care, stable *knowledge* that cannot be disputed, is a rare and precarious state. This is in part a consequence of other actors than the medical sciences getting a more prominent role in regulatory processes as it highlights that the establishment of knowledge can hardly be seen as separated from financial, ethical, professional and other human and social interests. Yet, these fragmenting forces are also at work from within the medical sciences, mainly due to the increasing specialisation and increasing production of knowledge within the medical sciences themselves (Berg and Mol 1998). Studies of the relation between knowledge production and regulation will be an important part of our empirical research in the field of health.

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