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THE COMMUNITY AS POLITY: THE POLITICAL ECONOMY OF REGULATION

DRAFT

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The literature on institutions, policymaking, and public policy covers such a wide range of subjects that it is impossible to pay it any kind of justice in this cursory review. A very partial list of works which focus on the Community's institutional framework as traditionally defined appears in Appendix A.¹ I also list works which examine the relationship between the Community and the member-states (Appendix B). I do the same for interest groups (Appendix C). I have restricted myself to works in English, but many of the sources will lead readers to works in French, German, and Dutch.

The impact of the Single European Act has spawned a literature reflecting the new kinds of policy-making which have emerged in the Community. This literature loosely falls under the rubric of "regulation" or "regulatory policy-making." I shall focus on this relatively new body of literature, as it is an increasingly important component of the literature on institutions and policy-making and yet reflects a different orientation from the earlier literature about the Community.

This body of literature is concerned, broadly speaking, with the emergence of the Community as a "regulatory state." The Community has comparatively few fiscal resources. Its macro-economic presence is confined to monetary policy and does not include the huge amounts of public expenditure characteristic of the member-states with their well-developed welfare

¹ The more recent literature tends to use a neo-institutionalist framework, often drawing on the literature on federalism, rather than on literature drawn from the field of international relations. See, for example, Kirchner 1992, pp. 28ff, Weiler 1991, Dehousse 1992, Scharpf 1988, and Sbragia 1992, pp. 257-292. Mazey and Richardson (1993a) in fact argue that the EC's "development into some form of 'quasi' federal state is now an accepted aspect of politics in Western Europe."

For an interesting approach rooted in anthropological theory rather than federalism, see Shackleton 1991. (All these sources are listed in Appendix A).

systems. Much of the Community's policy activity, therefore, involves regulating the behavior of firms and of national and subnational governments.

For those interested in understanding the type of polity the Community may become, the literature on regulation within the Community is pivotal. The Community will not be similar to the nation-state if only because its expenditures are unlikely to become significant in macro-economic terms in the medium-term. The emergence of the Community as a "regulatory state" is an option which allows a strong Community presence in key economic and non-economic sectors to emerge without an equally strong fiscal presence. The literature exploring the "political economy of regulation" sketches the contours of public policy in those areas in which Brussels has jurisdiction but for which it spends no money.

The literature on European regulation draws on the deregulatory thrust of the internal market (Pelkmans 1988) as well as the trends toward privatization and deregulation at the national level which has occurred in some member-states in the 1980s. However, all the literature points out that deregulation as such is a misnomer; typically, one type of structure is dismantled and a new type of regulatory structure--often at the Community level--is put into place.

Regulation, of course, can be analyzed from numerous perspectives. Kenneth Dyson (1992) identifies culture, the international political economy, institutions, and coalitions/policy networks as the "interrelated factors that shape the nature and dynamics of regulation and that condition and limit the reception and adoption of new regulatory ideas." (pp. 3-4) The work that is appearing on the emerging regulatory framework of the EC tends to cover all those factors, although some works emphasize one factor rather than another.

Two edited volumes helped focus attention on the political economy of regulation in Europe. One, edited by Giandomenico Majone (1990), explicitly included the American experience while the other, edited by Leigh Hancher and Michael Moran (1989), explicitly excluded it. While Majone's included chapters focused on Community regulation, Hancher and Moran's volume did not. Although Majone's volume covered both economic regulation and "social regulation", most of the literature in the regulatory field tends to focus on one or the other. In that sense, the Hancher/Moran volume is typical. However, the study of regulation in Europe is still so new that the divisions between scholars specializing in various areas of regulatory activity are not as entrenched as they are among scholars of American regulation. In March/April 1991, for example, the European Journal of Political Research published an entire special issue on The Politics of Transnational Regulation: Deregulation or Reregulation. Within that issue, P. Vipond dealt with capital movements and financial services in the single market, M. Rhodes with the social dimension, and A. Liberatore with environmental policy. The range of topics covered in the issue gives an idea of how far-reaching the emergence of a Community regulatory structure can be.

The Hancher/Moran volume indicated what the study of economic regulation might look like in the European context. Its concluding chapter, written by the editors and entitled "organizing regulatory space" is important in that it clearly distinguishes the study of economic regulation in Europe from that in the United States. The Majone volume, for its part, was critical for those interested in the Community. It alerted scholars interested in regulation that the Community was now involved in this area and informed Community scholars that such involvement formed part of a larger movement and was not restricted to the Community.

Given that the literature in English on regulation at the time of the 1992 project was almost exclusively concerned with the American experience, European scholars necessarily worked within a cross-national or comparative perspective even when the American experience was not explicitly included in research projects. That comparative perspective is striking especially since so much of the traditional literature on the Community treats the latter as sui generis. Focusing on the political economy of regulation allowed scholars to avoid "ghettoizing" the study of regulatory public policy within the Community.

Much of the literature on the deregulatory/re-regulatory thrust of the 1992 project focuses on specific sectors such as pharmaceuticals, telecommunications (Sandholz 1993), transport, financial services, etc., on competition policy and state aids (Montagnon 1990), industrial policy (Nicolaidis 1993), technical standards (Egan 1993; Pelkmans 1987), or the link between the internal market and environmental policy (Weale and Williams 1992). Other approaches include comparing national regulatory regimes, regimes which are broadly similar across sectors within a country but differ between countries. Of particular importance in this category is the Woolcock, Hodges, Schreiber (1991) comparison of the British and German regulatory framework. Finally, some scholars have begun analyzing the response of firms to the regulatory activity of the Community carried out in pursuit of the internal market. David Mayes' edited volume is a good introduction to this type of work (Mayes 1991).

While Majone's 1990 book helped put the study of regulation on the scholarly agenda, his later work has alerted scholars to the importance of social regulation. The "regulatory polity" engages in both economic and social regulation, the latter including such areas as environmental and consumer protection policy. In a seminal paper (1991), Majone argues that regulatory

models in many areas of economic and social regulation are imported from other countries and experiences. For example, American regulatory models were important in the area of social regulation. In the area of economic deregulation, however, "the impact of American deregulation or regulatory reform has been quite uneven across countries and industries." (p.91)

Secondly, and perhaps most importantly, Majone distinguishes between traditional "welfare state" policies and those falling under the rubric of social regulation. In his words, "While the programmes of the welfare state are largely concerned with the provision of 'merit goods' (housing, medical care, education, retirement income, and so on), the aim of social regulation is to provide 'public goods' like environmental protection, product safety or consumer information." (90)² The expansion of the Community's activity in the area of environmental policy has fueled much of the interest in social regulation.

Social regulation, according to Majone's analysis, is central to the evolution of the Community. In later work, he develops the argument that within the EC, efforts will be devoted to social regulation rather than focusing on transferring the welfare state to the Community level. To put it simply, national governments will keep the welfare state while social regulation will be handled at the Community level (1993).

² Majone makes the provocative argument that the United States lagged behind the European states in the provision of welfare benefits at least partially because of the American emphasis on social regulation. He puts the argument thusly:

A suggestive hypothesis is that because America was a welfare laggard compared to Europe, it devoted to social regulation the financial and political resources which in Europe were absorbed by the growing needs of the welfare state. Such an explanation calls attention to the inherent tension between social regulation and traditional welfare policies based on the universal provision of social services and large-scale transfer payments. (Majone 1991, pp. 89-90).

Dehousse has carried the debate forward. In a recent article(1992), he argues that the EC's activity in the area of social regulation is not nearly as effective as that in the United States. Rather, the Community's effort primarily involves a harmonization of laws rather than a pre-emption of national regulatory discretion. For example, the use of the directive allows the member states to decide whether sanctions will be attached to violations of those laws transposed into the domestic legal code because of the Community. Implementation is in the hands of the member states rather than the Commission. In fact, Dehousse argues that social regulation is characterized by "the 'dual subsidiarity' of social regulation...: subsidiarity with respect to ...market integration and subsidiarity with respect to national regulatory policies." (p. 388) The debate clearly continues as to the importance of social regulation within the Community, its impact on over-all integration, and its implications for the Community's policy structures.

Analytically, much of the work in the regulatory area relies on the comparative method. The American experience is important for many scholars. Within political science, this literature would be seen as belonging to comparative politics, comparative public policy in particular, rather than international relations. The federal model, often the American, undergirds many of the referents. The Community is not approached analytically as an international organization. This literature, therefore, rarely refers to the debates between neo-functionalists and intergovernmentalists. The Community is viewed as in the process of developing a regulatory structure which can be usefully compared with that found in federal systems. In sum, this literature reinforces the growing analytic cleavage between those who approach the Community through the lens of international relations theory and those who approach it using analytic frameworks drawn from comparative politics and the study of public policy.

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