



Book Review

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Breen, O. B., Dunn, A., & Sidel, M. (2016). *Regulatory waves: Comparative perspectives on state regulation and self-regulation policies in the nonprofit sector*. Cambridge, UK: Cambridge University Press. 246 pp., Hardcover, \$110, ISBN 978-1-107-16685-1

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Across the globe, nonprofits are growing in size and number and in economic and social significance. The sector is also extending its scope, expanding its global reach both on the ground and through the Internet, and becoming more diverse with traditional sector boundaries expanding to accommodate a plethora of hybrid, sector-hopping organizations. At this juncture, the sector needs regulatory regimes that promote trust and confidence in the sector as well as enable the building of capacity. Yet when it comes to the regulation of nonprofits, do we know what works and what doesn't? The good news is that with the publication of *Regulatory Waves* nonprofit leaders, policy makers and scholars are now in a position to benefit from the many insights that spring from this comprehensive, up-to-date, multicountry comparative analysis of regulatory regimes. *Regulatory Waves* is a book full of nuanced and in-depth exploration of the realities and thoughtful argumentation of the possibilities for nonprofit regulation and is a must read for anyone interested in the sector's future development and in the drivers and effects of regulation more generally.

Edited by Oonagh B. Breen, Alison Dunn, and Mark Sidel and featuring contributions from experts in nonprofit regulation from around the world, the book examines regulation in 16 jurisdictions (Australia, China, Brazil, Ecuador, England and Wales, Ethiopia, Ireland, Israel, Kenya, Malawi, Mexico, Tanzania, Uganda, Scotland, United States, and Vietnam). The contributors adopt historical, cultural, political, and environmental perspectives to explore how the various nonprofit sectors and governments of the world are experimenting with the full spectrum of regulations from grassroots self-regulation to highly prescriptive models. In so doing, the book tackles the big questions: What has been the regulatory approach where, when, and how? When, where, and why do regulatory frameworks change? How do state regulation and self-regulation interact? How does a shifting mix between regulatory forms impact the nonprofit sector and particular parts of it? What burdens does each regime option impose on the nonprofit sector and on government? And most importantly, is there an ideal mix and if so what is it?

The book is organized into 11 chapters. Even if new to the discussion of nonprofit regulation, by the end of the first introductory chapter by the editors the reader will have a strong sense of the seminal scholarly literature and understand most of the important, nuanced themes and debates relating to regulation. The subsequent chapters detail how regulatory regimes have evolved country by country, the different rational and government agendas and the problems and conflicts, phases, and changes over time.

A major contribution of this book is that it facilitates comparison, analysis, and synthesis of issues relating to nonprofit regulation on a global scale. With some notable exceptions, including previous research by the editors themselves, to date the bulk of research on nonprofit regulation has focused on specific jurisdictions and in the main on long established sectors. The book not only explores nonprofit regulation in relatively mature sectors (Australia, England and Wales, Ireland, Israel, Scotland, and the United States) but in emergent sectors (China, Brazil, Ecuador, Ethiopia, Kenya, Malawi, Mexico, Tanzania, Uganda, and Vietnam). The breadth of coverage helps the reader to make sense of the myriad of ways the state and the sector seek to regulate nonprofits and to understand some of the key drivers of different regulatory approaches and to identify some trends.

Another major contribution of this book is that it highlights the fact that regulation does not fall solely within the domain of the state. There is a body of excellent scholarly research on the shape and dynamics of self-regulatory initiatives (including previous work by Breen, 2012; Dunn, 2014; and Sidel, 2005, 2009, as well as other contributors such as Barber, 2012; Bies, 2010; Gugerty & Prakash, 2010) leading to a growing consensus that self-regulation is a viable route to strengthening accountability, transparency, and the quality of activities and services provided by nonprofit organizations. However, this book takes one step further, extending the analysis to ask how self-regulatory initiatives and statutory regulation impact on each other. Indeed this is a central theme. While acknowledging that statutory regulation is the dominant regulatory tool used in most countries (and is the case in most of the case studies in the book) and that most of the sector's efforts have been directed at making state regulation fit-for-purpose, this book makes a powerful case that the relationship between statutory and self-regulatory initiatives is causal. The authors collectively do this by providing case after case illustrating how statutory regulation directly or indirectly impacts on self-regulatory initiatives and how the rise of self-regulation is a response to both areas of strength and of weakness in individual jurisdiction's statutory regulatory regimes.

This focus on the relationship between self-regulation and statutory regulation is important. If the 16 cases are any indication, and it is very likely they are, then the majority of nonprofits in the world want greater self-regulation and nonprofit-led self-regulation initiatives are a global trend. This book shows how the outcomes of these self-regulatory initiatives are inextricably tied to the design, implementation, and enforcement of statutory regulation. In the chapter on China and Vietnam, Mark Sidel highlights how self-regulation is a response to the strictness of state regulation in some areas and, often due to failures of implementation, a relative regulatory void in others. These cases also show how strong states can frustrate self-regulatory efforts. The

strength of the state in some areas and the failure of statutory regulation to deliver in others also shaped the emergence and design of self-regulation in the Latin American cases written by Michael Layton, Susan Appe, and Marcelo Marchesini da Costa, and in the African case studies in the chapter by Mary Kay Gugerty. Alison Dunn argues that the emergence of self-regulation in Scotland was also an attempt to fill a regulatory void. Similarly, in England and Wales, the state's preoccupation with protecting funds and promoting accountability led to a relative regulatory vacuum relating to day-to-day governance issues which prompted the sector to develop various Codes of Practice. In the case of Ireland (by Oonagh Breen), the failure of statutory regulation to deliver on its promises played a role in the sector creating the Code of Practice for Good Governance. Nissan Limor and Noy Brindt examine the case of Israel and illustrate how, in recent years, the state has taken a dim view of self-regulation and has sought to crowd out attempts in this area. Myles McGregor-Lowndes shares the interesting case of Australia where the sector has actually driven augmented statutory regulation. Here the sector advocated that the state should, finally, take heed of the recommendations made in numerous reports, consultations, government inquiries, draft legislation, public submissions, and evidence transcripts produced over two decades, that Australia needed a national charity regulator. Putnam Barber's chapter on the United States highlights some of the challenges facing regulators and watchdogs alike and illustrates how perhaps more than anywhere else, nonprofits in the United States have sought to temper the strictness of statutory regulation through the legal system, challenging state laws and defending constitutional rights in the courts.

Apart from nonprofits wanting it and that it is happening anyway, there is another strong argument in favor of greater self-regulation. In an age of shrinking budgets and austerity measures, some governments have come to realize that self-regulation can be a way to get the sector to do its job for it and can save the government money. A particularly interesting example of co-option of self-regulation by the state to serve its own objectives is presented by Myles McGregor-Lowndes in the chapter on Australia. Here a self-regulatory Code of Conduct for the Aid and Development sector forms the basis for meeting accreditation standards needed to access government funds. In England and Wales, the government has also conserved resources by focusing on enforcement and leaving fundraising and other codes of practice development and monitoring to the sector itself. Even in China, government support for nonstate actors to coordinate data gathering is partial recognition that these sector-led activities free up the government to concentrate on other things. With budget pressures mounting in the United States, decision makers from both government and nonprofit sectors may wish to think that a cheaper and/or more efficient way is to get out of the courts and experiment with types of self-regulation.

In-depth analysis of nonprofit regulation in 16 jurisdictions has inevitably thrown up some other interesting insights, each of them worthy of a program of research and numerous doctoral theses, but which I will just briefly mention. The book highlights a range of contextual and historical factors that can act as the catalysts for regulatory change. Contextually, the chapters on emerging nonprofit sectors highlight the relationship between political and regulatory development, demonstrating how regulation

changes as democratic governance becomes institutionalized. The chapters also highlight the influence of other political factors such as the role of ideology. In jurisdictions like Australia (and New Zealand although not covered in this book), it seems the more a belief in the market's ability to deliver is unquestioned and neoliberal-inspired New Public Management principles embraced, the less the state is willing to commit resources to regulatory reform (in New Zealand the conservative government moved the relatively new charity regulator back into a line department). In this context, the state has become more concerned with constraining charities that seek to be players in the political sphere. Other political factors shaping the regulatory landscape that come out of this book include how the length of the political cycle and the degree to which political systems are adversarial can result in the abandoning of initiatives regardless of merit. We also learn more about the effects of scandals and in particular how the political reaction to them can lead to governments placing the sector under greater scrutiny and demanding higher levels of accountability and transparency; this was particularly the case in England. Another important contextual factor is the role of technology as both an enabler of state and of self-regulation and as a source of new challenges. The book shows how some sectors have embraced digital technologies to enable self-regulation (e.g., in the United States promoting public access to Internal Revenue Service (IRS) forms 990 for public charities and 990PF for private foundations) but also in the United States how technology has created gaps in the regulatory fabric (e.g., the regulatory gap between state-based solicitation laws and fundraising with social media applications). These interesting insights have often led to a two-steps-forward one-step-back pattern in the roll out of self-regulation, a pattern more poetically described in the book as the ebb and flow of waves.

The aim of this book has been to explore whether there is an underlying relationship between statutory and nonstatutory regulatory frameworks and it has categorically succeeded in showing us that there is an ongoing and causal relationship between the two—that statutory regulation sometimes encourages the emergence of self-regulation and at other times hinders it. Thus, this book is a densely packed and authoritative piece of scholarship that makes a clear and compelling case for the benefits of self-regulation but it also equips the reader with how optimal levels of self-regulation might be achieved. In the final chapter, the editors provide a list of factors needed to create the ideal conditions for the growth of self-regulation, namely what is needed is an organized sector; a coordinating body for self-regulation; clear and understandable purposes of the intent of self-regulation; widespread buy-in by nonprofits; processes that start small and tailored and then build from there; principles that are matched to the purpose of the scheme; self-regulation regimes that serve as many external interests as possible; and, importantly given the key finding of the book, the creation of a fit-for-purpose self-regulatory models requires a supportive state. To achieve the above, they advise any champion of self-regulation to have a clear policy statement, establish opportunities for discussion, encourage policy learning, and enable self-regulation and state regulation to work hand in hand. So, decision makers take heed, you have informed and clear riding instructions to ensure a form of self-regulation that strengthens accountability and transparency and enables nonprofits to best serve their communities.

We are witnessing a wave of regulation, yet what constitutes a fit-for-purpose regulatory approach has remained elusive. Informed by the insights of this book we are getting closer to an answer. This book is an important contribution to the field, and it is certain to become a go-to reference for colleagues interested in charity regulation. It is ideal for use as source material at the undergraduate and graduate level and will be helpful to scholars performing research in the area of comparative legal research, the use of case study comparisons, and the development of civil society, particularly in emerging democracies. In particular, it is useful for policy makers and nonprofit stakeholders who seek to build a regulatory architecture that is fit for purpose and enables nonprofits to best serve their communities. In short, *Regulatory Waves* is a book with exceptional insights that is useful for students and practitioners alike.

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Reviewer Biography

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