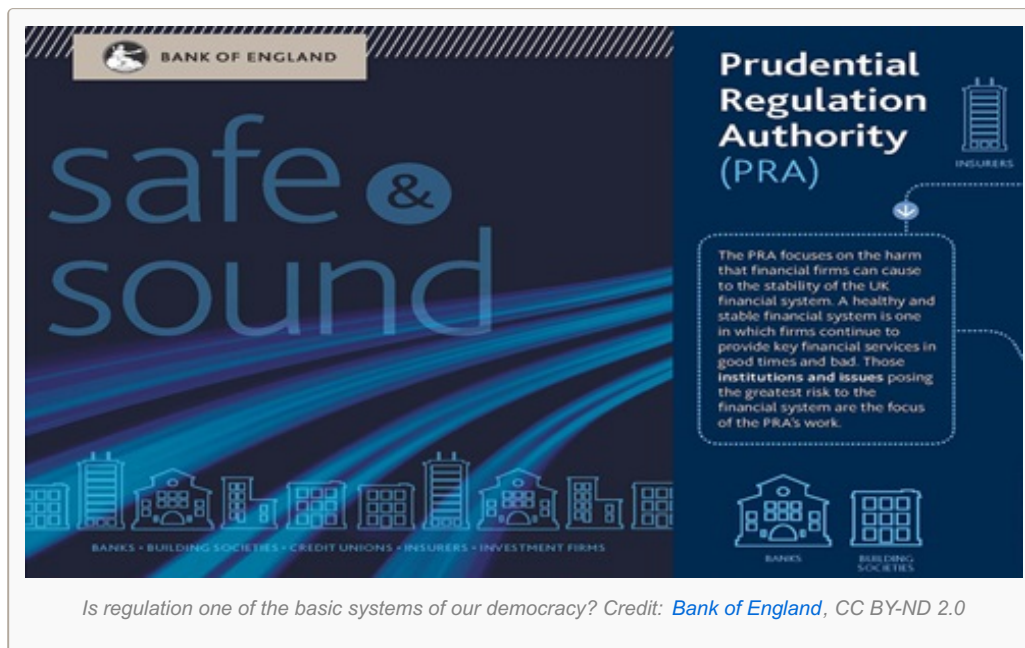


We should view democracy as a set of interconnected systems, spanning politics, the law, civil society, the market and regulation

By Democratic Audit

Most recognize that democracy is much wider than just politics and elections. In this post, **Frank Vibert** argues that democracy comprises multiple, interdependent systems including the law, civil society and the market, which are in a constant state of flux and tension. He also explores the idea that 'regulation' is another system integral to democracy, bolstering and correcting other systems in a way not previously acknowledged by political theorists.



Writers on democracy generally accept that democracies are about more than democratic politics looked at by itself. The rule of law and an independent judiciary is also essential. The way markets are organized is also seen to be important. When markets are organized by politicians to reward and control, as with forms of 'crony capitalism', it is unlikely that democracy will flourish alongside. There is also a long tradition that sees active civil associations as providing a necessary underpinning for democracy.

Interconnected systems

Many theorists focus on what is distinctive about each of these systems and treat them separately. We also need to think much more about their interconnectedness. Three features stand out when we think about democracy as involving a set of interdependent systems.

First, it is apparent that the mix is in constant flux. For example, when what can be achieved through politics is restrained by fiscal 'austerity' there may be a turn to markets in order to finance infrastructure and services previously provided by governments.

Secondly, it is also apparent that change in one system can damage another. For example legal theorists looking at what is termed 'juridification' or 'judicialization' may be concerned about the implications when the law ventures into areas previously occupied by politics. In the UK at the moment there is a tension over human rights and what should be decided through political processes and what by the law. Lawyers fear that politics will damage due process of the law. Politicians fear that lawyers are entering into ground that belongs to politics. We need therefore to watch that changing relationships do not damage the basic integrity of any system.

Thirdly, the dynamics are important. In particular there is a question when things go wrong as to whether systems should be regarded as 'self-correcting'. [Adam Smith](#) can be interpreted as meaning that markets are self-organizing and self-correcting systems when he made his famous references to 'the invisible hand'. In more recent times the sociologist [Niklas Luhmann](#) has written about the reflexive qualities of systems.

A regulatory perspective

It is obviously a highly ambitious undertaking for theorists to try to analyze democracy as a set of interconnected and dynamic systems. Most do not even try. In a [new book](#) to be published later this month I have ventured onto this terrain. For this purpose I have looked at systems dynamics and systems interconnectedness through the lens of regulation. There are three reasons for adopting this perspective.

First, regulatory activity cuts across all other systems – politics, the market, the law and civil associations are all impacted by regulation. Regulation thus provides a means of looking at system interdependence. Secondly, regulatory activity has been growing relative to other systems. This growth focuses questioning on the dynamics of system relationships and, in particular, whether or not we should think of systems as being 'self-correcting'. If they are self-correcting then we do not have to worry about the growth of regulation because in due course other systems will push back. For example, political systems, markets and the law will reassert their roles. Thirdly, regulation provides insights into normative questions. Systems are valued not just for their functional properties or because of their 'utility' but also, as Adam Smith argued in explicit disagreement with [David Hume](#), because of their normative qualities.

Normative issues are important in thinking about regulation as a system because there is a long tradition in political science, going back as least as far as [Montesquieu](#), of thinking that regulation is an inferior system for social coordination. It can be seen as taking away what rightly belongs to politics, eroding the sense of personal responsibility that underpins civic association, damaging the market and dealing with the less important issues than the questions of justice and fairness that arise with the law. Regulation thus provides a point of entry in thinking about system integrity.

These normative questions are also central to thinking about the status of regulation itself in relation to other systems. Is it indeed 'inferior' to other systems and merely a useful 'add-on' or supplement to them? Alternatively has regulation become in some way 'basic' in modern democratic societies to be given an equal importance and attention alongside the law and the market?

Regulation as a 'basic' system

When one looks more closely at regulation and the interdependencies between systems the more apparent it becomes that regulation now needs to be viewed as a basic means of coordination in modern democratic societies. For example it corrects for the inadequacies of the law in dealing with evidence from the natural and social sciences – an area where lawyers, judges and juries have special difficulties. Far from demotivating people to act responsibly, regulation provides society with a basic means of addressing a key weakness that all democratic societies face. The weakness is that people have conflicting motivations that impair their willingness to observe the underlying norms of behavior that are necessary for all systems to work. For example markets depend on honesty and trust in contracting. Market incentives may motivate people towards making false representations. At the same time the efforts of democratic societies to socialize norms through education also yield very imperfect results. Regulators step in to underpin norms and to educate.

The most important sense in which regulation is basic to modern societies is that it provides an adjustment mechanism, smoothing and facilitating the constantly changing mix between the different systems in a democratic society. Thus, if governments look towards markets to fund and manage services that were previously within government, such a move will be accompanied by regulatory structures in order to minimize the 'creative destruction' associated with markets. Conversely, if governments look to intervene in markets, as in the case of Obamacare, they will also accompany such moves with a regulatory structure in order to try to ensure that the end users benefit from the new insurance arrangements. Regulation has unique properties as an adjustment mechanism and is of fundamental importance in modern democratic systems both for functional and normative reasons.

Self-correcting systems

A closer look at the dynamics of regulatory growth provides no grounds for thinking that systems are 'self-correcting'. The dependence of democratic systems of government on regulation will grow – but not because of the reasons favored by public choice theorists that regulators will pursue their self-interest in expanding their empire. Self-interest applies to all actors in all systems. Something else must explain a relative shift between systems.

The most persuasive systemic reason in my view is that regulation addresses what has been termed 'adaptive bias' in systems. The term means that there is a tendency for social institutions to be backward looking and to favor the status quo. For example the law is famously rooted in citing precedent. The horizon of politicians is forward looking to an extent – but only as far as the next election. The market is forward looking, but it often projects past relationships and conveys its information in the form of prices – prices that contain a mixture of signals and noise. Regulators are engaged in forecasting and horizon scanning for professional reasons. They convey their information in policy relevant terms. For example an outbreak of an internationally disseminated infection such as swine fever or avian flu will likely be reflected in market prices. But public policy will pay more attention to the indicators of morbidity and mortality estimated by health sector professionals.

Constitutions

If we accept that systems are not self-correcting then our attention moves to thinking about the framework within which the interconnections of democratic societies take place. This means thinking about constitutions. There is a tradition that characterizes them in terms of 'contract' or 'constraints'. We need to think instead about their role as triggers for reflection and correction for systems behavior. Few are fit for purpose in dealing with the interconnectedness of modern systems of democratic governance.

—

Note: This post represents the views of the author and does not give the position of Democratic Audit or the LSE. Please read our [comments policy](#) before responding. Shortlink for this post: buff.ly/1g41a9h

—

Frank Vibert is senior visiting fellow at the LSE Government Department. He is the founding director of the [European Policy Forum](#), and was senior advisor at the World Bank and senior fellow at the United Nations University WIDER Institute, Helsinki. His latest books are [The New Regulatory Space: Reframing Democratic Governance](#) (Edward Elgar, 2014), [Democracy and Dissent; The Challenge of International Rule Making](#) (Edward Elgar, 2011), and [The Rise of the Unelected: Democracy and the New Separation of Powers](#) (Cambridge University Press, 2007).

