

a blame-free culture. It is believed that if the transgression of rules does not carry any risk of penalty it may lead some healthcare professionals to ignore the rules thus putting at risk the safety of the patient.¹¹ There is undoubtedly a need to continue efforts to enhance patient safety and avoid medication errors but it is clear that the last word regarding a no-blame model *versus* accountability and patients' right for redress has not been said yet.

Regulatory Impact Assessment

This section regularly examines Regulatory Impact Assessment (IA) at three levels: the EU, the Member States and internationally. Contributions aim to cover aspects such as the interface between IA and risk analysis, looking at methodologies as well as legal and political science-related issues. Contributions are meant to report and critically assess recent developments in the field, develop strategic thinking, and make constructive recommendations for improving performance in IA processes.

Global-Regulation: Drawing Future Regulatory Tools from the Experience of the Past

Nachshon Goltz and Aleksandar Nikolic***

“Man of science should turn to the massive task of making more accessible our bewildering store of knowledge”

Vannevar Bush¹

Traditionally, theories on regulation have suggested choosing the “right” regulatory tool for a given situa-

tion of desired behavioral steering, using a broad theoretical approach of understanding the factors involved in the regulatory realm and speculating from it toward the efficient choice.

By contrast, this paper will argue that the process of choosing the “right” regulatory tool should be guided by an opposite process, in which a searchable database of regulatory case studies (“Global-Regulation”) will be created. The institution (i.e., governments, regulation agencies, etc.) seeking to steer behavior using regulatory tools (“The Regulator”) will search Global-Regulation using the specific characters of its situation (i.e., industry, regulation method, country, etc.), to find relevant case-studies that will lead to the best regulatory solution.

It is assumed that this approach will establish regulation and regulatory tools as an empirical process of selection guided by a global accumulated body of knowledge, that will eventually create a more efficient and successful regulation and hence, desired behavior. The first part of this paper will provide an overview of regulatory learning. The second part will describe the Global-regulation database. The third part will develop an example of the way in which case studies will be indexed into the Global-Regulation database. The fourth part will discuss the benefits of Global-Regulation to scholars and its symbiotic relationship with the research in the regulatory field. Finally, this paper will address possible problems with the suggested system.

Disclaimer

Sustained long-term research is always complicated, predominantly because of matters that are outside the research itself. Any research requires resources, time, interest, administration, navigating bureaucracy, and marketing but these factors increase dramatically as research continues. Further complicating matters is that research often goes unused beyond academic circles. To establish a long-term sustainable research project the authors have created Global-Regulation.com. As the principals behind Global-regulation.com, the authors are attempting to combine private and public resources to sustain this study of learning and teaching within policy-making and regulation-making by providing practical information which can be applied in the regulatory process.

Academic research is dependent upon many factors. Public funding sources are a major contributor

¹¹ R Wachter and P. Pronovost, “Balancing “No Blame” with accountability in patient safety”, 361(14) *The New England Journal of Medicine* (2009), pp. 1401–1406.

* PhD student, Osgoode Hall Law School – York University, Toronto, ON, Canada; this article was born from the discussion held in the study group on regulation and governance at Osgoode Hall Law School. Each of the participants brought to the group his own field of research and looked at it from the regulatory point of view. This mixture of legal fields, shown through the regulatory lances, made me conceptualize the idea expressed in this article. I would like to thank the group participants and especially my supervisor, Professor Liora Salter who inspired me with her passion for regulation. In addition, I would like to thank Jodi Patt for her valuable help. This article was also first presented at the ECPR 4th biennial on regulation and governance, Exeter University, UK, June 2012. I would like to thank Tom Gibbons, Peter Ladegaard, David Levi-Faur and Fiona Haines for their insights.

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¹ As We May Think, *The Atlantic Monthly*, July 1945.

to research but those sources are at the mercy of the general economy, public perception, politics, and the whims of administrative bodies. Social science research is abundant but it is often written for other academics and is not intended for general consumption. Rarely is there a chance to apply the fruits of research. Time is also a factor since research is conducted for a fixed period and after funding runs out the project may die. The internet is littered with academic collaboration sites that could have useful information but have not been updated for years.

Global-Regulation.com seeks to create both a research laboratory, and a way of sustaining that research. It is a for-profit organization but the profits come through providing an information service based on the research and the profits are intended to sustain the research.

I. Introduction

In February 2012, a European academic approached the ECPR Standing Group on the Regulatory Governance Email List with a request for teaching cases/class exercises that focus on regulatory instrument choice and regulatory impact analysis. Several suggestions had been made.² However, what was obvious from this experience was the striking absence of a regulation case studies database from which inferences can be drawn for educational needs or for practical needs.

Although there is a rich body of knowledge of regulatory case studies (tens of thousands at least), in the absence of an organizing tool that will be both accessible and understandable, the current regulatory process ignores this crucial data that is so scattered that even scholars in the regulatory field fail to follow it (as shown in the example above). Not only is there a striking divide between the scholarly work and the regulatory practice, but also the regulatory process and eventually its outcome are falling short in its efficiency potential. In other words, the learning mechanism of the regulatory process is malfunctioning. Surprisingly and overwhelmingly enough, this malfunction is in a field that has immense influence on every aspect of our life, involving hundreds of thousands of government officials, employees, scholars and others, in a market that is estimated at one trillion euro globally. In the United States alone, according to the 2011 report to US congress on the

benefits and costs of federal regulation, the estimated annual costs of federal regulation are between \$44 and \$62 billion.³

Traditionally, at its best, the regulation making process is based on academic theoretical doctrines, review of the relevant existing regulation and case studies in the specific field, and finally tailoring the findings to the local circumstances. In the absence of any regulatory case studies database, millions and even billions of dollars are spent annually by governments, regulatory agencies and others in order to review relevant case studies. Moreover, there is no systematic collection, domestic or international, of these reviews and the process is repeating itself again and again. If one considers the hourly billing method commonly used by the consulting companies and law firms usually conducting these reviews, it is obvious that there is no incentive for preventing this process from recurring.

The first part of this paper will provide an overview of regulatory learning. The second part will describe the Global-Regulation database. The third part will develop an example of the way in which case studies will be indexed into the Global-Regulation database. The fourth part will discuss the benefits of Global-Regulation to scholars and its symbiotic relationship with the research in the regulatory field. Finally, this paper will address possible problems with the suggested system. The technological infrastructure that will enhance the suggested regulatory database is beyond the scope of this paper. It is sufficient to say that advanced technological techniques can facilitate a sophisticated, user-friendly, and efficient database.⁴

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- 2 Scott Jacobs, Managing Director at Jacobs and Associates suggested their RIA course <<http://regulatoryreform.com/ria-training.html>> (last accessed on 6 August 2013); Tom R. Burns, Professor Emeritus of Sociology, University of Uppsala, Sweden suggested two articles: <<http://www.thecommonsjournal.org/index.php/ijc/article/view/260/217>> (last accessed on 6 August 2013), The second article has appeared recently (2011) in *Human Systems Management*, The EU case studies are presented in substantial detail in Marcus Carson et al, "Paradigms in Public Policy: Theory and Practice of Paradigm Shifts in the EU", Peter Lang Publishers and David Bach, Professor of Strategy and Economic Environment, IE business School, Spain, suggested an old HBS case on RWE and regulation of electricity in Germany.
 - 3 2011 Report to Congress on the Benefits and Costs of Federal Regulations and Unfunded Mandates on State, Local, and Tribal Entities <http://www.whitehouse.gov/sites/default/files/omb/inforeg/2011_cb/2011_cba_report.pdf> (last accessed on 6 August 2013).
 - 4 The actual web-based project is available online on at <www.Global-Regulation.com> (last accessed on 6 August 2013).

II. Regulatory learning

As concepts, regulation, in its most generic sense, and policy are difficult to define.⁵ But the two are so inextricably linked in the literature⁶ that the terms “regulation” and “policy” will be used interchangeably in this review of regulatory learning, not only as a linguistic matter, but also as a precursor of meaning. For regulation is what policy is made from and vice versa.

Even when there is an attempt to distinguish policy and regulation, the two still remain linked. Cram⁷ considers regulation as a subset of policy. According to her, regulation is a policy instrument, and the concept of purposeful opportunism ties policy and regulation through policy entrepreneurs who create procedures and “process policy” which are tied to systems in need of regulation.⁸

Schout⁹ includes the term “policy policy” to describe the E.U. better regulation agenda, relying as well on Radaelli’s definition¹⁰ that the agenda is “meta-regulation” that creates standards and rules to “steer the process of rule formulation, adoption, and evaluation.”¹¹ Further justification for using the concepts interchangeably is that regulation-makers and policy-makers are often the same people, entities, or institutions either within or across jurisdictions. It

has even been suggested that Radaelli’s interpretation may imply that regulatory reform has become a public policy, allowing for interpretation through the same analytical tools.¹² Thus policy learning concepts and reasoning will also be used to describe regulatory learning.¹³

Policy learning is a concept within comparative public policy study that has generated significant debate in both its nature and its assumptions to explain policy changes, innovation, successes, failures, convergences and divergences.¹⁴ Addressing learning is not easy because there are widely varying approaches and applications in attempts to define it. Concepts of learning overlap, and there are difficulties in specifying whether or not learning has occurred given the many possible intervening variables and alternative explanations.¹⁵ Policy learning has been defined as the diffusion of norms, rules, and institutions in cross-national networks of “collaboration, learning, and cooperation.”¹⁶ It has also been defined as a process of exercising judgment based on experience or other inputs that lead actors to change their view of matters and changing the course of action based on these new views.¹⁷ Learning can include trial-and-error or a refined understanding of cause and effect, but learning is distinguished from mere copying because it entails improved understanding

5 For policy definitions see A. Chong, “Transnational public policy in civil and commercial matters”, 128 *L.Q.R.* (2012), pp. 88–113; T.T. Arvind, “The ‘transplant effect’ in harmonization”, 59(1) *I.C.L.Q.* (2010), pp. 65–88; H.P. Meidanis, “Public policy and order public in the private international law of the EU: traditional positions and modern trends”, 30(1) *E.L. Rev.* (2005), pp. 95–110, at p. 100. Policy is often not defined but the tools of analysis or sub-fields of policy are defined in scholarly works such as P. John, “The policy agendas project: a review”, 13(7) *Journal of European Public Policy* (2006), pp. 975–986; see N. Zahariadis, “Ambiguity and choice in European public policy”, 15(4) *Journal of European Public Policy* (2008), pp. 514–530; and P. Hall, “Policy paradigms, social learning and the state: The Case of Economic Policy Making in Britain”, 25 *Comparative Politics* (2006), pp. 275–296. Regulation is also often defined in terms of a particular field or subject of research, rather than in a generic sense, as can be seen by the sheer volume of articles on regulation. For the difficulty in defining generic regulation see Iain Begg, “Introduction: Regulation in the European Union”, 3(4) *Journal of European Public Policy* (1996), pp. 525–535, at p. 526.

6 See, for example, C. Radaelli, “Measuring policy learning: regulatory impact assessment in Europe”, 16(8) *Journal of European Public Policy* (2009), pp. 1145–1164 (providing a prime example of the interchangeable nature of regulation and policy).

7 L. Cram, “Calling the tune without paying the piper? Social policy regulation: the role of the Commission I European Community social policy”, 21(1) *Policy and Politics* (1993), pp. 135–146, at pp. 142–144; C. Radaelli and C. Dunlop, “Policy learning in the European Union: Theoretical lenses and meta-theory”, *Journal of European Public Policy* (2012), pp. 1–30, at p. 10.

8 *Ibid.*

9 A. Schout, “Organizational Learning in the EU’s Multilevel Governance System”, 16(8) *Journal of European Public Policy* (2009), pp. 1124–1144;

10 C. Radaelli, “Whither better regulation for the Lisbon agenda?”, 14(2) *Journal of European Public Policy* (2007), pp. 190–207.

11 *Id.*

12 See Radaelli and Dunlop, *supra*, note 7

13 A full overview of regulation and public policy definitions, similarities and differences is beyond the scope of this paper.

14 P. May, “Policy learning and failure”, 12(4) *Journal of Public Policy* (1992), pp. 331–354; C. Bennet and M. Howlett, “The lessons of learning: reconciling theories of policy learning and policy change”, 25(3) *Policy Sciences* (1992), pp. 275–294; See Hall, *supra* note 5; C. Radaelli, “Policy transfer in the European Union: institutional isomorphism as a source of legitimacy”, 13(1) *Governance* (2000), pp. 25–43; K. Weyland, *Bounded Rationality and Policy Diffusion: Social Sector Reform in Latin America* (Princeton, NJ: Princeton University Press, 2006); M. : M. Evans, “At the interface between theory and practice – policy transfer and lesson drawing”, 84(2) *Public Administration* (2006), pp. 479–489.

15 O. James and M. Lodge, “The limitations of “policy transfer” and “lesson-drawing” for public policy research”, 1(2) *Political Studies Review* (2003), pp. 179–193; E. Bomberg, “Policy learning in an enlarged European Union: environmental NGOs and new policy instruments”, 14(2) *Journal of European Public Policy* (2007), pp. 248–268.

16 M. Egan, “Governance and learning in the post-Maastricht era?”, 16(8) *Journal of European public Policy* (2009), pp. 1244–1253, at p. 1244.

17 See May *supra* note 14, at 333; G. Breslauer and P. Tetlock, “Introduction”, in G. Breslauer and P. Tetlock (eds), *Learning in US and Soviet Foreign Policy* (Boulder, CO: Westview Press, 1991), pp. 3–19.

stemming from an ability to draw lessons.¹⁸ Attempts to define learning have resulted in convergent and divergent views that include active and passive approaches to examining elements of institutional behavior.

The concept of policy learning has been subject to a number of interpretations.¹⁹ The complexity of determining policy learning has led to the creation of four categories of learning types which affect public policy. Learning in the public policy sphere can encompass not just instrumental policy learning, but also social learning, political learning, and reflexive learning.²⁰ Instrumental policy learning refers to the instruments to implement, develop, and enforce policy; social learning refers to analysis of problems and solution development through social discourse; and political learning examines the role of political actors.²¹ Reflexive learning refers to paradigm shifts that affect society, that impact public policy, fundamental social interaction, and institutional behavior.²²

Peter Hall indicates that there are degrees of policy change, with first order changes being considered normal policy making through incremental and rational means while third order changes entail large-scale 'social learning' and paradigm shifts.²³ The third order departs from a state-centred institutional focus, by taking into account the bearing that societal developments outside the state have on policy and how these ideas can link the state, civil society and by extension, international organisations.²⁴ This third order would encompass the reflexive and social learning types. From Hugh Hecló, Hall borrowed the idea of policy learning and the view that policy actors obtain knowledge so that policy is a process of social learning through political interaction.²⁵

May²⁶ distinguished between instrumental policy learning, social policy learning, and political learning, but he indicates that all three areas produce lessons within the scope of their respective fields as part of the learning process.

Rose takes a subset of instrumental policy learning and by examining what compels an institution to change, notes that lesson drawing can be a significant means of institutional learning.²⁷ Rose distinguishes between learning by diffusion and lesson-drawing, indicating that, unlike diffusion, lesson-drawing is a voluntary and willful act. Learning is a deliberate action that uses experience and new

knowledge to adjust and, if necessary, change policy.²⁸

The nature of modern governance is bureaucratic, operating within rigid confines, and resulting in a lack of impetus towards change.²⁹ Multiple authors have indicated that bureaucracies not only seek to expand their control, but they also tend towards a homogeneous structure.³⁰

Only when a gap created between aspirations and achievement generates dissatisfaction are policy-makers compelled to change from the status quo.³¹ It is conceivable that if the aspiration-achievement gap gets too large it may lead to radical changes and potentially disruptive revolutionary situations, rather than convergent solutions based on evolutionary, or gradual, change.³² However, this may result in an organization's diminution rather than expansion, and it may result in disruptive effects on those who rely on the organization. Radical and revolutionary solutions necessarily imply a certain level of upheaval, which is not generally desirable and is potentially avoidable.

In attempting to achieve convergent and evolutionary solutions, policymakers are often forced to act within time constraints and with limited resources. Since policymakers are limited by both time

18 See May, *supra* note 16, at 333.

19 C. Bennett and M. Howlett, "The lessons of learning: Reconciling theories of policy learning and policy change", 25(3) *Policy Sciences* (1992), pp. 275–294, at p. 277; May *supra* note 14.

20 See Radaelli, *supra* note 6, at 1148; C. Radaelli, "Europeanization, Policy Learning, and New Modes of Governance", 10(3) *Journal of Comparative Policy Analysis* (2008), pp. 239–254, at p. 242; See May *supra* note 14.

21 See Radaelli, "Europeanization, Policy Learning, and New Modes of Governance", *supra* note 20, at 242. See May *supra* note 14.

22 F. Gilardi and C. Radaelli, "Governance and Learning", in David Levi-Faur (ed.), *The Oxford Handbook of Governance* (Oxford: OUP, 2012), ch. 11, at p. 156; See Hall, *supra* note 5.

23 See Hall, *supra* note 5.

24 *Ibid.*

25 H. Hecló, *Modern Social Politics in Britain and Sweden: From Relief to Income Maintenance* (New Haven: Yale University Press, 1976), at pp. 305–306.

26 May, *supra* note 14.

27 R. Richard, "What is Lesson Drawing?", 11(1) *Jnl Publ. Pol.* (1976), pp. 3–30.

28 See Hall, *supra* note 5, at 278.

29 See P. DiMaggio, and W. Powell, "The iron cage revisited: Institutional isomorphism and collective rationality in organizational fields", 48 *American Sociological Review* (1983), pp. 147–160.

30 See Radaelli and Dunlop, *supra*, note 7, at p. 10; and see DiMaggio and Powell, *supra*, note 29, at p. 151.

31 Rosa, *supra*, note 27, at p. 11.

32 See R. Greenwood and C. R. Hinings, "Understanding Radical Organizational Change: Bringing together the Old and the New Institutionalism", 21(4) *The Academy of Management Review* (1996), pp. 1022–1054, at p. 1023 and p. 1026 (their examination specifically examines the radical and revolutionary changes).

and knowledge, they become “satisficers”, relying on actions that have been done in the past or done elsewhere to dissipate dissatisfaction.³³ The limitations of time and knowledge preclude creating “perfect” policies and regulations. Rose suggests that these limitations also encourage bureaucracies to either do more of the status quo or to rely on what other jurisdictions have done. What worked in the past is familiar and solved a past problem. Relying on what other jurisdictions have done, whether successful or not, provides an empirical basis for adopting policies used in other jurisdictions, adjusting policies to suit jurisdictional differences, adjusting policies to avoid failures, or rejecting policies.³⁴

The number of large bureaucracies and the abundance of information available make it possible to examine what other jurisdictions have done to manage similar problems when dissatisfaction arises. Rose indicates that there is greater similarity in the same regulatory areas in different jurisdictions than between different regulatory areas in the same jurisdiction.³⁵ Because of this, it is only natural for an organization to borrow ideas from other jurisdictions.

Lesson drawing can act, not only as a source of learning but also as a teaching tool. There is an abundance of information but through small adjustments in the bureaucratic process, it is possible to minimize dissatisfaction and to proactively adjust regulations as needed. Through a feedback process, it is possible to gauge the effectiveness of regulatory modifications and to make adjustments that will not disrupt, or minimally disrupt, bureaucratic operations.³⁶ It is the incremental learning within the context of regular bureaucratic operation that is the core of lesson drawing and not the paradigmatic shift of third order changes described by Hall. Progressive policy changes are possible through incremental means³⁷ but they can be achieved through the use of existing information, rather than through a process

where institutional operations are disrupted through untested but novel approaches. Radical and revolutionary solutions may be avoidable.

At the moment there exists a rift between academic inquiry in the social sciences and actual practice because researchers neither provide solutions to public policy problems nor do they engage with actual policy practitioners.³⁸ As a result, practitioners have dismissed the fruits of research as “abstract and impractical” when academics can provide a rich resource of information towards not only policy solutions but also help shape policy.³⁹ In examining regulatory learning, there are some fundamental and significant questions. What is learning? Who learns? How do they learn? What is learned? Why is it learned? Who did it? Why was it done? How was it done? What was done? How was it applied? In answering these questions, academic research can provide significant theoretical and empirical evidence that will help regulators apply these findings to develop better regulations. Within the context of information provided by Global-Regulation, lesson-drawing is a key learning tool which can allow regulators to have a steady learning environment that provides a proactive means of slowly altering policy rather than being forced to make paradigmatic shifts by minimizing the dissatisfaction gap between expectations and achievement.

III. Global regulation

Global-Regulation is designed not only to prevent the overuse of resources, but to improve the regulatory making process and hence, to improve actual regulation itself. Global-Regulation, being a comprehensive database of cross fields regulatory case studies will enable regulators and scholars to have a global overlook on the relevant case studies in their field of interest, and more importantly, to compare and incrementally learn from case studies done in other industries and fields that can be relevant to the desired regulation. At the basic level, Global-regulation will operate as a regulatory case study search engine, accepting search terms and providing references to relevant case studies. On a higher level, Global-Regulation will be the regulatory advisor, receiving regulatory characteristics and providing constructed regulatory solutions based on the Global-Regulation case studies.

33 See Rose, *supra* note 27.

34 *Ibid.*

35 See Rose, *supra* note 27, at p. 4.

36 See Rose, *supra* note 27.

37 B. Cashore, H. Hoogveen, J. Rayner, P. Verkooijen, “Learning About Policy Learning: Designing a Global Forest Governance Learning Architecture”, ECPR Joint Sessions Workshop, at p. 13.

38 M. Evans, “At the Interface Between Theory and Practice – policy Transfer and Lesson-Drawing (a review of Richard Rose book learning From Comparative Public policy: a Practical Guide, Routledge 2004)”, 84(2) *Public Administration* (2006), pp. 479–515.

39 *Ibid.*

The Global-Regulation project goal is to create a searchable database of indexed regulatory case studies and through that, to facilitate the desired organizing tool that will bring research and practice together. The combination of research and practice will enable governments, NGO's and other regulatory bodies to learn and use the research lessons on one hand, and on the other hand, it will enable scholars to draw cross field conclusions, recognize fields and sub-fields of missing data and needed research, and further enrich the database. In addition, the project will encourage education and training for new and veteran regulators as well as students.

Global-Regulation recognizes the obstacles faced by regulators trying to approach the scholarly work in the field; mainly, the relatively complicated and lengthy method of data presentation (i.e., academic articles) designed to approach specific audience (usually other academics) and focusing on different aspects (mainly theoretical). Therefore, Global-Regulation results (indexed material) should be set to overcome these obstacles and serve the regulator with a short, usable, user-friendly overview of the case-study, its main characteristics and its lesson.

This process and attitude are not to be understood as undermining and/or replacing the importance and value of the original full-text version of the case-study. However, it is anticipated that this attitude will act as a welcome 'gate' for regulators to overcome the said obstacles and to use the scholarly work in practice. As will be detailed further in this paper, it is hoped that this process will have a twofold impact – bringing regulators to the scholarly work and making scholars consider regulators when presenting their research.

When one thinks of the many existing and commonly used databases of case law, legislation, psychological experiments, and other material (e.g., Lexis-Nexis, Westlaw etc.), the absence of a similar device for regulation and regulatory case studies seems surprising and keenly necessary. One possible reason for this absence is a perception that regulatory case studies are too complex and contain many factors and variables making it impossible to index and conduct searches in a useful manner.

However, as Global-Regulation accumulates a critical mass of regulatory case studies, indexed into it either by the operator or by the case study's authors (who will want their studies to be available to both regulators and other scholars), it is expected to be a

powerful regulatory tool that will place tremendous control and influence in the hands of its users.

This paper argues that a systematic indexing and search mechanism of regulatory case studies will lead to a highly functional database that will facilitate a user-friendly search and will enable users to draw valuable lessons for desired regulatory regimes and tools. Moreover, as Global-Regulation will evolve and accumulate influence, the actual research will accommodate itself to this tool by generating results that are easy to index into the database and easy to understand by the users.

IV. Case Studies Indexing

In order to be used in the Global-Regulation database, the regulatory case studies should be indexed in a persistent, systematic, and thoughtful method. It is important to analyze each case study according to its structure, methodology, and specific characteristics. This task should become easier with time for it is anticipated that the more the suggested database will gain in popularity and draw users, the case studies' authors will adjust themselves to Global-Regulation requirements and present their case studies in a way that will easily correspond with the database indexing method. In this way, Global-Regulation will become a self-sustained, searchable knowledge body, further amplifying its efficiency and cost effectiveness.

The indexing process will include the following fields: Industry, Field, Subfield, Title, Abstract, Lesson, Reference, Author, Country, Year, Regulatory Tool, and Methodology. These fields are chosen in order to provide the users with the most basic, yet essential and useful information about a case study.

It is obvious that the 'Lesson' field cannot detail all the lessons learned in the specific case-study, rather it will highlight the main result, conclusion and recommendation set by the author. The 'Regulatory Tool' field can be confusing as well, and will provide general information regarding the framework that was examined in the case study – for example: 'regulation', 'compliance' or 'standards'.

Global-Regulation should not be restricted to empirical case studies, although these kinds of case studies are the easiest to index. The 'Methodology' field will detail the way in which the author conducted his research and obtained the data.

The following are three examples of case studies indexing:

1. Case 1

Industry: Mining

Field: Health and Safety

Subfield: asbestos

Title: Negotiated Non-Compliance: A Case Study of Regulatory Failure

Abstract: A case study of how one regulatory agency in Australia, the New South Wales Mines Inspectorate, went about its task of regulating occupational health and safety at one particular workplace, the asbestos mine in Baryulgil

Lesson: The Inspectorate approach might best be classified as "negotiated non-compliance", a toothless, passive and acquiescent approach which, however attractive to the regulatory agency and to the regulated industry, has tragic consequences for workers

Reference: 9 Law & Pol'y 90 (1987)

Author: Gunningham, Neil

Country: Australia

Year: 1987

Regulatory Tool: Compliance

Methodology: Inquiry

2. Case 2

Industry: Food

Field: Administrative Hearing

Subfield: FDA, adjudication

Title: Framing Regulatory Standards to Avoid Formal Adjudication: The FDA as a Case Study

Abstract: This article undertakes a careful examination of the Food and Drug aggressive action to reduce the burden of prolonged administrative hearings and the case law upholding its validity

Lesson: Other agencies should adopt summary judgment, allocating the burden of proof to the drug manufacturers in drug efficacy hearings and using its rulemaking authority to its full extent so as to avoid questions of fact

Reference: California Law Review, Vol. 64, Issue 1 (January 1976), pp. 14-73

Author: Ames, Charles

Country: United States

Year: 1976

Regulatory tool: Standards

Methodology: Data analysis

3. Case 3

Industry: Energy

Field: Environment

Subfield: electricity, hydro-electric, native

Title: Power from the North: A Case Study of New York State's Regulatory Process for the Importation of Electricity from Quebec

Abstract: The hydro-electric development of a vast region of northern Quebec to meet part of the electricity requirements of New York State have recently generated much concern over the impact on the environment and on native people in the affected area

Lesson: Energy planners in New York State should fully analyze the option of purchasing power from the north by considering both in-state and out-of-state impacts

The way to do this is to monetize the environmental impacts associated with the projects and include these costs in the Integrated Resource Planning Process

Reference: Georgetown International Environmental Law Review, Vol. 6, Issue 3 (1994), pp. 683-712

Author: Rodgers, Robert R.

Country: New York, United States

Year: 1994

Regulatory Tool: electricity importation

Methodology: Examining Historical Background

V. The research

It is expected that Global-Regulation will bridge the gap between the scholarly work in the regulation field and regulators. This will be done by making the research user-friendly, the results and recommendations easily accessible to regulators, and also, by shifting the paradigm in the regulatory research and learning process.

Global-Regulation is set to produce a healthy and efficient process of instrumental learning, currently absent in the regulatory realm. As simple as it may seem – the regulator regulates, the scholar researches regulation efficiency, and the regulator learns from

this research – currently, this seemingly simple process does not exist. However, once the research data is organized, indexed, stored, and becomes searchable in Global-Regulation, the process will be possible.

However, igniting this process requires learning and adjustment of its own – from regulators and scholars alike. The regulators will need to start seriously looking at the research results and recommendations to try to implement its lessons into real regulations; while scholars will have to refine their research in a way that will make it both helpful and accessible for regulators to use.

The success of Global-Regulation depends on the willingness of the people standing on both sides of the regulatory equation – regulators and scholars - to co-operate with each other in a way that will be beneficial not only to themselves or the field, but to people in general, living in a world dominated by regulation.

VI. Possible problems

Due to its new and revolutionary nature, Global-Regulation might pose several methodological, practical, and theoretical problems. The first problem is the immense work needed in order to set up the basic regulatory database. In order for the database to be meaningful, there is a need to index thousands of regulatory case studies. This is an ambitious project that needs to be carried out by a number of regulation scholars over an extensive period of time.

Criticism that may arise is that the indexing process is over simplifying the research and failing

to convey important aspects of it. This criticism is easily rejected for the full text of the research is also available and the regulator interested in using the research outcome can (and should) obtain the entire research.

As with all evolving systems, Global-Regulation is facing a long but potentially valuable process of change by learning and adjusting to the needs, desires and limitations of regulators and scholars. This evolving process will make the system more efficient and accessible while preserving its value.

VII. Conclusion

Shifting a paradigm is not an easy task. The thought may come easily but the execution will face what might be the toughest hurdle of them all –convention. Moreover, the paradigm shift makes it necessary for the old paradigm believers to deal with a complicated question – why did we set this convention to begin with?!

Treating regulators and scholars as ‘twins separated at birth’ sounds absurd, however, this is the current reality of the regulatory realm. Given the tremendous global impact, importance, and market value of this realm, this is an unacceptable and unreasonable situation, to say the least.

Therefore, Global-Regulation’s existence and crucial role is not an issue in question, but rather an urgent need that will prove as beneficial to all. How will it be accepted by the regulators and scholars is yet to be seen; but the fulfillment of Vanaver Bush’s 70 year vision, when it comes to the regulatory field, is most certainly worth a try.