



Independent Regulatory Agencies Promise and Reality

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Why Should We Be Concerned with Independent Regulatory Agencies?

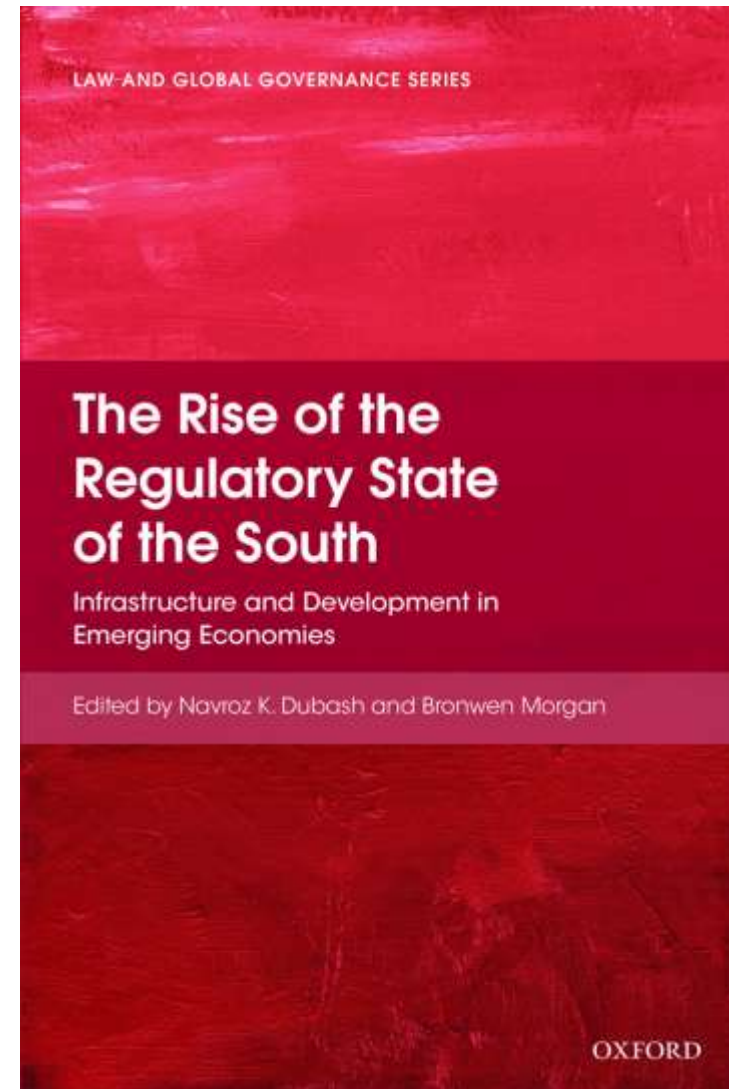
- IRAs (“law-backed specialised agencies”) are proliferating
 - Existing: Telecom, electricity, petroleum/gas, SEBI
 - Planned: coal, environment, health, education, real estate...
- IRAs represent a puzzle
 - Why do they proliferate when they often don’t work?
 - Why are ministries so keen to delegate large portions of their authority to IRAs?
- IRAs are often seen as a silver bullet
 - A “one-size-fits-all” governance solution for India?

Background and Concepts

- IRAs: Law-backed specialised agencies
- Extend sphere of “apolitical” decision-making
- Three broad types
 - Economic regulation: financial and infrastructure
 - Social regulation: media, environment
 - “Integrity” Agencies: watchdogs, audit, Lokpal
- Focus here on infrastructure regulation
- Regulation as a global phenomenon
 - Closely associated with liberalisation

Regulatory Agencies in the “Global South”

- Frequently transplanted without understanding of local context
- Regulators confronted with pressures of redistribution
- Weak state capacity
- These factors play out differently in different national contexts



Three Myths of Indian Regulation

- Regulators can single-handedly de-politicize decision-making
 - Many regulated sectors require reform but reform requires politically costly trade-offs
- For a regulator to be truly independently requires selecting the right person – the Seshan effect
 - Regulators are unelected and have no democratic legitimacy to manage political trade-offs
- Legitimacy can be obtained through technocratic virtuosity
 - Many regulatory decisions do not have a single technical answer

Toward Design Principles

- Don't overload regulators with decisions they cannot handle
 - Avoid delegating discretionary decisions that create winners and losers
 - Substantive guidelines on political choices
- Regulation as governance – legitimacy through robust procedures
 - Opportunities for voice through hearings
 - Detailed reasoning
 - Multiple levels of accountability
 - Strengthened legislative oversight from above
 - Review from below - procedural robustness
 - Robust appeal process
 - Sufficient capacity
 - Regulatory selection process
 - Staff capacity and incentives

Conclusion

- Regulatory agencies can improve governance, but not under all conditions
- Apolitical regulation may not be possible or desirable – regulation is a governance process that requires multiple levels of accountability
- Successful regulation requires attention to much more than the regulatory agency – legislature, stakeholders, judiciary, bureaucracy

Thank you

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Outline

- Background and Concepts
- IRAs as Global Phenomenon
- Three Myths of Regulation
- Regulation as Governance: Design Principles