

# Anthropologist Susan Silbey illuminates path to commonsense regulation

May 7 2014, by Kathryn O'Neill

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Regulations control virtually every aspect of American life, including food production, workplace safety, automotive emissions, and home construction. Yet, within the political arena, the critical dividing line is typically portrayed as falling between those who want more regulation and those who want less. This is a fallacy, according to Susan S. Silbey, the Leon and Anne Goldberg Professor of Humanities, Sociology, and Anthropology, a professor of behavioral and policy sciences at the MIT Sloan School of Management, and head of the Department of Anthropology.

"Both the Left and the Right have promulgated and used public regulations to advance the programs and interests of their favored groups," Silbey wrote in the introduction to the September 2013 issue of *The Annals of the American Academy of Political and Social Science*. In fact, she wrote, "there is, in essence, no social order without some form of [regulation](#)."

Unfortunately, the politicization of regulation has affected scholarship in the field, as researchers have tended to focus on addressing the perceived failure of rules to accomplish stated goals, according to Silbey. "Scholars were not simply describing how things happened, but were offering prescriptions for how things should work," she says. "The field hadn't produced reliable knowledge because it was always being pushed one way or another by political agendas."

## **Commonsense approach**

This volume of the Annals of the American Academy of Political and Social Science, which Silbey conceived and edited on the topic "Organizational Challenges to Regulatory Enforcement and Compliance: A New Common Sense about Regulation," begins to address this shortcoming by tapping the insights of a core group of women scholars from all over the United States, Europe, Australia, and Canada.

The genesis of the effort was a panel discussion that took place at the 2011 meeting of the Law and Society Association to mark the anniversary of the publication of "Responsive Regulation: Transcending the Deregulation Debate" (Oxford University Press, 1992), a book that earned praise during the height of the deregulation era for advocating a combination of government controls and self-regulation. But 20 years later, Silbey found it troubling that its normative self-regulation approach had become standard in the field.

"There was a need for real grounded research, empirical work that wasn't looking for an immediate solution to a problem—that could be generative and maybe in the long run more reliable," Silbey says.

## **Research presented at MIT**

In discussing the panel—and the field more generally—with women scholars she knew had a longstanding interest in regulation, Silbey discovered that many of them shared her disappointment. The scholars began meeting to discuss a new research agenda, and in December 2012, under the auspices of the American Academy of Political and Social Science, they gathered at MIT and presented their research to graduate students and faculty members from Wellesley, Harvard, Amherst, and MIT.

"It was truly a learning seminar," Silbey says. "Each paper was presented for half an hour or more, and then there was discussion of the paper for close to an hour."

The research published in *the Annals of the American Academy of Political and Social Science*—the result of their efforts—represents "a new common sense about regulation that acknowledges the ubiquity of legal regulation, the global circulation of regulation that has transformed its scale, and the role of the organization as the locus of regulation," Silbey wrote.

## **Regulation in everyday life**

The papers in the issue examine the success or failure of regulation from the perspective of the regulated organization, providing a snapshot of how the law is actually implemented in everyday life. Silbey's interest in this topic stretches back to the 1970s, when she wrote her doctoral dissertation on consumer protection, and includes her recent award-winning research into how health and [safety regulations](#) are put into practice in laboratories.

"Constructing Consequences for Noncompliance: The Case of Academic Laboratories," for example—the paper Silbey co-authored for the issue with Ruthanne Huisig PhD '08—examines a case in which a professor was held legally responsible for lab safety violations that contributed to the accidental death of a recently graduated student working as a technician. The paper reveals how the internal problems of a complex organization can derail the successful enforcement even of critical safety regulations.

"The central challenge in any regulatory system," Silbey and Huisig wrote, "[is] to balance autonomy and expertise with responsibility and accountability. Under these conditions, formal accountability may be, in

the end, illusory."

The issue also included articles on what happens when regulation fails to present consumers with clear choices, as in the case of so-called "free-range" eggs in Australia, which do not, in fact, differ significantly from other eggs; the disparate enforcement and consequences of similar kinds of regulation as applied in different industries, notably the differing views on performance-enhancing innovation in derivatives trading and in professional cycling; and the challenges posed by globalization, in particular the difficulties developing nations face in meeting increasingly strict food safety standards, as illustrated by the case of a cooperative of Brazilian sugar and ethanol producers.

Overall, the volume asserts that regulation is vital to social order; that it is a reflection of a society's values as negotiated, compromised, and enacted through political processes; and that it is generally successful—that is, "most people follow the rules most of the time." Therefore, Silbey wrote, the "new common sense approach" recommended to researchers going forward "is not a matter of more or less but rather what kinds of regulation, its variable content and processes, as well as the consequences of these variations."

**More information:** — [www.aapss.org/the-annals/recent-issues/nse-about-regulation](http://www.aapss.org/the-annals/recent-issues/nse-about-regulation)

— [onlinelibrary.wiley.com/doi/10.1111/j.1467-9592.2012.01626.x](http://onlinelibrary.wiley.com/doi/10.1111/j.1467-9592.2012.01626.x)

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