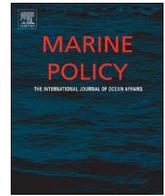




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Permitted to be powerful? A comparison of the possibilities to regulate safety in the Norwegian petroleum and maritime industries

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ABSTRACT

This paper examines the link between formal authority and executive power by comparing two supervising authorities in two related industries. It includes an analysis of regulations and statements of the Norwegian Petroleum Safety Authority and the Norwegian Maritime Authority regarding the power to influence industry safety. Safety in both industries relies primarily on functional regulations, whereby the companies develop their own safety measures, which the authorities advise upon and control. A closer look at the two agencies reveals inequalities in power, despite their equal formal safety authority and similar regulatory regimes. The Maritime Authority's power is impeded by its objective to facilitate maritime safety *and* to be a preferred administrative body among a large number of globally mobile, low-income companies. This enables the companies to implement only the minimum safety standards. In contrast, the petroleum industry context supports the Petroleum Safety Authority's ability to exercise multiple power dimensions while ensuring that the resourceful companies develop high safety standards. In sum, each industry's regulatory potential seems to be hinged on its characteristics, objectives, and resources that the relevant authority is given. Further, this study shows that successfully enforced self-regulation requires both the regulated and the regulators to have sufficient resources. Successful regulation demands political safety support, especially in global industries with viability problems. In practice, these findings can be viewed as a warning to governments not to take safety measures lightly, even in times of cost cutting.

1. Introduction

Regulators are expected to influence their industry's safety standards. However, some industries are more influenced by their safety authorities than others. By evaluating two authorities' power in light of their industrial contexts, one can understand how safety authorities may increase their capabilities.

Although regulation and power are closely interrelated, it is not a given that a regulator possesses power. Rather, regulation is a political process that involves a *contest* for power [1]. Weber (1971 p. 152, quoted in Uphoff [2]) defines power as “the probability that one actor within a social relationship will be in a position to carry out his own will despite resistance”. This probability is stable when power is based on legitimate authority. Legitimacy is founded on legal, traditional, or charismatic authority, in Weber's terms. Regulators have formal authority, which should provide them with the ability to utilize tools and strategies to improve safety standards. Such indispensable tools include clear regulations and correct sanctions. According to Viscusi [3], “the potential scope of regulation is limited only by the imaginations of

regulators”. However, recent studies show that the Maritime Authority is hampered by its limited discretionary space in terms of resources and objectives [4], while the Norwegian Petroleum Safety Authority deliberately uses ambiguous and unsanctionable regulations as a safety mechanism [5,6]. A relatively recent development in regulation is enforced self-regulation, which provides an opportunity for regulated companies to establish safety management systems that have room for flexibility and innovation and are applicable to their enterprises [7–10]. In practice, enforced self-regulation in the Norwegian context involves collaboration among the regulator, the regulated, and the labor unions and is, therefore, called co-regulation [11].

In this paper, the link between formal authority and executive power is analyzed by comparing two supervising authorities that have similar formal authority in two related and partly overlapping industries. This study poses the following question: How do the Maritime Authority and the Petroleum Safety Authority vary in their regulatory strategies and power? Both authorities' regulations and interview statements are analyzed regarding practical enforcement (Section 4) to explore their power to regulate safety (Section 5). The data show that

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both authorities try to wield the same type of wide-ranging power and regulations to improve industrial safety standards. However, the industries’ contexts lead to different enforcement and outcomes. Because the Maritime Authority is reluctant to employ its direct power, agenda power, and symbolic power, safety measures in the maritime industry are kept moderate. Contrastingly, the Petroleum Safety Authority meets no resistance when it uses its power dimensions to constantly improve safety standards in the petroleum industry.

2. Literature about power and regulation

Power is a concept with various and sometimes opposing definitions. Depending on what aspect of power one chooses to focus on, it may be viewed as a resource or as a relational state. It can be a resource when an actor is able to control the resources on which other actors depend [12]. Power as a resource may also enable a person or group to overcome opposition or influence actors to behave other than they would under different conditions (i.e., domination) [13]. According to Baldwin [14], power may be regarded as context-specific; as policy makers have “notoriously short time horizons,” they need to discern whether they have a “good hand” by determining the game they are playing.

Lukes [15] views power as having three dimensions (see Fig. 1). In the first dimension, *direct power*, power is visible and may come from formal authority, resources, individual characteristics, knowledge and expertise, control of sanctions and rewards, and networks or “connections” [16]. This visible form of power is found in overt conflict, where power can change others’ actions. The second dimension, *agenda power*, is less direct and can be understood as hidden. It enables the actor to control who participates in the decision-making arena and what is included on the agenda. The third dimension, *symbolic power*, is invisible and can shape the meaning of what is acceptable or what is ideal. The third is perhaps the subtlest dimension:

Probably the most insidious of the three dimensions of power, invisible power shapes the psychological and ideological boundaries of participation. Significant problems and issues are not only kept from the decision-making table, but also from the minds and consciousness of the different players involved, even those directly affected by the problem. By influencing how individuals think about their place in the world, this level of power shapes people’s beliefs, sense of self and acceptance of the status quo—even their own superiority or inferiority. (Veneklasen and Miller, 2006, p. 40 in Gaventa [17])

Gaventa [17] sees *spaces* and *levels* of participation as essential to understanding the concept of power and incorporates them into Lukes [15] dimensions of power. The spaces for participation are arenas for decision-making, while the levels include local, national, or global locations of power [17]. Spaces can be meetings, groups, media, and other formal or informal forums in which the power among the relevant

actors is displayed. These spaces might be open to everyone, closed to certain groups, for invitees only, or claimed by others [17]. Levels and spaces of participation are especially important when one wants to understand power in globalized industries, where it may reside in various and potentially hidden levels and spaces.

Although power may be unequally distributed, it does not always connote a negative characteristic, such as domination or control [18,19], nor is it always considered zero-sum [20]. Power is dynamic and may develop through social relations [21]. Moreover, it provides a degree of social order, making it possible for authorities to enforce decisions and implement laws [20]. To fully understand such a dynamic and “multifaceted phenomenon,” several aspects and contexts must be taken into consideration [22]. This study applies Gaventa’s perspective on power, and levels and spaces of power are combined with Lukes’ dimensions of power (collated in Fig. 1).

Understanding the ways in which regulators exercise their power demands a closer look at the different contexts of *regulation*. According to Baldwin et al. [23], the term *regulation* may be interpreted in three different ways (Fig. 2). The first definition pertains to a set of commands or rules that a government has established for a particular purpose—for example, framework regulations. The second definition is referred to as deliberate state influence and applies to all state actions that are designed to affect business or social behavior. Examples of state actions are contractual powers, subsidies, information, taxes, franchises, and the deployment of resources. The third definition involves all forms of social and economic influence, whether state-based or not. For instance, corporations, trade bodies, or voluntary organizations may carry out this form of regulation. Baldwin et al. [23] point out that regulation is not only meant to restrict activity or behavior but can also be utilized as a means of facilitating activities and behavior. Furthermore, they emphasize that the capability of a regulator to influence those it regulates is dependent on the regulator’s legitimacy, power, and ability to use regulation in its different contexts.

Like all organizations, regulators face challenges in performing their role of promoting safety. Reason [10] describes several arguments regarding why “the regulator’s lot is an unhappy one”. He characterizes the regulatory process as impeded by the relationship between the regulator and the regulated. This relationship should foster trust and collaboration with a view to improving safety. Thus, regulators rarely use threats and sanctions and opt for compromise and bargaining instead. A relationship that is characterized by trust is quintessential; when there is trust, organizations are less likely to filter information and more likely to adhere to the regulations and guidance of the authorities. Despite the regulator’s limited resources, it needs to be proactive, and in many cases, it needs to be able to resolve conflicting goals [10]. Several cases of the regulator’s unhappy lot may have contributed to disasters: Japan’s Nuclear and Industrial Safety Agency was subordinate to the Ministry of Economy, Trade, and Industry during the Fukushima disaster; the United States Minerals Management

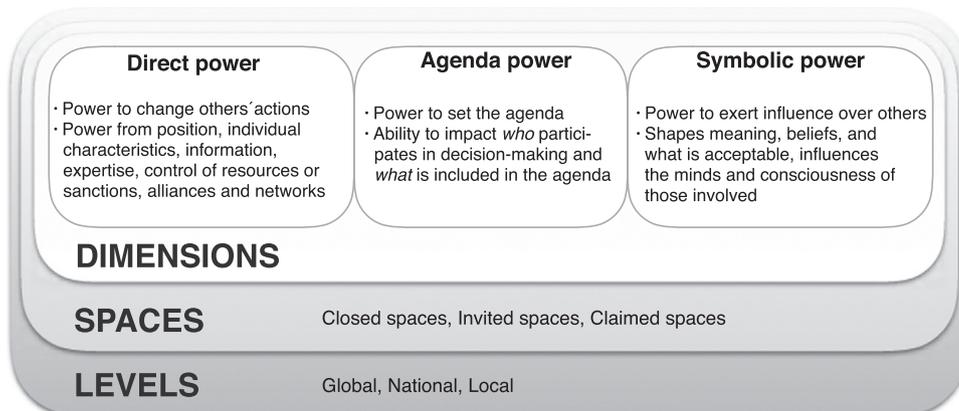


Fig. 1. Power model based on Gaventa [17] and Lukes [15].

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