



Relational distance, neoliberalism and the regulation of animal health



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ABSTRACT

Using quantitative and qualitative data, this paper contributes to debates on the uneven geographies of neoliberal animal disease regulation. Specifically, the paper analyses the impacts of neoliberal reforms to animal disease regulation in Great Britain. Focussing on the case of bovine tuberculosis (bTB), the paper analyses how changes to 'relational distance' in animal disease regulation have led to closer relationships between regulators (veterinarians) and regulatees (farmers) which in turn has led to a departure from standardised disease regulation to approaches that emphasise greater flexibility and judgement. The paper presents quantitative analysis of bTB testing data revealing the gradual erosion of government control of bTB regulation and significant variations in disease diagnosis between vets in the private and public sectors. Drawing on interviews with senior veterinarians in Government and veterinary organisations, the paper shows how these regulatory structures evolved and came to be accepted despite their limitations. The paper concludes by considering how relational distance contributes to an understanding of the nature of disease and its implications for the wider regulation of animal disease.

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1. Introduction

Neoliberal approaches to managing animal disease revolve around attempts to harmonise biosecurity practices across global space. In this deterritorialisation of agri-economic space, disease is standardised by disease management practices, risk assessments, and other metrological regimes that are designed and relied upon to patrol the boundaries of disease-free countries and ensure continued free trade between them (Braun, 2007). In practice, however, the harmonisation of biosecurity practices is invariably uneven: national economic interests may deflect international economic concerns requiring biosecurity solutions to be reworked at local scales (Higgins and Dibden, 2011; Higgins et al., 2012; Mather and Marshall, 2011; Maye et al., 2012). Instead, biosecurity standards are given a local character as they emerge 'out of complex articulations between actors in multiple locations' (Higgins and Larner, 2010: 10) to make global rules workable across different agricultural spaces.

This paper contributes to these understandings of the uneven geography of biosecurity regulations, practices and procedures. The paper draws on the concept of 'relational distance' (Black, 1976) to analyse the effects of changes to the governance and regulation of animal disease in Great Britain. Relational distance refers to the cultural and institutional proximity between regulators and regulatees. Reforms to Government regulation in Great Britain have seen attempts to lengthen this distance to ensure stricter and more objective approaches. Despite significant changes to

the organisation of the governance of animal disease in Great Britain there have been few attempts to analyse their effects upon the way animal disease is regulated in practice, or their wider implications for the governance of animal disease (Enticott et al., 2011).

The focus for the paper is on the reorganisation of the regulatory landscape for one animal disease – bovine tuberculosis (bTB) – and analyses how changes to this landscape have come about and contributed to tensions between different disease management and surveillance practices amongst private and public sector veterinarians. The paper begins by defining the concept of relational distance and describing how it is reflected in changing patterns of Government regulation. After outlining the background to bTB in Great Britain, the paper draws on qualitative and quantitative data to suggest that the relational distance of veterinary regulation affects practices of disease surveillance and the nature of disease itself. The paper shows how these practices have evolved from a mixture of necessity and the mutual interests of the Government and the veterinary profession. The paper argues that whilst this mixture contributes to different ways of understanding and diagnosing disease, it simultaneously holds it together, making changes to the system extremely difficult, leading to an implicit accommodation of difference and an uneven geography of animal disease regulation.

2. Regulation, relational distance and neoliberalism

A key focus of regulatory studies has been to determine what constitutes effective regulation: how is it possible for regulators to ensure regulatees comply with the law? Here, the first challenge

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is to determine what constitutes regulatory compliance: as regulatory studies point out, compliance does not simply mean obeying regulations. For Lipsky (1980), regulations and compliance are given meaning by the social context of regulators and those they are regulating. Thus, it is through exposure to and coping with varying contexts that regulators come to enact multiple versions of public policy on an on-going basis. What counts as compliance is therefore a matter of interpretation, whilst attempts to enforce compliance may take the form of various different strategies, some more legalistic or formal than others.

Different strategies of regulation are witnessed across different areas of economic activity. In reviewing safety in coal mines, Braithwaite (1985) considers the differences between regulatory strategies of persuasion and punishment employed by mine inspectors. Persuasion may arise as a necessary strategy for inspectors living in the same small communities as those they regulate. In studies of environmental health regulation, Hutter (1988) distinguishes between 'insistent' (i.e. formal) and 'negotiated' (i.e. persuasive) strategies of regulation. Hutter shows that Environmental Health Officers in rural local authorities are more likely to adopt a negotiated approach due to the close relationships between business owners and local politicians. In studies of farm pollution, Lowe et al. (1997) show how pollution inspectors base their style of enforcement on their judgements of farmers' social characteristics and an ability to do business with them. In short, these studies highlight how regulation and compliance is constituted in practice and is dependent upon social and environmental contexts.

The effect of situational and contextual factors upon regulation practices is captured within Black's (1976) extensive analysis of the laws of law. Black (pp. 3–4) argues that 'law is a quantitative variable. It increases and decreases, and one setting has more than another... law varies in time and space'. These geographical variations in the quantity of law exist at a local scale between legal settings, and at regional and national scales. There are also different styles in applying law: one person is punished, another is given sympathy, whilst for others there are no consequences. For Black, all these variations in the style and quantity of law are explained by the relationship between law and aspects of social life, specifically factors such as stratification, morphology, culture, organisation, and social control. Of specific relevance to regulation studies are the effects of morphology. Black (1976: p. 37) refers to morphology as 'the horizontal aspect of social life – the distribution of people in relation to one another, including their division of labour, networks of interaction, intimacy and integration'. Here, Black develops the concept of relational distance to explain variations in law. Relational distance describes the extent to which people (e.g. regulators and regulatees) participate in one another's lives, i.e. their intimacy. Relational distance can be measured by identifying 'the scope, frequency and length of interaction between people, the age of their relationship, and the nature and number of links between them in a social network' (Black, 1976: p. 41). The greater the relational distance – the further apart people are culturally, institutionally or physically – the more likely it is that regulators will adopt legalistic or enforcement-oriented approaches to regulation. The closer it is, the more likely it is for informal and negotiated strategies to be employed. In support, Black points to evidence that people with close relational distance ('intimates') are less likely to call the police about crimes committed against each other and when they do, the police are less likely to view their complaints as crimes or make an arrest (Black, 1970, 1971). The relational distance between the law and citizens also predicts regulation: 'the closer the relationship between an official and an offender, the less law... a policeman is more lenient toward someone close to him – a relative, friend, neighbour or fellow policeman' (Black, 1976: p. 44; see also Hagan, 1966). By contrast, relational distance widens 'as people crowd together in time and space with

practically everyone a stranger to everyone else' (Black, 1976: p. 45). As urbanisation increases, so too does the application of formal law.

In environmental regulation, Braithwaite's (1985) study of mining regulation highlights how relational distance influences the regulatory strategies available to inspectors. Persuasive strategies are common when mine inspectors can nurture rapport by visiting the same mine several times a year and can return to check that suggestions have been followed. Where there is a high turnover in inspectors and infrequent visits, a persuasive strategy is unlikely to command much respect from management. The influence of relational distance on regulatory strategies is not confined to coal mines: Grabosky and Braithwaite (1986) show how relational distance influences regulatory strategies in 96 business regulation agencies across Australia. Covering agencies responsible for regulating corporate affairs, environmental protection, food standards, medicine, occupational health and safety, transport safety, discrimination and fraud, they distinguish four ways in which relational distance affects regulatory practices. Firstly, regulatory agencies that only dealt with a small number of companies were less likely to resort to legal sanctions. None of the nine agencies that regulated fewer than 50 different organisations sought legal sanctions, whilst the 50 agencies that dealt with over 1000 different companies frequently resorted to a legal approach. Secondly, regulators that only dealt with companies drawn from a single industry were less likely to adopt a formal legal approach than those who dealt with many. For single industry regulators the median number of legal cases was 2.5 compared to 10.5 for diverse industry regulators. Thirdly, regulators who had frequent contact with the same firms were significantly less likely to use legal sanctions than those with no on-going relationship. Finally, where regulatory agencies had a large proportion of staff drawn from the industries they regulate, they tended to prosecute offences less frequently. In addition, Grabosky and Braithwaite (1986) show that the size of the company being regulated also had a significant impact on the type of regulatory strategy used. One interpretation is that larger organisations exert more power over regulators to prevent legal sanctions, thereby undermining the significance of relational distance. Whilst this remains a possibility, Grabosky and Braithwaite (1986) argue that it is difficult to disentangle these two explanations: lack of prosecutions, they argue, may be because regulators who regularly meet with organisations they are regulating are more able to persuade them to comply with rules. Similarly, Marsden et al. (2000) show how organisational size leads to different regulatory strategies in the food sector. They argue that trading standards officers prosecute large national companies because, compared to small businesses, they are expected to know the rules and have effective self-regulation strategies in place. Thus, regulators often adopt persuasive strategies with small companies, but when large national companies make small errors, legal sanctions are more likely to follow.

One limitation of Grabosky and Braithwaite's (1986) research is that conviction rates rather than all prosecutions are used to assess relational distance. Moreover, as Hood et al. (1999) point out, resorting to prosecution is not always open to some regulators, particularly those operating within Government. Instead, in examining the regulatory behaviour of Government regulators (such as auditors, fire, police and education inspectorates) Hood et al. (1999: 61) develop an 'index of formality' which takes into account regulators' attitudes towards regulatees as well as the degree of formalised rule-bound regulation. Their analysis provides further support for the role of relational distance. The degree of formal regulation was explained well by shared experiences (such as previously working in the regulated organisation) and familiarity (in terms of the frequency of contact between regulators and regulatees). However, there was no relationship between formal

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