

# 4,000 years of regulatory theory and practice

## Exploring the main paradigm shifts in regulation

# Outline



- Evolution of regulation
- Main paradigm shifts since 20<sup>th</sup>C
- Do charities need to be regulated?



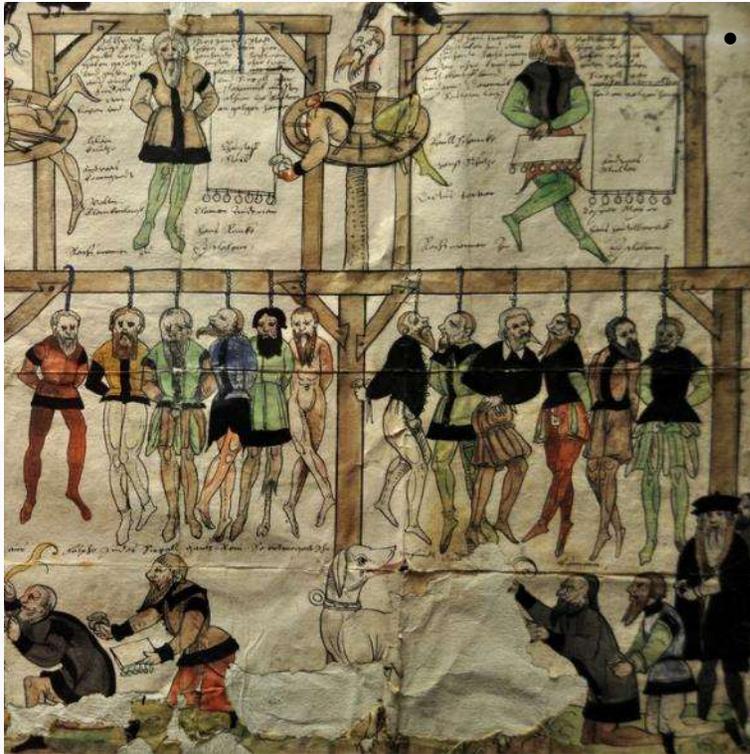
- Codex Hammurabi
  - Ca 1750 BC
- System of prescriptive rules and penalties for non-compliance

# Evolution of regulation



- Greek and Roman influence (ca. 600 BC – 600 AD)
- Further codification of rules and penalties
- Focus on commerce, property and bodily harm

# Evolution of regulation



- Middle ages  
(ca. 600 – 1600 AD)
  - The body as target of punishment
  - Deterrence becomes a spectacle

# Evolution of regulation



- Renaissance, Enlightenment, and Early Modernity (16<sup>th</sup> – 19<sup>th</sup>C)
  - Birth of leniency
  - Punishment becomes an administrative ritual to correct

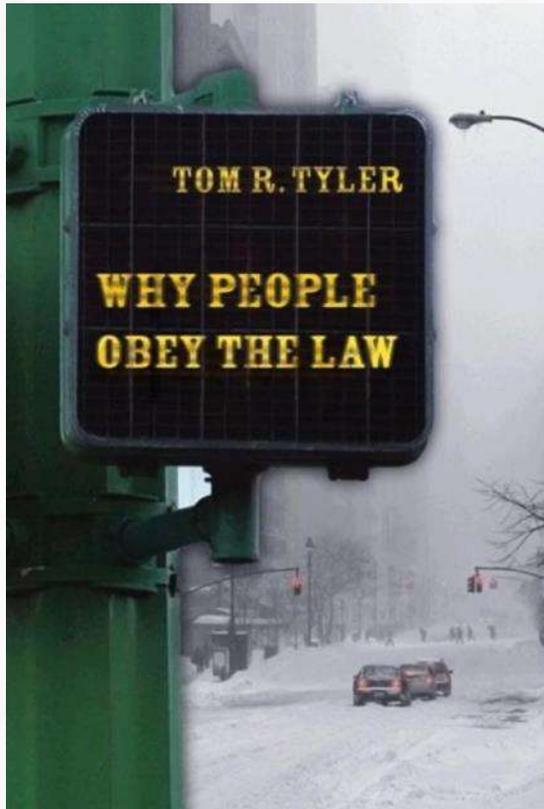
# Evolution of regulation



- For more than 3,700 years 'regulation' meant:
  - Hierarchy
  - Intrusive
  - Deterrence based
  - Prescriptive
  - Static
  - One size fits all

- Yet, from beginning of 20<sup>th</sup> Century onward, **regulatory friction** becomes problematic

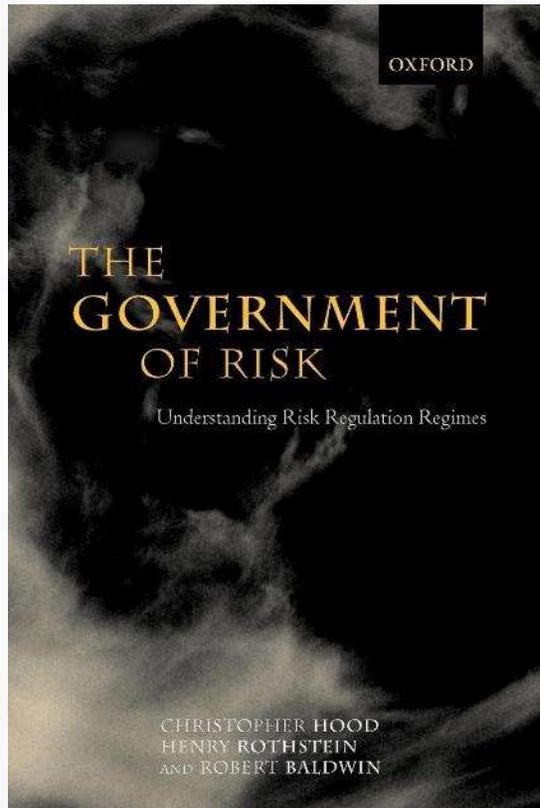
In sum



- Insights that people do not just comply because they 'fear' consequences of non-compliance
- Move towards compliance-based regulation and positive incentives

• Ca. 1970s

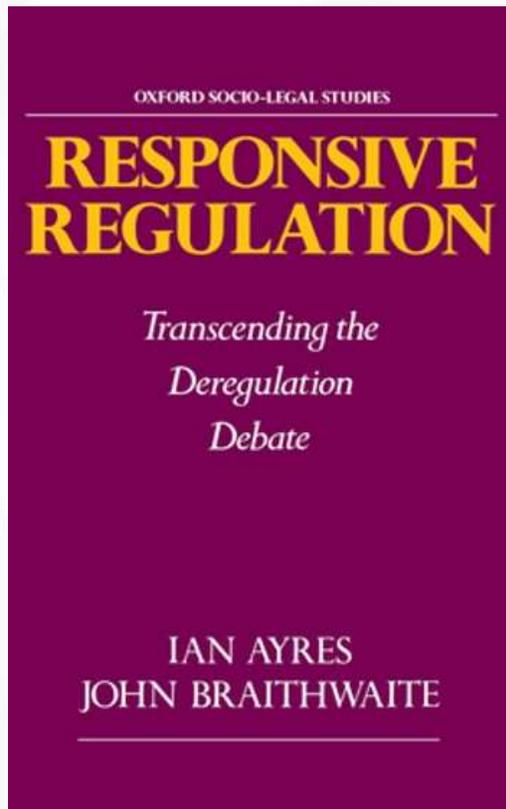
# Paradigm shift #1 Compliance motivations



- Growing externalities (risks) because of industrialization and globalization
- Declining acceptance of fate
- Call on governments to be cost-effective (New Public Management)

• Ca. 1980s

# Paradigm shift #2 Risk regulation



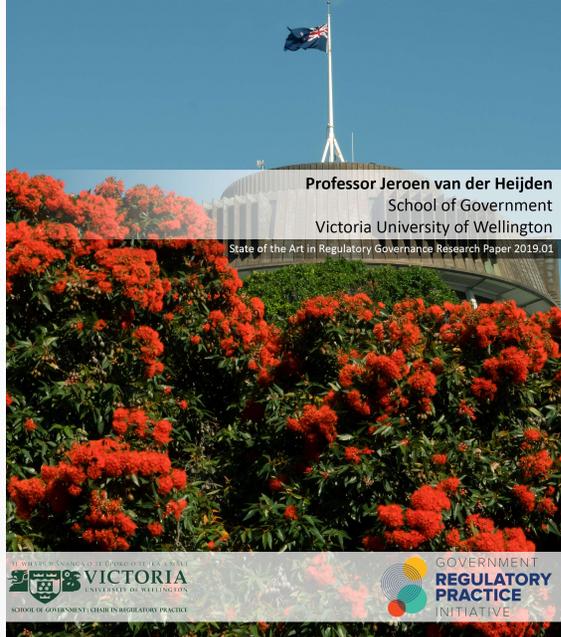
- Mixing incentives
- Facilitating first, friction later
- Role of street-level bureaucrat essential to achieve compliance

• Ca. 1990s

# Paradigm shift #3 Responsive regulation

## Behavioural insights and regulatory practice

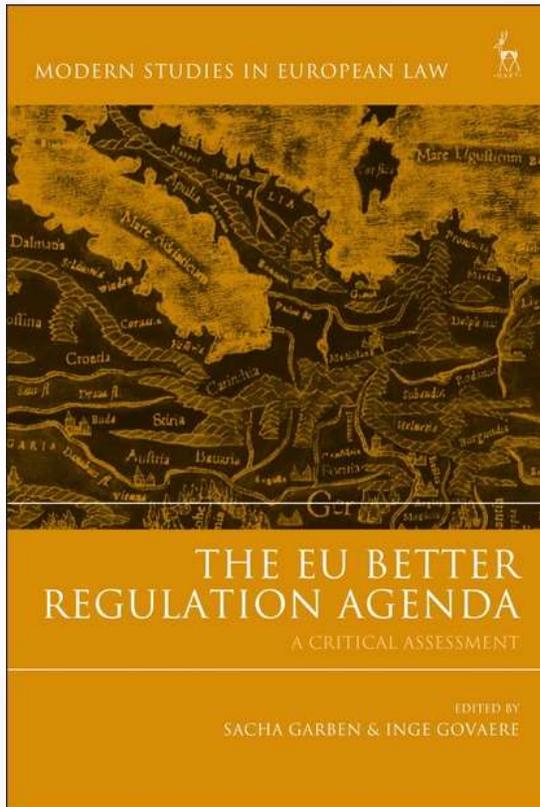
A review of the international academic literature



- Growing critique to neo-classical model of rationality
- Heuristics and biases shape behavior
- ‘Nudge’ choice rather than limit choice

• Ca. 2000s

# Paradigm shift #4 Behavioural insights



- Systems thinking
- Horizontal coordination
- Collaboration and deliberation in rule-making and implementation
- Regulatory review and update

• Ca. 2010s

# Paradigm shift #5 Better regulation



- Over the last 50 years 'regulation' has become to mean:
  - Panarchy
  - Collaborative
  - Mixed incentives
  - Goal based
  - Flexible
  - Tailored

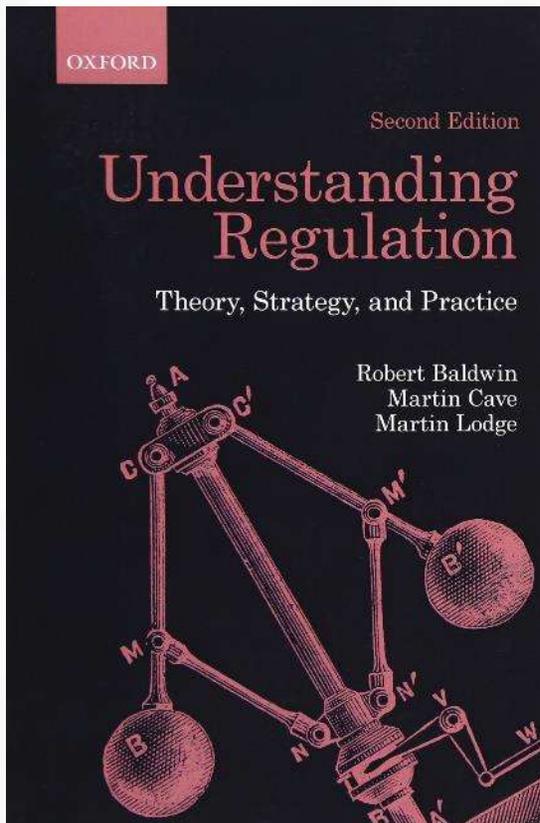
- Response to ongoing calls for less **regulatory friction** and more **regulatory facilitation**

In sum



- Regulation is a specialism

**Should  
charities be  
regulated?**



- It requires regulatory experts (topical) and regulatory generalists (system-wide)
- It requires a regulatory profession, with shared norms and values
- It requires an holistic vision of the regulatory system, the role of actors and organizations in it, and the ethics of individuals at all levels of the system

**Should  
charities be  
regulated?**



- Regulation is a specialism
- In my opinion, absolutely (for all of the above reasons)
- It remains at question, however, whether the NZ government is capable to regulate charities well in today's complex regulatory environment

# Should charities be regulated?



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**Thank you**