“Challenges in Regulating Global Crisis”

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Abstract

- Globalisation is characterised by the collapsing of time and space with all the exciting opportunities this enables for the social and economic development of the global community.

- The flip-side is a world in which financial melt-down, global warming, health pandemics and unchecked social media may compromise the promise of a new global age.

- The challenge for governance is to create a regulatory framework which will assist the transition from a world focused on material profit to one which primarily values sustainability. Singapore is grappling with this challenge as are all the developed economies of the region. Need to propose a regulatory agenda that can support this critical transition.
Purpose of the Presentation

- Determine the current nature and limitations of regulating global crises
- Identify externalities which constrain the regulatory focus in regional and global terms
- Consider the ways in which Singapore is/is not well suited to crisis regulation
- Propose a new purpose for global regulation better designed for medium-term crisis – community sustainability
Singapore’s Vulnerabilities

- Committed to economic growth in a world where contraction is predicted
- Expanding wealth gap with its challenges to economic and social order
- Diminishing material rewards for merit
- Resource and unskilled labour dependency
- Income earning sectors exposed to regional and global economic fluctuations
- Materialist consumer credit patterns
- Decreasing capital/labour force reliance in future productivity
- Unbalanced socio-demographics
Singapore’s Capacity

- Highly trained workforce
- Compliant civil society
- Mix of light and heavy touch state
- Resilient private sector
- Lower reliance on heavy capitalisation
- Higher technology productivity
- Promotion of communitarian values
- Experience in proactive, smart regulation
What is Regulation?

‘Regulation is the sustained and focused attempt to alter the behaviour of others according to defined standards or purposes with the intention of producing a broadly identified outcome or outcomes, which may involve mechanisms of standard setting, information gathering and behaviour modification’ (Julia Black)

1) promotes a more pluralistic and inclusive account 2) essence is to influence or alter behaviour 3) effectiveness of techniques and methods 4) must be intentional
What is Global Crisis?

- Till recently global socio-economic agenda centred on individual wealth maximisation through continued economic growth
- Crisis denialism – deregulating risk
- Regional/international financial collapses challenge that model as does growth in wealth gap, and challenges to economic fundamentals (eg. youth unemployment)
- New measures of social/economic health in context of responsibility – what next?
What is the Challenge?

- By locating regulatory strategies within specific political economies it is possible to provide robust outcomes and predictive potential.
- Moving from crisis to orderliness within specific political economy context marginalizes a single event focus when evaluating regulatory efficiency.
- Regulation in the context of sociability
  Creating regulatory communities on shared risk/fate
- Sociability is not a natural consequence of protecting the libertarian entitlements (or excesses) of a rights-based regulatory environment (individualist or communitarian).
- It is collaborative relationships which, from a variety of motivations, can lead to positive, pluralist regulatory directions – Risk to Fate
Law’s Failure? Deregulation Crisis???

- State-centred concept of law – can there be any other?
- Law as central control technology of state regulation
- Tension between law and self regulation
- How does the law give expression to particular values?
- Law as regulatory motivator?
- Law as threat?
- Law as umpire?
- Law as moral compass? Core of smart regulation
- Law as device enabling transactions in a market for knowledge, power and delineated boundaries
- Law territorially bound
- Law interacts through control or freedom, with politics and morality – Singapore paradox of intrusion and absence
- How can law be aligned with other regulatory techniques to produce pluralist regulatory frames?
Dangers of Economic Growth Model

- What is finite? What is sustainable?
- Growth for share-holder profit ahead of general good? Inflated expectations!
- Widening wealth gap
- Inadequate market/risk regulation
- Close relationships between government, business and financial sector
- Ineffective corporate governance
- Deceptive crisis/risk evaluation
- Sometimes outright/implicit corruption
## GDP Growth (%)

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<tr>
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<td>5.6</td>
<td>3.6</td>
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<tr>
<td>Total*</td>
<td></td>
<td></td>
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<tr>
<td>G3*</td>
<td>1.9</td>
<td>0.4</td>
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<tr>
<td>y-o-y***</td>
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<tr>
<td>Indonesia</td>
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<tr>
<td>India</td>
<td>5.3</td>
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*Weighted by shares in Singapore’s NODX
**q-o-q SAAR: Quarter-on-Quarter Seasonally Adjusted Annual Rate
***y-o-y: Year-on-Year

*SOURCE: CEIC AND EPG, MAS ESTIMATES
Risk?

Regional
- Risk to geo-political interests
- Risk to liberal democratic normative order
- Risk to free market economic model
- Risk to modernisation and socio-economic development

Global
- Risk to existing alliances and the ‘global order’ they endorse
- Risk to sustainability – more than environment?
- Risk to capitalist forms of doing business
- Risk to the nation state through terrorism
- Risk to selective citizenship – global community

How do regulatory strategies address crisis/risk?
What Regulation Works?

- **Need?** Perceived (or not) by the state as expression of sovereign interest - governed by prevailing economic interest? - tension

- **Response?** Control market/enable market - regulation to deregulation to regulation

- **Context?** Governance through autonomy against a largely non-resistant civil society

- **Technique?** Law in subsidiary control role - self-regulation requiring laws boundaries

- **Purpose?** Control for state/economic interest - regulate free civil society - limit choice? through compliance or exclusion

- **Relationships?** Tension or transformation - law a prohibitive and interventionist state regulator OR facilitator of self-regulation?
Old Wine in New Bottles?

- Globalisation means no regulatory domain is an island – what works beyond the state? – what works despite the corporation?
- Preparing for change – regulation required to be proactive change-agent
- Nothing is outside contemplation? New attitudes to economy, democracy, community, wealth and security
- Remember how capitalism has changed pre- and post Henry Ford!
Communities of Shared Risk

- Identifying and prioritising risk? What are the triggers?
- Demystifying risk – call it for what it is
- Getting interests around the table
- Generating a regulatory dialogue
- Minimising difference
- Developing trust
- Defeating fatalism
- Inducements to stay at the table
Example – WTO (US/EU v China – rare earths case

- More than the four case parties – include other stakeholders with trade interests with the parties to widen interest base
- Involve non-commercial interests in the community of shared risk – PIGs, manufacturers, consumer groups
- Use international organisations with trade and environment mandates to bring parties to the table
- Develop regulatory conversation - use sustainability as the central discourse and explore different meanings and different consequences - look to expose hidden meanings (is it environment or market price?)
Communities of Shared Fate

- Identifying risk containment options
- Create ‘doable’ timelines
- Leverage trust relationships
- Work in a language of mutual interest
- Maximise the abilities of each participant
- Avoid territoriality
- Think the unthinkable
- Don’t wait for the state – election cycle
- Next generation perspective – community sustainability
Example – Health Pandemics

- New and unknown threats
- Broad international health guidelines
- Clock ticking
- Dissolve state boundaries while empowering state regulation
- Ally state/commercial/civil interests
- Share knowledge - promote transparency
- Achieve immediate self interest through working for mutual medium interests
New Deal?

“I think that the rules of engagement for a public company are changing...I believe strongly that there's a new movement to recognise that we have to serve the communities, that's about keeping the balance between profitability and social consciousness.”

Howard Schultz, CEO, Starbucks – Aspen Ideas Festival 2012
More than CSR?

"At Walmart, we believe in always doing the right thing. Through our efforts to improve social and environmental sustainability, we're learning that inclusive growth is good business. When we develop programs that are good for our customers, our communities and our business, giving back becomes a sustainable part of our growth model."

– Doug McMillon, president and CEO, Walmart International
Risk to Fate

• The risk to fate transition essential for regulatory sociability enables regulation while accepting and working with a diversity of interest, rather than seeking artificial objectivity or strained consensus.

• Like the selectivity of risk and the many regulatory responses that move to fate, collective regulation can progress from many interests on to sustainable mutuality.
Pre-conditions

- In the wake of global crisis, risk is likely to be less ambiguous and more uniformly appreciated and felt.
- There may not be forces at work to confuse or conceal the true nature and extent of risk, or to substitute politically prioritised risk over risk of harm, which is posed to all irrespective of politics.
- Even with the ubiquity of risk in particularly contested contexts, fundamental and prevailing global crises will eventually demonstrate risk profiles which can be the motivation for common communitarian coalescence - revealed in the consideration of specific transitions from crisis to ordering.
In the necessity to move from crisis to ordering, communities will come together with less freedom to dominate and less time to equivocate over positions in relationships of power and domination.

The whole thinking behind the anticipated transition from self-to-mutual interests, which is the essence of taking communities of shared risk to shared fate, is premised on the belief that while harmony is not essential to mutuality, crisis will aid compatibility and make diversity bond in different ways to achieve fate.
Trust and Comity

- Onset of crisis pulls away the pretence of trust and comity – atmosphere of survival and communion.
- Otherwise the appearance of trust and comity crumbles in crisis and sociability is not forthcoming organically through the individual internalisation of shared risk.
- In these circumstances, reliance on external stimulus from a consolidated state, a clear-sited civil society or a forward-thinking commercial interest may be necessary to cajole community out of fracture and distrust.
- External intervention cannot sustain regulatory sociability - increased and impending risk in blossoming crisis is paradoxically necessary to bring about the social conditions to engender true and workable communities of shared fate grown from reacting together to risk.