

Formal and Informal Regulatory Networks: Deliberative Policy Formation in Israel

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Introduction

This research focuses on regulatory agencies in Israel as policymaking authorities. It examines regulatory policy formation and how regulators, as policy makers, reach decisions under conditions of collaborative and deliberative cooperation with governmental and non-governmental stakeholders.

The centrality and direct influence of government agencies, especially of regulatory bodies on every area of modern life, has raised the need for thorough investigation of the formation, implementation and evaluation of regulatory policy. Nonetheless, while regulatory policy making in Western Europe states, the US, Canada, Australia, and even Japan has been studied for decades and has been characterized as encompassing unique components, the issue has remained bereft of comprehensive research attention in Israel.

The findings of the preliminary research conducted, in the course which Israel's regulatory agencies were analyzed and mapped for the first time according to institutional parameters, indicate the presence of a wide range of regulatory types in Israel relative to other countries. Also its indicated the possibility that informal processes—rather than the overt institutional arrangements typical of all regulatory agencies—exert the greatest influence on regulatory policy formation. Against this background, the research questions were designed as follows: (1) what processes contribute to regulatory policy formation in Israel on the formal and informal level? (2) Does a gap exist between the formal and informal aspects of policy formation and what are its attributes? (3) Is the non-organized individual a participant in regulatory policy formation in Israel?

The research hypotheses assumed that the influence of formal institutional arrangements in Israel's regulatory agencies falls below that of informal arrangements, with the gap between them considerable. It was also assumed that the non-organized individual is shielded from these processes, implying that her voice in policy formation is minor to the point of insignificance.

The theoretical framework of the research combines the policy network approach and models pertaining to the passage of regulatory rules and regulations with stakeholder cooperation (*reg-neg models*). The research methodology involves an analysis of

legislation, decisions and official procedures for the purpose of mapping the formal level of the proceedings, as well as on documents and content analysis of the statements made by participants in the proceedings in order to map the informal level should it exist. To this end, 225 quasi-structured personal interviews were conducted with governmental and non-governmental players, all of whom were involved in or had some connection to regulatory policy formation. The results of the interviews enabled us to map the networks and procedures comprising regulatory policy formation in Israel. Based on these findings, several recommendations were formulated regarding regulatory policy formation in general.

General Theoretical Background

The car you park in your garage bears a state license tag, perhaps a locally issued safety and emissions sticker, and all manner of fuel economy and anti-pollution devices under the hood mandated by various federal regulators. Your television and radio receive signals regulated by the Federal Communications Commission. If Aunt Mabel comes to visit, she flies in on an airline regulated by the Federal Aviation Administration. In your fishing tackle box is a state fishing license. You use electricity at state-regulated rates. The gas you use to heat the teakettle is regulated. So are the medicines in your bathroom cabinet. The pacemaker the surgeon installs in your chest was approved and tested by the Food and Drug Administration, along with the meat and milk and bread in your kitchen. You have to show proof that Johnny and Susie have been vaccinated for smallpox before they can enroll in public school, which uses textbooks selected by a state-regulated board. On the school bus that brings them home are placards and warnings mandated by regulators. The bus driver needs a special driver's license and has to attend a special training class. Johnny's toys have passed rigorous safety testing. So has the mattress he sleeps on (Sparrow, 2000; p. VII).

Within the public policy context, regulation refers to any action taken by the government to introduce order into the activities undertaken within its sphere of responsibility and authority. From a broader perspective, regulation pertains to the "government laws and regulations that order the exchanges between goods and services"

(Moran & Wood, 1993). It should be noted, however, that this definition does not differentiate between one government network and another, that is, all government agencies are can be viewed as regulatory bodies. Furthermore, the definition refers exclusively to exchanges between goods and services although the regulatory discourse, as we will show, likewise subsumes within those regulations that coordinates social values and organizational behavior.

Others have narrowed the definition of regulation to a process or activity in which an executive government branch sanctions, prevents or prohibits the performance of specific individual, institutional or organizational actions or behavior and do so under a long-term administrative regime (Reagan, 1987). This definition focuses on the executive branch and/or its delegates and the manner in which implementation is exercised (i.e., “sanctions, prevents or prohibits”). By force of its application, this criterion implies the control of evaluative rather than commercial behavior even though it lacks any observable indications of its objectives, as noted in the broad definition of regulation (“order the reciprocities”).

On the basis of the functionalist approach, others have argued that the factor common to all definitions of regulation lies in their inclusion of three distinctive factors: *determination of norms* — formal decisions that set standards based on professional skills, and that prescribe or prohibit specific behavior; *control* or *organize* — the outcome of application of standards or directives, meaning limitation of the number of actors and/or the arena for their permitted freedom of action; and *monitoring* — the enforcement of standards and directives (Baldwin & Cave, 1999).

Although regulatory agencies vary considerably with respect to the internal balance between these three characteristics, with some agencies, for example, focusing on setting norms and less on their enforcement, agreement reigns with respect to the priority of the first over the other two functions. First, the task of all regulatory agencies is to structure specific domains, which they do by initially determining what norms are required and only afterwards by enforcing norms and creating subsidiary norms.

Others view the setting of norms as ex ante crisis prevention and enforcement of norms as ex post crisis solution (Weimar & Vining, 1998). Still others differentiate between regulation’s cautionary (“red light” functions) and its authorization (“green light”) functions. That is, the exercise of regulation narrows an individual’s (or organization’s) freedom; by doing so it sustains the freedom available to the public or other organizations (Harlow and Rawlings, 1997; Ogus, 1994).

For purposes of the research, we restrict ourselves, as mentioned, to defining regulation as "an arrangement of values' exchanges in a particular society by public

authority, which based on administrative processes and tools, requires, sanctions, prevents or prohibits actions or behaviors by individuals or organizations."

The sole normative role of regulation in democratic societies is to serve the public: Citizens waive some of their rights by delegating them to the government in order to enable the government to provide protection on a regular basis. However, the norms maintained and the rights awarded individual are many; hence, the norms activated by government agencies to protect its citizens frequently conflict one with the other while one norm is frequently achieved in at the expense of another (Baldwin & Cave, 1999). Injury to one or more human rights is considered legitimate, legal and even unconstitutional; however, if this injury is initiated for egotistical purposes or to benefit another individual or groups considered superior to the general public under given circumstances.

Hence, it is verily regulatory policy, which is nothing other than a series of administrative actions that diminish an individual's or an organization's freedoms, that is required to meet standards associated with the fundamental principles and normative justification flowing from the need to protect designated rights without injuring other rights. Therefore, the essence of regulatory policy was originally involved correction of market failures. Market failures represent just those situations where the equilibrium between supply and demand reached does not maximize a society's production potential (Baldwin & Cave, 1999; Ogus, 1994). As a result of this situation, the freedom to maintain exchange relations between the individual and society is not sustained, as revealed in the presence of monopolies (or cartels), informational asymmetry, externalities, public goods and circumscribed property rights (Weimer & Vining, 1998; Swann, 1989; Friedman, 2002 [Hebrew]). From this perspective, regulation is, in effect, a series of competitive rules meant to overcome or at least minimize the effects of market failures or, alternatively, to prevent to their appearance.

The market failures that prevent to free competition will be controlled by economic regulation by monitoring the prices of goods and services, controlling the amount of goods and services available, determining entry (or exit) barriers and/or incentives to specific industries (Breyer, 1994). Some have categorized economic regulation under the category of *self-regulation*—meaning the determination of norms and rules by the firms themselves—or *regulation of competition*—referring to a policy of maintaining branch stability by industry regulation—as well as *meta-regulation*—the integrated enforcement by regulatory agencies of the regulatory regime's competitive

laws through industry as well as general market self-regulation (Jordana and Levi-Faur, 2004).

Nevertheless, regulation as a policy tool was also introduced to improve social well-being, that is, to increase or more equitably distribute social resources (Harris & Milkis, 1996; Uche, 2001). Stated differently, regulation that does not promote competition for this purpose will not further individual freedom, but it will directly provide values and rights that the market did not provide, provided partially, provided inadequately or, conversely prevented the individual from acquiring those values and rights (Baldwin & Cave, 1999; Williams & Mathney, 1998; Whitley & Kristensen, 1997). In effect on, regulation of the competitive markets found at the end of the twentieth and the beginning of the twenty-first century, given the rate of change observed in the financial, technological, environmental, social and political arenas is required to balance between economic, social and other factors in every area. This combination has become a major part of regulatory practice (Breyer, 1994; Hahn, 2000).

The federal government in the United States began to deal with regulatory profit policy as such in the last decade of the 19th century. The remaining democratic countries in Europe began to contend with regulation at the beginning but especially during the second half of the 20th century (Coriat, 2002; Muller, 2001; Van Sieten, 2001). The Scandinavian democracies undertook a similar journey during the 1970s, but especially since the 1980s (Jacobzone & Frison-Roche, 2003; Levi-Faur, 1999b; Taylor & Fleming, 1999). In Canada, the government instituted a regulatory policy beginning in the second half of the 20th century that was constructed of a complex of regulatory agencies (Sghults & Doern, 1998; Swann, 1989), as did many South American countries (Aboites et al., 2002; Gausch & Spiller, 1999; Levi-Faur, 2003) and Australia (Brennan & Pincus, 2002; Castles, 2002). The Japanese began to mull over the American approach to regulation in the 1960s, with an operative version in place since the 1980s (Amyx, 2001; Maswood, 2002). Creation of the European Union also induced the establishment of regulatory agencies (Armstrong, 2000; Del-Valle et al., 200; Feinberg & Harper, 1999; Levi-Faur, 1999a).

Beginning in the 1980s, a trend stressing reform began to gain currency regarding the place and significance of regulatory policy in several democratic countries, even in those that were slowly adopting democratic government models. This trend was expressed, for example, by the transformation of UK ministerial authorities into “independent” agencies, whether in terms of their internal structure or the reduction of the appointed minister’s power to intervene and, at the same time, by the unification of

several regulatory agencies under an inclusive super-agency such as the Financial Services Authority (FSA) and the Office of Communications (OFCOM), both in the UK. Reform aimed at “unification” has also been initiated in Norway, Denmark and Sweden for more than a decade, systematically and steadily although slowly, and primarily in the sphere of financial markets. Such super-agencies are also to be found in Austria, Bahrain, Bermuda, the Cayman Islands, Estonia, Germany, Gibraltar, Hungary, Iceland, Ireland, Japan, Latvia, Moldova, Malta, Nicaragua, Singapore and even South Korea (Martinez & Rose, 2003). Changes and reassessment of procedures can also be observed in Jamaica, Bolivia, Chile, Peru, Mexico, Argentina and Venezuela (Guasch & Spiller, 1999).

As stated, regulation as a distinctive policy has been studied in the United States and in Europe for at least five decades. At first, regulation has been studied primarily by economists in an attempt to ascertain its efficiency as a solution to market failures (Baumol & Klevorick, 1970; Train, 1995), but also by legal scholars and political scientists interested in the institutional aspects of regulatory policy (Bernstein, 1955; Breyer & Stewart, 1970; Cushman, 1941; Friendly, 1962). As of the 1970s but especially the 1980s, researchers have focused on the political aspects of regulatory policy, primarily by comparisons conducted between periods and regulatory regimes but also for the purpose of determining the existence of a relationship between politics and/or the dominant political worldview and the characteristics of regulatory policy (Ball, 1984; Harris & Milkis, 1996). Others dealt with the influence of interest groups and or elites on policy processes (Kelman, 1980; Moe, 1980; Truman, 1951; Weaver, 1978; Weingast & Moran, 1982; Wilson, 1980) or on interpersonal relations between regulators, organizations and government and their influence on regulatory policy (Anderson, 1981; Gormley 1979; Graham & Kramer, 1976) as well as on theories of capture (Bardach & Kagan, 1982; Quirk, 1981). Several researchers dealt with implementation issues and examined, among the things, the degree of organization compliance to regulators and to regulation (Shover et al., 1986), and institutional reform as led by Western countries in order to introduce greater efficiency into regulatory policy (Breyer, 1994; Button & Swann 1989), this vein, research was conducted on the effectiveness, efficiency and externalities exhibited by social regulation, with stress on environmental quality and air and water quality protection (Hershkowitz & Salerni, 1987; O’Neill, 1997; Sand, 1990; Scruggs, 1999). Still other studies dealt with the place and role of regulatory policy in governance capacity and civil society (Clark, 2000; Das & Quintyn, 2002; Jordana & Levi-Faur, 2004). Yet, regulatory practice, and the focus on the regulator as a profession

has won little research attention, and few findings have been obtained with respect to other dimensions of regulatory policy (Sparrow, 2000).

In recent years researchers have begun to focus on the deliberative and participatory aspects of regulatory policy formation and implementation (Palast et al., 2003; Moran, 2004). Within this framework, trends have also appeared of regulator promotion of self-regulation among monitored organizations (Munch et al., 2000; Parker, 2002) yet this line of research is still nascent. Nevertheless, we can generalize by stating that processes entailing cooperation and deliberation between public authorities on the one hand and private firms and public organizations on the other could not continue over time without some direct links existing between decision makers of both sides. Numerous studies have shown that policy networks connecting interest groups do exist, and in which public policy is formed and implemented in practice.

Regulation in Israel

Since Israel's infancy, the public administration was molded to be the almost exclusive "proprietors" of the market's economic like its social activity. Services such as education, health, communications, transportation, welfare, employment and financing were under government control to one degree or another. Supporters of the dominant party, Mapai, filled positions in the respective agencies, a fact that strengthened their influence in every center of economic and social power going far beyond the public sector, and reaching into the third sector if only because of their participation in the government. The state's incremental develop, usually in the absence of any long-term and/or strategic plan, brought about a situation where control and monitoring agencies were scattered among government ministries having diverse characteristics yet all belonging to the same administrative apparatus. The extensive and deep involvement of the public sector in the market's economic activity was best expressed by its ownership and control of monopolies providing fundamental infrastructure services, such as the Israel Electric Company, the Haifa oil refineries, the Israel Railroad, telecommunications and mail, and even radio and television stations. The government also owned commercial banks, airlines, schools and universities, defense industries, and firms in varied industrial and non-industrial sectors. The privatization of the public sector that began in the 1980s, following the first political "reversal" (Eckstein et al., 1998), effectively continues until today. The list containing 160 government companies registered in 1982 had shrunk to 102 companies by 2004.

In a preliminary research it was founded that the regulatory agencies in Israel are highly diversified with respect to their institutional structure (Arbel-Ganz, 2003):

1. *Subordination*: The findings indicate that in Israel, regulators can be (a) completely subordinate, either administratively or substantively (i.e., with respect to policy), to the directly appointed minister or the ministry's director general or some other senior official; (b) subordinate to a government ministry or to the government administratively or substantively; (c) autonomous, free of subordination to government policy or any of the institutional arms of the government.
2. *Number of officeholders*: the findings indicate that regulatory authority in Israel is sometimes delegated to tell a single regulator to such as the Bank Inspector and sometimes still a team Council of regulators, such as the Council of the Channel 2 Television and Radio Broadcasting Authority.
3. *Appointment Process*: According to the findings, regulators in Israel are appointed (a) by one or more government ministers; or (b) by a minister sitting in the government but in consultation with a Knesset committee; or (c) the entire government and; or (d) by the entire government but after recommendation by a minister; or (e) by the entire government but after recommendation by a number of ministers; or (f) by a government official authorized to do so; or (g) by the President of Israel.
4. *Objectives*: It was found that regulators responsible for the organization of financial markets deal primarily with the economic regulation whereas others deal with economic and social regulation.
5. *Discretionary Autonomy*: With respect to this variable, it was found that the decisions of some regulators are overturned by their superiors while the decision of others are overturned by special appointed courts and the decisions of still others can be challenged only in the High Court of Justice.
6. *Budgetary Independence*: It was found that some regulators are funded by the state but as part of the budget of the ministry to which they are subordinate, others are funded by the state budget but by means of a separate budget proposal and as a distinctive budgetary item, while others are funded by the fees paid by the firms/producers within the domain of the regulator's authority.
7. *Tenure Immunity*: majority of regulators, it was found, are appointed for fixed periods, by law, and cannot be transferred from their positions for other than stipulated causes. However, regarding others, the period of their appointment and/or causes for their transfer are left undetermined.
8. *Legal Status*: It was found that the status of the majority of regulators as authorities is legally established, although some do have the status of public

corporations. The status of a minority of regulators has not been set forth in legislation.

9. *Scope of Discretionary and Interpretation*: The findings indicate that the majority of regulators have been awarded broad discretionary autonomy regarding their authority and the means of its execution. In addition, the law also allows the regulator a broad platform of interpretive power.

Regulators and Regulation in Israel — Policy Formation Processes

The conceptual linkage between informal processes and trends toward the participation and deliberation raise several questions regarding the degree of cooperation, the identity of the participants and the level of cooperation reached between regulatory authorities and governmental as well as nongovernmental interest groups. One of the main questions is whether the participants benefit as a result of their participation in these processes and if so, according to which parameters, those of civil rights, interest connectedness or political and civic power in addition to the capacity to influence regulatory decision makers together with the adjacent political and bureaucratic environment.

Given this background, the research focuses on processes of regulatory policy formation in Israel as it is conducted and managed by regulatory authorities. The research does not go beyond the stage of policy formation and therefore does not consider policy implementation or evaluation.

The research attempted to respond to three questions:

1. What processes are involved in regulatory policy formation in Israel's regulatory authorities on the formal and informal level?
2. Does a gap exist between the formal and informal level of regulatory policy formation?
3. Is the non-organized individual who has a stake in regulatory policy (as defined above) a partner in regulatory policy formation and decision making in Israel?

The main concepts in the research questions can be defined as follows: (a) *policy formation* is a process in which the majority of the following stages are conducted in the designated order (Dye, 2001) and in which at least one regulatory agency is involved by virtue of its authority: raising an issue on the regulatory agency's agenda, collection of relevant information, analysis of that information, definition of the problem, formation of policy options, choice of an option, making of an official policy decision; (b) on the *formal level*, processes of policy formation as stipulated by law and/or regulations and/or

the internal written or unwritten procedures of the regulatory agency and, in all circumstances, as stated and practiced regularly, consistently and in a manner open to public review (i.e., transparently); (c) *the informal level* — processes of policy formation that are not stipulated by law and/or regulations and/or written and unwritten internal procedures but practiced regularly and implemented consistently yet observable only to stakeholders belonging to the regulatory network; (d) *the gap* (between the formal and informal level) — the degree of variance between the two levels as defined by items (a)-(c) as revealed through comparison of the measures determined by the theoretical models in the literature; (e) *the non-organized individual having a stake in regulatory policy* — an individual who is not a member of an interest group and/or political party and/or professional organization and/or private firm and/or any other civic organization and has a stake in regulatory policy.

The research hypotheses at the foundation of the research are: (a) formal processes of policy formation in regulatory agencies in Israel are varied rather than similar; (b) the gap between the formal and informal processes existing in all regulatory authorities is not set (constant) although it tends to be broad; (c) formal processes of decision-making are characterized by rigidity and the lack of participation by non-governmental stakeholders whereas informal processes are characterized by flexibility and the dynamic participation of non-governmental stakeholders; (a) non-organized stake-holding individuals are not partners in regulatory policy formation whereas institutional stakeholders are heavily involved in that process.

The research population and includes all the regulatory authorities found in Israel. In consideration of the relatively late weight to open branches found in the market, domains all of professional practice, the number of government ministries, evaluation of the scope of the social and environmental domains, we can estimate the number of regulatory agencies in the dozens, and certainly more than 80 (Arbel-Ganz, 2003 [Hebrew]). From all these, 15 regulatory authorities were sampled: the Israel Antitrust Authority located in the Ministry of Industry and Commerce; the Bank Inspector, the Bank of Israel; the Capital Markets, Insurance and Savings Division, the Ministry of Finance; the Israel Securities Authority; the Council of the Channel 2 Radio and Television Authority; the Council for Cable Television and Satellite Broadcasting, Ministry of Communications; the Israel Council of Higher Education; the Public Utility Authority—Electricity; the Water Commissioner, Ministry of National Infrastructure; the National Council for Planning and Construction, Ministry of the Interior; the Council of Israel Lands

Administration; the Fruits Board of Israel; the Israel Standards Institute; the Registrar of Associations, Ministry of a Interior; and the Accounting Standards Board.

The Theoretical Framework

Policy Networks

The hypothesized involvement and participation of stakeholders in regulatory policy formation demands more than identification of the participation but also a description of its components and characteristics. Identification of a stakeholder's participation does not in itself allow us to discern any possible variance in the pattern of participation among the chosen regulatory authorities, and, in this sense, is likely only to indicate its existence but not its dimensions. A theoretical approach conducive to identifying and possibly explaining the presence of links between government agencies (in this case regulatory agencies) and stakeholders is the *policy networks approach*. The roots of this theory lie in political science, public policy analysis and organizations sciences (Rhodes, 1997). In essence, the approach allows us to examine how governmental actors (from the public sector) distribute resources between themselves and nongovernmental actors (from the private or third sector) and what patterns of interaction are adopted (Coleman & Skogstad, 1990; Rhodes & Marsh, 1992).

The policy networks approach offers an explanation for the manner in which leading participants in the network press for the modification or retention of policy. Regarding regulation, the hypothesis states that the proximity between regulators on the one hand and firm and organization representatives on the other in this network of reciprocities provides the influence, support and framework in which the regulator promulgates regulatory policy regarding the issues to be monitored. The linkage between regulatory policy formation and implementation found in the policy networks approach has been explored the research literature (Laumann & Knoke, 1987; Coleman, 1996; Vass, 1998; Daugbjerg, 2002) but to a limited degree. The model has also been applied in Israel (Menahem, 1999 [Hebrew]; Nachmias and Arbel-Ganz, 2005, [forthcoming]).

Analysis of the patterns adopted in policy formation in regulatory authorities in Israel was undertaken on the basis of the seven variables identified by Van Waarden (1992): (1) number of actors; (2) the actors' identity, i.e., governmental, private, group; (3) network boundaries, i.e., whether they were open and penetrable or closed; (4) foundations for participation, i.e., whether imposed by government or her voluntary; (5) frequency of activity, i.e., whether frequency was high, low or intermediate; (6) level of network institutionalization, i.e., whether that level was high, medium or low; (7) distribution of power between the network's participants, i.e., whether power was centralized to the

point where one actor could act autonomously, or whether that power was decentralized to the point of the actors' mutual interdependence.

After theoretical analyzing all the variables, six ideal types of policy networks were identified: *statism (Pantouflag)*, in which a highly limited number of governmental and non-governmental actors have the power to influence and totally enforce in comparison to the remaining actors; *captured-statism*, in which a highly limited number of actors interact, with governmental actors limited in their power; *clientelism*, in which only one non-governmental actor interacts with another governmental actor that can exercise relatively weak enforcement power; *state corporatism*, in which several actors are subordinate to the considerable power and influence wielded by a governmental actor; *pressure pluralism*, in which several actors, at least two of which are non-governmental, interact with a governmental actor, with power shifting between them; and the *issue network*, in which all of the several actors interacting have relatively little influence in comparison to the governmental actor.

Use of these explicit policy network indicators allows identification of regulatory policy networks on the basis of a small number of models that can be applied to the formal as well as informal level of policy formation. Furthermore, the simultaneous use of these precise indicators allows estimation of the gaps between the two levels.

Despite the benefits of the policy networks approach and the typology presented here, it appears that the approach does not distinguish between the different directions the relationships may take or the nature of those relationships. That is, none of the characteristics of the described indicators, such as "frequency of activity" and/or "basis of participation" or even "institutionalization of patterns" and/or "distribution of power" can indicate whether the relationship between the governmental actor and the nongovernmental actor in the network is reciprocal (bi-directional) or perhaps initiated by only one of the parties. For instance, one policy network may permit a high frequency of activities or interactions although the meaning of "frequency" is that firm X directs requests to regulator Y daily and that regulator Y only listens to those requests without attending to them. Alternatively, in another network, frequency of activity is low, but at each meeting between the regulator and the other actors, the latter are given a platform on which to systematically and openly present their arguments and opinions, which are followed by an in-depth discussion of the issues. That is, the policy networks typology does not indicate the quality of the collaboration between the actors in the network or the degree of deliberation permitted. Because this characteristic is crucial for the

classification of the patterns of policy formation practiced by regulatory agencies, we have chosen to map these patterns according to a different model.

Reg.-Neg. model

In the 1980s, government agencies in western democracies began to introduce public participation in administrative decision-making. Participation of residents, civic as well as economic organizations in policy formation, was meant to respond to two main needs: the public's wishing to influence on the policy implemented by the public administration; and the government wish to obtain legitimacy for its policy (Tenberg, 1998). Citizen participation can be introduced at different stages of the process and at varying levels of reciprocity. Some scholars differentiate between the *participatability or collaboration* of the public in policy formation and implementation and between the *deliberatability* of the government apparatus itself (Hajer & Wagenaar, 2003). In contrast, Klijn and Koppenjan (2000) view collaboration and deliberation as two among the different stages that they identify as belonging to a linear continuum: information, advising, consulting, co-production, and joint decision-making.

Gelphi (1997 [Hebrew]) has defined four ideal types of stakeholder collaboration in regulatory policy formation: (1) in *notice and comment*, a regulatory agency announces to the public its intention to modify existing rules or directives or to determine new rules. (2) *Hearings* are events where the regulatory agency publicly announces its intention to modify existing rules or determine new ones, and invites external actors who view themselves as likely "victims" of the intended changes to come and present their reservations or recommendations before the agency. Participants have the right to present evidence, question witnesses, direct queries to agency members and offer alternatives, also documented, to the proposed ruling. (3) *Citizen boards* are forums in which the authority to make regulatory decisions has been delegated to a public council, elected for a limited tenure. (4) *Reg-neg* models entail creation of a team by the regulatory agency to debate a specific issue and negotiate its resolution. Among the members of this team are representatives of stakeholders in the general public, business organizations, social organizations and various local government authorities. Decisions are made according to majority or unanimous vote.

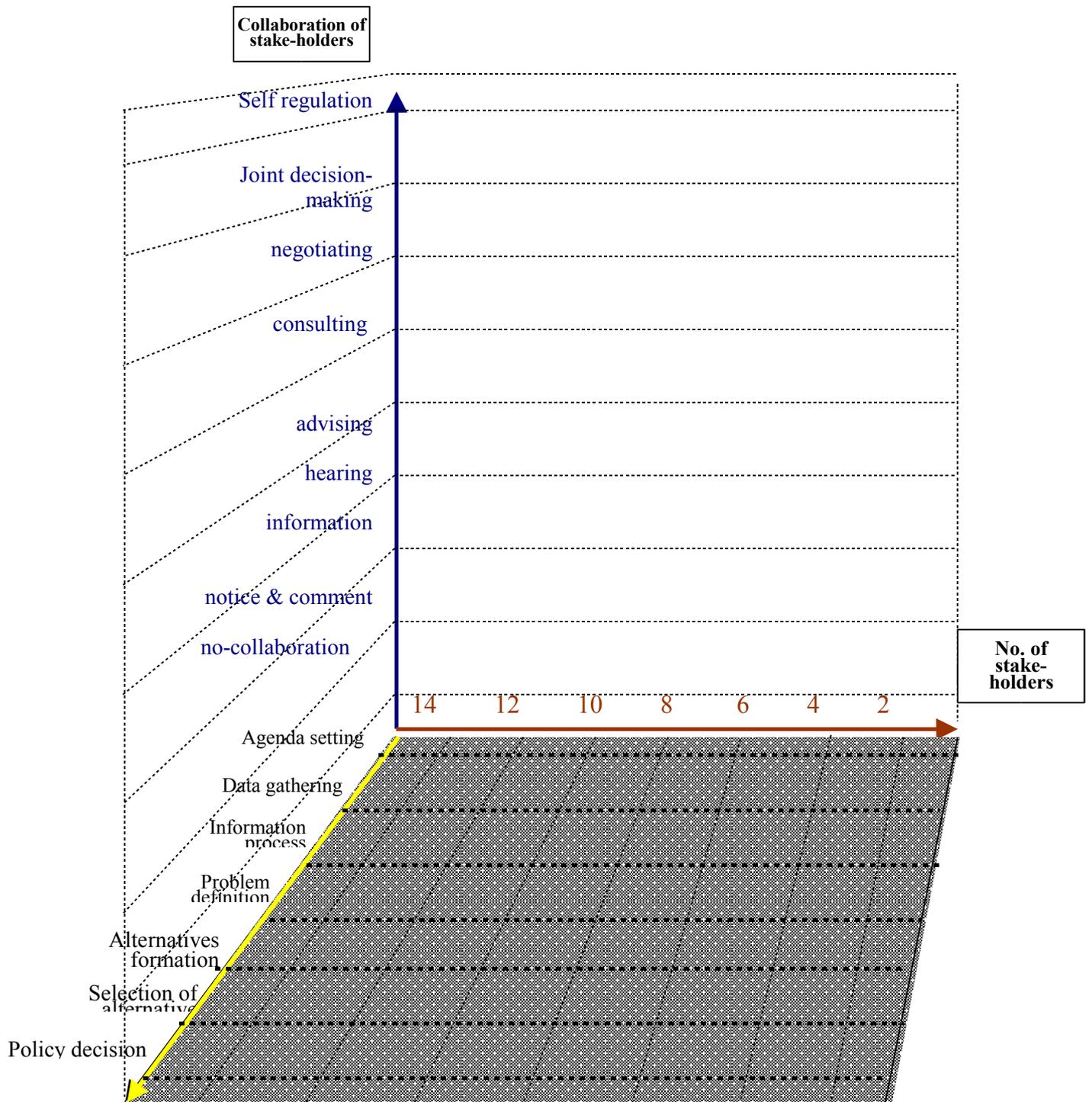
The various types of collaboration are differentiated according to two variables. The first is the *rigidity of the process*, that is, how formally is the process defined, whether the stages are permanent and whether one can move from one stage to another once the process is initiated. The other variable is the *participation of outside actors*, that is, whether collaboration is uni-directional (expression of an opinion) or bi-directional

(participation in the debate) and whether the participants have the authority to make decisions.

It appears that in order to complete the mapping of the policy formation process, as many categorical types of stakeholder collaboration should be included, an issue raised by Gelphi (1997 [Hebrew]) and Klijn and Koppenjan (2000). Yet, Gelphi's discussion of process rigidity may contribute to understanding the formal level exclusively, assuming that the informal level is not anchored in any rigid procedures.

Moreover, despite the contribution to understanding patterns of stakeholder participation in regulatory policy formation, the two models (i.e., the collaborative and the deliberative) disregard two important dimensions: first, the different stages of policy formation. From its very definition as a process, policy formation involves more than one stage. Therefore, from a theoretical perspective, we can assume that it is possible that at one stage, the form of participation may entail hearings, while at another stage it may involve some type of advisory format. Second, the models ignore the number of participants involved. Theoretically, we cannot assume that the same number of stakeholders will participate in every stage of policymaking. It is possible that at some stage of the process four non-governmental stakeholders will be involved while at another stage eight stakeholders will be involved. Given these reservations, we defined three variables to categorize participation, as shown in Figure 1: the y vector represents the nature of the involvement, the x vector the stages of the policy formation process and the z vector the number of non-governmental stakeholders participating in the process (see figure below).

Figure 1: Analytical model of Stakeholders' Collaboration in the Formation of Regulation Policy



Research Design

The research design was dictated, first and foremost, by the preliminary definition of the study's purpose, both descriptively and analytically. The descriptive research dealt with the revelation of previously unknown facts or behavior patterns. The absence of findings regarding regulatory policy formation in Israel led to the focus of the present research on a description of the phenomenon and the subsequent designation of its purpose as the mapping of the regulatory policy formation process. One significant difficulty associated with performance of this kind of research lies in the inability to conduct participant observation of the relevant events. In consequence, the data were collected by means of documentation related to the phenomenon, by statistical surveys and/or personal interviews (Weiss, 1994). Two qualitative instruments were employed: (1) collection of documents such as laws, decisions, regulations, rules and directives, followed by content analysis of the materials; and (2) semi-structured personal interviews with regulators, administrators in the surveyed regulatory agencies, and stakeholders belonging to formal and informal policy networks.

Semi-structured personal interviews rest at the foundation of research asking to investigate primarily informal events and processes, or to validate findings resulting from the analysis of other data collected and/or for the purpose of data interpretation. By means of personal interviews the researcher can "enter" the interviewee's world and learn about the phenomena studied (Kvale, 1996). Semi-structured interviews are based on open questions that, as posed to the interviewee, are targeted at the interviewee's substantive world and knowledge. They allow the interviewee to decide how to describe the phenomenon in question, what examples to use, the language employed, the facts, associations, knowledge and personal information.

Research Validity and Reliability

The validity of the research was threatened by several factors. First to be mentioned was the very use of interviews as a research instrument. This issue was treated in the previous section in which the reasons for choosing semi-structured interviews, as opposed to other instruments (such as participant observation) were indicated. The second factor threatening validity was the content of the questions, specifically, whether the questions posed to the interviewee and the research questions were adequately related (Kvale, 1996). This issue was resolved by systematic construction of the questionnaire according to the requirements found in the professional interviewing literature (Frankfort-Nachmias & Nachmias, 2000; Kvale, 1996; Weiss, 1994; Wengraf, 2001) and the questionnaire's subsequent review by outside experts. Several questions were constructed to allow for

internal crosschecking of the interviewee's responses. The questions were constructed as open questions to allow the interviewee to describe her own worldview in her own words and images, her for aspirations, the obstacles faced and goals as only she could defined them (Weiss, 1994).

The third threat to research validity resulted from the doubt raised regarding the choice of interviewees (Kvale, 1996). Were those chosen in possession of a viewpoint that might permit the researcher to learn something about the phenomenon that studied, and would it be possible to learn about the phenomenon only from the interviewees selected? Perhaps other potential interviewees were available who might contribute additional important information? Regarding the question of whom to interview, we can distinguish between four groups according to their the population's "geographic" location with respect to the regulatory agency: the regulatory agency itself, the monitored population located "under" the agency, the population appointed to oversee the agency and locate "above" it, and the population tangential to the agency and located "adjacent" to it. Regarding the question of how many to interview, there must be a sufficient number of interviewees to cover every possible viewpoint and to enable crosschecking the information provided on the one hand; yet, objective constraints of time, resources and, primarily, recruitment of interviewees must be faced on the other hand.

The fourth factor threatening the validity of the research relates to the interviewees' reliability (Kerlinger & Lee, 2000). An interviewee's subjectivity, like her personal interests, may introduce bias into the responses, an effect that would raise doubts regarding the veracity and scope of the information reported. According to the research literature, resolution of this type of problem is achieved by interviewing at least two office holders from each geographic relational group in order to cross check the details of their responses.

The fifth and final threat to validity is related to the question itself: Is it possible to generalize the findings obtained from the sample population to the entire research population? In order to contend with this threat and improve the generalizability of the research findings, we examined at least two agencies exhibiting similar institutional characteristics as define previously. In addition, the regulatory agencies sampled monitored a wide range of industrial branches and arenas of daily life, whether economic, social or mixed. In addition, mapping of regulatory policy formation in Israel's regulatory agencies covered events and variables that appeared during the term of the regulator in office at the time the research was conducted as well as the period of his predecessor's term. All told, the research findings rested on a total of 225 interviews.

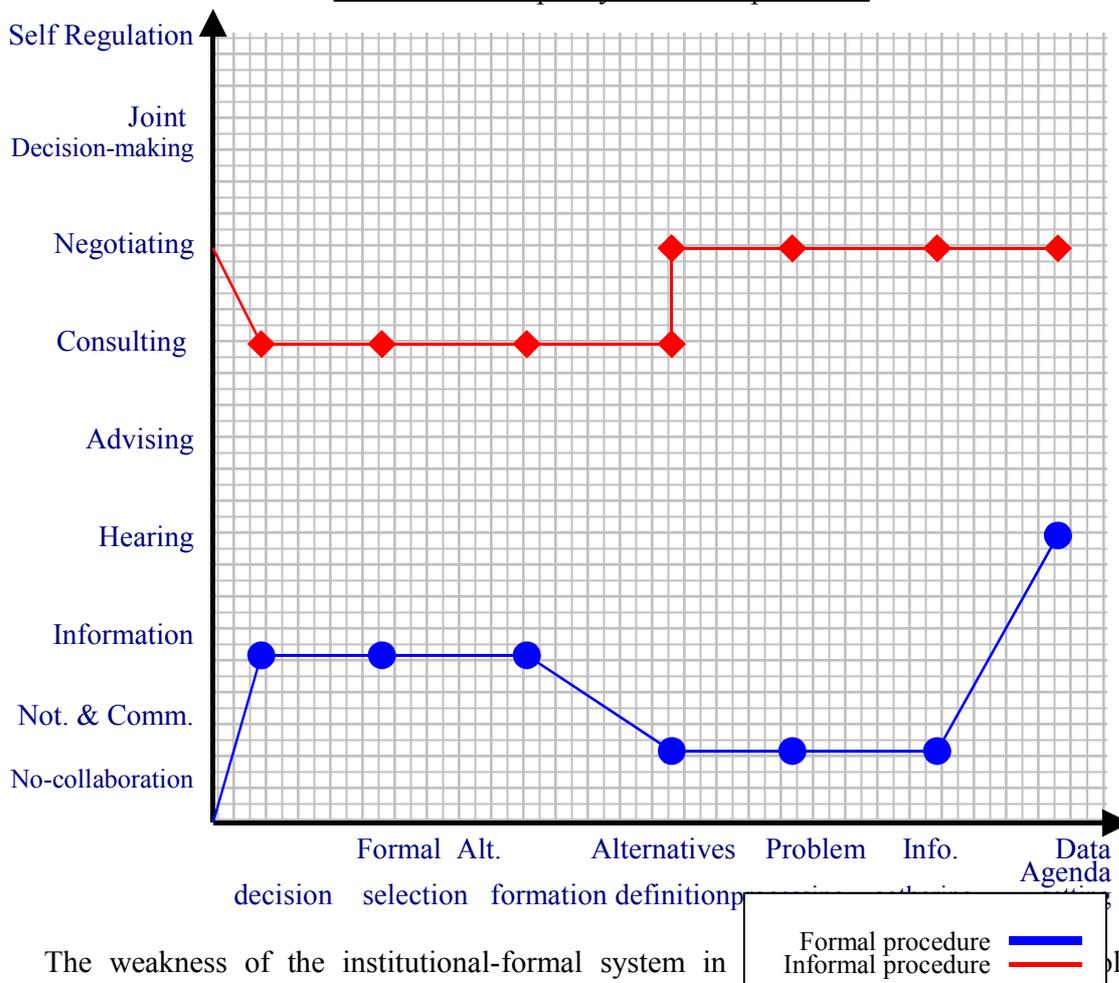
The Research Findings

The findings indicate that on the formal level, regulatory policy formation takes place within the framework of a *statist network* whose boundaries are strictly defined by law in addition to being closed and rigid. The regulator's autonomy varies by the institution's independence even though the regulatory agency continues to exercise authority over the subjects of its oversight, that is, firms, organizations or other sectors. The frequency of activity varies although it tends not to be intensive, at least regarding interactions with the monitored firms and organizations. No detailed or standardized rules for decision-making, meant to guide the agency's head in the exercise of discretion or the conduct of a policy making, can be found in any of the agencies observed. On the formal level, each regulatory agency follows the guidelines set in relevant decisions and laws, that is, the agency initiates decision making according to a *notice and comment* model; at the next stage, usually prior to actual decision making, it adopts a *hearing* model.

It was found that in the vast majority of regulatory agencies, excluding the Registrar of Associations and the Public Utility Authority—Electricity, the agency's institutional infrastructure had been stipulated in legislation, a condition that establishes *de jure* collaboration between the monitoring public sector and the monitored private and third sector. The Israel Securities Authority, the Council of the Channel 2 Radio and Television Authority, the Council for Higher Education, the Israel Standards Institute and the Fruit Board of Israel, as public corporations and, in a similar manner, the Council for Cable Television and Satellite Broadcasting, the Bank Inspector, Capital Markets, Insurance and Savings Division, the Accounting Standards Board, the Water Commissioner, the National Council for Planning and Construction and the Israel Antitrust Authority — maintain well-established mechanisms for stakeholders collaboration within a regulatory statist network. This mechanism makes it possible to conduct internal consultation and exchange of opinion among the various factors as a basis for agency decisions. However, in regulatory agencies where an advisory committee or council has been established by law this process exists only formally, for the sake of appearances. That is, this mechanism does not achieve its goal of meaningful consultation between the regulator and other participants in the regulatory network. This condition characterizes the workings of the Bank Inspector, the Capital Markets, Insurance and Savings Division and, to a lesser degree, the Water Commissioner. Among regulatory agencies headed by a citizens board — a format involving representation of various sectors and interest groups, in which decisions are meant to be reached through consultation during the board's meetings — it was found that the majority of formal

meetings served as nothing other than official rubber stamps for the policy made on the informal level between board members and stakeholders. Alternatively, in agencies where boards were convened for the acting out of formal processes of notice and comment as well as hearings with respect to those same stakeholders, it was found that the formal policy and decision making processes, especially due to their lack of transparency, provided a venue for stakeholders — including politicians, bureaucrats, heads of private firms, head of organizations and associations in addition to lobbyists and their cronies — to pressure members of regulatory agencies for the purpose of obtaining favorable decisions. The smallest gaps between the formal and informal levels were found in the Council for Cable Television and Satellite Broadcasting, Public Utility Authority—Electricity and the Israel Antitrust Authority.

Figure 2: Regulatory agencies in Israel — formal and informal stake-holders' collaboration in policy formation processes



The weakness of the institutional-formal system in policy formation process was also revealed in the inter-temporal comparison of agency variables. The *modus operandi* of one regulator did not resemble that of another regulator, particularly with respect to attitudes toward stakeholders and the place

“assigned” them in the regulatory network. Whereas one regulator might be extremely rigid on the formal level and flexible on the informal level, behavior that contributed to widening the gap between the two levels, another might be less open and flexible on the formal level of policy making while allowing significant transparency and decision making according the collaborative citizen board and *reg-neg* models more than the notice and comment and hearing models. It was found that the wider the gap between the formal and the informal level of policymaking, the more intense the secondary competition for dominance in the informal network between the different stakeholders.

In all the agencies examined, the informal dominated the formal level. Among these regulators, the policy formation process dynamically shifted between the two levels, with the formal level representing an escape valve for the excess pressure exerted on the informal level. Regulators who were relatively independent of the political ranks or, alternatively, relatively dependent on global factors, were able to more effectively adhere to formal processes and were better able to withstand informal pressures. These shifts and the regulator’s ability to “hang on” to the formal level on which his autonomy was greater if not complete represent a deterrent to stakeholders on the informal level. In contrast, stakeholders’ ability to exert pressure on the regulator as well as on senior official in the political system, together with the ability of ministers and Knesset members to initiate legislation circumventing the regulator, represents deterrents to regulators.

It appears that a “balance of terror” has developed between regulators and stakeholders. The specific equilibrium changes according to the issue at hand and the circumstances surrounding the decision. The greatest advantages of the regulator’s formal over the stakeholders’ informal power were observed in the Israel Antitrust Authority. We suggest that the source of the Authority’s immunity to stakeholders’ informal pressures is the confluence of several structural factors: Regulatory authority has been delegated to a single regulator as opposed to a council or board; the agency is not subordinate to the political ranks, the regulator is quite independent in administrative terms, the regulator operates “horizontally,” that is, his authority reaches to all corners of the market and not solely to members of a particular industry, the regulator is subordinate only to the Antitrust Court, which examines not only the legality but also the “correctness” of the regulator’s decision and, finally, the transparency of performance. Stakeholder ability to influence the Authority’s decisions in a cloaked manner or to overstep the limits that set by the regulator is consequently negligible.

Another important finding is the intensive involvement of lobbyists in regulatory policy formation. The public is generally unaware of their existence or their activities, especially

because regulatory agencies treat lobbyists as inevitable fixtures in the regulatory and legislative arena. The use of lobbyists has grown in tandem with the increase in regulatory power as well as with the rising intervention of the High Court of Justice into the activities of the public administration. The impression obtained by the politicians interviewed was that the likelihood of a High Court of Justice decision striking down an intervention attempt has led politicians to avoid direct mediation between monitored firms and regulators. Instead, they prefer to do so indirectly, with the assistance of lobbyists acting on behalf of the firm. Many interviewees noted that it is frequently “easier” for a minister not directly responsible for a regulator to hint at a desired policy than it is for the minister directly in charge of the regulator.

With respect to the non-organized public — that is, individuals not represented by interest groups and who are neither supporters nor members of the social elite — it was found that their involvement in policy formation is highly circumscribed. Their participation finds expression primarily in the official complaints and requests forwarded to the relevant regulators, each of which maintains an office assigned to handle public relations and petition responses. However, the findings indicate that the more dominant the informal level of policy making, the more the weight of public influence on the process declines, almost to the point of nonexistence. The general public is unaware of the surreptitious doings of the informal network, nor is it at all aware of its existence nor does it suspect that it cannot penetrate the network’s boundaries. In order to exert influence and become involved in policy formation, the public must attach itself to some political figure or to stakeholders or lobbyists prepared to represent their interests. Because such avenues are closed to most members of society, the public remains outside the regulatory network, which is left in the exclusive hands of organized stakeholders.

It was also found that a *quid pro quo* culture is an inherent part of the regulatory environment. The dimensions and character of this culture vary with the regulatory agency, where it may have a greater or lesser impact.

In the face of the research findings, the following responses are proposed to the research questions:

1.1. **Regulatory policy formation and decision making processes on the formal level in Israel** are based, to a considerable degree, on collaboration between stakeholders in the first three stages of the process — *raising the issue, collecting information and analyzing information* — with the most frequent pattern being that of *information transmission* by the relevant stakeholders. In the three following stages — *problem definition, formation of alternatives and choice of alternatives* — the pattern most

frequently applied is that of *notice and comment*. At the last stage of the process — *policy decision-making* — the most frequent pattern adopted is that of the *hearing*. At the conclusion of all these stages, *notice and comment* and *information Transmission* are observed most frequently on the formal level.

It was also found that policy formation procedures were located at the borders of the *statist networks* present in every regulatory agency. In agencies with councils or boards at their head — the Israel Securities Authority, the Council of the Second Radio and Television Authority, the Council for Cable Television and Satellite Broadcasting, the National Council for Planning and Construction, the Israel Standards Institute, the Council for Higher Education, the Accounting Standards Board and the Council of Israel Land Administration — *corporatist* or secondary formal *statist* networks were observed in the way it that stakeholder representatives from the respective policy spheres and interest groups met together with government representatives. Within the Israel Standards Institute, a tertiary status network was identified of the *pressure group* type.

1.2 The operative practices on the informal level are based on collaboration between stakeholders. In the first three stages of the process, the most frequent pattern used on the informal level was *consultation*; at the fourth stage – definition of a problem – the most frequent pattern was *consultation* and *reg-neg*, whereas at the last three stages, the most frequent pattern was again *reg-neg*. At the conclusion of all the stages, the most frequent patterns employed on the informal level were *consultation* and *reg-neg*. It was also found that informal procedures for policy formation were located at the borders of informal *issue networks* contingent to all regulatory agencies.

2. The gap between the formal and the informal level of policy formation is quite blatant. Whereas the formal level is characterized by uni-directional (that is, no reciprocity and no negotiation) stakeholder participation, the informal level is characterized by collaboration and bi-directionality (high reciprocity). In addition, the identity of the leading actors involved contributes to the differentiation between the two levels: Ministry of Finance senior officials are the most frequently observed governmental actors in formal policymaking, together with the Manufacturers Association of Israel the major non-governmental actor. Within the context of formal processes, government ministers (with no one minister more salient than the other) and Knesset members (who are rarely if ever involved in the formal level) act as governmental actors, whereas in informal processes, lobbyists (who are never involved in formal proceedings) and the

heads of the Manufacturers Association of Israel are the major non-governmental actors.

We can nevertheless distinguish between wide ranges of processes enacted by regulatory agencies. Each agency initiates a formal and informal process amenable to her needs and to the period in question and, in effect, no two or more agencies were found in that performs similar processes. It appears, however, that the diversity and variance between the processes remain within a cross-sectional and comparative framework approximating one or another of the institutional characteristics presented at the outset of the research: the gaps found in every agency between the formal and the informal level (the horizontal gap) between the formal levels (a vertical gap), between the informal levels (a vertical gap) and even the variance between the formal and informal gaps, also observed in each and every agency (the vertical comparison) — all these materialized in each of the mapping contours.

3. Involvement of the non-organized public in regulatory policy formation in Israel

is observable only on the formal level and according to *information transmission* patterns. Citizens turning to regulatory agencies with requests to receive information on branch or industry activities and the monitoring arrangements practiced are found to forward complaints on various consumer issues and to sometimes transmit recommendations or comments regarding one or another facet of branch or industry activity. This involvement is added to the other sources of information reaching the regulator's desk; as such, these efforts often result in placing the respective issues on the regulator's agenda. With respect to the non-organized citizen, no other form of involvement and certainly not in any salient format, whether in the possible collaborative patterns or in the advanced stages of the process, was identified in any of the agencies surveyed. Within the framework of informal processes, involvement by the non-organized public was totally absent.

Given the above, we can conclude that the first three research questions were fully confirmed: (a) formal policy making in Israel's regulatory agencies is highly diversified; (b) the gap between formal and informal processes is not fixed and usually large; and (c) formal decision making is characterized by rigidity and non-collaboration with governmental stakeholders whereas informal decision making is characterized by flexibility in the dynamic collaboration of non-governmental stakeholders. The fourth hypothesis was only partially confirmed: non-organized individuals participate in formal processes among 13 (within 15) regulatory agencies, and consistently in the information transmission patterns employed in the first two stages of the policy formation process.

Summary and Recommendations

The phenomenon studied, as indicated by the findings, exhibits several fundamental characteristics. First, regulatory agencies in Israel do not maintain a uniform of conception of the policy formation process. Each agency, it appears, devises a process appropriate for its own needs although this invention represents little more than the product of internal procedures but not of advanced thought or planning. The second characteristic is the involvement of governmental and non-governmental stakeholders in policy formation but this, as well, is not a systematic or consistent course of action; it certainly does not obligate the agencies regarding future practice. The appointment of Jane Doe to the position of regulator in place of John Doe usually represents an opportunity to introduce different practices. Yet, even these will be considered binding (if it all) only during the tenure of the initiator.

The third and perhaps most salient characteristic is the dominance of the informal practices that influence regulatory policy formation. All regulatory agencies are surrounded by broad and informal issue networks that facilitate encounters between stakeholders, the majority of whom have considerable political and/or economic power. In the opinion of the interviewees, this dominance is expressed in the time invested in nurturing personal relationships within the framework of the network and by the tendency to consolidate reciprocities, captured in a *quid pro quo* culture. Nevertheless, it was found that the collaboration of the regulators themselves with the informal networks is not self-evident. In the majority of agencies, regulators were found to be passive and indifferent to attempts at indirect influence. The very opposite appears to be true: a “balance of terror” has apparently been achieved between the non-governmental stakeholders, politicians and lobbyists on one side of the scales, with regulators on the other. The former maintain regular interactions that are not, apparently, dependent on the policy realized in particular agency; they can therefore devote their energies to promoting general legislation meant to “educate” regulators as to the type of policy that they are expected to execute within the domain of their responsibility. The latter, the regulators, hold extensive authority but are aware of the reciprocities described here and therefore view informal interaction in a different light. The maintenance of informal negotiations with the regulated stakeholders that may ultimately, it is assumed, reduce the demands stated in formal policy, may sometimes be the least damaging of the available options. This balance between regulators and the regulated reflects, in essence, persistent attempts of the former to maintain the norms, directives and, most importantly, the authority prescribed within the framework of the formal policy formation process. At the same

time, the latter attempt to reinforce the positions and influence attached to the informal process, where their status is considerable.

It should be noted that this characteristic was repeatedly observed in all the regulatory agencies studied with the exception of the Israel Antitrust Authority, despite the variation in institutional components found throughout. The informal networks took this form, especially regarding reciprocities between non-governmental stakeholders and Knesset members and ministers whether in agencies where a single regulator was subordinate to a Minister, whether a single regulator was subordinate to an administrator/bureaucrat, as well as in agencies where regulatory authority had been delegated to a council in one form or another, and in agencies that were public corporations or those that possessed standard statutory status; those that operated in financial industries, and other that operated in the media, land or agricultural industries.

Based on the findings, an additional and highly significant characteristic observed was the intense involvement of lobbyists within the framework of informal processes. Lobbyists were found to be involved in the majority of the issue networks and were employed, as a rule, to promote the interests of stakeholders less closely associated with decision makers.

The research findings help to clarify the degree of resolve that regulatory agencies display with respect to standards of fairness. The gap between the patterns of behavior frequently adopted on the formal level and those adopted on the informal level all points to the lack of fairness as it is revealed in regulatory policymaking. This is particularly evident in the gap between the involvement of organized stakeholders and the involvement of non-organized public, but especially the involvement of the former on the informal level and the non-involvement of the latter on that level. To be specific: first, the patterns most frequently realized on the formal level of policy making — which at its onset is based on the transmission of information to the regulatory agency by stakeholders and ultimately based on notice and comments followed by hearings — assigns preference to institutional stakeholders (whether governmental or non-governmental) in the face of the non-organized public given that the original announcements regarding regulatory policy is directed at the former but not the latter. The capacity of the non-organized public to be involved in policy making processes reflects the regulatory agency's willingness to accept observations and complaints, primarily in writing, but only at the beginning of the process, the stage which the issue is raised on the agency's agenda.

Second, the appearance of informal networks is rooted in the participants' public-social-economic-political status; hence, no room is left available for the non-organized public.

The circles of proximity frequently found on the informal level do not permit those who are not active politically or who lack personal contacts with senior decision makers or members of the public-economic elite to participate in any of the dynamics described herein. This should be understood from the fact that the definition of the informal level rests on its remoteness from the public eye.

The research findings also reveal the advantages held by a limited group of stakeholders on the formal as well as on the informal level in comparison to other stakeholders, whether governmental, non-governmental but especially members of the non-organized public. On the formal level, the Ministry of Finance is the governmental actor most involved whereas the Israel Manufacturers Association is the non-governmental actor most involved. On the informal level, ministers and Knesset members are the governmental actors most frequently involved whereas lobbyists and the Israel Manufacturers Association are the non-governmental actors most frequently involved.

These findings support the conclusion that formal regulatory policy making, but especially informal processes, are “unfair” as they enable strong actors — a condition resulting from control over information and organizational status, whether public or political — to intimately and enduringly influence the entire policy making process. I would like to state, first, that these processes are "unfair" because their contours, as indicated by the findings, are unsubstantiated according to any standard, legal, regulatory, administrative or public. In the absence of any definitive descriptions of the practices employed by the agencies, I would set those practices against the standards dictated by the principle of *ultra vires*. Second, I wish to say that these processes would still be considered "unfair" even if they were grounded in law, regulation or administration because it is doubtful that they would stand the test of fairness on the public level given their structural lack of transparency. This is especially so in the absence of any mechanism of accountability, that is, for the detailed reporting of the practices themselves and of the criteria at their foundation and how they apply to regulatory policy. Third, I would say that these processes are unfair even if they were transparent and fully reported as long as the informal level as described in the research continues to function.

Therefore, because unfairness is inherent in regulatory policymaking might be considered legitimate — not to mention legal, constitutional or moral — we should consider the justification of that position according to the criterion of efficiency. That criterion requires us to prove beyond any reasonable doubt that any change in the existing system will undermine its efficiency beyond what is required. In other words, regulatory agencies must prove that the benefits gained from a fairer process, one that is more deliberative

and collaborative, falls below the damage done to efficiency or the public interest were the situation to remain unaltered.

Based on the research findings, we list the crux of our recommendations for system reform based on the goal of introducing fairness into regulatory policy formation and reducing the influence exerted by informal networks on the process.

1. Transparency should be reinforced in all regulatory agencies. Within this framework, regulators are to be required to hold public hearings regarding as many issues as possible and to avoid doing so only under unusual conditions or only with the approval of a Knesset committee or the relevant court.
2. The possibility of reducing regulatory council size in light of the difficulties of enforcing transparency should be investigated. In councils having more than 5 members, it is extremely difficult to ascertain which considerations were weighed by each member. Delegation of regulatory authority to a small team of decision makers will facilitate the legal assignment of responsibility for transparency on team members. Most important, such a step will facilitate enforcement through public oversight.
3. Delegation of regulatory authority to a single regulator should be avoided. Under such circumstances, it is advisable to subordinate that regulator to a professional court in the regulator's domain.
4. Regulatory agencies should be freed from government subordination. Establishment of independent agencies by implementing items 1-3, above, is likely to promote fairness in the regulatory process.
5. Preliminary legislation should be passed to require each regulatory agency to develop an individual, internal model of policy formation.
6. Each agency is to develop an open model of consultation as far as feasible. In the framework of this model, regulators would integrate stakeholders and weigh their arguments, the data and interpretations presented. Decision making responsibility would be assigned to the regulatory agency exclusively.
7. A review of the regulator appointment process should be initiated with the goal of introducing uniformity. It is advisable for the candidates for the position of regulator to appear before the appointing body in the framework of a public hearing.
8. The regulator's term of office should be set as such the reasons for her release from office. We recommend that a term of office be not less than four years and not more than seven years. In cases where regulatory authority is delegated to a council or committee, we recommended that member appointments be staggered.

9. The regulatory agency's budget should be separated from the government budget and treated as a distinctive budget item because financial independence is a necessary condition for substantive regulatory autonomy.
10. Lobbyist obligations and responsibilities should be anchored in legislation within respect to their representation activities.
11. The obligation to compile policy performance and success measures and publishing them annually should be imposed on every regulatory agency.

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