

XVI^e Journées d'histoire de la comptabilité et du management
Nantes, 23-25 mars 2011

XVI^e Journées d'histoire de la comptabilité et du management
Nantes, 23-25 mars 2011

The State and/of Accounting Regulation

David Alexander
University of Birmingham,
Birmingham Business School
Edgbaston
Birmingham
B15 2TT
Tel: +44 121 414 8027/6530
Fax: +44 121 414 6678

Email: d.j.a.alexander@bham.ac.uk

Stefania Servalli
Università degli Studi di Bergamo
Via dei Caniana, 2
24127 Bergamo (Italy)
Tel. +39 035 2052591
Fax +39 035 2052549

Email: servalli@unibg.it

The State and/of Accounting Regulation

Abstract

The analysis of the role of the State within accounting regulation represents a field of research where the social sciences need to over-ride a mere geographical view to embrace also a historical perspective, in order to understand the sense of changes with their opportunities and limits. Perhaps an awareness of historical specificity has never been so important an input into trying to make sense of the apparently ever-increasing complexity involved in these issues.

Building on this framework, our first research question can be simply stated: to what extent, and how, should the State be involved in the regulation of financial accounting and reporting? We begin with a historical and conceptual analysis of “State” and “accounting”. We continue with our second research question: how can you judge the “legitimacy” of the source of the accounting regulation? We explore “legitimacy” at a macro and an organisational level, both in principle and as applied to accounting regulation.

The contemporary reflex of this historical analysis is linked to some recent literature and political polemic relating to the role of, and inter-relationships between, the IASB (a private sector organisation to its very core), investor/creditor/fiscal/legal/prudential regulation stakeholders, and “due process”.

Our essential conclusion is that self-interested interference is endemic, is actively facilitated by “due process”, and that, crucially, a necessary (but not sufficient) condition of effectively dealing with this problem is to ensure that “the State”, whilst maintaining an essential overall monitoring role on the fundamental effectiveness of the process, is allowed, whether in the guise of elected representatives or otherwise, zero influence in the details and operational content of financial accounting and reporting regulations for market-based resource-allocation-focussed information.

Key words: State, accounting regulation, legitimacy, IASB

L'Etat et /de la réglementation comptable

Resumé

L'analyse du rôle de l'Etat dans la réglementation comptable représente un champ de recherche pour lequel les sciences sociales ont une nécessité de dépasser une vue simplement géographique afin d'intégrer également une perspective historique. Ceci afin de comprendre le sens des changements avec leurs opportunités et leurs limites. Il est possible que l'inclusion d'une conscience historique spécifique n'ait jamais été aussi cruciale afin de parvenir à comprendre l'apparente complexité croissante induite dans ces questions.

Dans ce cadre, le premier objectif de la recherche peut être simplement énoncé: à quelle extrémité, et comment, l'Etat peut-il être chargé de mettre en place les règles de comptabilité financière et d'audit? Nous commençons avec une analyse historique et conceptuelle des concepts d'« Etat » et de « Comptabilité », suivit d'une seconde investigation concernant la légitimité même du législateur dans le cadre de la comptabilité financière. Nous explorons le concept de « Légitimité » à deux échelles, d'abord globale puis à celle de la structure, à la fois dans les principes et appliquée aux règles comptables.

L'application contemporaine de cette analyse historique est alors mise dans le contexte de travaux récents et de polémiques politiques concernant le rôle et les relations mutuelles entre l'IASB (un organisme privé), les différents partis intéressés (investisseurs/créditeurs/imposition/législateur et assureur) et les procédures normales.

Notre principale conclusion est que l'influence de l'intérêt particulier est endémique et grandement facilitée par les procédures normales. Une condition nécessaire, mais cependant non suffisante, afin de traiter ce problème, est que l'« Etat » ne soit autorisé à aucune influence dans les détails et le contenu opérationnel de la comptabilité financière et des règles d'audit – et ce, que ce soit sous la forme de représentants élus ou de toute autre forme - tout en maintenant un rôle essentiel de contrôle de l'efficacité des procédures.

Mots clés: l'Etat, réglementation comptable, Légitimité, IASB

The State and/of Accounting Regulation

If I had to choose between betraying my country and betraying my friend, I hope I should have the guts to betray my country

E.M. Forster (1951): Two Cheers for Democracy: What I believe.

An argument can be made that social science has been too geographical and not sufficiently historical, in the sense that geographical assumptions have trapped consideration of social and political-economic processes in geographical structures and containers that defy historical change.

J. Agnew (1995): The hidden geographies of social science and the myth of the 'geographic turn'

1. Introduction

This paper explores the problematic relationship between "the State" and "accounting regulation". We attempt a "first principles" approach, necessitating a historically-based investigation of the notion of State, which reveals deep-seated dichotomy and disagreement (section 2), and of accountancy, which again reveals major differences (section 3).

In this context, our first research question can be simply stated: to what extent, and how, should the State be involved in the regulation of financial accounting and reporting? In particular -dealing with phenomena that have generated a denationalisation of the State and a destatisation of the political system, involving a series of delegation of the State's powers to different levels – we put a second research question, that is "how can we judge the legitimacy of the source of accounting regulation?" (section 4).

We then critically discuss some recent "Critical" discussion regarding public sector involvement in section 5, before pulling all the ideas and issues together in section 6. In

particular, we consider some recent literature and political polemic relating to the role of, and inter-relationships between, the IASB (a private sector organisation to its very core), investor/creditor/fiscal/prudential regulation stakeholders, and “due process”.

We show throughout the vital importance of a historically-informed time and place specificity and awareness. Our conclusions are not optimistic, as major inconsistencies, incompatibilities and logical impossibilities are being widely ignored. We hope that our attempts at rigorous analysis will help to show the way towards practical improvement.

2. The notion of State

The notion of State is surprisingly difficult to comprehend and explain. Perhaps more precisely, there are different, and highly incompatible, notions of State, each easily understood by its adherents but less comprehensible to others. Our outline is based first on Cassese (1986), whose title (“The Rise and Decline of the Notion of State”) can be taken as a neat nine-word summary of the position.

Essentially, a State is an artificial legal person, distinct from both society and government. Of necessity, the State operates through natural persons, who hold office within a specified organ of the State. The office (Cassese, 1986: p.122)

is distinguished from the holder of the office, what belongs to the office from what belongs to the holder of the office, and so forth. These distinctions favour the development of the theory of the public organ (which presupposes a trilateral relationship between the legal person, the organ and the office holder) as opposed to the theory of representation (which presupposes a bilateral relationship between representative and represented). To ensure that the activity of the organ is referred to the state, recourse is made to the theory of imputation, whereby actions performed by organs of the state are imputed to the state, and the same with their effects. If a ministry, an organ of the state, enters a contract, it is binding on the state, not the organ, and still less the official.

Cassese further quotes Kelsen (1949: 191), as follows (p.122)

To impute a human action to the state, as to an invisible person, is to relate a human action as the action of a state organ to the unity of the order which

stipulates this action. The state as a person is nothing but the personification of this unity. An 'organ of the State' is tantamount to an 'organ of the law'.

Considering the State as a legal person, more precisely as a corporation that possesses a legal *persona* of its own, Van Creveld (1999: 1) points out that it differs from other corporations for three aspects. First, the State authorises all other corporations but is itself authorised/recognised only by other corporations of the same kind, second, certain of its functions, known as attributes of sovereignty, are exclusively reserved to it, and third, those functions are exercised over a defined territory where its jurisdiction is exclusive and all-embracing.

The State, then, is a legal construct or it is nothing. It perhaps reached its high point in France and Spain in the sixteenth century, when these two countries became legally and politically unified, and in Germany and Italy, neither unified until the second half of the nineteenth century, some three hundred years later. Complex legal doctrines emerged, controlled, of course, by lawyers. Note that the countries mentioned all have Roman law based legal systems.

In the UK, and therefore in its former colonies (such as the United States (sic) of America), none of this happened, essentially simply because there was no need for it. As Cassese puts it (1986: 123)

Here "self-regulation by society" (Badie and Birnbaum, 1979: 222-226) holds sway. There is a strong tradition of self-government; for many centuries there was no administrative law, because public bodies were subject to common law. In Great Britain, it has been said, the state is an illegitimate historical concept.

Cassese also states in his footnote 7

To grasp how incomprehensible the theory of the state is for English thinkers, see Maclver (1927 (sic): 452) – "a grove of trees is not a tree, nor a colony of animals itself an animal. It is no less absurd to think of a society of persons as a person"¹.

Our heading quotation from Forster is redolent of this attitude. It follows from the above that the “notion of State”, in meaning, implication, and (lack of) significance, is specific both in time and space. In a historical (time) perspective the concept of State is relatively recent. In fact, during pre-history and most of the history even if there were communities of people living under a set of common rules, the notion of State, in the sense here considered, was unknown². For a long period of the history of human beings there were pre-state political communities of different kinds, such as tribes without rulers, tribes with rulers (chiefdoms), city-states, and empires (Van Creveld (1999: 2-52)). Indeed, structures close to some of these can still be found today.

The main limit of this pre-state era, characterised by the absence of the State as a legal *persona*, is the incapability of developing a precise distinction between government and ownership and the consequent confusion between public and private ambit. If, during feudalism, government was shared among many different rulers connected to each other by fealty links, the modern state project intended to substitute these situations of overlapping jurisdictions through the creation of a centralised State.

The theory of sovereignty, asserting the supremacy of the government of the State over people, things and all kinds of authorities within a territory, underpinned the institution of centralised State which was “sovereign”, commanding without being commanded, and “absolute”, as not accountable to others but itself (Anderson, 1996, Axmann, 1996). The Treaty of Westphalia at the end of the Thirty Years' War (1648) represented a fundamental moment in this sense, as it recognised State autonomy from external influences in religious issues, determining a shift in power equilibrium between State authority (territorially based) and confessional groups (religious based), in favour of the former (Axmann, 2004: 260). During this period the sovereignty is exercised over people and resources within a specific territory with recognised boundaries (territorial State).

In the 19th century, the 'nation' was the unitary element in which sovereignty had to be located (nation-state). It was the period of the strict nexus between State and society, characterised by a political nationalism aiming to create a national-societal identity. This political nationalism was united to a nationalisation of culture which became 'territorialised'/'nationalised'. This situation generated a cultural homogenization within each different nation-state that will be at the origin of the cultural diversity at the moment of universalization of the nation-state model (Axmann, 1996).

During the 20th century, we see a global diffusion of this idea of the nation-state, with the legitimation of the sovereign nation-state as a key aspect of the world system. The sovereign 'nation-state' represented the "ultimate power" allowed to impose order within a defined territory, to defend both territory and people and with an authoritative role of representation abroad (Axmann, 2004: 262). To generalise, with some more details, as underlined by Parekh, a modern state should possess these six features:

First, it should be territorially distinct, possess a single source of sovereignty, and enjoy legally unlimited authority within its boundary. Second, it should rest on a single set of constitutional principles and exhibit a singular and unambiguous identity ... Third ... [it] represents a homogeneous legal space within which its members move about freely, carrying with them a more or less identical basket of rights and obligations. Fourth ... all citizens are directly and identically related to the state, not differentially or through their membership of intermediate communities. Fifth, members of the state are deemed to constitute a single and united people ... Sixth and finally, if the state is federally constituted, its component units should all enjoy the same rights and powers (Parekh, 2002: 41–42).

This list perhaps presents a rather theoretical picture, and it is not difficult to postulate possible uncertainties of application. Particular examples in this sense are the State where the source of power comes from religion, for example the Government of Tibet. A particularly apposite issue for our purposes, as later further developed, concerns the European Union, which we use as a contextual example. Certainly this is not "a State" in the Parekh sense, but equally clearly it seeks to empower itself with significant elements pointing towards these features³. This is an example of the way in which in recent years the 'nation-state' concept

has met structural transformation towards an international dimension, whose fundamental processes are internationalization of problems, societies and political decision making (Goldmann, 2001: 178 ss.). As underlined by influential authors, the structural effects on the State of internationalization are mainly referable to a 'denationalization of the state' (Jessop, 1997: 573, Jessop, 2002: 195, Brenner, 1999: 52-53, Sassen, 1996) and 'destatization of the political system' (Jessop, 1997: 574, 2002: 199).

The 'denationalization of the state' is linked to the territorial and functional reorganisation of (old or new) State capacities on supra-national, national, sub-national and trans-local levels, with upward/downward/outward delegation of State powers. Upward delegations relate to supra-regional or international bodies, downward delegations relate to national/urban/local levels, while outward delegations relate to relatively autonomous cross-national alliances among regional States characterised by complementary interests (Axmann, 2004:269). It is consistent with, and illustrative of, this increasing flexibility and fluidity over recent times that the European Union can be analysed applying many of the general issues raised here.

The 'destatization of the political system' is a stronger effect, linked to a strategic reorganisation that involves a change from government to governance (Axmann, 2004:269).

More specifically, using Jessop's words:

While denationalization concerns the territorial dispersion of the national state's activities . . . destatization involves redrawing the public-private divide, reallocating tasks, and rearticulating the relationship between organizations and tasks across this divide on whatever territorial scale(s) the state in question acts. (Jessop, 2002: 199)

The significance of these issues, considered in a historical framework, supports the importance of a proper historical consideration as recommended by Agnew in our second heading quotation. Specific reflections about these effects relating to accounting regulation will be later expressed in the paper.

As already recalled the notion of State is not only time specific, but also space specific. The specification of space follows from the simple historical fact that communities have developed over time in a relatively fixed and specific physical area. Contact within a community was likely to be close, and contact and influence from other communities outside was likely to be infrequent or effectively non-existent. Each distinct community, therefore, developed its own culture, way of life, and mode of community organisation. Without major outside influence, such developments would, over time, 'go their own way', leading to sometimes significantly different 'accepted norms' on, *inter alia*, the role of, and notion of, the State.

These differences are still very significant today, as Cassese illustrates. The increasing cross-nation contact and influence, and the need for cooperation and some degree of harmonisation, have thrown such differences into high relief, but have often not significantly lessened their impact or their importance. It is not meaningful to refer to the notion of State without clearly defining the spatial context within which the discussion is taking place.

Today there is a multiplicity of artificial legal persons within the nation-State, and an increasing number of artificial legal persons above the nation-State. Further, the notion that the imputation of (ultimately) absolute, and legally derived and legally enforceable, power to "the nation State" is irrational, unnecessary, open to abuse and perhaps even (Cassese p.123) "illegitimate", is increasingly widespread.

Since, like any artificial human (social) construct, the "notion of state" is dependent on perceptions of legitimacy, usefulness and acceptability by populations at large, Cassese's title is rationalised. The implications of the widely divergent views discussed above regarding the centrality of, or the irrelevance and even illegitimacy of, the notion of State in the context of accounting regulation are considerable as will emerge below (section 4).

After pointing out that the State is a time/space specific notion, it is important to underline that on one hand interaction among States has been amplified under the impact of global processes and on the other an increasing fragmentation has been realised as a consequence of trends towards decentralisation (Reis, 2004, Rosenau (1984: 257)). All these dynamics are altering the nature of State sovereignty, as well as the significance of territory and the meaning of political and economic space, transforming States and their role (Ferguson and Mansbach (2009: 17)).

On this subject, Sassen (2006) underlines that if during the last centuries there was a growth of the national public realm, a U-turn has been realised in the last few decades, with a growth of private forms of authority in areas previously exclusive to the State and public domain (p.192). Specific implications about impacts of this change regarding accounting regulations will be analysed in section 5.

3. Accounting and its objectives

It is axiomatic that the need for accounting regulation arises from the necessity for business entities (in the widest sense of both the words business and entities) to report to the community at large. It can be seen as an important subset of the more modern concepts of corporate governance. A corporation uses and controls a large variety of scarce resources which therefore become unavailable for alternative uses (or deliberate preservation) by the community, and in this sense the corporation and its operatives (especially managers) are *accountable* to the community. It should not for a moment be assumed that the accountability should, or could, be restricted to that which is measurable in money terms. Definitions of corporate governance seem surprisingly diverse. See for example Solomons (2007: 13) for a selection. Some definitions limit the focus to shareholders, which we find unacceptable. Tricker (1984) and Cannon (1994) seem appropriately broad (see Table 1). In summary, corporate governance may be taken as that which is necessary for an economic entity to be satisfactorily accountable to the community within which it is

embedded, and which provides or sacrifices the resources used by the entity. The vagueness of this statement is very deliberate.

Accounting is perhaps rather easier to delimit, but not necessarily easier to precisely define.

Table 1 gives what we regard as a good definition, within an Anglo-Saxon context, as quoted in Alexander and Nobes (2007: 4). It should be particularly noticed that there is no suggestion, whether explicit or implicit, that accounting is or should be focussed on investors.

Table 1: Some Anglo-Saxon definitions

corporate governance

...the governance role is not concerned with the running of the business of the company *per se*, but with giving overall direction to the enterprise, with overseeing and controlling the executive actions of management and with satisfying legitimate expectations of accountability and regulation by interests beyond the corporate boundaries (Tricker, 1984).

...the governance of an enterprise is the sum of those activities that make up the internal regulation of the business in compliance with the obligations placed on the firm by legislation, ownership and control. It incorporates the trusteeship of assets, their management and their deployment (Cannon, 1994).

accounting

Accounting is a service activity. Its function is to provide quantitative information, primarily financial in nature, about economic entities that is intended to be useful in making economic decisions, in making resolved choices among alternative courses of action.

Accounting Principles Board, Statement No. 4, 'Basic Concepts and Accounting Principles Underlying Financial Statements of Business Enterprises' (New York: American Institute of Certified Public Accountants, 1970), paragraph 40.

In view of the claims made in the literature for very significant progress towards harmonisation in financial reporting, it is instructive to compare Table 1 column 2 with the statement of the objectives of the major harmonising force, the International Accounting Standards Board (IASB), as it itself defines them. See Table 2.

Table 2: Objectives of the IASB

The objectives of the IASB are:

- (a) to develop, in the public interest, a single set of high quality, understandable and enforceable global accounting standards that require high quality, transparent and comparable information in financial statements and other financial reporting to help participants in the various capital markets of the world and other users of the information to make economic decisions;
- (b) to promote the use and rigorous application of those standards;
- (c) in fulfilling the objectives associated with (a) and (b), to take account of, as appropriate, the special needs of small and medium-sized entities and emerging economies; and
- (d) to bring about convergence of national accounting standards and IFRSs to high quality solutions.

Source: IASB Handbook. Preface to IFRS, paragraph 6.

In Table 2 the priority given to investors (participants in capital markets) is clear. So to summarise, “accounting” is narrower than “corporate governance” and “IASB accounting” is narrower than “accounting”.

The above exposition is reflective of general international trends, themselves consistent with and emanating from the Anglo-Saxon tradition. But another very different tradition exists, based in Continental Europe Code Law, namely that accounting is a legally-based activity, not an economics-based activity. Accounting has been described as “the algebra of law” (Garnier, 1947; Baert and Yanno, 2009). Since economic rights and obligations are generally enforceable in law, and civil law issues are frequently economic in nature, the difference may appear largely cosmetic. But attitudinally it can be very significant. The implications of “economic substance over legal form”, or the converse, for accounting and reporting practice, especially if both are strictly and unimaginatively applied, can be enormous as

regards the contents of financial statements. At the local (national) level, tensions and inconsistencies against “international” thinking and practice can be very strong.

A further vital issue with potential significant effect on the regulatory process concerns the different users and uses of financial reports – i.e. the differences, and different needs, of stakeholders. Some commonly suggested purposes are listed in Table 3. It should be noted that the different purposes may lie at very different points on the economic/law spectrum. Also, the importance of any particular purpose, both in absolute and relative terms, is very much time and space specific. Different purposes imply different information content.

Table 3: Some purposes/uses of financial reporting

- | |
|---|
| <ul style="list-style-type: none">- Providers of equity finance- Providers of debt finance- Bankers and other flexible lenders- Tax calculations- Determination of legally available distributable dividends- Preservation of the patrimony of the enterprise- Prudential regulation- Competition policy |
|---|

Source: authors

We can develop some important implications of this from a recent non-Anglo-Saxon source, namely Baert and Yanno (2009). This report of over 160 pages was prepared for the finance and economy commission of the French Assemblée Nationale (the lower and more powerful house of parliament) by Dominique Baert and Gael Yanno, both of them members of that assembly. It explicitly aims to increase political awareness, and to encourage political involvement and intervention. It therefore has the additional advantage of being directly and overtly involved in the political process which, as discussed later, seems more part of the problem than of the solution. A key extract is given in Table 4, in the original and our own English translation.

Table 4 – Extract from Baert and Yanno (2009)

Cependant, tout en levant le voile sur la fiction du patrimoine juridique, l'approche économique de la comptabilité qui est celle des normes IFRS apparaît quelque peu biaisée par l'orientation de celles-ci vers les investisseurs. En effet, il n'existe pas une réalité économique par nature. Comme en physique quantique, les caractéristiques d'un objet varient selon le point de vue, et il y a autant « *d'images fidèles* » pertinentes de l'entreprise que d'utilisateurs de la comptabilité. Les normes IFRS ne donnent donc à voir qu'une certaine réalité économique, celle propre à satisfaire les besoins d'informations des seuls investisseurs ; mais rien ne dit que les autres utilisateurs de ces normes y trouveront leur compte.

However, while lifting the veil of the legal patrimonial fiction, the IFRS economic approach to accounting appears somewhat biased by its orientation towards investors. Indeed, a single natural economic reality does not exist. As in quantum physics, the characteristics of an object vary depending on the point of view, and there are as many "true and fair views" relevant to an enterprise as there are users of the accounts. The IFRS standards only give one particular economic reality, that which satisfies the information needs of individual investors, but nobody can say that the other users of the accounts will find their requirements there.

This document develops the position that French accounting is significantly legalistic ("l'algèbre du droit"), detailed in its rules, bureaucratic, not pro economic thinking, and not pro Anglo-Saxon. Having said that, two caveats must be noted. The first is that the legalistic approach to the net assets is twice referred to as a fiction. The implications are unclear, as the significance of this "fiction" for French thinking continues to be emphasised.

The second point, which is central to our entire philosophy, is the explicit recognition that there is no "natural" economic reality at all, that there are many "true and fair views", and that a presentation which may absolutely genuinely represent a true and fair view for an investor, may simply be misleading, or useless, for different users and purposes.

It is interesting to note the closing words of the quotation: “but nobody can say that the other users of the accounts will find their requirements there”, because of course the IASB does say precisely this in the Framework paragraph 10, claiming that

As investors are providers of risk capital to the entity, the provision of financial statements that meet their needs will also meet most of the needs of other users that financial statements can satisfy.

This surely blatant *non sequitur* is watered down in the proposals for revising the Framework. The May 2008 Exposure Draft: Conceptual Framework for Financial Reporting, Chapter 1 paragraph OB 2 states:

The objective of general purpose financial reporting is to provide financial information about the reporting entity that is useful to present and potential equity investors, lenders and other creditors in making decisions in their capacity as capital providers. Information that is decision-useful to capital providers *may* also be useful to other users of financial reporting who are not capital providers (emphasis added).

A further complication is introduced in that the IASB has issued a standard whose title is “International Financial Reporting Standard (IFRS) for Small and Medium-sized Entities (SMEs)”. Section P8 clarifies: «General purpose financial statements are those directed to general financial information needs of a wide range of users who are not in a position to demand reports tailored to meet their particular information needs». Section P11 specifies: «SMEs often produce financial statements only for the use of owner-managers or only for the use of tax authorities or other governmental authorities. Financial statements produced solely for those purposes are not necessarily general purpose financial statements».

Putting these recent IASB statements together, the implications are surely clear:

- IASB is concerned only with general purpose financial statements, focused on decision-making capital providers (where capital means finance not equity),
- SME financial statements may not be general purpose, therefore,
- IFRS, in such cases, are not relevant to SMEs.

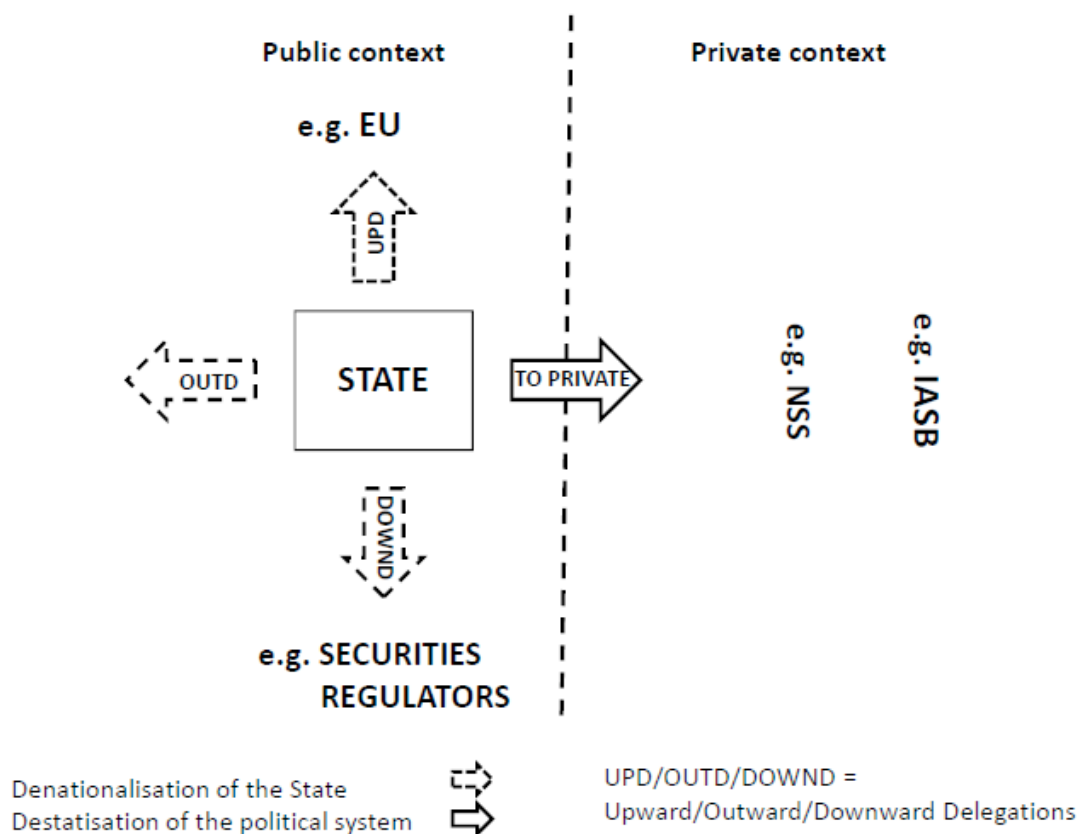
A major conclusion for section 3 is that the validity of financial reporting is linked closely to the needs of and the context of users. This is fundamentally a pragmatic issue, but a more formal and theoretical concern relates to the legitimacy of the reporting regulations and of the regulator. We address this consideration, linked to our second research question, in section 4.

4. The legitimacy of the Accounting Regulation

Historically, as underlined by Oguri (2005: 91), the first stage of the development in accounting regulation took place in the ambit of 'micro-accounting regulation', considered as the regulation related to the function of dividing profits among the interested subjects, (such as stockholders, creditors and managers); i.e an accounting regulation whose main focus is on measuring profits and calculating distributable income (p. 89). The second stage was characterised by 'macro-accounting regulation' which concerns the function of allocating economic resources in the capital market, by influencing the investors' decision-making (p.90). The 'macro-accounting regulation', regulating accounting information in this sense, influences macro-societal policies, such as the ones referred to taxation, to wage bargaining, and, more in general, to economic restructuring (Chua, 1986: 623).

On the one hand the 'macro-accounting regulation' has become more relevant in recent years, on the other hand this kind of regulation is itself giving way towards a 'global macro-accounting regulation', with a consequent movement beyond the State and its institutions. The issues we are addressing are linked to different kinds of shifts of powers with the consequence that the existing checks and balances systems risk not to be working. As indicated in section 2, the phenomena of the 'denationalization of the state' and the 'destatisation of the political system' involve a wide range of delegations from the State towards different levels and a redrawing in the public-private divide. In accounting regulation these changes towards an international dimension can be synthesised as shown in Table 5.

Table 5 – 'Denationalisation of the State' and 'destatisation of the political system' in accounting regulation



Source: Authors

Considering accounting regulation in Europe, for example, there have been different kinds of shifts. There have been upward shifts from 'nation-state' towards an international public institution with *supra* national features such as the European Union, but at the same time there have also been outward shifts from public towards semi-public/private organisations, such as in the case of a movement from the European Commission to a 'Comitology' system, or for delegation towards a private body such as the IASB or National Standard Setter (NSS). We can assert that accounting regulation represents an ambit where an

effective 'hollowing out of the State' (Rhodes, 1994: 138-139) with negative consequences in terms of accountability is taking place.

In the light of these processes of shifts an extensive debate about the legitimacy of forms of governance beyond the nation-state has emerged. How have these problems been addressed and with what effects on legitimacy?

In the past, the capacity to solve an urgent problem of a community was often based on a concentration of power, as for example in the case of the chief of a village, who could decide everything about the community, representing in this way a mono-institution of governance in that society. The evolution of the relations inside and outside the single communities had determined a differentiation in a series of autonomous/semi-autonomous social, political and economic segments in order to address peculiar problems of that segment (Van Kersbergen & Van Waarden (2004: 156)).

The consequence was the development of specific governance institutions/bodies (states, public administration, associations etc.) in all these segments, characterized by certain forms of concentration of power. However, over time, the risk of an abuse of power or a self-interested use of power have determined the coordination of such concentration of power with systems of checks and balances, even if there exists an intrinsic juxtaposition between them: with few controls the lack of accountability is easier, but with too many, governability, in the sense of capability to act and define policies to solve problems, is harder (Van Kersbergen & Van Waarden (2004: 157)).

Both accountability and governability of an institution/body affect (input/output) legitimacy of its power, whatever is its position within the complete scenario. In fact, an institution/body

can be legitimated by its capability to perform (output legitimacy), or by the existence of a decision making process based on forms of accountability (input legitimacy).

Considering the accounting regulation, the long history of this area of regulation shows that financial reporting could be regulated in a number of ways, including:

- legislation, such as Companies Acts and Commercial Codes;
- other rules issued by departments of government (such as a Ministry of Finance) or by committees operating under their control;
- rules from governmental regulators of stock exchanges;
- rules of stock exchanges;
- accounting guidelines or standards issued by committees of the accountancy profession;
- accounting guidelines or standards issued by independent private-sector bodies acting in the public interest, or other non-governmental (private sector) sources.

Here again, traditions differ widely in different countries and contexts. In each historical moment, whatever the source or sources of financial regulations are, it is essential that they are regarded as *legitimate* by both preparers applying the regulations, and stakeholders using this resulting information.

Legitimacy is an elusive concept to define with any precision. The ultimate test is a pragmatic one. Do the necessary parties in practice accept that the regulations have legitimacy, and are valid and should be followed?

Suchman (1995) proposes what he describes as:

an inclusive, broad-based definition of legitimacy that incorporates both the evaluative and the cognitive dimensions and that explicitly acknowledges the role of the social audience in legitimation dynamics.

Legitimacy is a generalised perception or assumption that the actions of an entity are desirable, proper, or appropriate within some socially constructed system of norms, values, beliefs, and definitions.

Legitimacy is generalised in that it represents an umbrella evaluation that, to some extent, transcends specific adverse acts or occurrences; thus, legitimacy is resilient to particular events, yet it is dependent on a history of events. An organisation may occasionally depart from societal norms yet retain legitimacy because the departures are dismissed as unique. Legitimacy is a *perception or assumption* in that it represents a reaction of observers to the organization as they see it; thus, legitimacy is possessed objectively, yet created subjectively. An organization may diverge dramatically from societal norms yet retain legitimacy because the divergence goes unnoticed. Legitimacy is *socially constructed* in that it reflects a congruence between the behaviours of the legitimated entity and the shared (or assumedly shared) beliefs of some social group; thus, legitimacy is dependent on a collective audience, yet independent of particular observers. An organization may deviate from individuals' values yet retain legitimacy because the deviation draws no public disapproval. In short, when one says that a certain pattern of behaviour possesses legitimacy, one asserts that some group of observers, as a whole, accepts or supports what those observers perceive to be the behavioural pattern, as a whole – despite reservations that any single observer might have about any single behaviour, and despite reservations that any or all observers might have, were they to observe more (emphasis original).

Suchman continues to distinguish three “broad types” of legitimacy, as follows:

- Pragmatic legitimacy is created by the self-interested calculations of the audience or stakeholder concerned. To put the point crudely: if I benefit, I accept it;
- Moral legitimacy “reflects a positive normative evaluation of the organisation and its activities”. Things are ‘done right’ within the parameters of the socially constructed value system of the community (or the individual);
- Cognitive legitimacy implies positive acceptance of legitimacy of an organisation because it is seen as natural, necessary or inevitable based on some taken-for-granted or generally accepted cultural account. In simple terms: I understand it and it seems sensible within my world view, so I accept it.

Any and all of these considerations may be relevant in the context of accounting regulation.

A further distinction is particularly apposite in the context of democratic regulation of an area involving detailed specific knowledge. This may be characterised as technical versus political legitimacy (e.g. in Colasse and Pochet, 2009a, 2009b). Technical legitimacy has as a necessary condition that the source of regulations is perceived as having the technical knowledge and expertise to produce 'good' regulations. Political legitimacy requires that the source of regulations is seen in some sense as adequately accountable (whatever precisely that may mean) to the community in which it operates. These two desirable attitudes may well have significantly conflicting implications.

The need to consider legitimacy requires to underline that an investigation about legitimacy is certainly linked to the concept of domination, and as a consequence, considering the specific issues involved in this paper, the nature of domination beyond the State. The Weberian concept of domination (*Herrschaft*) as 'the probability that a command with a given specific content will be obeyed by a given group of persons' (Weber, 1978: 53), allows an interpretation of domination not as universal and all-including, but rather as issue-specific and fragmented (Steffek, 2003).

As a consequence, if the State domination over citizens is the most inclusive kind of domination, in general every subject is however embedded in many different and overlapping domination relationships, including fragmented and issue-specific forms that characterise the international domination.

In such international context of domination the strong voluntary aspect in rule creation and acceptance implies a strong dependence of the legitimacy beliefs of the ruled subjects under this domination, that rely upon the 'rational-legal' type of legitimacy that characterises bureaucracies inside the Weberian analysis (Weber, 1978, p. 215; Steffek, 2003, pp. 260-261). In this sense an act of rule-making must be based on 'rationally debatable "reasons"',

i.e. on a legal process of giving rational reasons for every single act. This means, recalling Habermas, that

The validity claim of norms is grounded not in the irrational volitional acts of the contracting parties, but in the rationally motivated recognition of norms, which may be questioned at any time (Habermas, 1988: 105).

Weberian legitimacy of the rational-legal type requires that rules are obeyed on the basis of the believing of the correctness of the process of rule-setting and application.

From this there emerges an international governance characterised by a consensus on the scope, principle and procedures of the domination, a prescribed process (due process) for the rule making/implementation and a justificatory discourse founded on rational assent that links concrete rules to abstract values. All this implies that the *de facto* validity (*Geltung*) of the new social order/domination comes from a conviction, shared by subjects involved, about the normative validity of values (*Gültigkeit*) (Steffek, 2003).

The legitimacy aspects just analysed deal with what may be considered as the 'macro-theory' of legitimation (institutional legitimacy theory) referring to the way of gaining social acceptance by organisational structures, as in the analysis here exposed considering Suchman (1995) and Weber (1978) in particular. There is also another level of legitimacy, a layer down from institutional legitimacy, that is the 'organisational legitimacy', also known as 'strategic' or 'instrumental' legitimacy theory.

This level of legitimacy represents a process "by which an organization seeks approval (or avoidance of sanction) from groups in society", with the consequence that "Legitimation may be necessary to ensure an organisation's continued existence (Kaplan and Ruland, 1991, p. 370). In particular, Dowling and Pfeffer (1975, p. 122) underline that organisations try to establish a congruence between the social values implied by their activities and the norms of acceptable behaviour in the larger social system in which they are embedded, pointing out

that if these two value systems are congruent we can speak of organisational legitimacy, while there is a threat to organisational legitimacy in the presence of a (real or potential) disparity between the two value systems.

As elucidated in the literature (Ashford and Gibbs, 1990; Hearit, 1995), within the organisational legitimation process there are four generally accepted phases: establishing, maintaining, extending (or gaining) and defending legitimacy, which can be extended to include loss and disestablishment of legitimacy (Tilling & Tilt, 2010). We will consider these phases, which literature refers to firms in particular, adapting them to organisations in general.

The establishing phase is linked to the early stages of the development of the organisation and it is referred to issues of competence, considering organisational effectiveness to ensure that the organisation responds to the needs of its target and affords its obligations. For an organisation, the financial viability cannot be the only criterion to judge competence, but, as underlined by Hearit (1995, p.2), it will be necessary to consider socially constructed standards of quality, desirability and accepted standards of professionalism.

The maintenance phase is the one reached after having established the legitimacy and it includes both ongoing performance with positive assurance about the results of the activity and anticipating/preventing attempts towards challenges to legitimacy (Ashford and Gibbs, 1990, p. 183). At the same time, in the light of the dynamism involved in any social constructions this phase requires organisations to change and adapt forms of disclosure towards their target groups (Deegan *et al.*, 2002).

The extending phase is linked to the need of an organisation to extend its legitimacy in a situation of change, as in the case of the entrance in a new sphere of activity or the use of new structures or processes (Ashford and Gibbs, 1990, p. 183). The defending phase refers

to situations when legitimacy is menaced by some kind of incident and it expresses the attempts to respond by the organisation in these cases when legitimacy is threatened or challenged.

Moving from these phases, accounting literature has recently extended the phases involved in this organisational perspective of legitimacy, adding the phases of loss and disestablishment of legitimacy (Tilling & Tilt, 2010). The loss phase is linked to situations or events that determine permanent consequences on the organization eroding its legitimacy. These situations may easily evolve, if not adequately faced, towards a disestablishment of legitimacy, however it is not excluded that they may also be afforded by changes leading to a re-establishment of legitimacy (Tilling, 2004, p. 9).

Institutional and organisational legitimacy implications about accounting regulation within the changing scenario illustrated above will be analysed in section 6.

5. Some critical perspectives on Critical Perspectives

A rather different slant on the arguments we are building up is provided in Chiapello and Medjad (2009). Its scope, its rigorous coverage, and its use of emotive rhetoric are well encapsulated in its Abstract, which we quote in its entirety.

The EU-member States have long intended to harmonise their respective accounting rules in order to facilitate the comparison between European companies. This process was brutally accelerated by a 2002 regulation announcing that as of 2005, listed companies would be required to comply with the accounting standards enacted by the IASB (International Accounting Standards Board), a private body which, until then, had no public mandate.

After having tried to harmonise internally the respective standards of its members, the EU has thus decided to resort to private subcontracting, an even more puzzling decision when one realises that at the time, the EU had simply no statutory control means on the IASB. Building on this striking episode of privatisation of the regulatory process, we first examine the structure and governance of the IASB, and the process leading to the transplantation of its

norms into EU law. In a second part, we argue that while diverse, the reasons behind such relinquishment of public authority lie primarily within the EU itself. In a third part, we show that in the area of accounting, such transfer of competences went well beyond known forms of delegation to private sector. In a final part, we discuss the subsequent – and so far successful attempt of the EU to reassert its authority as well as its agenda in this area.

The French authorship of this paper seems to be broadly consistent with the French authorship of Baert and Yanno (2009) and also of Colasse and Pochet (2009 a, b). A similarity of philosophy is detectable. Perhaps of more fundamental importance, it is surely obvious that the paper takes a particular, and rather extreme, position as regards the alternative views on the concept of State, and the concept of legitimacy, discussed earlier in this paper.

A contrasting view, which some will undoubtedly view as equally extreme, is provided by Solomons (1978).

Solomons quotes Hawkins (1975: 9-11), and then continues, as follows:

“The [FASB’s] objectives must be responsive to many more considerations than accounting theory or our notions of economically useful data.... Corporate reporting standards should result in data that are useful for economic decisions *provided that the standard is consistent with the national macro economic objectives and the economic programs designed to reach these goals.*” And, as if that were not enough, he added that “because the [FASB] has the power to influence economic behaviour it has an obligation to support the government’s economic plans”. [emphasis as in Solomons].

In that last passage, the word “because” is noteworthy, implying as it does that the power to influence economic behaviour always carries with it an obligation to support the government’s plans. Even if the matter under discussion were, say, pricing policy or wage policy or some aspect of environmental protection, the assertion would be open to argument. In relation to accounting, where the end product is a system of measurement, the position which Hawkins urges on the FASB could, I believe, threaten the integrity of financial reporting and deprive it of whatever credibility it now has.

Solomons concludes his paper:

Whatever limitations representational accuracy may have in pointing us toward right accounting answers, it will at least sometimes enable us to detect

a wrong answer. For instance, FASB Statement no. 2, which requires all R&D expenditures to be expensed as incurred, is bad cartography because to represent the value of the continuing benefits of past research expenditures as zero will usually not be in accord with the facts of the situation, however, expedient the treatment may be. Off-balance-sheet financing requires that certain unattractive features of the landscape be left off the map, so that again the map is defective. The criterion by which rules are to be judged is not the effect which they may or may not have on business behaviour. It is the accuracy with which they reflect the facts of the situation.

Conclusion

It is not at all palatable for accountants to be confronted by a choice between appearing to be indifferent to national objectives or endangering the integrity of their measurement techniques. But if the long-run well-being of our discipline is what matters, the right choice should be easy to make. It is our job, as accountants, to make the best maps we can. It is for others, or for accountants acting in some other capacity, to use those maps to steer the economy in the right direction. If the distinction between these two tasks is lost sight of, we shall greatly diminish our capacity to serve society, and in the long run everybody loses.

If the "State" is going to appraise, or seek to determine, the content of laws, rules and regulations, then it needs criteria against which measurement can be made. We now present three example situations.

The first is well-known, from the "IAS Regulation" (European Parliament and Council, 2002). This is the statement that the EU may adopt an IAS only if:

- It is not contrary to the principles of the EU Fourth and Seventh Directives.
- It is conducive to the European public good.
- It meets the criteria of understandability, relevance, reliability and comparability required of financial information needed for making economic decisions.

Of these three criteria, the implications of the first and third are vague, internally contradictory, and highly debatable. The second is either completely meaningless, or is an opportunity for some body (or somebody) to provide a definition in its own selfish interests.

The second example is Article 52 of the Charter of Fundamental Rights of the European Union (2000/C 364/01), which provides a statement of limitations on the individual rights and freedoms supposedly given to European citizens. Sub-paragraph 1 reads as follows:

Any limitation on the exercise of the rights and freedoms recognised by this Charter must be provided for by law and respect the essence of those rights and freedoms. Subject to the principle of proportionality, limitations may be made only if they are necessary and genuinely meet objectives of general interest recognised by the Union or the need to protect the rights and freedoms of others.

Under the Treaty of Lisbon, this Charter is now legally binding on all EU citizens as if it was part of a Treaty itself.

The message is crystal clear. Having spent 51 Articles stating the rights and freedoms of European citizens, Article 52 says that they can be taken away if to do so meets “objectives of general interest recognised by the Union”. Who defines the general interest of the European Union?

The third example is older. Documents exist recording discussions and decisions of the Venezia “Council of 10” which accept that actions in restraint of freedom (explicitly including assassination) are justified for “reasons of state”.

The Reason of State rationale was employed to support the behaviour of governments whose security or existence was threatened, thereby triggering the adoption of transparent or secret politics of necessity, which employed any “tool”, irrespective of any justice, ethics or Christian morality principles, but which was necessary for the protection, presentation and strengthening of the State. It is argued in this study that Machiavellian tenets permeated the early sixteenth century society in Europe and justified and legitimised the premeditated secret decisions taken by the [Council of Ten] to kill or harm the enemies of the Venetian State (Sargiacomo, Servalli and Carnegie 2010).

The three criteria are animals of a similar nature:

- “for the European public good”
- “objectives of general interest recognised by the Union”
- “reasons of State”.

The issue in all three cases is

- what do these phrases mean?
- what are the criteria for determining whether they are applicable?
- who decides on the application of those criteria in any particular situation?

Should we rename the European Commission the “Council of 27”? Presumably the European Court of Justice can determine when the needs of the (European) State can remove fundamental “rights and freedoms”.

The ECJ is of course an important institution within that State itself. Here is an extract from the London Daily Telegraph, 7th December 2009, page B4.

It is the European Court (ECJ) that decides what is “proportional” or “necessary”, and it cannot be trusted. The ECJ behaves like the Star Chamber of Charles I, as I learned following three cases where it rubber-stamped the abuse of state power against whistleblowers Bernard Connolly and Marta Andreasen, and German journalist Hans-Martin Tillack.

Mr. Tillack was arrested by Belgian police and held incommunicado for 10 hours on the basis of a fabricated allegation by two EU officials. Police went through his notes and computers, identifying his network of informants inside the EU apparatus. Mr. Tillack took the case to the ECJ. It ruled in favour of the system. It always does.

This is our new Supreme Court under Lisbon, its jurisdiction vastly expanded from narrow commercial law (Pillar I) to the breadth of Union law (Pillars, I, II, and III) ... Lisbon gives the EU “legal personality” to enter treaties as a state and contains an escalator clause that lets it aggregate further power without need for ratification by national parliaments – it draws charisma (Papal usage) from itself.

French and Dutch voters rejected this leap from a treaty organisation to a unitary state when given a chance in 2005. The revamped version was slipped through by parliaments – except in Ireland, where voters said no, until coerced by events into acquiescence. In Britain, Labour did this knowing with absolute certainty that citizens would have voted no.

The EU has crossed a subtle line. It is no longer legitimate.

Here is one final example of EU double-speak, from para 2 of the Radwan report to the European Parliament (A6-0032/2008).

The European Parliament Notes that the IASCF is a private self-regulatory body which has been given the role of lawmaker for the EU by Regulation (EC) No 1606/2002; underlines that the IASCF/IASB lack transparency, legitimacy, accountability and are not under the control of any democratically elected parliament or government, without the EU institutions having established the accompanying procedures and practices of

consultation and democratic decision-making that are usual in its own legislative procedures...

The latter part is simply an insult to the intelligence. Is this sort of thing supposed to be justified because it is “meets objectives of general interest recognised by the European Union”? McDonald (2000:107) states bluntly that “the European Commission was never intended to fit models of democratic accountability as we might now understand them”. She quotes from an official of an un-named Member State joining the EU in 1995 (therefore not the UK) (2000: 118) “The Commission is childish, male-dominated, very southern and very French”.

It is worth exploring the issue of public interest rather further. The standardisation process is a change that re-shapes socio-economies, where private bodies play a fundamental role. If by one hand the standardisation with its specific aims, as has been underlined,

[...] is a matter of someone wanting to fix the way things exist, not from a viewpoint of the almighty but from someone who lives in the specific background context in which this particular standardization is preferred (Biondi & Suzuki, 2007: 592),

on the other this aspect tends to be disregarded in the name of involved technicalities and of an always asserted and recalled ‘public interest’.

As an evidence of this carelessness we can consider the case of the adoption of IFRS in March 2002, when, despite strong influences on socio-economies, the European Parliament proposed to adopt these standards, almost without a serious questioning, obtaining a vote result of 492 in favour, 5 against and 29 abstentions (Biondi & Suzuki, 2007). The fact that this adoption was then automatically imposed on all EU member countries, with no input whatsoever (whether democratic or bureaucratic) at the national level, is an illustration of the tendency for nation-states to suffer from “upward delegation” of powers and responsibilities to supra-national bodies, as discussed in section 2. Arguably the need for legitimacy and the other issues of “a state” are delegated upwards at the same time.

It seems that the EU political actor has declined its political role at least in debating the adoption of such an important socio-economic accounting framework and a similar conclusion can be asserted for national political actors too, i.e. States. In fact, if large groups of stakeholders (outside the capital market) are individually unable to make their voice heard and have too different kinds of specific interest to ally in order to object to proposals coming from IASB, the States which could claim the political legitimacy to represent all stakeholders have fundamentally renounced this process.

So, the assertion to act in the public interest (see objectives of IASB, Table 2) is an ambiguous expression that induces to ask what is the meaning of the public interest? As Dellaportas and Davenport (2008: 1080) put it:

who exactly is the public, what are the interests of the public, and what does it mean to serve the public interest?

As we have already indicated, it is possible to suggest firstly that the 'meaning' is indeterminate, if not vacuous, and secondly that this very vagueness facilitates the high-jacking of agenda and recommendation to promote narrow, sectional or personal interests – explicitly including those interests of, or more likely presented in the name of, the state.

As Baker (2005:690) puts it:

it is probable that the answers would depend to a large extent on the ideological perspectives of the respondents.

And note this answer given to Hallström during an interview by a IASC expert:

You shouldn't put too much weight on different interest groups, you should be careful with this concept! It's like the medical profession – within accounting we are seeking the truth, not over different interests. We seek the truth for a more efficient capital market. That is what the IASC is doing and not trying to be democratic. The best experts should be there. There are about 50 powerful men and women in the world. And what really is the contribution of developing countries? We know what is best and we can help the rest of the world with our standards. So we shouldn't let developing countries interfere with the technical work. (IASC expert during an interview: Hallström, 2004: 126).

The fact that the “public interest” tends to be ideologically reshaped and reoriented by respondents seems to be clear.

If supranational (e.g. EU) and national political actors (States) have delegated their power in accounting regulation towards private bodies (such as for example IASB), this shift was not a mere delegation to technical bodies, with proper expertises, but a real “shift in governance” (Van Kersbergen & Van Waarden (2004: 152)). It is important to investigate the positions represented inside these private bodies in order to understand the drivers of this reshaping of “public interest”.

Evidence coming from a study conducted by Perry and Noëlke (2005) allows some observations in this sense. Specifically the authors have analysed both IASB Exposure Draft (ED) comment process (from 1 April 2002 to 5 August 2004) and voting-membership of the IASB-EFRAG committees and working groups.

The results of the ED comment process analysis show that the actors that submitted the most comment letters were EFRAG and Association pour la participation des entreprises françaises à l'harmonisation comptable internationale (ACTEO), with a strong presence of Big Four accounting firms, Professional Accounting Associations and Standard Setters. Among the actors present with more than ten comment letters there are few non financial corporations, while only IOSCO is a governmental body.

The mapping of IASB-EFRAG working groups and committees done by these authors, with a network analysis methodology, leads to some interesting results about the democratic legitimacy of the “shift in governance” from public to private authorities in the accounting field. In fact, the Perry and Noëlke findings show that inside the IASB-EFRAG network there is a domination of Big Four accounting firms, an unbalanced influence of the financial-sector

actors and no participation of broad social interest groups (such as for example labour unions).

An interesting insight into some of these considerations is given by the concept of “administrative evil”, as developed by Dillard and Ruchala (2005). Administrative evil “materialises within work organisations”. It (p.609)

emerges from the “rational” practices of modernity, practices that comprise the focus of much contemporary accounting/accounting information systems research and practice. Administrative evil occurs when ordinary people, properly carrying out their organizational responsibilities, engage in acts that deprive innocent human beings of their humanity. Organizational structures and roles prescribe, legitimize, and motivate the actions taken by organizational actors. Control hierarchies predicated on, and legitimized by, appeals to instrumental rationality provide the context for action that sustains the deployment of administrative evil. The “rational” practices of modernity predominately follow the logic of instrumental rationality (e.g. Weber, 1958, 1979; Harbermas, 1984, 1987) as conventionally conceptualized. Instrumental rationality refers to the legitimation of action by appealing to the efficacy of the means employed in achieving the specified end without the need to appraise the legitimacy of the end (Jary and Jary, 1991).

They note that the specification of the public interest is “not unproblematic” (p.610), and propose that

acting in the public interest entails acting in a way consistent with the general well-being of the on-going community and its members.

This of course solves none of the problems of practical determination and implementation.

The human process is described as follows (p.611)

The actor acts responsibly toward the administrative hierarchy by fulfilling task requirements while abdicating any personal or social responsibility, *or accountability*, for the effects of the resulting actions. The socialized actor internalizes organizational values and respects the requirements of legitimate authority. Within these hierarchies, the personal conscience, which is seen as subjective and private, is always subordinated to the structures of authority, which are seen as objective and public (Adams and Balfour, 1998, p.166, italics added).

Dillard and Ruchala apply these ideas in the context of profit-maximising business, though they do recognise (p.611) that

instrumentally rational hierarchical accounting and control systems are no less prevalent and controlling in the public and the not-for-profit sectors (Adams and Balfour, 1998; Broadbent *et al.*, 1991; Dillard, 2002; Dillard and Tinker, 1996).

We ignore their chosen direction of application, and consider instead the relevance to the notion of State. They make the general proposition (p.612) that

[m]oral responsibility is associated with being held accountable for one's decisions and actions and giving reasons that attest to that legitimacy.

Fine, but our key point is very simple. We have shown that the State, by its very existence as a concept, certainly as a legal concept, is designed to deny the need for, even the opportunity for, such accountability, as our theoretical exposition in Section 2 and our examples in this Section both make clear. In the context of the European Union, for example, the elected members of the parliament are in some sense accountable to an electorate (although not properly or directly, because of the proportional representation system). But this does not in any way apply to the bureaucrat, to the "ordinary people, properly carrying out their organisational responsibilities" (Dillard and Ruchala, as already quoted). All this seems in stark contrast to our earlier Habermas quotation that "norms.....may be questioned at any time".

The classic Weber position, whilst perhaps excessively theoretical, strengthens this argument further. Held (1996:167) states as follows.

Bureaucracy develops 'the more perfectly', Weber wrote, 'the more it is "dehumanized", the more completely it succeeds in eliminating from official business love, hatred, and all purely personal, irrational and emotional elements which escape calculation' (Weber 1978, vol II:975).

So the classic 'perfect' State bureaucrat carries out the "organisational responsibilities" with no involvement in, thought for, or responsibility/accountability for, the consequences. In summary, applying the logic of Dillard and Ruchala does suggest that the "notion of State",

in its widely supported legalistic form, is particularly susceptible to the persistence of “administrative evil”.

6. Towards implications and conclusions

We have covered a wide range of issues, and attempted to lay the groundwork for applying some of the basic propositions from the early part of the paper to the difficult and contentious issues, propositions and juxtapositions of the later parts. Essentially, there are two research questions we have tried to answer with our paper: the first is about the role of the State in determining the content, both attitudinal, and in detail, of accounting regulation and the second is about the legitimacy of the sources of accounting regulation itself. The spread of IFRS, or IFRS content, into areas where its relevance and suitability is debatable (or worse) has been underlined. The theoretical underpinnings of these two key issues are conceptually distinct, but a connection exists in that State involvement may, or may not, be conducive to more appropriate achievement of the purposes of financial reporting (whatever they are). The role of the State is the ultimate focus of this paper, but the objectives of reporting, and the implications for regulatory content in general and IFRS in particular, are a necessary input, so we address this issue first.

We have already made the point that financial reporting has a wide range of users. The implications of the diverse uses are often significantly incompatible, as a quick glance at Table 3 should confirm. Providers of equity finance need a realistic picture of economic performance and therefore potential. A banker, and a banking regulator, need a prudent outcome. Tax calculations require a clear, objective outcome. Dividend determination requires a prudent, objective and legally precise outcome. And so on. Different reporting numbers, and different regulations, are implied, as Baert and Yanno, already quoted, explicitly confirm. As we indicate in section 3 the IASB is showing early signs of beginning to acknowledge this.

One interesting and highly topical example is given in European Commission (2000), a precursor to the eventual "IAS Regulation" itself (European Parliament and Council, 2002).

The 2000 document states in its footnote 11 as follows.

The Commission proposal does not address supervisory issues and the specific information required by supervisory authorities. The implementation of the proposal should not lead to a lessening of the prudential requirements for regulated entities.

In other words, the Commission believes (believed) that IAS are implicitly unsuitable for, and explicitly are not recommended to be used for, prudential regulation by supervisory authorities.

Unfortunately footnote 11 from the 2000 EU document has disappeared, and is not even hinted at, in the definitive 1606/2002 regulation. It seems to have been totally ignored ever since, with well-known disastrous results. For the banking industry to blame the IASB, or fair value reporting, for revealing the effects of its own incompetent management and incompetent regulatory activity is at best opportunistic, and arguably dishonest.

The crucial emphasis on users and purposes is well recognised by Chiapello and Medjad (2009: 459), referring to

the accounting standards situation with its stack of private bodies that are neither financed nor therefore [*sic*] controlled, by the EU.

As a result of this situation, certain public requirements are at risk of not being taken into account. Although accounting serves to inform investors, it is also used to set the limits for distributable profits, to elaborate public budgets and of course, for tax purposes. In these three areas, the determinant factors should be the State's needs, but such concerns are not covered by the work of the IASB.

We can agree that in these three areas the determinant factor should be the needs of the State (or of those specific users lying behind the fiction of the concept of State, and we can agree that such necessary concerns are not "covered by the work of the IASB"). But the

obverse is also equally true: the “needs of the State” must not be allowed to interfere with the provision of economically meaningful investor focussed transparent information. And this latter is precisely what, centrally and crucially, *is* “covered by the work of the IASB”.

The potential confusion of purpose and method is well illustrated by the ongoing saga of the banking crisis. Here is an extract from World Accounting Report, August 2009 (Walton, 2009a:7)

The European Council of Finance Ministers (ECOFIN) considered a report from its working group on procyclicality in July. They called for the recognition of expected losses and the creation of counter-cyclical buffers. They also claimed that fair value accounting should be reviewed in the light of its procyclical effects.

The ECOFIN meeting in July issued a set of conclusions on procyclicality. They said that the ‘absence of counter-cyclical buffers and the lack of flexibility of accounting rules in allowing through the cycle provisioning have been important factors in the amplification of the financial crisis’. The announcement underlined the ‘urgency and importance’ of addressing these issues.

It suggested that the introduction of forward-looking provisioning to deduct expected losses from profits in the good times would limit procyclicality. It would also contribute to a better assessment of real profits in good times, adjust managerial incentives in relation to remuneration, and make investors more aware of the underlying risks. It would also enhance the consistency between accounting and prudential rules.

We simply make three points. Firstly “forward-looking provisioning” means telling lies about economic performance in good times, in order to be able to tell lies about economic performance in bad times. This is State-sponsored income-smoothing and the creation of secret reserves, which the Fourth Directive, as long ago as 1978, set out to prevent. Ojo (2010; section C) refers with approval to a “preference for such [i.e dynamic]) provisions (in comparison to prudential reserves)”. Since “provisions” directly affect reported profits, they are more fully consistent with the ideas of an expected loss model (than is the case with prudential reserves). Her footnotes 59 to 64 show that this view is widely held in the banking regulatory world. Clearly the desire to tell lies is widespread.

Secondly, enhancing “the consistency between accounting and prudential rules” is exactly what we should NOT be trying to do. The whole tenor of our arguments in this paper, of the implications of the Chiapello and Medjad paper, and of the explicit arguments of the Baert and Yanno report, is that the effective achievement of different, and often conflicting, user purposes *requires* the provision of different, and often conflicting, financial information.

However, a different, indeed fundamentally contrasting, third point needs to be made. This is that, as developed in section 5, it could be argued that the State-sponsored economic misleadingness (i.e. lying) which is proposed could be justifiable for “reasons of State”. As indicated in section 5, we are not receptive to this argument. The idea that officers of Lehman Brothers should be threatened with gaol for producing misleading financial statements (Valukas, 2010),⁴ whereas banking regulators should be applauded for, indeed encouraged to do, the same thing, causes us difficulty. Nevertheless, as we show in section 5, precedent exists for making precisely this type of distinction. Crawford *et al.* (2010) quote an anonymous “legislator – civil servant, European Commission”, as follows:

The new [2008 endorsement] procedure gives more power to the European Parliament to reject IASB regulations if they are not conducive to the European public good,

and state that “he continued that standards had to be justified politically, socially and economically”. Such attitudes surely represent the bureaucrat censoring the supply of information to the population, to ensure that the bureaucrat controls the population, and that the population do not control the bureaucrat.

To return to our fundamental focus, we stated our research question as: to what extent, and how, should the State be involved in the regulation of financial accounting and reporting?

The State seems to be, in essence, a legal fiction, behind which those in positions of authority can shelter from accountability and responsibility.⁵ It may be central to the effective

functioning of a legal system for maintaining the coherence of a particular community, or it may be actively antithetical to it. Its role, as a human construct, is time and space specific as therefore is its acceptability or otherwise. A necessary condition for such acceptability is legitimacy and this leads to our second research question.

Legitimacy is a perception. It implies social acceptability of the existence, powers and actions of an entity. It is necessarily, as Suchman says, created subjectively. It has to be earned. It may usefully be analysed under the pragmatic/moral/cognitive split, and the technical/political dichotomy, as discussed in section 4. But social acceptability can only be analysed up to a certain point. Perceptions do not have to be logical.

We have attempted to throw further theoretical light on these issues by reference to other authors. The micro/macro global distinctions made by Oguri have obvious historical resonance for the development of accounting regulation. His statement (2005: 91) that

(t)he purpose of this transformation [to “an internationally harmonised system”] will be to pave the way toward a global stock market and to support international securities transactions”

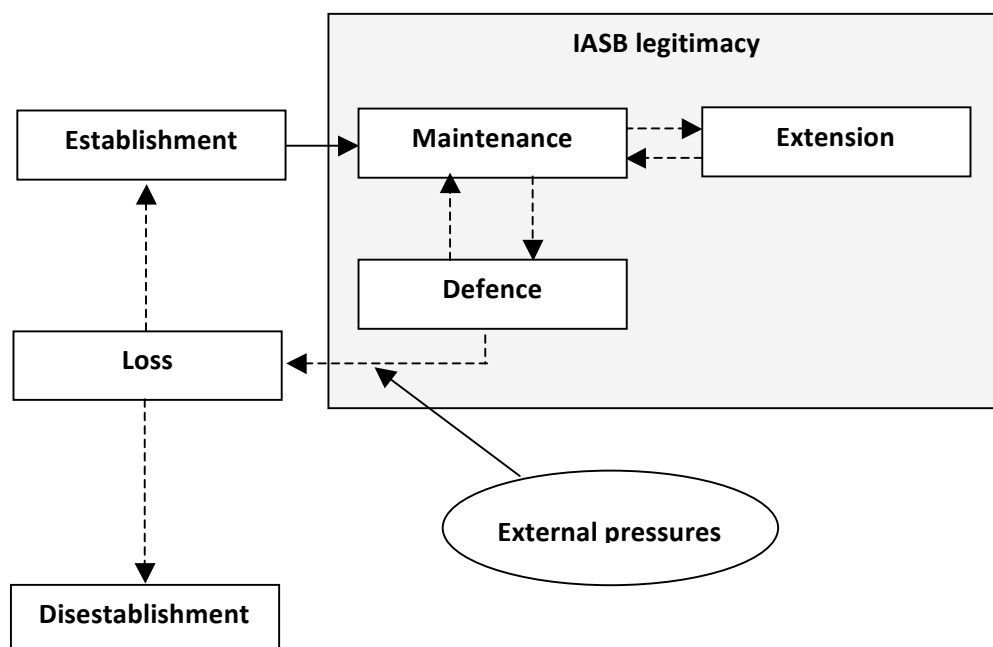
is perfectly correct, which is precisely why, as we emphasise below, the transformation is unlikely to be beneficial for other users/purposes.

Further, the six-phase analysis of Tilling and Tilt, as summarised in Table 6, seems to embody predictions, or at least warnings, for future trends in the level of legitimacy (or lack of legitimacy) in several of the institutional players involved in this saga.

We have potentially three forces, outside individual national systems, to consider: the IASB, the FASB, and the European Union. But the FASB can be dismissed immediately, in that any legitimacy it has outside the USA can only be pragmatic. The EU seems to lack both political and technical legitimacy, the former because of its fundamental lack of accountability and democracy and the latter because of the inherent expertise required in

understanding and regulating the accounting function. The IASB can logically claim no political legitimacy at all. Its claims must rest on technical legitimacy, leading, it must hope, to cognitive legitimacy (“natural or inevitable”) and perhaps eventually to moral legitimacy in the sense that things are perceived as “done right”. Generally here the Tilling and Tilt sequence from establishment of legitimacy towards its possible disestablishment seems to be progressing! We visualise this diagrammatically in Table 6.

Table 6 - Phases of IASB organisational legitimacy



Source: Authors adaption of Tilling & Tilt 2010, p.75

By the above considerations, the IASB is currently significantly unsuccessful. It has failed to resolve a number of serious issues over a number of years – consider the still continuing gestation period of revisions to, e.g. IAS 18, 37, and the even longer-term leasing project – producing instead an annual “improvements project” containing minor, but for preparers and

users extremely time-consuming, changes, presumably in order to appear to be doing at least something.

In a sense however, the above comment is rather unfair because the IASB has devoted enormous time and effort to dealing with external interference. Given, for the moment, the premise that, with Solomons, the “criterion by which rules are to be judged is not the effect which they may or may not have on business behaviour. It is the accuracy with which they reflect the facts⁶ of the situation”, such external interference is destructive in the extreme. It may emanate from affected parties, who try to lobby directly. But it may emanate from political organisations of one kind or another. This latter can itself be divided into two groups: the political organisation may have been “captured” by the affected parties, who, having failed with technical arguments to the regulator, persuade the political organisation to interfere on other grounds: or the political organisation may be operating for its (or its members) own personal political ends.

Examples of such political interference are commonplace, and we have referred to several earlier in the paper. They are made easier by “due process”, which actively encourages interference.

The most obvious regulatory capture today is by the banking system, which seems to be able to speak and operate through national parliaments, e.g. in France and Italy, and through the European Union, still in denial over its questionable legitimacy.

We have no space to describe in detail the extraordinary changes in IAS 39 requirements in recent years. Our point can be simply made by quoting brief extracts from World Accounting Report of November 2008 (Walton, 2008: 2-3):

In an astonishing *volte-face*, the IASB has had to bow to political pressure and abandon both a key tenet of IAS 39 and its own due process. From 1 July IFRS reporters are able to reclassify 'held for trading' financial instruments to 'held to maturity' and avoid further fair-value measurement.

If asked before this meeting, most people would have said that the fastest you could amend an IFRS would be something like a year, but with two years more likely. The IASB set a new record by amending IAS 39 inside 10 days, although quite a lot of other things got broken in the process.

On 4 October, a meeting of European G8 finance ministers issued a document dealing with the credit crisis and saying that they would 'ensure that European financial institutions were not disadvantaged *vis-à-vis* their international competitors in terms of accounting rules and their interpretation'.

The ministers said banks should be able to reclassify out of fair value through profit and loss, and if the IASB did not deal with it by the end of October, they would ask the European Commission to issue its own rules. Their position was endorsed on 7 October by the EU Council of Ministers (Ecofin).

How far has the IASB been damaged by the European political pressure? It is of course too early to say. Its independence and credibility have been called into question, and the banking lobby has once again demonstrated its political clout.

Pozen (2009) reports that Deutsche Bank avoided more than €800 million in losses. Ricciardi and Del Viva (2010) report that for Italian banks, €1.152 million of losses were not recognised as a direct result. Once again the developmental sequence proposed by Tilling and Tilt (2010), from the establishment of some degree of legitimacy towards its eventual disestablishment, surely receives strong supporting evidence.

Fortunately we can avoid accusations of national stereotyping by referring to a statement by French accountants, which significantly rejects the implications of other French sources quoted in this paper. World Accounting Report for May 2009 states as follows (Walton, 2009b: 14-15):

Two associations of accountants who work in business have issued a statement insisting on the focus of IFRS on information for shareholders, and underlining that banks remain a minority amongst companies using IFRS. They say prudential supervision clearly failed in the crisis and should address its own issues.

The associations, the *Association des professionnels et directeurs de comptabilité et gestion* (APDC) and the *Association française des dirigeants finances gestion* (DFCG), were in part responding to a suggestion from French bankers published in March that the Financial Stability Forum (FSF) should take over supervision of the IASB. They were also underlining that in all the recent debate about standards, sight had been lost of the potential impact of changes in IFRS on non-banking companies, who are by far the majority of those applying IFRS.

The joint statement notes that the FSF's primary responsibility is to improve the functioning of the international markets and reduce systematic risk, whereas users of financial statements want transparent and viable information which reflects the performance and financial situation of the issuers.

They acknowledge that the bank supervisors think that some form of risk buffer is necessary. But they suggest that this is necessary for prudential reasons and it is the prudential regulators that should take the steps necessary. They suggest that it would help if the IASB clarified that IAS 39 allowed the creation of provisions based on judgement and historical experience, once negative signs emerge. They do not think diverting accounting standards from their objective of providing good information for investors is desirable.

They emphasise that in their view different economic models require different measurement bases. They would like the IASB to identify clearly those situations where fair value is appropriate and identify acceptable measurement bases for other situations.

These proposals accord closely with the logic of our own arguments. If the Solomons premise quoted above is accepted, then accounting regulations should, indeed must, be left to the accountants. No cartographer would omit a minefield because the government, or a local land-owner, wanted to encourage tourism. No accountant should omit a liability, a fall in expected receivables, or a loss for the year, because the government, or a local banker, wanted to encourage risky investment.

But there is a major proviso. We earlier quoted with approval the Chiapello and Medjad reference to accounting being "also used to set the limits for distributable profits, to elaborate public budgets and... for tax purposes". For these purposes the Solomons premise should not be accepted.

Our applied analysis can be linked directly to our historical and conceptual expositions in sections 2 and 4. The notions of State and of legitimacy, both separately and within their linkages, can only be conceived and interpreted via contextual relationships which are informed and understood by a rigorous historical and spatial awareness. "The State", in those limited times and places where it has meaning in the first place, is losing authority both downwards (e.g. to local regions, and to quangos and other lower-level non-accountable groups of bureaucrats) and upwards (e.g. to supranational bodies and other high level non-accountable groups of bureaucrats). In the accounting sphere, the fundamental incompatibilities of different user needs are being laid bare by the forces of pseudo-harmonisation, as are the different perceptions regarding the legitimacy of regulators and regulations. Perhaps an awareness of historical specificity has never been so important an input into trying to make sense of the apparently ever-increasing complexity.

Our essential practical conclusion is that the IASB should be left alone to do its reporting job. Its standards should not be used, as they frequently are, for purposes for which they are not designed.

This lesson shows little sign of being learnt quickly, in either respect. The financial statements of individual companies, and of SMEs whether forming small groups or otherwise, are largely, in many countries entirely, used only for the three purposes of dividend distribution, public budgets and taxation. So the introduction of IFRS, or IFRS philosophy, for the financial statements of such entities is not rationalised. Yet 26 of the 27 EU countries, with the support of, often at the direct order of, their governments are doing precisely that.⁷ The recently issued "IFRS for SMEs" Standard, though optional in application as far as IASB is concerned, is being considered by many European governments for compulsory introduction within specified size criteria (including, perhaps surprisingly, the UK), despite its adherence to the measurement criteria of full IFRS. This, again, seems likely to lead to increasing usage of investor-focussed information for State/public purposes. This

in turn will only encourage, and arguably provide justification for, destructive interference with the proper work of the IASB.

This analysis, possibly pessimistic, but perhaps merely realistic, links closely with our discussion of legitimacy. Behind the detailed distinctions drawn in section 4 lies the simple but fundamental point that legitimacy, as a perception, has to be earned, a process which is partly logical, and partly psychological. Our arguments and conclusions relating to both IASB on the one hand, and to states and the modern usurpers of their traditional role on the other, imply a failure to 'deserve' a perception of legitimacy by all the types of body concerned.

Overall, we are not optimistic about the situation, or future developments. The IASB must stop selling itself as a panacea for all purposes. The State, at every level and in every guise, must not be allowed to interfere with proper transparent financial cartography.

References

- Adams, G.B. and Balfour, D.L. (1998), "Unmasking Administrative Evil", Sage Publications, Thousand Oaks, CA.
- Agnew, J. (1995), "The hidden geographies of social science and the myth of the 'geographic turn'", *Environment and Planning D: Society and Space*, vol. 13, pp.379-380.
- Alexander, D. and Nobes, C. (2007). *Financial Accounting: an international introduction* (3rd ed.), London: Pearson.
- Alexander, D. and Micallef, M. (2011), "Accounting Regulation in Malta: Accounting in Europe (forthcoming).
- Anderson, J. (1996), "The Shifting Stage of Politics: New Medieval and Postmodern Territorialities?", *Environment and Planning (Society & Space)*, vol. 14, n.2, pp.133–153.
- Axtmann, R. (1996), *Liberal Democracy into the Twenty-First Century: Globalization, Integration and the Nation-State*, Manchester: Manchester University Press.
- Axtmann, R. (2004), "The State of the State: The Model of the Modern State and Its Contemporary", *International Political Science Review*, vol. 25, n. 3, pp.259-279.
- Ashford, B.E. and Gibbs, B.W. (1990), "The double-edge of organizational legitimation", *Organization Science*, vol. 1, n.2, pp. 177-194.
- Baert, D. and Yanno, G. (2009). "Rapport d'Information par la Commission des Finances, de l'Économie Générale et du Plan", No. 1508, presented to Assemblée Nationale, 10th March.
- Baker, R. (2005), What is the meaning of "the public interest"?: Examining the ideology of the American public accounting profession, [*Accounting, Auditing & Accountability Journal*](#), vol. 18, 5, pp. 690-703.
- Biondi and Suzuki (2007), "Socio-economic impacts of international accounting standards: an introduction", *Socio-Economic Review*, n. 5, pp.585–602
- Badie, B. and Birnbaum, P. (1979), *Sociologie de l'Etat*, Paris: Grasset.
- Brenner, Neil (1999), "Beyond State-Centrism? Space, Territoriality, and Geographical Scale in Globalization Studies", *Theory and Society*, Vol. 28, 5, pp. 39–78.
- Broadbent, J., Laughlin, R. and Read, S. (1991), "Recent financial and administrative changes in the NHS: a critical theory and analysis", *Critical Perspectives on Accounting*, March, pp.1-30.
- Campbell, J. (2000), *The Anglo-Saxon State*, Hambledon & London.

- Cannon, T. (1994), *Corporate Responsibility: A Textbook on Business Ethics, Governance, Environment: Roles and Responsibilities*, London: Pitman.
- Cassese, S.(1986), "The Rise and Decline of the Notion of State", *International Political Science Review/Revue internationale de science politique*, Vol. 7, No. 2, The State of the Public Sphere, pp.120-130.
- Chiapello, E. and Medjad, K. (2009), "An unprecedented privatisation of mandatory standard-setting: The case of European accounting policy", *Critical Perspectives on Accounting*, Vol.20, pp.448-468.
- Chua, W.F. (1986), "Radical developments in accounting thought", *Accounting Review*, vol. 61, n. 4, pp. 601-632.
- Colasse, B. and Pochet, C. (2009a), "The Genesis of the 2007 Conseil National de la Comptabilité: A Case of Institutional Isomorphism?", *Accounting in Europe*, Vol. 6, No. 1, pp.25-55.
- Colasse, B. and Pochet, C. (2009b), "De la genèse du nouveau Conseil National de la Comptabilité (2007): un cas d'isomorphisme institutionnel?" (The genesis of the new Conseil National de la Comptabilité (2007): a case of institutional isomorphism?", *Comptabilité – Contrôle – Audit*, Vol.2, December, pp.7-36.
- Crawford, L., Helliard, C., and Power, C. (2010), IFRS 8: Stakeholder perceptions of the introduction of a controversial standard: ICAEW Briefing Paper (unpublished draft, May).
- Dellaportas, S. and Davenport, L. (2008) "Reflections on the public interest in accounting", *Critical Perspectives on Accounting*, Vol.19, No.7, 1080-90.
- Deegan, C., Rankin, M. and Tobin, J. (2002), "An examination of the corporate social and environmental disclosures of BHP from 1983-1997: a test of legitimacy theory", *Accounting, Auditing & Accountability Journal*, Vol. 15 No. 3, pp. 312-43.
- Dillard, J. and Ruchala, L. (2005), The rules are no game – From instrumental rationality to administrative evil, *Accounting, Auditing and Accountability Journal*, Vol.18, No.5, pp.608-630.
- Dillard, J. (2002), "Dialectical possibilities of thwarted responsibilities", *Critical Perspectives on Accounting*, Vol.13, Nos 5/6, pp.621-42.
- Dillard, J. and Tinker, T. (1996), "Commodification of business education: the implications for accreditation", *Critical Perspectives on Accounting*, pp.215-26.
- Dowling, J. and Pfeffer, J. (1975), "Organizational legitimacy: social values and organizational behavior", *Pacific Sociological Review*, vol. 18, n.1, pp. 122-136.
- European Commission (2000). "Communication from the Commission to the Council and the European Parliament: EU financial reporting strategy: the way forward", COM (2000), 359 final.

- European Parliament and Council (2002). "Regulation (EC) No. 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards: Official Journal of the European Communities". L 243, 11 September 2002, pp.1-4 (the IAS Regulation).
- Ferguson, Y. H. and Mansbach, R. W. (2009), "The Sociology of the State: The State as a Conceptual Variable", Paper presented at the annual meeting of the ISA's 50th Annual Convention "Exploring The Past, Anticipating The Future", New York Marriott Marquis, New York, Online <PDF>, 2010-01-23 from http://www.allacademic.com/meta/p311543_index.html
- Garnier, P. (1947), *La comptabilité, algèbre du droit, method d'observation des sciences*, Paris: Dunod.
- Goldmann, K. (2001), *Transforming the European Nation-State: Dynamics of Internationalization*, London: Sage.
- Habermas, J. (1988), *Legitimation Crisis*, Oxford: Polity Press.
- Hallström K.T. (2004), *Organizing International Standardization: ISO and the IASC in Quest of Authority*, Cheltenham, UK, Edward Elgar.
- Hawkins, D. (1975), "Financial Accounting, the Standards Board and Economic Development", Emanuel Saxe Distinguished Lecture; City University of New York (Bernard M. Baruch College).
- Hearit, K.M. (1995), "Mistakes were made: organizations, apologia, and crises of social legitimacy", *Communication Studies*, vol. 46, n. 1/2, pp.1-17.
- Held, D. (1996), *Models of Democracy* (2nd ed), Cambridge, Polity Press.
- IFAC (2006), "Statement of Membership Obligations No. 7: International Financial Reporting Standards", New York: International Federation of Accountants.
- Jary, D. and Jary, J. (1991), "The HarperCollins Dictionary of Sociology", HarperCollins, New York, NY.
- Jessop B. (1997), "Capitalism and its future: Remarks on regulation, government and governance" , *Review of International Political Economy*, vol. 4, n. 3, pp. 561-581.
- Jessop, B. (2002), *The Future of the Capitalist State*, Cambridge: Polity Press.
- Kaplan, S. E. and R. G. Ruland (1991) "Positive Theory, Rationality and Accounting Regulation", *Critical Perspectives on Accounting*, Vol. 2, No. 4, pp. 361 - 374.
- Kelsen, H. (1949), *Teoria generale del diritto e dello Stato*, (Italian translation, 1954), Milano: Comunità.
- MacIver, R.M. (1926), *The Modern State*, Oxford and New York: The Clarendon Press.
- Nietzsche, F. (2010), *Thus Spake Zarathustra*, translated by Thomas Common, <http://www.fullbooks.com/Thus-Spake-Zarathustra-1-8.html> - html (downloaded 25/2/2010).

- Oguri, T. (2005), "Functions of accounting and accounting regulation: alternative perspectives based on Marxian economics", *Critical Perspectives on Accounting*, 16, 77–94.
- Ojo, M. (2010), "Measures aimed at mitigating pro cyclical effects of the Capital Requirements Framework: counter cyclical capital buffer proposals", <http://mpira.ub.uni-muenchen.de/24610/MPRA> (downloaded 30/09/2010).
- Parekh, Bhikhu (2002), "Reconstituting the Modern State", in James Anderson (ed.), *Transnational Democracy: Political Spaces and Border Crossings*. London: Routledge.
- Perry, J. and Nölke, A. (2005), "International Accounting Standard Setting: A Network Approach", *Business and Politics*, vol.8, n.3, pp.32.
- Pozen, R.C. (2009), "Is it fair to blame fair value accounting for the financial crisis?", *Harvard Business Review*, 87(11), pp.84-92.
- Reis, E. P. (2004), "The Lasting Marriage between Nation and State despite Globalization", *International Political Science Review*, 25:3, pp. 252-257.
- Ricciardi, M. and Del Viva, L. (2010), "The IAS 39 – October 2008 Amendment: is there an income smoothing motivation?", Paper presented at *AIDEA Giovani Workshop*, Pisa, 11th February.
- Rhodes, R.A.W. (1994), "The hollowing out of the State: the changing nature of the public service in Britain", *Political Quarterly*, 65:2, pp.138-151.
- Rosenau, J. N. (1984), "A Pre-Theory Revisited: World Politics in an Era of Cascading Interdependence", *International Studies Quarterly*, 28:3 (September), pp. 245-305.
- Sargiacomo, M., Servalli, S. and Carnegie, G. (2010), "Accounting for killing, accountability for death", paper presented at *33rd Annual Congress of the European Accounting Association*, Istanbul, 19-21 May.
- Sassen, S. (1996) "The state and the new geography of power", in *Losing Control? Sovereignty in an Age of Globalization*, New York: Columbia University Press, pp. 1-30.
- Sassen, S. (2006), *Territory, Authority, Rights: From medieval to Global Assemblages*, Princeton: Princeton University Press.
- Solomons, D. (1978), "The Politicization of Accounting", *Journal of Accountancy*, Nov. pp.65-72.
- Solomons, J. (2007), *Corporate Governance and Accountability*, Wiley (2nd ed.): Chichester.
- Steffek, J. (2003), The Legitimation of International Governance: a Discourse Approach, *European Journal of International Relations*, Vol.9, No.2, pp.249-275.
- Suchman, M.C. (1995), "Managing Legitimacy: Strategic and Institutional Approaches", *Academy of Management Review*, Vol. 20, No. 3, pp.571-610.

- Tilling M.V. (2004), "Refinements to Legitimacy Theory in Social and Environmental Accounting", *Commerce Research Paper Series*, n. 04-6, Flinders University, South Australia.
- Tilling M.V., Tilt C.A. (2010), "The edge of legitimacy: Voluntary social and environmental reporting in Rothmans' 1956-1999 annual reports", *Accounting, Auditing & Accountability Journal*, Vol. 23, n. 1, pp. 55 – 81.
- Tricker, R.I. (1984), *Corporate Governance Practices, Procedures and Powers in British Companies and Their Boards of Directors*, Aldershot, U.K: Gower Press.
- Valukas, A. (2010), Report of Anton R. Valukas, Examiner, United States Bankruptcy Court Southern District of New York, In re Lehman Brothers Holdings Inc., et.al., Debtors, March 11, 2010.
- Van Creveld, M. (1999), *The rise and decline of the State*, Cambridge: University Press.
- Van Kersbergen K. & Van Waarden F. (2004), 'Governance' as a bridge between disciplines: Cross-disciplinary inspiration regarding shifts in governance and problems of governability, accountability and legitimacy, *European Journal of Political Research*, 43: 143–171.
- Walton, P. (2008), *World Accounting Report*, November.
- Walton, P. (2009a), *World Accounting Report*, August.
- Walton, P. (2009b), *World Accounting Report*, May.
- Weber, M. (1978), *Economy and Society*, Berkeley: University of California Press.
- Weber, M. (1958), *The Protestant Ethic and the Spirit of Capitalism*, Charles Scribner's Sons: New York, NY.
- Weber, M. (1979), *Economy and Society: An Outline of Interpretative Sociology*, Volume II, University of California Press: Berkeley, CA.

Endnotes

¹ The reference is MacIver (1926), indicated by Cassese as MacIver (1927).

² It could be argued that “the sense here considered” is too narrow. Consider for example Campbell (2000:10):

Late Anglo-Saxon England was a nation state.... It was an entity with an effective central authority, uniformly organized institutions, a national language, a national church, defined frontiers.... And, above all, a strong sense of national identity.

We are sympathetic to such suggestions. Nevertheless, the relatively narrow legalistic concept which we expose, or criticise, does seem to be the generally accepted approach today, not least, ultimately, in Courts of Law. We are grateful to Alan Coad, of University of Birmingham, for this reference and quotation.

³ Steffek (2003:252) refers to “the unique character of the European Union as a ‘supranational’ organization that is gradually acquiring some characteristics of a state”. Since that date, the Treaty of Lisbon has given a further significant push in this direction.

⁴ Valukas (2010) notes in footnote 3812 that, under the Sarbanes-Oxley Act section 302 and subsequent SEC rules, a fair presentation requires *inter alia* “the inclusion of any additional disclosure necessary to provide investors with a materially accurate and complete picture of an issuer’s financial condition....”, and in footnote 2854 that whether or not the relevant Lehman transactions (“Repo 105” and “Repo 108”) complied with SFAS 140 is irrelevant to considering whether the “firm’s periodic reports [were] materially misleading”, and concludes on page 990 as follows.

The Examiner finds that sufficient evidence exists to support the finding of colourable claims against [four names follow] in connection with their actions in causing or allowing Lehman to file periodic reports that did not disclose Lehman’s use of Repo 105 transactions and against [the audit firm] for its failure to meet professional standards in connection with that lack of disclosure.

⁵ Nietzsche, in *Also sprach Zarathustra* (Nietzsche, 2010, Canto XI), describes the State as “the new idol”. His disdain is more Anglo-Saxon than Germanic – perhaps a reaction against 19th Century Germany.

A state is called the coldest of all cold monsters. Coldly lieth it also: and this lie creepeth from its mouth: “I am the state, am the people” ...(T)he state lieth in all languages of good and evil, and whatever it says it lieth; and whatever it hath it hath stolen. ...(F)or the superfluous ones was the state devised...(w)here the state ceaseth – there only commenceth the man who is not superfluous.

Perhaps the accountant, necessarily independent of, and outside of, the state, is the (wo)man who is not superfluous?

⁶ We do not for one second deny that these “facts” are socially constructed.

⁷ The 27th is Malta, which introduced full IAS in 1995, and has now reversed the decision. See Alexander and Micallef (2011). For support of our statement, which could be provided at length, see Chiapello and Medjad footnote 40, and note e.g. the Baert and Yanno paper used in section 3. Note also that membership of IFAC carries an obligation on professional accounting bodies to use their “best endeavours” to achieve precisely this extension of IASB requirements (IFAC, 2006).