



‘Understanding the (new) moral economy of regulating lawyers: reflections on developments in Australia and the UK’

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Moral economy (in case you thought lawyers' ethics was an oxymoron...)

- From political economy, social history, anthropology, economic sociology, development economics
 - Andrew Sayer (2000): “the ways in which economic activities - in the broad sense - are influenced by moral-political norms and sentiments, and how, conversely, those norms are compromised by economic forces.”
- Hume: ethics as a mix of personal benefit/utility, personal commitments and sentiments extending our concerns for others
- Smith's ethical economics: reading *The Wealth of Nations* through the *Theory of Moral Sentiments*



and the realignment of ‘regulatory space’:

- the study of the *dynamics* through which organisations gain, maintain, and sometimes lose their positions within a regulatory arena (Black, 2002; Hancher & Moran, 1989)
- the idea that resources and information are dispersed and fragmented among a group of constituents in an area of governance, and hence that power may be dispersed rather than concentrated [in the hands of government] (Scott, 2001)
- Context of “street level morality” (Cf Lipsky)



- Changing modes of regulation
(external/internal; ‘hard’/‘soft’ regulation)
- Normative partitioning
- Re-categorising the ‘internal goods’ of
the profession



The rise of a 'consumerist-competitive mode of regulation' (Semple et al, 2013):

- Competition between providers
- Consumer rights orientation
- Multiple legal occupations
- Co- or external regulation (+ regulatory competition in E&W)
- Tolerance of unregulated providers
- Regulation of individuals and entities



- Professional segmentation
- Deprofessionalisation
 - Liminality
 - Precarity
 - Scarcity/loss of 'complete lawyer' roles
- Deterritorialisation of identity?
 - Increased mobility
 - FLCs



- De-moralisation and re-moralisation
- The 'new' virtues (eg)
 - Profitability
 - Performativity
 - Compliance
- The regulation of altruism (and the economics of regard)



- Changing moral economy
 - Loss of individual and collective moral autonomy
 - Changing street level morality
- New regulatory dynamics/key players
 - External regulators
 - Clients
 - Firms
 - Insurers