

**Steering the Regulatory State: The Rationale behind the Creation and Diffusion
of Independent Regulatory Agencies in Liberalized Utility Sectors in the
Developing Countries: Thoughts and Reflections on the Egyptian Case**

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Abstract

This paper looks at Independent Regulatory Agencies (IRAs) as steering mechanisms for the regulatory states. It attempts to answer two straightforward questions regarding why governments in the developing countries delegate their authorities to the IRAs? And how these regulatory models have been diffused in the context of the developing countries? These two questions have been pretty much investigated in the context of the developed countries particularly in Europe where scholars have come up with different theories that explain the rationale behind the creation of such agencies. These theories are important to understand why governments in these countries adopt IRAs as steering mechanisms for liberalised utility sectors; however, they are not sufficient to explain the same phenomenon in the context of the developing countries where socio-economic and political environments are different. Adopting an institutional framework of analysis, and based on the analysis of governmental documents and interviews with decisions-makers and senior regulatory member staff, the paper investigates the creation of the IRAs in Egypt as a starting point for more comparative studies to follow. The underlying assumption is that the differences at the contextual level between Egypt and the Western European countries wherein the IRA model has been originated may lead to different explanations for the creation and diffusion of such a model. The initial findings of the paper show that the creation of the IRAs in Egypt particularly in the telecommunications sector was very much instrumental. In other words, it can be explained on functional and practical grounds rather than any other factors of democratic governance or political uncertainties.

Key words

Telecommunication Regulation, the Regulatory State, Independent Regulatory Agencies, Policy Transfer

Introduction

Regulation has become one of the major functions of the state in contemporary society. Many scholars argue that, we live in the ‘golden age’ of the regulatory state (Majone, 1997; Loughlin and Scott, 1997; Jacobs, 2000). The role of the state in economic and social life has dramatically changed from being the main provider of social and economic services to being a rule-maker and regulator. The new mode of the state with its structures and relationships is characterised by an increase in the regulatory functions and responsibilities. These changes have paved the way to the emergence of a state increasingly defined by the volume, diversity and complexity of its regulatory institutions. This state is known as the regulatory stateⁱ. As noted by McConkey (2003) this shift in the regular mode of governance and the rise of the notion of the regulatory state need a detailed discussion about how this new ‘regulatory state’ works in practice, and how it could most effectively operate.

Contrary to what was expected, liberalisation and privatisation during the 1980s and 1990s have led to a vast growth in the state’s regulatory obligations. Many academic terms have been coined to describe the shift in the role of the stateⁱⁱ, but the term ‘regulatory state’ was first used by Majone (1994). Majone describes what he saw as the fundamental shift from a positive, activist state associated with Keynesian demand management, public ownership of utilities and major industries and direct labour market intervention, to a regulatory state in which rulemaking (usually by disaggregated, specialist agencies) has become the dominant means of achieving desirable social, economic and environmental outcomes.

Consistent with Alfred Chandler’s thesis on industrial organisation that, structure is determined by strategy, Majone argues that some new emergent issues during 1970s and 1980s have pushed the state toward changing its strategies and structures in response. The economic difficulties that faced the state during that period, such as the simultaneous unemployment and inflation, state fiscal crises, regional and global integration, and the perceived inefficiency and unaccountability of the welfare state’s institutions led to the emergence of new strategies. Such strategies as liberalisation, privatisation, and many of the co-operative integrative initiatives implied in the movement of the New Public Management (NPM) have resulted in change in the structures of the state and led to the emergence of new regulatory structures that have paved the way for the rise of the new regulatory state (see figure 1).

Accordingly, Majone concludes that the positive state has been displaced by the regulatory state. A shift has taken place from the positive interventionist role of the state, characterised by a taxing and spending regime, a unified civil service, large nationalised enterprises and expansive bureaucracies to the regulatory role of the state represented in a rulemaking regime, characterised by flexible, highly specialised organisations with autonomous decision-making authority. The notion of the regulatory state then suggests that modern states are placing more emphasis on the use of authority, rules, and standards setting, partially displacing an earlier emphasis on public ownership and subsidies, and direct services provision (Hood *et al.*, 1999: 1).



Figure 1: The Raise of the Regulatory State

The main features of the regulatory state as discussed by a number of scholars (McConkey, 2003; Liora and Salter, 1997; Loughlin and Scott, 1997) can be summarised as follows: a growing trend towards privatisation and the creation of independent regulators; a trend towards the devolution of state regulatory power to lower levels of government; directions towards regulatory innovations; an emphasis on cooperation and co-management techniques between regulators and regulatees; a trend towards focusing on processes in regulatory operations; the separation of operations from policy-making; the increasing use of formal rules as instruments of guidance.

As Moran (2001) noted, these features reflect a fundamental alteration in the balance of state responsibilities. These include: a movement away from attempting to manage the whole economy towards intervention to correct particular market failures; a replacement of integrated, command-and-control hierarchies with disaggregated, loosely co-ordinated public agencies; a displacement of public ownership as a means of control by a 'network' of regulated, privatised industries and public utilities; and a

colonisation of vast new areas of social and economic life by new laws and new regulatory agencies responsible for their enforcement. In other words, the government and its agents have been brought more directly into the functions of the new regulation, in addition to the participation of many other non-state actors in handling regulatory problems.

The new role of the state as a regulator reflects a new function or task. The new function is to ‘steer’ⁱⁱⁱ the social and economic life of the society rather than ‘rowing’ or being heavily involved in solving societal problem. In the expression of Osborne and Gaebler (1992) a state works as ‘catalytic’ agent, and knows how to steer rather than row. This notion of steering assumes some sort of separation between the processes of policy-making ‘steering functions’ and policy implementation ‘rowing functions’. In order to work effectively, states should concentrate on steering functions via policy-making and leaving the implementation to the other specialised agencies^{iv}. The separation between steering and rowing in this context has many advantages. On the one hand, it enables decision-makers to concentrate on the central issues rather than operational problem. At the same time, such separation gives policy managers the chance to shop around to choose the most efficient and effective service provider^v and to promote experimentation and learn from errors. This functional logic has found its implementation in the context of the regulatory state by the creation of IRAs that work at arms-length from the central government and are responsible for steering specific regulated sectors.

The creation and diffusion of IRAs in the European countries has been a topic of speculation for many scholars (see for example Spiller 1993; Majone, 2001; Gilardi, 2005). However, there is a gap in the literature with regard to how these institutions have been created and diffused in the context of the developing countries. This paper attempts to fill this gap by focusing on two main questions: Why governments in the developing countries delegate powers to IRAs? And how IRAs diffused in the context of the developing countries? The paper is divided into three sections: section one sheds light on the IRAs as steering mechanisms. In section two, the rationale behind the creation of IRAs is explained with some reflections on the Egyptian case. Section three covers diffusion mechanisms as reflected in the literature and evaluate their applicability to the context of developing countries particularly Egypt.

1- Independent Regulatory Agencies as Steering Organisations

In order to steer, the regulatory state needs to create steering organisations. Many states have chosen to practice their regulatory roles via independent or semi-independent bodies known as IRAs. This steering model has spread in both developed and developing countries. The wide existence of this regulatory model raises many questions regarding, what IRAs are and why IRAs are used rather than any other governance structure. Why do governments delegate part of their powers to independent specialised bodies that do not work directly under their control? What are the challenges that the regulatory state faces in practice?

In practice, IRA is a fuzzy concept that is not well defined. For example, the WTO (1997) interprets the term as referring to a regulator who makes decisions independently, without outside interference. In the EU, the term IRA is used to describe a regulatory agency which is supposed to be independent of the licensees and the government. Smith (1997) has defined regulatory independence as consisting of an arm's length relationship with regulatees, consumers and other private interests, and political authorities. Concentrating on the independence of decision-making Melody (1997) has defined this in terms of autonomy to implement policy without undue interference from politicians or industry lobbyists.

The better regulation task force (2003) has defined IRA as 'a body which has been established by act of parliament, and operates at arm's length from government and which has one or more of the following powers: inspection, referral, advice to a third party, licensing, accreditation, or enforcement'. Hence, IRAs operate under the authority of laws made and can be revised by legislators, on the basis of annual budgets that must be approved, under the leadership of regulators who must be appointed, under judicial review, and under a policy framework established by ministers. The construction of these relationships will define the nature of regulatory independence.

Whatever the adopted definition, creating such bodies in different social and economic sectors is seen to be able to achieve many advantages^{vi}. Through concentration on privatised public utilities, independent regulators are meant to regulate more efficiently and build confidence among market actors by: clarifying any confusion among multiple roles of government^{vii}; shielding market intervention from political and commercial interference; allocating risks and establish market

incentives; improving transparency for market actors and consumers; deepening expertise and technical skills, and enhancing stability and commitment to optimal long-run policy based on competition and consumer welfare (Jacobs, 2001: 1).

Departing from the fact that this type of organisations has become an institutional feature of the regulatory state, some scholars have raised the question about why governments are willing to delegate regulatory competencies to specialised institutions that they can only partially control (Gilardi, 2003; Moe, 1995). For them it seems surprising that (politicians) would be willing to delegate so often to IRAs, since in principle the same tasks could be accomplished by other bureaucratic forms, such as ministries and secretariats that are easier to control. Clearly, there must be some advantages to politicians in using autonomous agencies instead. What is it that a regulatory agency can deliver that an executive agency cannot?

2- The Rationale behind Delegation to the IRAs: Reflections on the Applicability of the Western Perspectives on the Egyptian Case

In searching for an answer to why governments delegate to IRAs, one can find a wide range of reasons ranging from delivering private benefits to favoured constituencies to avoiding making unpopular choices. Among these reasons, the ones to be considered here are two: making credible policy commitments and political uncertainty.

One proposed explanation for the phenomenon of delegation to IRAs is the desirability of governments making credible long-term policy commitments. As Majone (2001) argues, credibility is a valuable asset for politicians when they carry out regulatory policy. For the success of any regulatory policy the response of the targeted group(s), namely the investors, should be considered. To guarantee a positive response from private parties, governments should send them signals of credibility via delegating their own competencies to IRAs. IRAs will be responsible in such cases for applying the policy and monitoring the regulated sectors in stead of governmental units, which may be subject to the influence of politics. So, as Spiller (1993: 398) noted, delegation to IRAs works as a means to improve the credibility of regulatory commitments, and therefore to ameliorate the prospects of successful regulatory reforms.

In that sense, credible-commitment capacity is considered an important asset in the regulatory policy, especially in the aftermath of utilities privatisation and

liberalisation. The success of regulatory policies in such sectors depends among other things on the capacity to attract private investment. Because utility industries are characterised by high sunk entry costs, relatively irreversible investments, and a dominant position of the incumbents, credibility problems are seen as very important for policy-makers in these sectors. Prospective investors may fear that, despite the promises of policy-makers that regulation will not be biased, they may reserve preferential treatment for incumbents. In such cases, unless the commitment to fair regulation is credible, investors may be put off by the danger of collusion between the powerful incumbents and the regulators^{viii}.

In this context, Gilardi (2005: 4) has noted that empirical evidence suggests that economic actors are in effect sensitive to the stability of the regulatory framework when deciding their investment strategy. Policy-makers in such cases have clear incentives to promise prospective investors a favourable regulatory environment. If the investors anticipate this will be the case, they may have the incentive to invest in such industries.

While credibility is one of the most popular explanations justifying the delegation to IRAs, the neglected side of the story as Moe (1990) describes is political uncertainty. The core of the political uncertainty hypothesis is that governments delegate to IRAs so as to prevent future majorities undoing their policy choices (Gilardi, 2003:1). Because political property rights in the political arena are not guaranteed forever, and because politicians come to the office for a specific term, they always tend to try to insulate their policies from the possibility of being changed by the successors. In this sense, delegation to the IRAs is regarded as institutional instrument that can secure some sort of continuity to the regulatory policy, which on the one hand benefits politicians currently in power, and on the other hand gives stakeholders in the regulatory arena a sign of credibility for the commitments.

The idea of insulating policies from politics, which is at the heart of the political uncertainty hypothesis, is a double edged weapon. It restricts the ability of future politicians to change previous policies, but at the same time it puts many limitations on policy-making for those who are currently in power. As Moe (1990: 227-229) summaries the problem, whatever today's authority creates stands to be subverted by tomorrow's authority. To prevent this, today authority can fashion structures to insulate their favoured agencies and programmes from the future exercise of public

authority. In doing so, of course, they will not only be reducing their opponents' opportunities for future control, they will be reducing their own opportunities as well.

While it seems attractive and, at first sight, valid to justify and explain the delegation to IRAs in the context of many western and European democratic countries, the hypothesis of political uncertainty is not the same in the case of many developing countries including Egypt. Recalling the Egyptian experience, the hypothesis of political uncertainty does not look very plausible to explain why the Egyptian government in sectors such as telecommunications has chosen to delegate some of its power to an IRA. The reason for this is that Egypt has a dominant ruling party which has been ruling since 1981. That means whatever government in power it will implement the policies of the ruling party in economic and social areas. In this context, there is no room to speak about differences at the level of party policies that may make politicians inclined to insulate their decisions from the successors. In other words, today's government is tomorrow's governments as they all work to deliver policies for the same party. Having said that, the question becomes how can we explain delegation to the IRAs in the Egyptian context?

To answer this question the hypothesis of making credible policy commitments makes a great deal of sense in the Egyptian context. Focusing again on the telecommunications sector as an example, opening up this sector to the participation of the private sector after a long history of state monopoly was not an easy decision for policy makers. The predicament was that on the one hand the government wanted to encourage that participation of the private sector in service provision but without harming the interests of the incumbent which acted for years as the service provider and the regulator of the sector at the same time. In this context, a gradual approach to market liberalization appeared to be the best option as it allows a limited number of private actors to enter the market while giving a transitional period to the previous incumbent to adjust its position to be able to compete on equal footing with the private sector. Tracing the process of liberalisation which started in 1997 evidence can be seen that sending signals of credibility to the private investors to encourage them locally and internationally to participate in service provision was a major strategy for the state which has taken fundamental steps on this road including the following:

- In 1997 the liberalisation process started with what so called non-basic services. Initial steps have been taken to open the market for the first time to competition. Two concessions to operate public payphone services were awarded to private companies.
- In order to create a more encouraging environment for private sector participation, a new regulatory framework has been set up in 1998. Important steps have been taken towards the separation of operation and regulatory activities. The main elements of the new regulatory framework were embodied in law 19/1998 and the presidential decree 101/ 1998. Accordingly, an independent regulatory authority named Telecommunication Regulatory Authority (TRA), and an operator and service provider in the form of a joint stock company controlled by the state named Telecom Egypt (TE) have been instituted. The responsibilities for managing and developing the sector have been divided between TRA and TE. The TRA as a regulator was responsible for the following: overseeing various technical aspects such as monitoring frequencies and their spectrums; issuing service licenses; approving all sector related tariffs; increasing private investment; encouraging competition; ensuring transparency; and balancing the relationship between service providers and consumers (American chamber of commerce in Egypt; 2000, Hassanin; 2003). As a sole service provider and operator at that time, TE was responsible for establishing, maintaining, and operating the local telecommunication networks and international links.
- In 1999, the Ministry of Communications and Information Technology (MCIT) was established to replace the Ministry of Transport and Telecommunications in managing and supervising the telecommunication sector. As noted by El-Sherif (2001) the creation of the MCIT was particularly noteworthy following years of having the sector lumped-in with both land and air transportation, maritime transport and the postal service. The main task assigned to the MCIT was to develop and implement a complete strategy for the Information and Communication Technologies sector (ICT) in Egypt with strategic objectives to establish an information-based society and turn the country into a regional ICT hub (Egypt Open for Business: Explore ICT Opportunities; 2006). In an attempt to reforming the legislative framework,

and to update the archaic laws and rules that regulated the sector, the MCIT invited members of the private sector and civil society organizations to participate in the drafting of a Unified Telecommunications Act in 2001^{ix}. The draft has been scheduled to be introduced to the Egyptian Parliament for ratification during its 2001/2002 session.

- In 2002, Egypt has asserted its commitments regarding the liberalization of telecommunications services, by signing the WTO Agreement on Trade in Services (GATS), the Basic Telecommunications Agreement (BTA), and the Declaration on Information Technology of the WTO (ITA). These agreements necessitate complete deregulation in the area of data communications, mobile communications, fixed lines, and international gateway. They also provide for the dismantling of the governmental monopoly on the provision of telecommunication services. In more specific terms, Egypt is now required to achieve the following: establishment of cost based interconnection between public operators; introduction of competition; transparency in licensing process; Competition neutral Universal Service mechanism; Fair allocation of finite resources especially frequency spectrum and numbering; and Reduction of customs taxation for related ICT products (A New Era for ICT in Egypt: R&D Promises and Challenges; 2006).
- The year 2003 was firstly marked by the formulation of Egypt's Information Society Initiative. The initiative was formulated and presented to the world community by President Mubarak. The information Society revolves around seven major pillars: E-Readiness, E-Learning, E-Government, E-Business, E-Health, and The ICT export initiative and industry development. This initiative represents a road map for the development of the sector. The issuance of the unified telecommunication law number 10 represents another remarkable event in the year 2003^x. The new law identifies the pillars of the regulatory system and determines the roles and duties of each player in the market. It creates and empowers an independent regulatory authority under the name of the National Telecommunication Regulatory Authority (NTRA). Added to this, the act sets definite deadlines for liberalising basic telecom services and outlines the provisions by which Egypt pledges to safeguard the publication of information, the protection of free competition, the provision of universal

service and the protection of consumer rights. The new act also sets the rules for licensing new service providers and allocating frequency spectrum bands. The regulatory framework drawn by the new act has been extended by issuing a number of secondary legislations in the form of ministerial decrees. These decrees cover areas of organizational structure, general conformity to the law and regulate the importation process and manufacturing of telecommunication devices (the NTRA annual report 2004/2005).

- Telecom Egypt, the previous incumbent, has become the focal point for all market players in 2004 and 2005 as it has been prepared for privatization. The company has gone through a process of financial reconstruction in 2004 ended by a floatation of 20% of its shares. The \$785m Initial Public Offering (IPO) of 340m shares of Telecom Egypt has been divided into two parts; 10% has been offered in the form of shares for small investors in the capital market, while another 10% was sold to institutional and high profile investors. Officials have set the minimum price at \$2.31 per share. The IPO closed on 7 December 2005, and the trade in the company's shares started on 14 December. Some of the shares have been listed in London as global depositary receipts^{xi}.
- In accordance with Egypt's commitments as per the BTA of the WTO to full liberalisation of the telecommunications sector, international telecommunications services arena was opened to private operators and service providers in 2006. In this context, a regulatory framework for cable landing licensing has been developed. In July 2007 the Minister of Communications announced that the (NTRA) have set the terms and conditions for the second landline license in Egypt.

All these steps of regulatory reform affirm the fact that the liberalisation decision was a strategic choice made by the government on practical and professional bases with no place to the notion of political uncertainty. The major concern was how to attract and to encourage private investors to invest in this sector. The answer was by creating a regulatory system that assures them that they can invest and perform in an environment which will enable them to get a return on their investment without any discrimination between private and incumbent parties. Added to this, a quick look at the ministerial speeches and other policy documents published by the ministry of

communications and information technology can clearly illustrates the functional and instrumental underpinnings of the public policy in this domain. In these documents the high frequency of words and phrases such as “partnership”, “attracting investments”, “developing the sector”, “encouraging the private sector”, “creating suitable environment for business” and other can show that the policy agenda is formulated and policy decisions are taken in response to external factors most probably pressures from the surrounding regional and global environments. This issue will be further illustrated in the following section.

3- Diffusion Mechanism of the IRAs: An Overview of the Literature and Reflections on the Egyptian Case

Since the privatisation and regulatory reforms recently introduced into developing economies are broadly modelled on developed country experience, a valid question in this regard would be how such reform initiatives and the accompanied regulatory models have been diffused in the context of the developing countries? In other words what were the mechanisms that facilitated the diffusion process? A glance at the diffusion literature shows that different mechanisms including policy transfer and lessons learning, the role of globalisation as a facilitating factor, and institutional isomorphism come into play when we try to explain the spread of IRAs I the developing countries. Each of these mechanisms will be discussed in this section by focusing on their applicability and validity to explain regulatory reforms in Egypt.

Policy Transfer and Lessons Learning As Diffusion Mechanisms

The fundamental question in this regard would be to what extent the adoption of regulatory models in the context of the developing countries reflects a process of policy learning or policy transfer. In other words, can the policy transfer approach illuminate scholars about how these models diffused in the developing countries? To answer this questions a brief discussion of this approach is required to illustrate its underlying assumptions and its validity as a diffusion mechanism for IRAs in the context of developing countries including Egypt.

In policy sciences there is an abundance of literature dealing with the issue of policy transfer. A full account of this body of literature is not within the scope of treatment taken for this paper. Therefore, a quick highlight of the salient work in this area would be enough. At the outset, policy transfer can be seen as the conscious adoption of a

public policy from another jurisdiction via processes such as policy diffusion, emulation, policy learning and lesson drawing (Dolowitz and Marsh 1996, 2000; Stone, 2000). These processes are sometimes confused with the policy transfer itself; however, a distinction should be made between them. Rogers (1983: 11) defines diffusion as 'the process by which an innovation is communicated through certain channels over time among the members of a social system'. That means, policy diffusion can occur without any policies being adopted but policy transfer becomes an observable process once organisations and actors pick up a policy idea or model.

As noted by (Minogue: 2001) the approach itself is not new as policies have been transferred between national systems for a long time. However, the notion of policy transfer has been given new impetus recently through the use of conditionality by lateral and multi-lateral aid donors to impose policy and institutional changes upon the governments of transitional and developing economies. In this context, the transfer of regulatory practices from developed to developing countries raises a fundamental question: are regulatory models transferable? Three simplistic answers are possible to this question: "Yes, regulatory models are transferable"; "No, regulatory models are not transferable" and finally "It depends". Considering the complex nature of the regulatory space in any given country the last answer is most probably to be suggested to the proposed question.

From this angle, the question of policy transfer is a question of structure and agency (see Evans and Davies 1999). As Wilks (1996:49) puts it 'regulation is embedded in distinctive cultural and institutional complexes ... [and that] it is an organic regime rather than an autonomous set of rules'. In this sense, the policy transfer approach operates at the meso-level, but in order to develop valid conclusions, it should be linked with questions at the macro and micro levels. As such policy transfer can become problematic issue once we accept that not all countries are the same at the political, legal, economic, and social levels. The overall structure in which the new agencies are embedded determine to a great extent the way in which they perform and their ability to make and enforce independent decisions.

Similarities between structures are claimed to facilitate the transfer process. Pratt (2004) has noted that policies are more likely to be transferred - or lessons more likely to be drawn - the more similar are the policy problems and the nature and circumstances of the countries concerned. Consequently, the policy transfer approach

has been contested on the ground dissimilarities between countries at the regional local and global levels render any attempt to simple transfer of models in the form of generic template an illusive process (see Massey 2009).

Following on from the above discussion and recalling the Egyptian case it can be noticed that there are some fundamental differences in the political and economic structures which may render an assumption about policy transfer and policy learning inaccurate. At the political level, despite the multi-party political system the country is ruled by a dominant party since 1981. Economically speaking, the emerging Egyptian economy is still struggling to overcome problems such as the high level poverty and internal and external debts. As noted by Abdel-Hameed (2007) 40.5% of the Egyptian population are in the range of extreme poor to near poor. The gross external debt of Egypt, according to the statistics of the Ministry of Finance is estimated at US\$29,898 million at the end of financial year 2007. The net government domestic debt reached 65.4% in 2007 compared to 54.3% of GDP in 2001.

Another important criticism to the policy transfer approach is the lack of systematic evidence in terms of unpacking diffusion empirically by identifying specific diffusion mechanisms (see Gilardi, 2009). Volden *et al.* (2008: 19) have noted that ‘despite decades of study, systematic evidence that governments learn from one another has been limited’. Added to this, the picture can be complicated more if we consider the highly selective and conditional nature of policy learning processes. Policy-makers in any given context are not completely open to all kinds of policy experiments and they definitely will not be willing to implement ideas and models at odd with their overall societal structures. In other words, as agents for change, policy makers are supposed to study the experience of other countries and to select those elements which consist with the values, norms and traditions of their societies. The outcome of this adaptation process is not necessarily an optimal one as the adapted model can be a complete distortion of the original one and hence the ‘adaptability’ of regulatory models becomes an issue for policy transfer and policy learning (see Minogue: 2001).

To recapitulate, the final conclusion with regard to whether policy transfer and policy learning can be suitable frameworks for explaining the diffusion of regulatory models in the developing countries or not is that it depends on the level of similarity between the concerned contexts and in turn the level of adaptation needed to make the model workable in dissimilar contexts. The question now is how can we explain the success

of regulatory models in totally divergent contexts? For instance, it is obvious that Egypt is economically and politically different from most of the European countries where the notions of the regulatory state and the IRAs models have been originated. Nonetheless, the experience of the Egyptian telecommunications sector indicates a considerable level of success of the IRA model. The interview material shows a great deal of consensus between the regulated companies that over the short period of the regulatory agency in place significant improvements have been made with regard to market regulation. According to the viewpoints of the regulated companies' representatives the regulator is competent, fair, and partially independent and the overall experience is a success so far. How this can be explained? This is a point that needs more research and investigation.

Globalisation and the Change in Governance

Over the last two decades the increasing globalisation of economic sectors and activities has spilled over into telecommunications sectors in many developed and developing countries (OECD 1995; Noll and Shirley 2003). The movement towards the globalisation of telecommunications was accompanied by a diffusion of IRAs as suitable regulatory mechanisms to govern these economic sectors and to limit some social risks associated with the transformation phase. The widespread adaptation of IRAs in the liberalised telecoms markets raises a fundamental question about the relationship between globalisation and the diffusion of these models.

Globalisation is one of the most commonly used concepts in policy studies and in popular political discourse. There are probably as many academic conceptualisations of globalisation as there are students of it. The term has been studied from different economic, post-modern developmental, socio-cultural, ideological, and political perspectives. As such, globalisation is a very slippery term that needs to be unpacked and deconstructed. It represents a word that can take different meanings and refer to different things. According to Strange (1996) for example, the word globalisation extends to cover a wide range of things 'from the Internet to a hamburger'. Mann (1997) has used the term to refer to social activities and interactions that might occur at the local, national, international, trans-national, and global levels. Al-Khodery (2000) has noted that the concept of globalisation goes beyond the current borders of the States to broader horizons that include the whole world. In the same vein, Goodhart (2001) has regarded globalisation as a trend towards supra-nationalization

or universalization, which signifies a shift in social relations-including politics, culture, and economics toward the supranational levels. The common feature among all these definitions and others is the trans-border nature of the concept of globalisation. As Scholte (2000: 46) put it 'the proliferation and spread of supra-territorial-or what we can alternatively term 'trans-world' or 'trans-border-connections brings an end to what could be called 'territorialism', that is, a situation where social geography is entirely geographical'.

With such a universal and broad nature of the concept of globalisations, its implications have been examined in different policy areas including the diffusion of regulatory reforms and models. A general assumption among policy scholars is that globalisation has facilitated and accelerated diffusion processes from developed to developing countries (Gilardi et al., 2006; Bulmer and Humphreys, 2007). With respect to utility sectors including telecommunications one can argue that there is a global model for reforming these sectors that encompasses three main phases: market liberalization (opening markets up for competition); market regulation (economic, social, and environmental); and finally the privatization of the previous incumbent. As can be seen regulation is an integrated part of this package. From this angle, the creations of IRAs in telecoms sectors can be seen as manifestation of the change in governance. The worldwide spread of regulatory reforms has led to the emergence and consolidation of a new mode of governance known as the 'Regulatory State' wherein new regulatory institutions have been created and embedded in the existing administrative structures (see Jordana et al., 2003; Jordana, and Levi-Faur 2005a; Jordana, and Levi-Faur 2005b).

At the first glance, such a postulation seems convincing however, a deep thinking about it leads to the conclusion that it can actually be contestable. Questions about the real impact of globalisation on policy diffusion are highly debatable. No one can provide inclusive answers to whether globalisation has put more limits or provided more opportunities for transferring models, ideas and institutions between developed and developing countries. In other words, the extent to which globalisation *alone* facilitates or obstructs the process of IRAs diffusion among different countries remains an empirical question and thus calls for a reflexive research agenda that closely analyse and demonstrate the effects of increased globalisation on policy

diffusion in general and in certain policy areas such as the diffusions of regulatory reforms and models in particular.

Institutional Isomorphism

The discussion so far focused mainly on voluntary diffusion mechanisms of IRAs assuming that IRAs are diffused as a result of learning processes in which policy makers learn from the experience of other countries and willingly adopt regulatory reforms and model. These processes can be facilitated by the globalisation of policy making in certain areas where global actors play an increasingly important role in shaping policies and determining policy choices at the local levels. Little attention has been paid to coercive mechanisms where policy makers for the reasons that will be explained later in this section have no other choice but to adopt certain models. In this case one can hardly talk about voluntarism and freedom of choice of policy makers as the decisions making authority lies in the hands of other agents.

In most of the cases developing countries found themselves obliged to adopt a certain type of institutional arrangements such as IRAs because of the pressures exerted by the international financial institutions or by donor states. These pressures according to Minogue (2001) reflect donor values and preferences relating to economic structures and behaviour (structural adjustment policies), to systems of state management (new public management), and to types of political institution and regime (good governance) which are not necessarily the best options for policy makers. The overall aim is to reshape state-market relations in the image of global capitalism.

In such situations, the notion of isomorphism particularly ‘coercive isomorphism’ as presented by DiMaggio and Powell (1983, 1991) appears more plausible for explaining the diffusion of IRAs. According to them, ‘Once an organizational field becomes well established [...] there is an inexorable push toward homogenization’ (DiMaggio and Powell, 1983:148). Both formal and informal isomorphic pressures are exerted on organizations by other institutions in the surrounding environment on which they are dependent (DiMaggio and Powell, 1991: 67). Such isomorphic pressures can be exerted to directly force other organizations to adopt certain models or ideas in so-called ‘*direct coercion*’. Conditionality for provision of loans exerted by international financial institutions including the International Monetary Fund and the World Bank is a case in point. Many developing countries compete for loans and

grants to enhance their economic development which makes them vulnerable to whatever conditions that could be forced upon them by the donors.

At the same time, Henisz *et al.* (2005: 12) have mentioned another form of isomorphic pressures '*indirect coercion*' wherein outsider institutions try to intervene and to change the balance of power between domestic groups to support those who favour their ideas or reform programs. This can be done by providing the targeted groups with resources, legitimacy, or rhetorical arguments, or through prompting various groups to join in the pro-reform coalition. Developing countries might also find themselves compelled to adopt certain organizational models such as the IRAs out of the necessity that they do not want to be left behind and their willingness to remain members of the international society. In this regard, these countries may '*symbolically imitate*' certain models in order to maintain and enhance their credibility and competitiveness as well as to legitimize other decisions, such as liberalization and privatization (see Giraldi, 2005). In this context, the adoption of IRAs is purely instrumental, either to satisfy the donors or to attract private investors.

Many elements of the coercive isomorphism can be seen in the Egyptian case as the reform process has been associated from the very beginning with the deteriorated economic conditions and the intervention of the international monetary institutions to structurally reform the Egyptian economy. As noted by Vignal (2010) the first step to reform the Egyptian economy was taken by the former president Sadat who initiated the 'open doors' policy or (*infitah*) in 1974. This policy gave some fresh impetus to the private sector; however, in terms of economic development it remained far too modest in scope and ambition to make any real difference. Because of the huge debt of the Egyptian government at the end of the 1980s Egypt had to adapt a Structural Adjustment Plan in 1991 following negotiations with the IMF and the WB. At the top of their recommendations, these two international financial institutions have emphasised the primacy of market forces and privatisation and ordered the retreat of the state from many economic and social fields. Hence, from the very beginning the choice of the economic reform model has been dictated by the WB and the IMF which indicates the role of coercive isomorphic pressures. These pressures have been consolidated later by the need for economic development which made the successive Egyptian governments prone to the conditionality of the donors.

In this context, another explanatory factor of the recent regulatory reforms in Egypt and more precisely the adoption of the IRA model can be the close relationship between Egypt and the European Union since the signature of a Cooperation Agreement with the European Economic Community (EEC) in 1976. A multilayered set of legal frameworks, political agreements, cooperation, and aid programs has been developed since 2000 and linked Egypt with the EU at the economic and political levels. At the time being the EU is Egypt's first trade partner and its second foreign investor as well as aid donor (Ibid: 3).

In the field of cooperation there are many projects between Egypt and the EU which aim among other things at improving Egypt's market and regulatory frameworks by focusing on the following elements (Ibid: 14):

- Ongoing implementation of the strategy for regulatory reforms and administrative simplification;
- Establishment of a one-stop-shop to carry out all licences required for establishment and operations;
- Ongoing implementation of the financial sector reform programme (foreign exchange market, monetary policy framework, banking and non-banking financial sectors);
- Amendments to the 2005 Competition Law in order to strengthen powers of the Competition Authority;
- Implementation of the Euro-Mediterranean Charter for Enterprise.

Although establishing a casual relationship between cooperation and aid programmes between Egypt and the EU requires more in depth analysis, one should not ignore the various possibilities that these channels work as diffusion mechanisms through which the IRA model has been transferred and diffused in Egypt.

Concluding Remarks

This paper has attempted to answer two questions: why governments in the developing countries delegate to IRAs? And how the IRAs have been diffused in the contexts of these countries? In searching for answers to these two questions the Egyptian regulatory reforms have been taken as illustrative examples. The discussion of these two issues has indicated that because of the contextual differences between developed and developing countries some explanations and hypothesis about the creation and the diffusion of the IRA model need to be reconsidered and re-examined. For instance, the political uncertainty hypothesis can be a sound justification for why today's government delegate to independent institutions in democratic countries. However, when today's government is tomorrow's government as is the case in many developing countries including Egypt because all governments apply the policies of the ruling party the explanatory power of this hypotheses becomes very limited. Some other explanations such as making long term credible policy commitment appears to be more appropriate for explaining the creation and diffusion of IRAs. Governments in many developing countries are engaged in a race to get more aids, financial assistance, and foreign investments to help their economic development. To this end, they need to send signals to the international organisations and private investors to build the legitimacy and the creditability of their emerging regulatory regimes.

Having concluded that, the second part of the discussion has focused on the mechanisms through which IRAs have been diffused in the developing countries. Three possible mechanisms have been considered: policy transfer and policy learning; globalisation and the change in the mode of governance; and institutional isomorphism. Each of these mechanisms has its own enabling and obstructing elements which makes it difficult to attribute the diffusion of IRAs in the context of the developing countries to one mechanism and disregard the others. With globalisation spelling over into all aspects of economic activities and changing the global governance and dynamics between actors involved in these sectors one can see an element of learning as policy makers in the developing countries are now more exposed to the experiences of other countries. This is not to say all ideas and institutions are transferred via learning processes on voluntary basis. The other side of the picture shows the coercive element of the story where governments of the

developing countries found themselves obliged to adopt certain reforms under the pressures of donors or for fear that they might be left behind if they do not join the international wave of reform and adopt the best practices and best models. Therefore, the learned lesson is that with great aids come great conditionality and less freedom for the developing countries to develop their own models.

An interesting question however which has been left unanswered is how can we explain the success of the transferred regulatory models in some of the developing countries despite the contextual differences between these countries and the exporting ones? The regulatory reform of the telecommunications market in Egypt is a case in point. Different criteria and indicators reflect the success of the IRA model including the level of investments, the trust of the regulated companies, and the economic performance of the whole sector. Considering the contextual differences mentioned before one should not expect this level of success which requires a search for the determining factors of success outside the box of traditional socio-economic and political justifications.

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Notes

ⁱ Three different meanings of the regulatory state have been identified by Jordan and Levi-Faur (2004): the minimal, the prudent, and the overambitious meaning. The minimal meaning refers to the regulatory state as a field of study grouping scholars from different disciplines. The prudent meaning emphasises the tendency of modern states to use power and authority. As an overambitious notion, the regulatory state developed to replace other state forms such as the welfare, developmental, and stabilisation state.

ⁱⁱ Reviewing the literature, one can find some terms like ‘the new regulatory state’, ‘the administrative state’, and ‘the new regulatory infrastructure’.

ⁱⁱⁱ According to Loughlin and Scott (1997), the increasing use of regulation as a formal instrument of government may thus arise because of the growing need to ‘steer’ the behaviour of a variety of actors – both public and private – who operate at distance from the central state.

^{iv} The separation of provision from production or policy-making from operational tasks has been mentioned by Loughlin and Scott (1997) as a major change which has happened to governments. The operational tasks associated with the production of utility services have been privatised while responsibility over the provision of these services has been assigned to new regulatory agencies.

^v As noted by Osborn and Gabler (1992) competition between service providers can be used by managers to preserve maximum flexibility, and to respond to changing circumstances, while service providers will be accountable for the quality of performance.

^{vi} Some of these advantages have been identified by the better regulation task force including: more consistency of decision-making; long term strategic decisions; more transparency and better accountability; more trust between regulators and regulatees, and freedom from political interference.

^{vii} As Jacobs (2003) notes independent regulators in sectors characterised by a mix of competitive and natural monopoly activities replace the traditional combination of policy, regulation, ownership, and promotion tasks inside line ministries.

^{viii} Savas (2000) has noted that, the regulatory environment can represent the greatest deterrent to private participation in the provision of utility services; if regulation is unlimited in scope, unclear in operation, and inclined toward micromanagement private investors will seek a more hospitable place to invest. Veljanoveski (1991) has also mentioned that the greatest threat facing private investors is not the possibility of re-nationalisation but the ‘tightening corset’ of regulation.

^{ix} As noted by El-Sherif (2001) the participation of private sector members and civil society organizations in drafting the law was widely seen as an unprecedented event in the Egyptian legislative process and a significant milestone in keeping with the government’s policy of greater transparency and increased private sector participation. The ministry of communication stated that this was the first time industry players will be able to voice their comments regarding a draft law (Privatization In Egypt – Quarterly Review January – March 2000)

^x The law includes 7 chapters and 77 articles. The chapters are titled: the General Provisions, the National Telecommunication Regulatory Authority (TRA), Licenses and Permits, Management of Frequency Spectrum and License of its Use, Telecom Egypt Company (TE), National Security and General Mobilization, and Penalties.

^{xi} <http://www.ameinfo.com/72855.html>