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***Governing for Sustainability in the Regulatory Capitalism Era:
Balancing Business-Centred and Government-Oriented Approaches
in Interactive Governance System***

Saeid Rahanjam

Bayes Business School (Formerly CASS)

London, United Kingdom

Saeid.rahanjam@bayes.city.ac.uk

Abstract

There is an active debate about the efficacy of different governance approaches in responding to the socio-environmental challenges. This study focuses on two theories from business-centred and government-oriented governance approaches that contribute significantly to this discussion: Political Corporate Social Responsibility and Collaborative Governance. Both theories advocate for private sector participation in governing procedures through a deliberative process but differ markedly in their proposed regulatory procedures and governance model. The paper aims to go beyond the conventional dichotomy of public versus private authority to account for the characteristics of the governance practices in the interactive governance system. It does so by critically examining the central assumptions of these two theories vis-à-vis regulatory capitalism across three orders of governance practices. The analysis provides insights into optimising these theories by integrating elements of regulatory capitalism into their analytical frame, thereby enhancing their efficacy. The paper also outlines a future research agenda aimed at empirically testing these theoretical optimizations.

Key words:

Collaborative governance, political CSR, Public-private interaction, regulatory capitalism, sustainability governance.

Introduction

Since entering the new millennium, the world has witnessed an unprecedented rise in socio-environmental challenges. Over the past thirty years, more than half of all carbon dioxide emissions since the onset of the Industrial Revolution have been released, with no indication of a reduction (Busch et al., 2024). Concurrently, the global biosphere is experiencing a continuous decline (IPBES, 2019; IPCC, 2022), while deforestation continues to accelerate (Panwar et al., 2023), and poverty is still one of the biggest challenges in many societies, with more than 10% of the world population living under the defined international poverty line (Leal Filho et al., 2021). The urgency to address these complex challenges and the inadequacy of traditional hierarchical governance structures in providing proper solutions have led to the proliferation of new regulatory schemes and the emergence of hybrid governance models that seek to redistribute the roles, responsibilities, and authorities between public and private actors in creating more resilient systems of governance for sustainability.

One of the debates around the emergence of this new governance order is the efficacy of different governance models in responding to the myriads of socio-environmental challenges. Most of this literature is focused on the role of public and private actors, examining the capacities and constraints of public and private actors as rule-makers or rule-takers and categorising different types of their interactions on a continuum from substitutive to complementary. Two leading theories that have made substantial contributions to this strand of research are Political Corporate Social Responsibility (Political CSR) (Scherer & Palazzo, 2007, 2011), which adopts a business-centric perspective, and Collaborative Governance (Ansell & Gash, 2008; Emerson et al., 2012), which emphasises a government-oriented approach. Both theories advocate for the private sector's active participation (in contrast to the mere presence) in the regulatory procedure through the deliberative process. However, making

different assumptions about the delineation of roles and power dynamics among public and private actors, they suggest completely different regulatory procedures and governance models.

Political CSR suggests an extended model of governance in which (multinational) corporations take a state-like role and political co-responsibility by filling the regulatory gap in the global governance context and contributing to the provision of public goods, where the nation-state is unable or unwilling to do so (Scherer & Palazzo, 2007, 2011). This theory highlights a shift toward informal, non-mandatory regulatory schemes such as multi-stakeholder initiatives (MSIs) and self-regulation through which businesses become “authors of rules with public impact” (Scherer & Palazzo, 2007, p. 1098). In contrast, Collaborative governance outlines a new governance arrangement, which characterises a balanced partnership between governmental and non-governmental entities, emphasising collective decision-making and shared authority and responsibility in regulatory procedure and provision of public goods (Ansell & Gash, 2008; Bingham et al., 2014; Emerson et al., 2012).

However, current literature has not yet adequately explored the specifications and characteristics of the governance practices in this new governance order, described as the regulatory capitalism era (Braithwaite, 2008; Levi-Faur, 2005), and how they can affect the functional potentials of the different types of public-private interactions in the governance context. Examining such effects in the regulatory capitalism landscape, marked by a shift towards interactive governance systems and cross-sectoral interdependencies (Kooiman & Jentoft, 2009; Levi-Faur & Jordana, 2005b), requires an understanding that goes beyond the conventional dichotomy of public versus private authority. Instead, it demands a closer examination of the characteristics of the governance practices, increasingly driven by the growing influence of experts, formalisation of inter and intra-institutional agreements and proliferation of new regulatory technologies (Levi-Faur, 2005).

This paper tries to bridge this gap by critically examining central assumptions of Political CSR and collaborative governance theories vis-à-vis the elements of regulatory capitalism as the descriptive theory of the new governance order across three levels of governance practices: (1) regulatory procedures and outcome, (2) institutional arrangement and governance model, and (3) delineation of roles and power dynamics to identify commonalities and differences among their proposed governance structures. Then, based on this analysis and drawing on the governance literature on interactive governance systems, I discuss how political CSR and collaborative governance theories can be harmonised with the normative principles of governance practices in the interactive governance system by incorporating elements of regulatory capitalism in their analytical framework, thereby fine-tuning these theories to be more adaptive to the today's governance context and more functional in responding to the socio-environmental challenges. The paper concludes by outlining a research agenda and discussing the implications of the proposed theoretical optimisation for future empirical work in the context of governing for sustainability. The discussion commences by explaining the theoretical motivation of this study in the next section.

Theoretical Motivations

It is almost a quarter of a century since Jacobs heralded the new governance context as “the golden age of regulation” (Jacobs, 2000, p. 7), asserting that despite claims of deregulation, the opposite trend had emerged. Since then, new forms of governance have emerged, sparking significant academic interest in examining the interactions between public and private entities within these hybrid governance structures, noting a shift toward more collaborative and less hierarchical structures. Central questions in this stream of research have been: who is the rule-maker and who is the rule-taker in the governance structure, and how do the interactions between public and private actors affect the efficacy of the governance system in responding to the various governance challenges and provision of public good? This analytical approach

has led to the development of multiple typologies of public-private interactions on a continuum from competitive/substitutive to complementary/collaborative types of relationship between public and private regulatory schemes (see, e.g., Cashore et al., 2021).

The existing empirical research presents a mixed picture regarding the effectiveness of substitutive versus complementary relationships between public and private regulatory schemes. Some studies advocate for a substitutive relationship between voluntary private regulatory schemes and governmental regulations (e.g., Malhotra et al., 2019), asserting that the private sector is more prone to voluntary standard programmes in liberal market economies than firms from more coordinated market economies (e.g., Kinderman, 2011). Other research underscores the government's critical role in public goods provision (e.g., Nilsson, 2023), supporting the complementary relationship between public and private regulation (e.g., Pedersen et al., 2013) and indicating that stricter government regulations encourage the private sector's adaption to a higher level of corporatist arrangements (Gjøølberg, 2009).

The ongoing ambiguity in empirical findings can mostly be traced back to two aspects of dominant analytical approaches in the current literature. As Ansel and Gash have asserted, "... much of the literature is focused on the species rather than the genus" (2008, p. 544). There is a pronounced tendency within the current literature to examine particular regulatory schemes and cases of public-private interactions attentive to sector-specific governance issues, with less emphasis on understanding these phenomena within the broader or "genus" of regulatory dynamics in the new governance context. These studies often rely on distinct and occasionally contradictory assumptions regarding the structure of the governance context, leading to fragmented perspectives on regulatory efficacy. Secondly, the prevalent analytical approach in the current literature prioritises the analysis of parts of the governance system by focusing on the capacities and constraints of the public and private actors to the understanding of the systemic attributes and characteristics of the regulatory procedures that mediate the public-

private interactions in the governance structure. Such controversial measures of discrepancy in understanding the new governance structure and neglecting the procedural attributes of the regulatory mechanisms in the governance structure, threatening to hinder the field's theoretical development, is of crucial matter to be better responded in academic research.

In response to these limitations in the current literature, this study tries to redirect the attention from “who” governs to “how” governance occurs, shifting the focus from the capabilities and constrains of public and private actors to the compatibility of different regulatory schemes with the procedural characteristics of regulations in the new governance context. In particular, this study draws on the regulatory capitalism literature to specify the characteristics of the regulatory procedures in the new governance context and focuses on the regulatory aspects of the political CSR as a business-centred governance approach that suggests a substitutive relationship between public and private actors in the global governance context (Scherer & Palazzo, 2011) and collaborative governance as a government-oriented governance theory that emphasises the complementary association between public and private actors in the regulatory procedures (Ansell & Gash, 2008; Emerson et al., 2012) to examine the compatibility of the central assumptions of these two governance approaches with the characteristics of the regulatory procedures in the interactive regulatory systems assumed in the regulatory capitalism approach. The aim is to see how political CSR and collaborative governance theories can be harmonised with the normative principles of governance practices in the interactive governance system by incorporating elements of regulatory capitalism in their analytical framework, thereby fine-tuning these theories to be more adaptive to today's governance context and more functional in responding to the socio-environmental challenges.

Theoretical Foundation: Political CSR and Collaborative Governance vis-à-vis Regulatory

Capitalism

New governance order in the Regulatory Capitalism era

Since the late 1970s, global political and economic governance structures have undergone significant transformation (Majone, 1997). Commonly understood through concepts such as privatisation, liberalisation, and globalisation, these shifts were initially seen as forms of deregulation, particularly aligned with neoliberal market theories. However, these changes have significant regulatory components that challenge pure neoliberalism, suggesting that globalised markets are not detached from regulation (Harmes, 2006). On the contrary, liberalising markets resulted in considerable expansion of regulations in scope and depth, although not always instructed or implemented by the state (Levi-Faur, 2005). This proliferation of regulations extends beyond traditional business-government relations, creating multi-layer regulatory configurations as a mixture of compulsory and voluntary schemes. (Levi-Faur, 2005). We can see multiple regulatory instruments in various policy arena, including eco-labelling, league tables, auctioning, gatekeepers, and price controlling.

The concept of regulatory capitalism captures these changes in the governance structure, reflecting an institutional design that emphasises regulations' central role in shaping economic and governance practices (Braithwaite, 2008; Levi-Faur, 2005). Regulatory Capitalism' explains the new governance order as a network of relationships among various public and private actors who are interconnected and mutually conditioned to each other through a network of public and private regulatory schemes (Jordana et al., 2011), which together shape a horizontal structure that encompasses the expansion of the regulatory capacity of both public and private sectors (Braithwaite, 2008).

Central to the understanding of this new governance order is the concept of hybridisation (Levi-Faur, 2017), which echoes the redistribution of roles in a mixture of institutions that

constitute and govern the interplay among market, society, and state, as well as the blurred borders between them. In this structure, the state, being embedded in the economic and social order (Levi-Faur, 2005), reconstructs its authority by assuming a steering role (Levi-Faur, 2005; Osborne & Gaebler, 1995) by setting the legal and policy frameworks that facilitate regulatory cooperation and coordination, while the private sector takes on the rowing responsibilities by instituting internal controls and self-regulatory mechanism and by engaging with sectoral, national and global regulatory initiatives and associations (Braithwaite, 2008). The UK Financial Conduct Authority (FCA) is a compelling example of such a shift in the division of labour through hybrid governance mechanisms. Developing ‘regulation hub’ and ‘regulation sandbox’, FCA, provides the opportunities for private financial institutions to actively participate in the regulatory procedure in the shadow of the state.

Privatising industries and expanding multinational corporations’ activities across borders raises questions about how the state can ensure that private entities meet national and international standards, pushing for more regulation by the state. On the other hand, private entities might outperform government institutions in the quality-of-service provision - such as the cases of the prison industry in the United States (Harding, 2018) or nursing homes in the United Kingdom (Braithwaite et al., 2007) - that creates pressure for enhanced regulatory oversight on state compliance through independent enforcement mechanisms. This mutual pressure for more regulation for and by public and private sectors leads to the creation of Independent Regulatory Agencies (IRAs) (Braithwaite, 2008).

The emergence of IRAs in the regulatory space has been considered one of the manifestations of the delegation of authority from politicians to experts in the regulatory capitalism era (Gilardi, 2005; Gilardi et al., 2006) such that the first group, as citizens’ representatives, controls and supervises the latter, who formulate and implement policies in independent regulatory agencies (van Waarden, 2003). The US Food and Drug Administration

(FDA) and the US Environmental Protection Agency (EPA) are two examples of such a delegation. While the Congress authorisation derives the FDA's and EPA's regulatory authority, these regulatory agencies are responsible for filling in the details through rulemaking processes that often require substantial scientific and technical input. Expansion of such (Semi-) autonomous regulatory actors in the governance context has led to the increasing influence of experts and international networks that were developed among them on the regulatory procedures at both national and global scales (Levi-Faur, 2005) such that “... *direct executive intervention and subsidies are being replaced by the intervention of experts and technocrats and by new regulatory instruments*” (Levi-Faur & Jordana, 2005a). Another specification of governance procedures in the regulatory capitalism era is the formalisation of inter and intra-institutional agreements at national and international scales (Levi-Faur, 2005) that highlights the integration and coordination mechanisms of various governance systems and schemes which operate in the fragmented and functionally distinct governance structures (Braithwaite, 2008; Sørensen, 2006). The Kyoto Protocol in 1997, the Paris Agreement in 2015, and the European Green Deal in 2020 are examples of such formalisation procedures at regional and global scales.

Divergences in the new governance order

The concept of regulatory capitalism describes an expansion in the scope, arenas, instruments, and intensity of regulation with procedures that are not fixed and outcomes that are not predictable (Levi-Faur & Jordana, 2005b). This suggests that while regulatory transformations may appear as a uniform trend in the new governance order, its implementation procedure diverges significantly with different applications and impacts across sectors and nations.

Two extensively discussed approaches in this regulatory evolution are Political Corporate Social Responsibility (Political CSR) and collaborative governance from management and public administration scholarships, which stand as hallmark exemplars of divergence within

the broader terrain of regulatory capitalism by suggesting a substitutive vs complementary relationship between public and private actors (and regulatory schemes) in the new governance context. Political CSR suggests an extended model of governance in which (multinational) corporations take a state-like role and political co-responsibility by filling the regulatory gap at the global scale (Scherer & Palazzo, 2011), through self-regulatory and soft-law regimes, through which businesses become “authors of rules with public impact” (Scherer & Palazzo, 2007, p. 1098). In contrast, collaborative governance, highlighting the complementary role of public and private actors in the regulatory procedure, outlines a new governance arrangement where the state agency directly engages non-state actors in a formal, consensus-oriented, deliberative decision-making process aimed at the provision of public goods (Ansell & Gash, 2008; Bingham et al., 2014; Tosun et al., 2016).

Political CSR and Collaborative Governance theories emerged in response to the failure of traditional governance institutions to address complex socio-environmental challenges. As Ansell and Gash (2008) note, “experiments with collaborative governance were typically driven by earlier failures with adversarial or managerial approaches” (2008, p. 549). A similar rationale exists in political CSR literature, where scholars describe the governance context in which corporations engage in regulatory activities: “when the state withdraws or has to withdraw when the state has not yet implemented basic citizenship rights, or when it is principally unable or unwilling to do so” (Scherer & Palazzo, 2011, p. 900). Both theories propose that in the presence of such a gap in the governance context, the private sector should participate in public deliberation and share political co-responsibility with the public sector, emphasising active participation, in contrast to the mere presence of private actors in the regulatory process. (Ansell & Gash, 2008; Scherer & Palazzo, 2011). Despite these commonalities between these two governance approaches, their explanation about the

allocation of roles and responsibilities between the public and private sectors and the proposed mechanisms for private sector participation in regulatory procedures are significantly different.

The political conception of business firms in the Political CSR approach is somewhat inspired by Habermas' idea of "Post-national Constellation" (2001) in which the nation-state, as the traditional regulatory institution, fails to play its role in responding to public concerns by defining practical behavioural standards (Vaske & Kobrin, 2001). Therefore, governance becomes a "process of governing beyond the state where there exists no supreme or singular political authority" (McGrew & Held, 2002, p. 8). Political CSR scholars argue that in the presence of such a "regulatory vacuum in the global governance [context]" (Scherer & Palazzo, 2011, p. 899), (large multinational) corporations, developing business conduct, instituting self-regulatory schemes and engaging with multi-stakeholder initiatives (Mena & Palazzo, 2012; Scherer & Palazzo, 2011), take the political co-responsibility and develop a "*Soft-Law mechanism as new forms of political regulation operate above and beyond the nation-state in order to re-establish the political order and circumscribe economic rationality by new means of democratic control*" (Scherer & Palazzo, 2011, p. 909).

In contrast, within the realm of collaborative governance, the private sector's involvement in regulatory procedures is determined by a distinct conception of governance that prioritizes the collective establishment of norms and rules (Ostrom, 1990). Here, governance is conceptualized as established "regimes of laws, rules, judicial decisions, and administrative practices that constrain, prescribe, and enable the provision of publicly supported goods and services" (Lynn Jr et al., 2001, p. 7), although such a regime would be developed through the "shared pursuit of government agencies and concerned citizens" (Reilly, 1998, p. 115). This approach emphasizes collective decision-making in a 'multi-organizational arrangement' (Bingham et al., 2014). Collaboration here implies the contribution of both state and non-state actors in developing rules and laws for the provision of public goods through a reciprocal

procedure (Bingham et al., 2014; Tosun et al., 2016) in which cross-boundary collaboration characterises the predominate structure of conduct, decision making, and activity (Emerson et al., 2012). Deliberation occurs here by bringing representatives of all relevant stakeholder groups together in collective forums to participate in consensus-oriented decision-making procedures alongside the government agency (Ansell & Gash, 2008; Emerson et al., 2012). Watershed partnership in California (Leach et al., 2002), and The Coral Triangle Centre (CTC) in Asia Pacific (Berdej & Armitage, 2016) are two examples of the collaboration governance setting aimed at resolving socio-environmental challenges at national and international scales.

Deconstructing political CSR and collaborative governance across three orders of governance practices

This study examines the compatibility of regulatory and governance procedures in political CSR and collaborative governance within the regulatory capitalism landscape to find the pathway for their optimisation. To conduct this analysis systematically, I first deconstruct the assumptions of these theories across three orders of governance practices: (1) regulatory procedures and outcome, (2) Governance model, and (3) delineation of roles and power dynamics. I critically examine the assumptions of political CSR and collaborative governance approaches vis-à-vis the elements of regulatory capitalism to clarify their commonalities and differences. This comparison then provides insights for the discussion on how political CSR and collaborative governance theories can be optimised by integrating the elements of regulatory capitalism into their analytical framework.

In developing these constructs, I draw on Kooiman and Jentoft's (2009) three-level model of governance practices in the interactive governance system in alignment with the central dimensions of regulatory and governance procedures- governance model and role of law- that Scherer and Palazzo's (2011) discuss in their seminal paper about political CSR. Kooiman and Jentoft (2009) categorise different governance practices in the interactive governance systems

in the regulatory capitalism landscape into three co-centric rings of activities. The ‘first-order layer’ or the outer ring is about how the governance system faces challenges in its everyday activities, which involves choices of regulatory instruments and decisions on regulatory procedures. The ‘regulatory procedure and outcome’ construct encompasses the governance practices at this governance layer as it deals with the nitty-gritty of governance activities in its day-to-day affairs to resolve societal problems. The second-order layer is about the institutional arrangement under which the first-order activities occur. This layer reflects the diversity, dynamics, and complexity of the society, where the systems of agreements could be developed (Kooiman & Jentoft, 2009). It resembles the ‘governance model’ construct, which discusses the locus and mode of governance as the institutional level of interactions in the governance structure. The third-order or the most centric layer of governance is ‘meta-governance’. It “involves the organisation of the conditions for governance” (Jessop, 2003, p. 107). It is at this layer that the power dynamics and authority structure among various actors shape “all values, norms and principles [...], according to which all other governance principles can be formed and evaluated” (Kooiman & Jentoft, 2009, p. 823), and “public and private governors and those governed take responsibility for governing how to govern”(2009, p. 823). Therefore, this layer corresponds with the delineation of roles and power dynamics construct.

These central constructs are the decisive precondition of regulatory mechanisms in the new governance context. Therefore, they are particularly relevant to the structure of my analysis and the following discussion. Table ‘I’ summarises this analytical structure and its extension over the three theoretical approaches derived from my comparative evaluation and deconstruction analysis. It is important to acknowledge that the literature presentation should be viewed as observed tendencies of the respective literature rather than universal truth claims.

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Regulatory procedure and outcomes:

Political CSR posits that corporations engage in self-regulation (e.g., codes of conduct and guidelines for environmental protection) to fill the regulatory gap in the global governance context (Scherer & Palazzo, 2007, 2011) and to address and fulfil social responsibilities beyond mere legal compliance (Matten & Crane, 2005; Scherer et al., 2006). Thus, this approach assumes a shift in the mode of regulation from governmental to self-regulation (Scherer & Palazzo, 2011). From this point of view, corporations can actively contribute to “*setting and redefining*” (Scherer & Palazzo, 2007, p. 1109) norms and standards rather than following existing social expectations or being strictly enforced by legal authorities through their efforts in developing self-regulatory schemes (Scherer et al., 2006).

The dominant rules in Political CSR are typically soft law, voluntary standards or principles that corporations adopt in areas such as human rights, labour standards, environmental protection, and anti-corruption and ethical supply chain management (Scherer & Palazzo, 2011; Scherer et al., 2014; see also Gilbert et al., 2011). These rules are often informed by global frameworks such as the UN Global Compact, the OECD Guidelines for Multinational Enterprises, and the ISO 26000 Guidance on Social Responsibility (Gilbert & Rasche, 2007, 2008). Although there is a variety in the level of obligation among different soft law mechanisms (Abbott et al., 2000), The obligations under these schemes are generally low (Scherer & Palazzo, 2011) as soft law regulatory schemes are distinguished by their non-binding mechanism in absence of governmental power to enforce rules or sanction deviant behaviour (Shelton, 2000), but rather “derives [their] normative force through recognition of social expectations” (Ruggie, 2007, p. 14). Therefore, obligations are moral and ethical rather than legal (Scherer & Palazzo, 2007), encouraging corporations to voluntarily comply with the agreed-upon standards and principles and go beyond mere compliance with local laws towards embracing a broader responsibility towards society and the environment. The rules in political

CSR can vary in precision. However, their level of precision is generally low (Scherer & Palazzo, 2011) as it is recognized for soft law mechanisms (Gilbert et al., 2011), given that they usually develop in a deliberative and communicative process among various stakeholders (Palazzo & Scherer, 2006).

In collaborative governance, the regulatory mechanism operates through a system of ‘structured arrangements’ (Padiila & Daigle, 1998, p. 74) to develop rules and norms established by (at least partial) consensus among various stakeholders (Ansell & Gash, 2008, 2018; Bingham, 2014). It brings multiple stakeholders, including businesses, NGOs, and sometimes communities, working together in collective forums with public agencies to engage in formal¹ negotiations and decision-making processes. The focus is on two-way communication, inclusiveness, principled engagement, and joint action aiming to achieve consensus and to co-create policies to resolve specific social, economic, or environmental issues, even if consensus is not always achieved in practice (Bingham, 2014; Emerson et al., 2012). Therefore, the dominant rules here include consensus-oriented formal agreements² (Cooper et al., 2014) in the forms of best practices, standards, guidelines, or protocols (A. M. Thomson & Perry, 2006).

The level of obligation in collaborative governance can be interpreted as medium to high, as participants are expected to engage in principled and constructive dialogue and commit to joint action (Emerson et al., 2012; Emerson & Nabatchi, 2015). However, their level of commitment can be conditioned to the level of trust, mutual understanding, and shared commitment among all participants in the collaborative setting (Ingraham & Getha-Taylor, 2014). Although the rules or agreements developed through collaborative processes can draw on existing legal frameworks, they may not have the binding legal force of government regulations. Instead of relying on formal statutes or mandates, they carry a moral and reputational obligation (Bingham, 2014).

The precision of rules in Collaborative Governance is moderate, allowing for flexibility and adaptability in the decision-making process to address the specific context and necessities of the issue at hand (Agranoff, 2014; Page, 2014). Collaborative settings are designed to provide a framework for deliberation but also allow for creativity and innovation in addressing complex public issues. The specificity of the rules often depends on the nature of the problem, the needs and preferences of the involved parties, and the desire for flexibility in implementation. Sometimes, participants may opt for more precise and detailed agreements to ensure clarity and prevent misunderstandings (A. M. Thomson et al., 2014). In other situations, broader principles may be preferred to allow for adaptability and responsiveness to changing circumstances (Leach, 2006).

The regulatory procedure in the Regulatory Capitalism era is characterised by the proliferation of new and smart regulatory technologies (Levi-Faur, 2005). This theory explains the mode of regulation as a network of formal hard-law and private soft-law schemes mediated and interconnected by IRAs in a network-based regulatory framework (Braithwaite, 2008; Levi-Faur, 2005). With the increased presence of IRAs and the emphasis on more efficient and participatory regulatory mechanisms, the dominant rules in regulatory capitalism lean toward a mixture of technologically sophisticated and data-driven formal and informal rules that shape a system of co-functioning regulatory schemes align with the best practices in regulatory enforcement (Jordana et al., 2011). This enhances the precision of regulatory procedures in the regulatory capitalism era. Specialised regulatory agencies have more technical and knowledge capacity to scrutinize needs and challenges across various industries, sectors or regulatory issues, leading to more targeted and effective regulatory instruments (Braithwaite, 2008). Although the precision of rules in Regulatory Capitalism can vary from broad and principle-based guidelines to highly detailed and specific ones, the goal is to create a regulatory landscape clear enough to provide needed guidance and broad enough to allow for creative compliance

solutions (Levi-Faur, 2006). The diversification of the regulatory instruments in use creates a varying level of obligation tailoring the regulatory mechanism toward diverse regulatory needs and contexts, as Regulatory Capitalism is rather inclined to develop a regulatory framework that can be both enforceable and adaptive to social expectations and industry practices (Levi-Faur & Jordana, 2005b)

Governance model:

Political CSR focuses on expanding governance scope from the national level to a global scale (Scherer & Palazzo, 2007). Asserting the expansion of globalised markets, where corporate actions can have far-reaching impacts beyond national borders, Political CSR Scholars assume a regulatory vacuum (Scherer & Palazzo, 2008, 2011) and an ‘enforcement gap’ (Ruggie, 2016) at the global governance context. This shifts the locus of governance toward a multilevel and inter-governmental governance structure (Scherer & Palazzo, 2011). Such a change from a top-down governance structure and governmental hard-law mechanisms to soft-law private regulatory schemes encompasses a decentralised and heterarchy mode of governance that works based on the interplay among various actors, including multinational corporations, NGOs, Civil Society organisations and international entities that intervene in the regulatory development procedures at different levels and directly contribute to the governance processes (Scherer & Palazzo, 2007, 2008, 2011).

Collaborative Governance mechanisms represent a significant departure in how public issues are or should be addressed from an ‘either-or’ approach in traditional hierarchical governance models to more ‘both-and’ perspectives (Connelly et al., 2014) through inclusive networks that require the active participation of multiple stakeholders across the public, private, and non-profit sectors in the governance procedure. In Collaborative Governance, the locus of governance extends from local to national and global levels, emphasizing the importance of multilevel cooperation (Ansell & Gash, 2018). At the local level, it entails the integration of

reasoned discourse among local residents, community organizations and local businesses toward informing decision-making by public representatives, embedded in the workings of local governance (Bingham, 2014) on issues like urban development (e.g., Johnson & Osborne, 2003) or community health and safety (e.g., Page, 2014). This indicates a form of participatory governance with citizens actively involved in government decision-making at the local level (O’Leary et al., 2006). At the national level, collaboration might include nation-state agencies, national non-profits, and large corporations focusing on broader issues such as environmental protection (e.g., Töller & Böcher, 2013), health care (e.g., Belrhiti et al., 2024), or education reform (Lavonen et al., 2020). At the global level, Collaborative Governance encompasses international organisations, transnational corporations, NGOs, and nation-states addressing complex challenges like climate change, global health crises, and international trade that cross jurisdictional boundaries of the nation-states and require collaboration between multiple governmental units and non-governmental stakeholders (See Tosun et al., 2016 for a review of studies on collaborative governance at the global scale).

The governance model in Collaborative Governance characterises a networked or flat structure in which multiple stakeholders, bringing different forms of expertise and resources, actively participate in and share the ownership of the decision-making procedure in an inclusive network on an equal footing of influence on the final policy outcome. Therefore, while it acknowledges the value of diverse perspectives and decentralised governance structure, it is also different from the heterarchy of public vs private regulatory schemes as it aims to address public issues through joint action and shared responsibility by developing consensus-oriented policy outcomes (Ansell & Gash, 2008; Bingham, 2014).

The governance model in regulatory capitalism encompasses a complex system of governance that integrates elements of hierarchy and heterarchy through interplays among a wide range of regulatory actors and formal agreements at the local, national, and global levels.

Regulatory capitalism asserts the expansion of regulatory governance at both national and global scales. Governance in Regulatory Capitalism is characterised by the proliferation of new regulatory agencies and instruments, which encompasses an increasing amount of governmental regulation, mainly through regulation for competition in the market as well as regulation for the state to audit the performance of the state (Ayres & Braithwaite, 1992; Levi-Faur & Jordana, 2005c). This indicates the enhanced locus of governance on the national scale, where the state steers the flow of events (Braithwaite, 2008) by leading, directing or guiding (Osborne, 1993) the activities of the other actors in the context of national governance.

On the other hand, scholars in Regulatory Capitalism argue that the increasing influence of experts in general and international networks of experts, in particular, has led to an expansion in the locus of governance on a global scale. They emphasise the role of ‘epistemic communities’ as “*cross-national collectives of individuals with common interests and institutionalised mechanisms for communication to serve as bridges among nations*” (Lazer, 2005, p. 56) in facilitating the global dissemination of information and ideas that result in the diffusion of similar policies across nations (Burt, 2018). This suggests a stronger connection between national and global governance as policies and ideas are communicated and adopted through international channels (Jordana et al., 2011), facilitating regulatory convergence in complex regulatory landscapes. Consequently, regulatory changes and reforms are considered interdependent trends within the group of actors who share information and closely observe each other (Jordana & Levi-Faur, 2005).

Furthermore, regulatory capitalism emphasises the formalisation of inter- and intra-institutional agreements and establishing formalised structures to facilitate collaborations for more effective regulatory systems (Levi-Faur & Jordana, 2005a). These mechanisms indicate that governance is no longer solely located within the traditional domains of the state but instead extends to a broader network of regulatory institutions and actors. Weiss (2006) calls

this mechanism ‘governed interdependence’ in which expansion of global regulatory regimes does not necessarily result in the decline of the state regulatory capabilities. Capable states can learn how to increase their governance capacities by governing through and with global institutions (Levi-Faur, 2005; Weiss, 2006). Consequently, Regulatory Capitalism involves the creation of new layers of more connected and interdependent national and global regulatory schemes (Braithwaite, 2008).

Delineation of roles and power dynamics:

Political CSR and Collaborative Governance both align in their recognition of a changing governance landscape, where traditional roles and boundaries are being redefined, allowing for a more dynamic and adaptive approach to governance. They both focus on the evolving role of non-governmental actors in decision-making processes. However, the delineation of roles in Political CSR and Collaborative Governance reveals the contrasting perspectives of these two approaches on the distribution of authority and delegation of leadership between public and private actors in these approaches and with that of Regulatory Capitalism.

Political CSR emphasises the growing role of corporations in the global governance context to suggest a shift in the delineation of roles as private businesses take on roles that were once the exclusive domain of government responsibilities to fill the regulatory gap in the global governance context (Scherer & Palazzo, 2007). Therefore, Political CSR, assuming a fundamental change in the traditional division of labour and blurring boundaries between economic and political domains, considers private sectors, in particular large multinational corporations, as important political actors in the (global) governance context (Scherer et al., 2006; Scherer & Palazzo, 2011). The general interpretation of power dynamics in this approach implies the decentralisation of the authority and weakening of state power, primarily because of the globalisation of the markets and assigning non-governmental actors, particularly large multinational corporations, an increasing political influence (Scherer & Palazzo, 2007).

Collaborative governance involves a more inclusive approach, where public agencies collaborate with non-state actors to address societal issues collectively. The emphasis here is on the presence and inclusion of all affected stakeholders in the regulatory and governance procedure as a precondition for the legitimacy and success of the collaborative scheme (Chrislip & Larson, 1994). In collaborative governance, public agencies and non-state actors are mutually dependent. However, the public agency has a distinctive leadership role, and it is responsible for setting and maintaining clear ground rules, facilitating dialogue, and exploring mutual gains (Ansell & Gash, 2008; Vangen & Huxham, 2003). As the leader of the collaborative scheme, the public agency serves as the mediator in resolving conflicts, balancing the interests of different stakeholders, and ensuring fair and transparent decision-making (Agranoff, 2006; Bryson et al., 2006). Non-state actors, such as business firms, contribute to regulatory procedures through active participation in collective decision-making (Emerson et al., 2012). Through such participation, they “*collectively own the decision-making procedure*” (Ansell & Gash, 2008, p. 560), assuming a shared authority structure.

In the context of Collaborative Governance, power dynamics are conceptualised around the assumption of some degree of balance of power (Purdy, 2012), while businesses and governments collaborate out of mutual interest or necessity (Bingham et al., 2014). The goal is not merely regulatory compliance or influencing legislation but achieving broader societal objectives through partnership. Scholars of this approach argue that power imbalance among stakeholders is one of the main barriers to the development and success of the collaborative governance scheme (Purdy, 2012).

Regulatory capitalism explains a new division of labour through the delegation of authority from politicians to experts through the emergence of IRAs, which contribute to the regulatory procedures independent of the direct state’s political influence to develop regulatory decisions based on their expertise rather than political considerations (Braithwaite, 2008; Levi-Faur et

al., 2005). The state retains the role of steering (Levi-Faur, 2005) and creating a conducive regulatory environment, enforcing regulations, monitoring their effectiveness, and engaging internationally to ensure effective and efficient regulatory mechanisms (Braithwaite, 2008). The private sector contributes to this governance structure by taking over the role of rowing (Levi-Faur, 2005) by addressing social harms by engaging in self-regulation in the shadow of the state (Levi-Faur & Jordana, 2005a). Therefore, Regulatory Capitalism reflects a decentralised yet inter-connected and expert-driven approach to regulatory development. This signifies a more formalised and structured approach to authority and leadership within the regulatory procedure, compared to the political CSR, where public agencies play a crucial role in setting regulatory frameworks, enforcing regulations, and monitoring their effectiveness and the private business sector's contribution to the regulatory procedures through soft-law mechanisms is mainly under the shadow of the state.

Integrating regulatory capitalism elements in political CSR and Collaborative Governance

Kooiman and Jentoft (2009), drawing on regulatory capitalism and meta-governance literature, introduce a set of normative principles to evaluate governance performance in their three-order model of governance practices. I refer to this set of normative principles to highlight the challenges of political CSR and collaborative governance theories across the three orders of governance practices and discuss how integrating regulatory capitalism elements into the analytical framework of these two theories can help to optimise them to a more adaptable and functional model to satisfy better the relevant principles at each order of governance practices.

Kooiman and Jentoft (2009) suggest 'efficiency' as the normative principle for the 'choice and application of instruments' and 'effectiveness' for the 'problem-solving' capacity. Efficiency pertains to the economic and operational optimal selection and deployment of governance tools, ensuring that resources are utilised best to achieve desired outcomes, while effectiveness focuses on the ability of governance activities to address and resolve issues

comprehensively (Sørensen & Torfing, 2009). These principles align with the ‘regulatory procedures and output’ construct, which includes assumptions about the mode of regulation, dominant rule, level of obligation, and precision of rules.

They suggest ‘responsiveness’ as the normative principle for ‘governing institutions’ and ‘respect’, ‘inclusion’, and ‘equity’ as the normative standards for self-governance, collaborative governance and hierarchical modes in their conceptual interactive governance system model. Responsiveness emphasises the importance of institutions’ ability to promptly and effectively react to stakeholders’ wishes (Kooiman & Jentoft, 2009). Respect is about collective responsibility with a Kantian connotation (Ingram, 1994) to ensure that all groups’ rights and governance regimes in the interactive governance setting are acknowledged and valued. Inclusion guarantees that governance processes actively involve diverse stakeholders, promoting broad participation and shared decision-making in contrast to mere presence in the process without impact on issues and decisions (Jentoft, 2007). Equity emphasises fair treatment and equal opportunities, ensuring that power and resources are distributed justly (Banuri et al., 1995). These normative standards can be aligned with the ‘governance model’ analytical dimension, which involves assumptions about the locus of governance (where governance is situated) and the mode of governance (how governance is conducted).

Transparency and accountability serve as the normative principles for evaluating governance performance at the most central ring of governance activities, which is called meta-governance and encompasses the processes of governing how to govern, assigning authority for governance action, and shaping the governance image (Kooiman & Jentoft, 2009). ‘Accountability’ suggests that “decision-makers do not enjoy unlimited autonomy but have to justify their actions viz-a-viz affected parties” (Held & KoenigArchibugi, 2005, p. 127). ‘Transparency’ is defined as “when much is known by many” (Kooiman & Jentoft, 2009, p. 825). It requires the governance system to be open by respecting the epistemic and ethical

norms in communicating governance actions and decisions with the relevant audience (O'Neill, 2006), thereby shaping the public image and trust in governance systems. These normative standards can be aligned with governance issues discussed under the 'delineation of role and power dynamics' analytical dimension, which includes assumptions about the main political actors, authority and leadership, and power dynamics.

Exploring the data-driven regulatory approach in regulatory networks at the first order of governance practices

The political CSR approach assumes that traditional hard-law mechanisms within national governance systems are increasingly ineffective in addressing the complexities of governance in global markets. Consequently, scholars in political CSR emphasize the importance of self-regulatory and soft-law regimes as more effective solutions to these challenges (Palazzo & Scherer, 2006; Scherer et al., 2006). This perspective aligns with the findings in global governance literature suggesting that soft-law regimes, characterised by voluntary actions and lower levels of obligation and precision (Abbott et al., 2000), can achieve higher efficiency and effectiveness in the global governance (Abbott & Snidal, 2000; Bernstein, 2001). According to these scholars, soft-law regulatory schemes, promoting regulatory innovation and the diffusion of best practices also developing learning networks among diverse actors (Abbott & Snidal, 2000; Albareda et al., 2008), allow for better adaptability to a rapidly changing global environment (Kucik & Reinhardt, 2008). Some empirical evidence also suggests that soft-law regimes facilitate diverse stakeholders' participation through informal communication, leading to improved compliance and more effective governance structures (e.g. Albrecht & Parker, 2019).

However, Commentators argue that reliance on informal interactions and the absence of effective monitoring mechanisms in soft-law regimes can result in practices such as decoupling (Boxenbaum & Jonsson, 2017; Jamali et al., 2017), co-option (Shamir, 2004, 2005) and

window dressing (Banerjee, 2008; Gond et al., 2009). Studies on the effectiveness of soft-law regimes reveal that without formal constraints, companies may disregard guidelines, thereby undermining the initiatives' effectiveness and the efficiency of the overall governance structure (e.g., Kasa et al., 2018; Moog et al., 2015). In particular, political CSR literature has been critiqued for being too focused on soft-law regimes and the significance of self-regulation (Scherer, 2018; Scherer et al., 2016), often overlooking the role of governmental regulation and the broader political and economic context in which soft-law initiatives operate that can significantly influence their regulatory scope (D. L. Levy et al., 2010) and their capacity in resolving the social and environmental problems they are designed to address (Bartley, 2007).

On the other hand, collaborative governance scholars suggest that negotiated rule-making within collaborative settings can enhance the effectiveness and efficiency of governance by aligning market preferences with governmental priorities (Ansell et al., 2017; Sørensen & Torfing, 2009)³. These scholars highlight three key aspects of negotiated structured agreements that enhance the effectiveness and efficiency of collaborative regulatory settings. Firstly, the participation of various stakeholders in the negotiation procedures can bring collective wisdom to the decision-making process that can spur innovation and novelty to the regulatory outcome, resulting in delivering a more effective response to the issue at hand (Ansell & Torfing, 2014; Bingham et al., 2014; Sørensen & Waldorff, 2014). Secondly, sharing information among participants during the negotiation procedures can reduce fragmentations in implementing the regulations and result in more effective operations with fewer redundancies by developing a better understanding of the regulatory missions and means (Emerson & Nabatchi, 2015). Finally, they argue that the presence of a central authority as the convenor or leader of the negotiation procedures can induce the needed structure into the decision-making process that will enhance coordination among participants, promoting efficiency of the governance structure (McGuire, 2006; Milward & Provan, 2003).

However, the proposed negotiated rulemaking procedure presents an inherent operational paradox between adherence to the bureaucratic structure led by a powerful convenor or leader and respecting the autonomy and true participation of various stakeholders, which has been considered the primary source of innovation and effectiveness of the collaborative regulatory scheme (Bryson & Crosby, 2014; Connelly et al., 2014). Moreover, as Ulibarri and her colleagues showed in their analysis of 39 collaborative governance schemes (Ulibarri et al., 2020), developing a collaborative scheme with a good enough level of trust among participants to enhance information sharing and promote innovation is a very time-consuming process, which might not be affordable by many of participants resulting in their withdrawal from the scheme, undermining the efficiency of these regulatory schemes also their effectiveness, assumed to be attained by maximizing stakeholder participation.

The essence of regulatory capitalism is the evolution of a network of technologically sophisticated and data-driven governmental and non-governmental regulations (Levi-Faur, 2005; Levi-Faur & Jordana, 2005a). This expansion of regulatory instruments should not be viewed merely as increasing the number of regressive regulations. Instead, regulations are understood as a progressive and constitutive element of governance structure that enables complex interplay between various public and private actors (Levi-Faur, 2017). In this context, self-regulation and soft-law regimes are not simply byproducts of deregulation, privatization, or a response to globalization-induced governance gaps (Kooiman & Jentoft, 2009). Rather, they represent critical practices within a governance system where civil, state, and business actors use regulatory tools to maintain control and guide various societal and economic activities (Levi-Faur, 2005).

The coevolution of and the dynamic interplay between formal and informal regulatory schemes entails a distribution of power, allowing a more comprehensive range of actors and institutions to get involved in the rulemaking, monitoring, enforcement and interpretation

procedures (Braithwaite, 2008). These interactions can expand in diverse cooperative/competitive channels at local, national and international scopes, leading to a system of mutual checks and balances among various public and private regulatory actors and institutions (Levi-Faur, 2017). Besides, integrating technologically sophisticated and data-driven tools into the regulatory and decision-making procedures can enhance the efficiency and effectiveness of governance structure by reducing information costs, enhancing coordination, and improving the adaptability of governance structures to rapidly changing circumstances (Levi-Faur, 2005). Implementing data-driven and automation solutions, which leverage technologies such as artificial intelligence and machine learning, can improve monitoring compliance, identifying trends, and ensuring that governance structures are better equipped to handle the complexities of today's governance context.

This suggests that both Political CSR and collaborative governance scholarships can significantly benefit from integrating discussed elements of regulatory capitalism in their frameworks. Although political CSR scholars have begun to recognize the importance of state power by examining the capacities of the nation-states for affecting governance practices in the global governance context (e.g., Eberlein, 2019; Schrempf-Stirling, 2018), the current political CSR literature has not yet adequately acknowledged the inter-sectoral dynamics and the effects of mutual oversight that can emerge in the interconnected regulatory networks. Further research could explore the mutual dependency of the soft and hard-law mechanisms and how their contextual embeddedness might affect their capacity to address systemic challenges.

Lessons from regulatory capitalism suggest that adopting technologically sophisticated and data-driven tools can help balance stakeholder participation with structured, coordinated regulatory efforts. Future research in collaborative governance literature could investigate integrating such tools into collaborative governance frameworks, particularly examining how

data-driven approaches can facilitate decision-making processes, reduce information costs, and improve the efficiency of these frameworks in responding to rapidly changing circumstances.

Examining mutual dependency of national and global governance structures at the second order of governance practices

Drawing on the concepts of post-Westphalian or post-national constellation (Habermas, 2001; Kobrin, 2001), political PCSR scholars argue that globalisation and privatisation of markets have led to the rise of a form of global governance that operates beyond national borders (Scherer & Palazzo, 2011). The emergence of global governance indicates a move from hierarchical, nation-state-centric governance to a heterarchical structure involving networks of corporations, in particular MNCs, non-governmental organisations (NGOs), and civil society organisations (Scherer & Palazzo, 2007) to “define and implement standards of behaviour with global reach” (Scherer & Palazzo, 2011, p. 909).

This heterarchical structure is particularly evident in the proliferation of Multi-Stakeholder Initiatives (MSIs) (Mena & Palazzo, 2012), which are assumed to be the platform for corporations to engage with public deliberations to establish a governance system with social responsiveness through communicative processes (Gilbert & Behnam, 2009; Palazzo & Scherer, 2006). These initiatives rely on informal connections among various actors (Baur & Arenas, 2014) to facilitate dialogue and enable a flexible governance approach that values diverse contributions aimed to enhance inclusiveness and responsiveness in the governance structure (D. L. Levy, 2008; Maier & Gilbert, 2023).

However, political CSR has been criticised for over-emphasising the effects of globalisation (Djelic & Etchanchu, 2017) and overlooking the dynamics of local and national governance (Scherer et al., 2016). Critics argue that political CSR research’s focus on global governance risks disconnecting governance solutions from local realities (Gilbert et al., 2011; Gond et al., 2011). The inclusiveness of MSIs has also been questioned. Critics argue that these initiatives

often fail to enhance inclusiveness (Fransen & Kolk, 2007; Schaller, 2007) but, reproduce existing power imbalances, they lead to the marginalisation of vulnerable stakeholders (Banerjee, 2018). They maintain that, Without a monitoring and enforcement system in the global governance context, powerful corporations exploit existing disparities in power status among actors, compromising both inclusiveness and responsiveness of the governance structure in favour of corporate interests (Banerjee, 2014, 2018; D. Levy & Kaplan, 2008).

On the other hand, proponents of the collaborative governance approach argue that collaborative settings can develop a more inclusive and responsive governance system by establishing a flexible and hybrid government structure (Busch et al., 2024; Purdy, 2012). Collaborative governance scholars argue that integrating heterarchy into a hierarchical governance system by developing cross-sectoral and cross-jurisdictional collaborative schemes allows the governance system to adapt to specific local conditions while also addressing broader issues (Ansell et al., 2017; Davies & White, 2012). They maintain that integrating heterarchical cooperation with hierarchical oversight allows for both formal and informal connections that enable public agencies to guide the collaborative process while actively seeking input from various stakeholders, ensuring that the decision-making process reflects a more inclusive understanding of the stakeholders' needs and remains responsive to them (Ansell & Gash, 2008; Bingham et al., 2005; Emerson et al., 2012).

Therefore, collaborative governance seeks to achieve a bureaucratic or negotiated responsiveness (Cooper et al., 2014), which assumes a key role for the collaborative scheme's leader or convenor (usually the public agency) to align the collective decisions responsive to stakeholders' priorities through the negotiation process (O'Leary et al., 2006). This can create power asymmetries in the collaborative setting, leading to more influential or resource-rich stakeholders dominating the negotiation process, undermining the inclusiveness of the collaborative forums, as less powerful stakeholders may feel sidelined or disregarded

(Agranoff & McGuire, 2003). Furthermore, given that government agencies often take the convenor or leadership role in these hybrid governance frameworks, there can be an inherent pressure to prioritise existing bureaucratic norms and processes over adaptive and participative practices that accommodate diverse stakeholder interests (O’Leary et al., 2006).

The literature on collaborative governance asserts that "collaborative governance unfolds within a system context that consists of a host of political, legal, socioeconomic, environmental, and other influences" (Emerson et al., 2012, p. 20). These influences vary widely across local, regional, and global frameworks, necessitating different responsive strategies. However, this literature does not fully address how collaborative governance settings can adapt to different norms and legal frameworks across various sectors and jurisdictions (see critically Bingham, 2014). Integrating efforts in collaborative schemes becomes complex when multiple jurisdictions with differing priorities and legal frameworks are involved. These constraints can inhibit stakeholder participation and complicate efforts to develop agreements perceived as equitable and just, resulting in challenges to responsiveness (Bingham, 2008, 2014).

From the regulatory capitalism perspective, the true challenge of responsiveness lies in maintaining institutional integrity while addressing new problems, forces, demands, and expectations (Selznick, 1994). To meet this challenge, governance systems must be capable of adapting to emerging global standards while preserving local relevance (Selznick, 1994; Vincent-Jones, 2006). From this point of view, achieving such adaptability requires a synergic dynamic between a strong state, a proactive private sector, and an engaged civil society, where each institution’s strengths bolster the other’s governance capabilities (Braithwaite, 1998). This mechanism highlights the complementary relationship between hierarchical and heterarchical governance structures and the interdependency of national and global governance systems in the regulatory capitalism landscape.

Mutual dependency between national and global governance systems in the context of regulatory capitalism is significantly influenced by the formalisation of inter and intra-institutional agreements and the increased influence of international networks of experts (Levi-Faur, 2005). Formal agreements establish clear roles, responsibilities and expectations, creating a framework for cooperation and coordination among various regulatory actors at local, national, and global scale (Levi-Faur & Jordana, 2005b). This clarity often results in enhanced oversight and promotes information sharing (Levi-Faur, 2005), allowing more coherent practices by various actors (Levi-Faur & Jordana, 2005b). As noted by Braithwaite (2011) without such formalisations, national governance systems might struggle to maintain their integrity while adapting to global pressures.

Moreover, International networks of experts act as conduits for the diffusion of information and best practices across sectors and borders (Lazer, 2005), reinforcing the interdependency between national and global governance systems (Levi-Faur, 2005, 2017). By understanding and leveraging these networks, hierarchical governance structures at the national scale can improve their adaptability to global regulatory regimes (Braithwaite, 2008). Here, IRAs are critical in bridging national governance systems with these knowledge-embedded international networks. IRAs may consult with global expert networks while maintaining authority to make localised decisions (Levi-Faur, 2017).

The analysis highlights the challenges inherent in Political CSR and collaborative governance in developing governance structures that are both responsive and inclusive. It also highlights the importance of formalising inter- and intra-institutional agreements and engagement with international networks of experts in enhancing governance structures' coherence, adaptability, and responsiveness by bridging the gap between local realities and global demands, creating cooperation framework and facilitating information exchange, which could address the shortcomings identified in both Political CSR and collaborative governance,

particularly in balancing global pressures with local needs. As such, incorporating these regulatory capitalism elements into the theoretical discourse on Political CSR and collaborative governance offers a promising avenue for addressing the complexities of contemporary challenges in governance for sustainability.

Considering the role of IRAs as mediators in business-government interactions at the third order of governance practices

Political CSR assumes that the private sector must demonstrate transparency by engaging in public dialogue through deliberative procedures (Scherer & Palazzo, 2007, 2011). Drawing on Habermas's model of deliberative democracy (Habermas, 1994, 1996, 2001), Political CSR advocates assert that these deliberative processes promote open dialogue and collective decision-making, where businesses, citizens, and civil society interact to achieve a consensus or a mutually acceptable solution on governance issues (Gilbert et al., 2011; Scherer et al., 2016). They argue that increased transparency through deliberative procedures enhances public access to corporate information, leading to greater public scrutiny (Scherer & Palazzo, 2011) and, consequently, higher corporate' accountability (Vogel, 2010; Waddock, 2008).

Critics argue that corporate decision-making processes often lack the openness required by Political CSR (Rhodes & Fleming, 2020), undermining the suggested deliberative process. They indicate that corporate structures may inhibit genuine transparency, potentially concealing negative externalities generated by their operations (Fleming & Jones, 2013). Banerjee (2018) notes that multi-stakeholder initiatives (MSIs) and corporate disclosures may legitimise corporate actions more than advance democratic dialogue or transparency with the public. Moreover, critics question whether public pressure alone can hold corporations accountable without formal oversight mechanisms (Banerjee, 2014; Whelan, 2012). Given the problem of power asymmetry among states, corporations, and civil society, corporations might suppress dissenting voices (Gond & Nyberg, 2017) to exploit governance roles to further their

interests rather than the public good (Banerjee, 2018; Rhodes & Fleming, 2020). The corporate-driven governance structure in Political CSR places an excessive moral responsibility on the private sector (Frynas & Stephens, 2015; Mäkinen & Kasanen, 2016) and assumes that with a decentralised authority structure in the governance context and weakening state power, the private business sector might contribute to developing a genuine public dialogue to enhance transparency and accountability. This assumption, however, remains unsubstantiated.

Collaborative governance scholars argue that enhancing the power balance among stakeholders by establishing a shared authority structure is the key way to address criticisms against the business-centred governance approach (Ansell & Gash, 2008; Berkes, 2010; Bingham, 2008). They maintain that reduced power asymmetry promotes open communication and effective information distribution, allowing participants to confidently engage in decision-making (Marantz & Ulibarri, 2022). As stakeholders become more confident in the public deliberation process, public participation expands, further balancing the power dynamics and reinforcing transparency through open communication (Ansell & Gash, 2008; Bingham, 2008).

Proponents of this approach suggest that the balanced power through the shared authority structure develops reciprocal accountability, where participants hold each other responsible for their contributions (Bingham, 2008). Additionally, expanding public participation enhances oversight, further strengthening accountability by ensuring that actions and decisions are subject to public scrutiny (Ulibarri et al., 2020). On the other hand, they emphasise the need for clearly defined roles and empowering a leader who initiates actions, integrates resources, and oversees information distribution to achieve transparency and accountability in collaborative settings (Ansell & Gash, 2008; Purdy, 2012; Sørensen & Torfing, 2009).

However, critics of the collaborative governance approach argue that these governance settings often lack transparency and accountability in practice (Agranoff & McGuire, 2001; O'Leary & Vij, 2012; Ran & Qi, 2018) as empirical studies reveal that the assumptions of

shared authority and balanced power in collaborative governance often lead to significant implementation challenges (e.g., Dandy et al., 2014; Maner & Mead, 2010). Efforts to enhance transparency and accountability by expanding public oversight and scrutiny encounter difficulties because participants in collaborative settings are often self-appointed rather than elected (Sørensen & Torfing, 2009). This self-selection concentrates decision-making power among a limited group of stakeholders, disconnecting the public from the decision-making process (Bryson & Crosby, 2014; Page, 2014).

The assumption of power balance in collaborative structures has been considered unrealistic, as power asymmetry among stakeholders is inevitable (Purdy, 2012; Ran & Qi, 2018). In particular, the dual role of government agencies as both participants and conveners exacerbates the power asymmetry, making them prone to use their powerful stand to manipulate or dominate the collaborative process, limiting opportunities for genuine participation for other participants (Bryson et al., 2006). The shared authority structure also often blurs roles and responsibilities, making it difficult to hold any single actor accountable (Purdy, 2012). Furthermore, shared authority entails shared accountability, which not all participants possess the same capacity for it. Those with limited capacity may relinquish some of their power to more powerful partners in exchange for reduced accountability, further undermining the intended power balance in the collaborative scheme (Page, 2014).

Scholars of Regulatory Capitalism emphasise that authority is embedded within expert knowledge and is allocated according to technical expertise and clearly defined functional roles among various actors (Braithwaite, 2008; Levi-Faur, 2005). In the dynamic competitive interactions between public and private sectors, where large multinational corporations possess substantial expertise, governments can preserve power balance by investing in and delegating regulatory authority to Independent Regulatory Agencies (IRAs). These agencies exemplify the new division of labour in the governance context and a shift toward a governance system

which integrates technical expertise with regulatory oversight (Gilardi et al., 2006; Levi-Faur & Jordana, 2005b).

The Presence of IRAs in the governance structure reinforces regulation by the state and growth regulation of the state (Hood et al., 1999). IRAs' knowledge-based authority allows them to effectively monitor and oversee powerful business entities, preventing them from dominating the decentralised authority structure in the new governance context. These agencies maintain significant autonomy from political influence (Braithwaite, 2008; Levi-Faur & Jordana, 2005b), enabling them to use their technical expertise to monitor both private sector activities and government practices in response to public demands and corporate pressures for increased transparency and accountability.

IRAs' knowledge-based authority and autonomy can create an evaluation capacity to ensure regulations are properly developed and enforced, minimising the risk of any single actor manipulating or dominating the governance structure. Braithwaite (2005) shows how establishing Standards Australia, an autonomous, knowledge-driven regulatory agency, improved government accountability in auditing and enhanced transparency in private-sector tax reporting. IRAs facilitate transparency and accountability not only by directly monitoring the practices of other actors but also by disseminating information among actors and communicating it with the public. This diffusion of information compels actors to justify their actions, thus increasing scrutiny and promoting a culture of transparency (Levi-Faur, 2017).

As highlighted in the preceding discussion, challenges regarding transparency and accountability in political CSR and collaborative governance approaches are rooted in the ambiguities in delineating roles and delegating authorities in their proposed governance structures. The need to consider the role of IRAs in analysing business-government interactions in both business-centric and government-oriented approaches is clear in light of their crucial

roles as the key regulatory actors, essential monitoring agents, and important facilitators of information distribution that mediate interactions among public and private actors.

Discussion and Implications

I argue that one of the main challenges of governing for sustainability today is understanding how these multiple regulatory schemes and institutions could be positively integrated into the governance structure, leading to a more efficacious system of governance. This paper critically examines political CSR and collaborative governance as two prominent theories of sustainability governance within the broader structure of regulatory capitalism to provide theoretical pathways for such an integration. (See Tabel II for a summarises of the recommended pathway for theoretical optimisation)

INSERT TABLE II AROUND HERE

At the first order of governance practices, Political CSR scholars should explore the inter-sectoral dynamics at both national and global scales to examine the effects of mutual oversights that can emerge in the interconnected regulatory networks on the effectiveness and efficiency of self-regulatory mechanisms and soft-law voluntary initiatives promoted by this approach. Further empirical research could explore the mutual dependency of the soft and hard-law regimes and inter-dependency among various soft-law schemes and how their contextual embeddedness and sectoral overlapping or distance might affect their capacity to address systemic challenges.

Lessons from regulatory capitalism suggest that the adoption of technologically sophisticated and data-driven tools into the regulatory and decision-making procedures can enhance the efficiency and effectiveness of governance structure by reducing information costs, enhancing coordination, and improving the adaptability of governance structures to

rapidly changing circumstances (Jordana & Levi-Faur, 2005; Levi-Faur, 2005). This can help to improve the operational limitations of the collaborative governance approach, which might not be effective or efficient because of the costly and time-consuming negotiation procedures. Future research in collaborative governance literature should examine the integration of data-driven and automation solutions, which leverage technologies such as artificial intelligence and machine learning. Further empirical research needs to investigate how integrating such technologies could facilitate decision-making processes, reduce information costs, and improve the efficiency of collaborative governance settings.

Regarding the institutional arrangement at the second order of governance practices, insights from regulatory capitalism highlight the importance of connections among various institutional structures through international networks of experts and the formalisation of inter- and intra-institutional agreements in alleviating coordination challenges because of the fragmentations in the global governance context. Further empirical studies are needed to examine how these knowledge-embedded international regulatory networks, such as “The Network for Greening the Financial System” (NGFS) or “The International Renewable Energy Agency” (IRENA), can facilitate the integration of national governance institutions into the global governance structure and enhance the coordination among national and global regulatory schemes. Future empirical works could also examine the effect of formalisations of agreements on the success of cross-sectoral and cross-jurisdictional collaborations and the role of local governments in leveraging these agreements to support MSIs and soft-law regulatory schemes initiated by multinational corporations.

At the third order of governance, regulatory capitalism emphasises the role of IRAs as the key regulatory actors, essential monitoring agents, and important information distribution facilitators mediating interactions among public and private actors (Braithwaite, 2008; Gilardi et al., 2006). Both political CSR and collaborative governance literature should investigate

such a mediatory role in their proposed governance structure. Further empirical studies in political CSR should examine how IRAs can enhance accountability and how they can facilitate transparency in public-private interaction in the international regulatory context. Collaborative governance scholars could empirically examine how IRAs' presence could help balance corporate and government interests and power in the collaborative setting while maintaining their autonomy and objectivity in collaborative governance settings.

With global challenges like climate change, poverty, and deforestation requiring coordinated responses across sectors, this paper provides a pathway for optimising existing governance models. The proposed integration of regulatory capitalism elements offers a pragmatic solution to the ongoing debate about the efficacy of various governance approaches in responding to the sustainability challenge. Moreover, by focusing on how governance occurs rather than who governs, this study tries to shift the conversation in the current literature from discussing the roles and responsibilities of different actors to examining the specifications and characteristics of governance and regulatory procedures. This shift is crucial for further developing governance theories and models that are more adaptable and resilient in the face of complex sustainability challenges.

Notes:

¹ Collaborative Governance may also include informal negotiations (Gazley, 2008; Grønbjerg, 2004; A. M. Thomson & Perry, 2006) besides formal procedures. However, the term formal refers to regulatory development.

² Although there might be other types of outcomes for collaborative decision-making platforms(see critically Bingham, 2014), the literature asserts that achieving formal agreement as the output of the collaborative procedure helps secure the implementation and survival of the collaborative decision.

³ Effectiveness and efficiency of collaborative regulatory schemes are multidimensional concepts mainly examined in terms of outcome-based measures, considering the problem-solving capacity of the scheme, and process-based measures, reflecting the quality of negotiation dynamics and procedures (see Ran & Qi, 2018 for a review of various measures) In this study, I discuss only the outcome-based aspect, as the goal is to investigate how the collaborative governance approach's assumptions at the first governance order are associated with its problem-solving capacity.

Appendix

Table I. Three orders of governance practices in Political CSR, Collaborative Governance and Regulatory Capitalism approach

<i>Governance order</i>	<i>Analysis paradigm</i>	<i>Political CSR</i>	<i>Collaborative governance</i>	<i>Regulatory capitalism</i>
<i>First order Outer ring</i>	<i>Regulatory procedure and outcome</i>			
	Mode of Regulation	Self-Regulation	Negotiated structured agreements	A network of coevolving governmental and non-governmental regulations
	Dominant Rules	Informal rules and soft law	Formal collective agreements	A mixture of technologically sophisticated and data-driven formal and informal rules
	level of obligation	Low (Voluntary action)	Medium to high (trust-based and mutual interests)	Varying level of obligation
	Precision of rules	Low	Moderate	High (Knowledge embedded)
<i>Second order Middle ring</i>	<i>Governance model</i>			
	Locus of Governance	Global & multilevel governance	Multilevel from local and national to regional and global	Interdependency between national and global governance
	Mode of Governance	Heterarchy	Inclusive networks	Complementary synergy of Heterarchy and Hierarchical systems
<i>Third order Central Ring</i>	<i>Delineation of Roles and Power Dynamics</i>			
	Main political actor	State, Civil Society and corporations Delegation often occurs to the private sector	State, Civil Society and corporations	State, Civil Society and Corporations Delegation often occurs to independent regulatory agencies
	Authority and leadership Power dynamics	Decentralised Weakening state power leads to increased power of the private sector	Shared A balance of power among stakeholders	Decentralised/inter-connected Dynamic competitive and cooperative interplays among stakeholders

Table 2: Integrating elements of regulatory capitalism into the analytical frameworks of political CSR and collaborative governance – a research agenda

Governance Order	Research suggestions
First order Regulatory procedures and output	<ul style="list-style-type: none"> • Examining the effect of mutual oversight in the interconnected regulatory networks in political CSR literature. • Investigating how integrating data-driven and automation solutions could facilitate decision-making processes, reduce information costs, and improve the efficiency of collaborative governance settings.
Second Order Governance model	<ul style="list-style-type: none"> • Exploring the role of knowledge-embedded international regulatory networks in decreasing regulatory discrepancies across sectors and jurisdictions. • Examining the effect of formal inter- and intra-institutional agreements on the success of collaborative and private regulatory schemes. • Examining the role of the states in providing the legal framework for the formalisation of inter and intra-institutional agreements in the international context.
Third order Delineation of Roles and Power Dynamics	<ul style="list-style-type: none"> • Examining how IRAs can enhance accountability in the international regulatory context and how they can facilitate transparency in public-private interaction. • Investigating how IRAs can help balance corporate and government interests and power while maintaining autonomy and objectivity in collaborative governance settings.

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