



# SciencesPo

LABORATOIRE INTERDISCIPLINAIRE  
D'ÉVALUATION DES POLITIQUES PUBLIQUES

LIEPP Working Paper

October 2019, n° 94

## Frontline Workers and the Role of Legal and Regulatory Intermediaries

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How to cite this publication:

GRAY, Garry and PELISSE, Jérôme, **Frontline Workers and the Role of Legal and Regulatory Intermediaries**, *Sciences Po LIEPP Working Paper* n°94, 2019-10-12.

## Frontline Workers and the Role of Legal and Regulatory Intermediaries<sup>1</sup>

### Abstract

*The paper deals with legal intermediaries, as two streams of research apprehend and define them in recent and dynamic works. One, rooted in political science, studies regulatory intermediaries (Levi-Faur et al., 2017; Bes, 2019), as actors between regulators and regulated, whereas the other, rooted in the Law and Society field and sociology, analyses legal intermediaries (Edelman, 2016; Talesh and Pélisse, 2019 ; Billows and alii 2019), as a broader and more bottom up category describing actors handling and dealing with legal rules even if they are not legal professionals. The article reviews these two approaches, showing their proximity but also differences and evoking empirical examples of these legal intermediaries like managers and union activists in companies, safety officers or job counsellors in private or public organizations. The paper then advances the need to study frontline workers with whom legal intermediaries interact in organizations, to understand how regulations and rules are implemented and influence social and economic practices in organizations. It finally shows how frontline workers are increasingly being called upon to become legal intermediaries themselves, not without consequences on the increased accountability expected from them.*

### Résumé

*L'article porte sur les intermédiaires du droit, appréhendés par deux courants de recherche qui en proposent récemment des définitions. L'un, développé plutôt en science politique, étudie des intermédiaires du droit (regulatory intermediaries) qui recouvrent une série d'acteurs situés entre les régulateurs et les régulés (Levi-Faur et al., 2017 ; Bes, 2019), tandis que l'autre, enraciné dans l'approche Law and Society et la sociologie, analyse les intermédiaires du droit de manière plus large et bottom up, comme des acteurs rencontrant et maniant des règles juridiques dans leurs activités professionnelles, sans pour autant être des professionnels du droit (Edelman, 2016 ; Talesh et Pélisse, 2019 ; Billows and alii 2019). L'article passe en revue ces deux approches, en montrant leur proximité mais aussi leurs différences et en évoquant des exemples empiriques de ces intermédiaires du droit ancrés dans la seconde perspective évoquée, comme les managers et les syndicalistes en entreprises, les responsables de santé sécurité ou les conseillers en emploi dans les organisations privées ou publiques. Le papier souligne ensuite la nécessité d'étudier les travailleurs de première ligne (frontline workers) avec lesquels les intermédiaires du droit interagissent dans les organisations, afin de comprendre comment les règles juridiques et les réglementations sont mises en œuvre et influencent le travail dans les organisations. Il montre enfin comment les travailleurs de première ligne sont de plus en plus appelés à devenir eux-mêmes des intermédiaires du droit, non sans conséquences sur la responsabilisation accrue qui est attendue de ces travailleurs ordinaires.*

**Key words:** front-line workers; legal intermediaries; regulatory intermediaries; organization; liability.

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<sup>1</sup> An earlier version of this paper was presented at the Law and Society Association Meetings, in Washington DC, on June 1, 2019.

## Introduction

How do actors inside organizations and across professional fields interpret and experience legal and regulatory intermediaries? In what ways do social interactions between frontline workers and middle-managers who serve as legal intermediaries (including non-legal professionals) influence the contextual legality of an organization? The idea of both legal and non-legal actors influencing law-in-action has long been of interest across many different fields of inquiry, including regulatory compliance, rights mobilization, and legal consciousness. Recent scholarship on the topic though is leading to increased empirical and conceptual attention on the role that intermediaries might play in regulatory governance and in the process of legal endogenization (Abbott et al. 2017a; Bres et al. 2019; Billows et al. 2019)<sup>2</sup>. However, this (re)emerging focus on how intermediaries might achieve regulatory effectiveness continues a general pattern in regulatory governance research, albeit to a lesser degree, of downplaying the contributions of middle and frontline workers to organizational compliance.

Therefore, following Gray and Silbey (2014, 2011) who critiqued traditional regulatory studies for focusing primarily on how regulators view the regulated (a top-down approach), we recommend that legal and regulatory intermediary research also explores the other side of the compliance relationship: how the regulated (those on the frontline) view legal and regulatory intermediaries. In addition, we put forth that frontline workers may also serve and/or be forced to act as legal and regulatory intermediaries (cf. Gray 2006). The growth of legal intermediaries (Talesh and Pélisse 2019), we argue, is also linked to the neoliberal responsabilization approach to governance whereby responsibility for risk is continually reconfigured and downloaded to those on the frontline (Gray 2009, 2002; Silbey 2009; Shamir 2008). A more inclusive approach to the study of legal intermediaries is therefore required, one that includes analysis of non-legal professionals and those on the frontline.

In order to facilitate such an approach, we begin by examining the differences that are emerging in the field of legal and regulatory intermediary research as well as the theoretical assumptions about human decision-making implicit in the various approaches. Next, we then build on Pelisse's (2019, 2018) call to extend the category of legal intermediation to non-legal professionals by conceptually exploring how legal and regulatory intermediaries may be interpreted as either a threat, ally, or an obstacle by those on the frontline (Gray and Silbey 2014), as well as how middle-manager intermediaries may be viewed as compliance promoting or compliance limiting by those below them in the organizational hierarchy, or those with whom they interact in their activities. Third, we interrogate how those on the frontline are increasingly forced to take individual responsibility for initiating complaints and speaking up when regulatory rules are violated. Next, we discuss the role of ethics, in particular, the normalization of deviance processes that may limit successful legal and regulatory intermediation. For instance, how might the goals of an intermediary (public good, profit, or self-interest) along with their interdependence negatively affect compliance, the

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<sup>2</sup> Three different academic journals have recently published special issues on the topic of legal and regulatory intermediaries (see *The ANNALS of the American Academy of Political and Social Sciences* 2017, *Regulation & Governance* 2019, and *Studies in Law, Politics, and Society* 2019 (forthcoming)).

process of legal endogenization and/or the ways they frame legality? Here, we discuss conflicts of interest, regulatory capture, and institutional corruption, which could be reconsidered when including the activities of legal intermediaries in organization.

## **Legal and Regulatory Intermediaries**

As lawmaking and regulatory environments continue to shift from the state to a system of governance (Levi-Faur 2005, 2011) there has been a rise in academic research on legal and regulatory intermediaries who provide assistance to both regulators and to those targeted by rules and regulations. However, differences have emerged in this recent stream of intermediary research regarding the appropriate unit of analysis, which conceptual term to use (legal or regulatory), as well as subtle differences in the underlying theoretical assumptions about human decision-making inside organizations. There is also a division between what might be referred to as a ‘top-down’ versus a ‘bottom-up’ approach to the study of intermediaries. The top down approach, as highlighted in the seminal work of Abbott et al. (2017a) in their special issue dedicated to their RIT (regulatory-intermediary-target) model, defines a regulatory intermediary “as any actor that acts directly or indirectly in conjunction with a regulator to affect the behaviour of a target” (19). The model excludes from analysis (legal) intermediaries who operate in non-regulated contexts and focuses primarily on “the downstream stages of the regulatory process after a rule has been adopted” (7). The authors of this model also assume, for the most part, a rational choice model of decision-making based on incentives.

In a follow-up special issue on regulatory intermediaries, Bres et al. (2019) extend the earlier work done by Abbott et al. (2017a) by examining further the formal and informal roles involved in regulatory intermediation. These authors, whose work focuses on transnational multistakeholder regulation, suggest that the informal roles of regulatory intermediaries “may even be more important than the formal ones” (128). These authors focus more on the “upstream influences of regulatory intermediaries, at the rulemaking stages of the regulatory process” and “recognize intermediation as being both social constructed by and socially constitutive of the regulatory process”. By paying closer attention to the informal aspects of regulatory intermediation, the authors here examine regulatory intermediaries in order to observe “how meaning is created, maintained, and disrupted through the regulatory process” (137).

While these recent developments on regulatory intermediaries are insightful and valuable, the overall approach still remains a relatively top-down approach whereby the regulatory intermediary is still privileged over those on the frontline of everyday regulatory engagement. Similar to traditional studies of regulation, this stream of research often adopts a law-first approach and conceives of the regulated as single entities (i.e., the firm, the regulated organization, or the targets) opposed to examining how variable compliance exists within organizations. For instance, “how variations in the occupational positions of actors within organizations – distinguished by autonomy, expertise, and frequency of interactions with regulators [or intermediaries] influence how workers understand, negotiate, and enact compliance with regulations and, in turn, how law may come to inhabit the organization or

may fail to become routine practice” (Gray and Silbey 2014:99, see also Gouldner 1954; Hallet and Ventresca 2006).

By adopting a frontline approach to regulatory engagement (cf. Almond and Gray 2016; Huising and Silbey 2011; Silbey 2011; Gray 2002) studies of regulatory intermediaries could go further by examining how those on the frontline interpret and experience intermediaries. Gray and Silbey (2014) note that individuals inside organizations often view regulators and those who indirectly enforce rules and regulations (i.e., non-legal professional intermediaries) as either an ally, a threat, or an obstacle. Given that regulatory intermediaries often possess capacities (such as expertise, knowledge, and credibility) found lacking in formal regulators, studies that examine regulator intermediaries from a more grounded and frontline perspective could prove beneficial.

In contrast to regulatory intermediary research premised on the principles of the RIT model (Abbott et al. 2017a), other scholars have preferred the theoretical concept of ‘legal intermediation’ and have focused their efforts on studying legal intermediaries opposed to the more narrowly defined regulatory intermediaries (cf. Pelisse 2019; Talesh 2015; Talesh and Pelisse 2019; Bessy et al 2011; Edelman 1992)<sup>3</sup> Often this stream of research has focused on compliance professionals in human resources from a neo-institutional theoretical perspective (cf. Dobbin 2009; Edelman 2016; Edelman et al. 1993; Powell and DiMaggio 1991)<sup>4</sup>. Here, business professionals who serve as mediating actors inside endogenous legal relationships have been shown to help socially construct and frame risks of noncompliance and managerial business practices into legal processes (Talesh and Pelisse 2019; Gilad 2014; Edelman et al. 1999).

In a forthcoming special issue on the legal intermediation perspective, Billows et al. (2019) suggest that the above neo-institutional sociological approach, while valuable for illustrating the endogenization of law across organizations, “fails to account for how legal intermediaries craft and deliver advice within specific organizations and sectors”. These authors stress the value of qualitative case studies that “investigate the daily interactions between laypeople and the legal intermediaries who assist them in complying with regulations”. (5) In contrast, then, to the top-down approach taken in the RIT model (Abbott et al. 2017; Bres et al. 2019), the authors of this special issue on legal intermediation advocate a bottom-up approach that starts with an analysis of social relations but is also “anchored in a constitutive perspective, where law and organizations are conceived together, shaping mutually one another through, notably, the activities of legal intermediaries” (2). One contribution in this special issue (Pelisse, 2019) also expands the category of legal intermediaries to non-legal professionals who in everyday practice act as legal intermediaries. This is a useful and practical contribution given that non-legal professionals routinely participate in the social construction of everyday legality.

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<sup>3</sup> While all regulatory intermediaries could be classified as legal intermediaries, not all legal intermediaries could be classified as regulatory intermediaries.

<sup>4</sup> Other non-legal professionals have been considered as legal intermediaries, for instance, union representatives (Pelisse 2014), organizational psychologists (Stryker 2011), hospital directors (Vincent 2016) or pathologist forensics (Juston 2016).

## Non-legal Professionals as Legal Intermediaries

An inclusive legal intermediary approach, that includes non-legal professionals who routinely deal with legal categories, opens up the door to further analyses of law-in-action, in particular, how individuals inside organizations and across professional fields interpret, implement, and construct legality. In addition, an inclusive legal intermediary approach takes seriously sociological and constructivist approaches to understanding legal intermediation. Successful legal and non-legal professional intermediaries are not unlike Lipsky's (1980) classic analysis of street level bureaucrats who possess situational awareness and know how to apply rules in everyday practical situations. Street-level bureaucrats often represent well-informed middle persons situated between policymakers and the targets of those policies (cf. Pelisse 2019; Biland and Steimetz 2017; Hupe et al. 2015; Portillo and Rudes 2014).

What makes a street-level bureaucrat a successful legal intermediary? According to Pelisse (2019), rather than focus on the street-level bureaucrats discretion and how they assist in policy implementation, “the legal intermediation perspective draws attention to how they use and handle the legal rules, which helps understanding whether and how they influence legality and legal consciousness of their audience”(6). In other words, rather than adopt a law-first perspective, a legal consciousness research approach focuses attention on the role that legal and non-legal intermediaries play in the social construction of legality in everyday life (Sarat 1990; Merry 1990; McCann 1994; Ewick and Silbey 1998; Gray 2002; Pelisse 2006; Silbey 2018). The idea of a successful legal intermediary also connects well with Silbey's (2011) concept of sociological citizens which represents individuals with autonomy, status, and appropriate levels of agency to influence their immediate organizational contexts. Sociological citizens are able to perform acts of relational regulation because they draw on their understandings of social organization when helping to facilitate and implement legal and regulatory requirements (Huising and Silbey 2011). However, not all intermediaries inside organizations and across professional practices will possess the capacity needed to be a well-functioning sociological citizen (cf. Almond and Gray 2017; Haines 2011). Issues of power, legitimacy, and capacity all play a role in the success of a legal or non-legal professional intermediary (Billows et al. 2019; Bres et al. 2019; Pelisse 2019; Abbott et al. 2017).

A focus on non-legal professionals, as legal intermediaries, also allows us to analyze how those on the frontline of regulatory engagement interpret and experience intermediaries whose actions might facilitate the following of rules and regulations as well as obstruct or get around it. For instance, in their multi-site ethnography (of university labs, a factory, and truck driving), Gray and Silbey (2014) observed an “organizational space or gap otherwise occupied by middle persons between frontline workers and regulators... [and found that] middle persons may be, through their interactions with employees, compliance promoting or compliance limiting” (123-124). Inside the factory, they noted that frontline workers were often forced to be reliant on compliance-promoting middle persons such a union health and safety representative (a typical legal intermediary who is not a legal professional). In contrast, they found that middle managers who were compliance-limiting often “perpetuated the regulator as a threat, rather than an ally, by themselves posing the threat of terminating employment” (124). In bureaucratic organizations, “mid-level bureaucrats make the middle, by performing a work of unification, assembling implementation collectives and regulating

the connections that define who the legitimate policy implementation partners are” if we follow Pires (2016). Nevertheless, previous research has found that middle managers are more likely to promote compliance with regulations when such changes may increase their organizational authority and are consistent with their personal values (Edelman 1990; Dobbin et al. 1993; Kelly 2003; Tyler 2005; Bendersky 2007). On the other hand, middle managers are more likely to limit compliance and encourage illegality when they bring a financial orientation to their organization (Clinard 1983; Smith et al. 2007).

According to Gray and Silbey (2014), “compliance-promoting and compliance-limiting middle-persons create a buffer through which frontline workers with low levels of authority and autonomy interpret regulations and regulators” (124). Future research, they suggest, should begin to map out how those on the frontline regard middle persons who act as non-legal professional intermediaries, as a threat, ally, or obstacle to organizational governance. The case of safety engineers in the nanoscience laboratories studied by Pélisse (2017) is, for example, interesting in this perspective. In this study, Pelisse analyzes the role of safety engineers as legal intermediaries and explores the ways in which they attempt to import regulatory logic and legal authority into spaces dominated by scientific logic and the epistemic authority of science. Pélisse found that the safety engineers, who work outside the laboratories, were interpreted by the lab researchers as compliance professionals unable to understand their work logic, and their necessary creativity and innovation that lead them to imagine potentially dangerous experiments. However, the situations are variable: if in everyday life, these engineers are often seen as obstacles (but not as threats, as researchers recognize the need to pay attention to risks in a nano context), they can become allies when some imagine particularly dangerous experiments that could expose others, and not just the researcher conducting them. The framing of the ordinary legality that surrounds the safety rules that safety engineers operate in remains rather distant given that they are not present on a daily basis in laboratories, unlike "safety representatives" who are often present and responsible for relaying these safety issues in addition to their other activities (for instance, conducting their own thesis research for doctoral candidates, or accompanying researchers in setting up experiments when they are laboratory technicians).

### **The Responsibilization of Frontline Workers as Legal Intermediaries**

The current stream of legal and regulatory intermediary research focuses on how the on-going shift away from the state as the main locus of regulatory activities to a system of governance (Black 2008, 2001; Grabosky 2013) will lead to an increased level of non-governmental actors responsible for co-regulation engagement. We are repeatedly told in this literature to expect a continued growth of legal (and non-legal professional) intermediaries under these new models of governance. While we agree that the study of intermediaries is both important and valuable, we posit that more attention towards those on the frontlines, who interpret and experience legal and regulatory intermediaries in everyday practice, is needed (cf. Almond and Gray 2017). Following an inclusive legal intermediary approach, we suggest that future research should examine how those on the frontline are often forced under models of regulatory governance to become citizen co-regulators (i.e., their own legal intermediary) as well as analyze how their experiences are shaped by manifestations of power (cf. Gray and Van Rooij

2017). The growth of legal intermediaries who are not legal professionals, we argue as a hypothesis, is intertwined with neoliberal responsabilization strategies of governance whereby individual responsibility for risk is continually reconfigured and downloaded to those on the frontline (Gray 2002, 2006, 2009; Shamir 2008; Silbey 2009). Those on the frontline (labelled ‘targets’ and/or ‘beneficiaries’ in the RIT Model) are increasingly forced to be their own legal intermediary and are often individually responsible for initiating complaints and speaking up when rules are not followed and regulatory processes violated.

According to the RIT Model, those on the frontline are considered beneficiaries of regulation and “are likely to play especially active roles in monitoring (typically through fire-alarm mechanisms)” (Abbott et al. 2017b: 27). In addition, “beneficiaries may be the target.... at other times beneficiaries may carry out intermediary functions... and at still other times beneficiaries play the role of regulators” (Abbott et al. 2017: 283; see also Havinga and Verbruggen 2017; Koenig-Archibugi and McDonald 2017). And, finally, regulatory intermediaries themselves will still need to “rely on beneficiary complaints [which helps] reduced their investment in costly police monitoring” (Abbott et al. 2017c: 27; see also Pegram 2017). It appears, then, that frontline actors – the beneficiaries of regulation – are expected to be a bit of everything as we continually move away from command-and-control models of the state to a system of decentred new governance. This fits with Gray’s (2006) earlier observation that the move from government to governance has contributed to a “shift to regulation through individual responsibility [which] has resulted in a diffusion of responsibility for safety risks as workers have increasingly become individually responsible for enforcing regulation as well as a target of regulation” (875). In other words, in legal intermediation terms, frontline actors may be beneficiaries, targets, as well as legal intermediaries forced to enforce rules and regulations themselves.

There is a tendency in new governance models and intermediation research to assume a rationalist approach to decision-making whereby individuals on the frontline are autonomous citizens possessing appropriate levels of agency to speak up and become involved in co-regulation opportunities. However, in everyday practice, those on the frontline often possess varying levels of agency that limits their ability to participate in co-regulatory roles. Yet, under neoliberal strategies of governance, individuals on the frontline increasingly have an individual responsibility to participate as a co-regulator even when they might lack the capacity and necessary agency to be successful (cf. Tucker 2012; Gray 2009, 2002; Alexander 2009; Super 2008; Rodriguez-Garavito 2005). From the perspective of legal intermediation, frontline workers are encouraged to become legal intermediaries themselves, by manipulating legal rules, working more and more with legal procedures and provisions, which gives them some possible leeway but also new individual responsibilities. In the field of health and safety regulation, this trend is not without consequences. It contributes to the individualisation of risks and not only of liability, putting aside the historical responsibility of employers on which the insurance system is built and the priority search for collective protection or the precautionary principle. Future research in both legal and regulatory intermediation research streams would benefit by incorporating more closely into their analyses not only how those on the frontline interpret and experience legal intermediaries but also how those on the frontline are increasingly becoming individually responsible themselves to act as legal intermediaries.

## **Normalization of Deviance among Legal and Non-Legal Professional Intermediaries**

While one could think that legal and regulatory intermediaries often represent the public interest and make valuable contributions to organizational governance, there are several organizational risks, improper influences, and ethical issues to consider when examining the everyday practices of legal and regulatory intermediation. To begin, what is the primary goal of an intermediary? Is it to serve the public good, for example, when assisting a regulatory body with monitoring/enforcement or helping an organization with compliance, which could be formal or symbolic and not merely substantial (Edelman, 2016)? Alternatively, if the primary goal is self-interest and/or profit does this mean that the intermediary is more likely to neglect the public good when attempting to achieve those private goals? According to van der Heijden (2019) “intermediaries are by no means neutral actors who are added to (or enter) the regulatory landscape to serve the public interest” (216). Therefore, it’s important to examine the local context of intermediaries, whether they are a NGO, a credit rating agency, an audit firm, a street-level bureaucrat, or a non-legal professional intermediary such as union activist, a human resource manager, or a safety compliance officer (cf. Pelisse 2019). As Abbott et al. (2017a) state, “institutional and substantive interests may lead particular intermediaries to ally with the regulator, with the targets, or with other regulatory actors, and to attempt to shape the content of regulation, as well as its implementation to their own benefit” (8).

In addition to the goals of intermediaries, it’s important to also look at the processes of how intermediaries are selected as this speaks to the critical issue of intermediary independence (Galland 2019; Kruck 2019). For instance, if a company pays an auditor directly for monitoring their compliance then the issue of resource dependency arises which could undermine the independence of the intermediary. It also creates a conflict of interest situation (Thompson 1998) where the primary interest of the auditor (such as monitoring and accurately reporting compliance) becomes comprised by the secondary interest (such as financial gain and also the risk of losing future auditing jobs from the same or other companies). Conflicts of interest in the field of legal intermediation can lead to resource dependence corruption whereby auditors engage in organizational self-censorship (Gray and Bishop-Kendzia 2009). A lack of intermediary independence, and the existence of conflicts of interest, lobbying, and revolving door employment practices all contribute to the potential regulatory capture of legal and regulatory intermediaries (Carpenter and Moss 2013; Abbott et al. 2019c; Avidan et al. 2019; Marques 2019; van der Heijden 2019).

However, more broadly, and perhaps even more insidious is the fact that despite how unethical some of the above practices might appear many of them are legal and accepted in the everyday world of legal and regulatory intermediation. However, as Lessig (2011) notes, a lack of independence contributes to professional practices that are often legal but hold widespread or systematic influence, financial or otherwise, within an economy of influences that serves to undermine the ethical integrity of institutions. This, in turn, leads to problems of institutional corruption, which “involves influences that implicitly or purposively serve to distort the independence of a professional in a position of trust” (Gray 2013: 533). A good example

institutional corruption in the world of legal intermediation is the concept of ‘intermediary shopping’ where a company selects their own intermediary (i.e., credit rating agency, auditor, consultant, etc.) that they presume will serve their best interests (van der Heijden 2015). According to Abbot et al. (2017b), “this creates an implicit competition among intermediaries to please the targets to get and retain their business” (284). This notion of dependence, and its implication for intermediary shopping, is illustrated by Gray (2015) in a study of institutional corruption in academic consulting. The quote below is from a tenured law professor named Anthony (a pseudonym) who was working as a consultant (a non-legal professional intermediary) for a multilateral development institution.

Anthony recounted a situation where his research findings and recommendations in a commissioned report did not fit with the ideological perspective held by his manager at the multilateral development institution. He expected this to cause conflict with the manager, but after some careful consideration he felt he could not compromise because of the impact the alternative could potentially have for the country in question. Anthony recalled having a lengthy conversation over the phone with that manager and being asked to change the report. He refused, and acknowledged in that phone call that his contract was coming up for renewal and that he knew this disagreement could affect it. He saw this possible consequence as an expected, even logical outcome given the norms of consulting... Looking back on that exchange, Anthony is convinced that he would have been offered more consulting hours in the subsequent year had he submitted a report that fit with his manager’s desired outcome. (7)

Anthony also acknowledged that full-time consultants who are not tenured professors like himself face even more pressure to please their clients, which, for the purposes of this article, serves as a cautionary tale regarding the independence of non-legal professional consultants who act as legal intermediaries. In many different markets and regulatory fields, firms both choose and pay for their own third-party auditors (i.e., a legal intermediary). In local practice, this leads to potential conflict of interest situations where the primary interest (accurate reporting and monitoring) is potentially undermined by the secondary interests (financial gain and keeping clients happy). In a two-year field experiment study of environmental audits of industrial factories in Gujarat, India, researchers worked with regulators to alter the structure in which auditors worked (Duflo et al. 2013). They found that by switching to a common pool method of auditor payment (rather than individual companies paying specific auditors), paying the auditors more money, conducting random verification checks, and randomly assigning auditors to firm audits led to a decrease in improper influences and an increase in auditor (legal intermediary) independence. The overall result of the experiment was greater accuracy in the third-party auditor reports and a noticeable reduction in factory pollution emissions. However, in many different fields of legal and regulatory intermediation, including those credit rating agencies in the lead up to the 2008 financial crisis, conflicts of interest, improper influences, and patterns of institutional corruption remain (cf. Kruck 2019; Lessig 2018).

## **Conclusion**

Recent scholarship on the topic of legal and regulatory intermediaries is leading to increased empirical and conceptual attention on the role that intermediaries might play in regulatory

governance and in the process of legal endogenization. However, as is stands, the current literature is fracturing. On the one hand, a more top-down approach has developed (cf. Abbott et al. 2017; Bres et al. 2019) that prefers to use the term ‘regulatory intermediary’ versus a more bottom-up approach (Talesh and Pélisse, 2019; Billows et al. 2019; Pelisse 2019) that prefers the broader term ‘legal intermediary’. The former approach draws heavily on the RIT model that assumes a more rationalist approach to human-decision-making, whereas the latter approach prefers instead to draw more on neo-institutional perspectives or constitutive approaches such as legal consciousness. However, both approaches still tend to downplay the contributions of frontline workers and, in our view, should consider exploring further how those on the frontline view legal and regulatory intermediaries. In addition, we believe future research should also explore the recent inclusion of non-legal professionals who act as legal intermediaries. For instance, how do those on the frontline and lower in the organizational hierarchy interpret and experience safety officers, human resource managers, or job counsellors? Do they see them a threat, ally, or obstacle?

In this article, we put forth a more inclusive approach to the study of legal and regulatory intermediation. In so doing, we wish to extend further Pelisse’s (2019) inclusion of non-legal professionals who act as legal intermediaries to those non-legal middle persons who occupy organizational spaces or gaps between frontline workers and regulators. As Gray and Silbey (2014) showed across various fields (industrial manufacturing, transportation, and university science labs), non-legal middle managers often serve a legal intermediary role (in addition to their formal organizational role as a supervisor) and are often interpreted and experienced by those below them in the organizational hierarchy as compliance limiting or compliance promoting. Future research that conceptually interrogates further the role of non-legal middle managers who act as legal intermediaries in practice, we believe, would provide a practical extension to the field of legal intermediation.

By adopting a more inclusive legal intermediation approach, we believe that studies of legal and regulatory intermediaries could expand even further in scope. For instance, research could examine further the various ways in which the growth of non-legal professional intermediaries is connected to responsabilization strategies of governance that seek to reconfigure and download individual responsibility for risk to those on the frontline. In our view, those on the frontline (the beneficiaries in the RIT model) are increasingly forced to act as their own non-legal intermediary by initiating complaints and speaking up and enforcing rules and regulations themselves.

And, finally, in this article, we suggest that more research on behavioural ethics is needed in the field of legal and regulatory intermediation. At present, there is an urgent need to deal with conflicts of interest, improper influences, revolving door employment practices, and lobbying practices. The consequences are no longer simply an issue of regulatory capture but also a broader problem of institutional corruption in legal and regulatory intermediation.

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*(ANR-11-LABX-0091, ANR-11-IDEX-0005-02)*

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