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To cite this article: Trond Løyning (2020): Re-politicizing financial regulation: a sociological analysis of the debate on loan-to-value regulation in Norway, *Housing Studies*, DOI: [10.1080/02673037.2020.1823328](https://doi.org/10.1080/02673037.2020.1823328)

To link to this article: <https://doi.org/10.1080/02673037.2020.1823328>



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Published online: 22 Sep 2020.



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Re-politicizing financial regulation: a sociological analysis of the debate on loan-to-value regulation in Norway

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ABSTRACT

While financial regulation became highly contested in the aftermath of the financial crisis, the specifics of such regulation is usually debated among professionals, in specialized fora. This article analyses an exception to this; the debate on the loan-to-value ratio regulation introduced in Norway in 2010. Newspaper articles are analysed, using Boltanski & Thevenot's pragmatic perspective on how actors legitimize their arguments and critique. Unlike other critical approaches (i.e., critical discourse analysis) this perspective focuses on actors own critical capacity and it is argued that the approach is useful in analyzing re-politicizing efforts of social actors. The main finding is that most arguments opposing the regulation are based in the civic "regime of justification", while arguments supporting the regulation are based in the industrial regime of justification. Few arguments enact the market regime as justification. The article discusses reasons why the regulation has not been repelled, despite the widespread criticism.

ARTICLE HISTORY

Received 19 September 2018
Accepted 7 September 2020

KEYWORDS

Home ownership; housing finance; housing market; sociology of critique; public debate; class

Introduction

Financial regulation is a policy area characterized by expert knowledge, complex rules and regulations, embedded in more or less global regulatory standards (Alexander *et al.*, 2006; Haldane, 2012; Porter, 2001, 2014). Many policy areas of modern societies have these features, prompting some scholars to suggest that this entails potential democratic problems (cf. the term "post-democracy" – Crouch, 2004, 2016). Financial regulation is of course much debated, not least in recent years following the crisis of 2008, but most of this debate occurs among professionals within boundaries defined by knowledge of complex concepts and models (cf. Abbott, 1995; Preda, 2009; Baker, 2014).

To the extent that the broader public engages in discussions on banks and the financial system, or to the extent that this is the subject of broader political debates, these often address the system as such and usually takes the form of a general

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critique or defence. On the one hand, some critics claim that the financial system is to blame for many societal ills, including unjust distributional effects. On the other hand, defenders argue that the financial system brings great benefits to society by providing and allocating necessary capital and investments. It seems that the regulation *as such*, the specific content and effects of different regulatory requirements, is for the most part a “black box” for the general public.

However, the regulation analysed in this article is an exception. The loan-to-value regulation in Norway entails that homebuyers cannot take on a residential mortgage of more than 85% of the market value of the home. This rule was extensively debated in Norway, among journalists, politicians, economists, financial actors, and others. On the one hand, there is a basic good that has far-reaching economic, social and existential consequences for most people; on the other, there is a straightforward, easily understood regulation, which directly impinges on the ability to acquire this good. This regulation was perceived not only as financial regulation, but also as a regulation of housing. This explains the intensity, longevity and broad participation that characterized this debate. In this article, the debate is analysed, seeking to address the question: how do social actors critique and justify arguments. The aim is to explore not only the debate on housing, but how, through this debate, financial regulation is re-politicized by social actors. It is argued that this is important since it contests a policy area that is usually de-politicized and embedded in transnational epistemic communities.

The theoretical approach is Boltanski & Thevenot’s pragmatic sociology. One of the defining characteristics of this approach is precisely how actors themselves competently evaluate, criticize, and justify arguments and actions. I argue that this approach is useful in demonstrating re-politicizing efforts in the case of LTV-regulation in Norway. Moreover, the approach is useful in demonstrating how this particular case can be seen as an example of a much broader trend, particularly if technocratic, de-politicizing tendencies is as widespread as some suggest (Baker, 2014; Esmark, 2020). While the theory is useful in highlighting different types of arguments and justifications that social actors enact, it is less clear how the approach might shed light on *which type* of arguments and justifications that prevail, and why. This is discussed as a limitation of the approach.

Background and theory

Much has been written on the need for regulatory reform after the financial crisis of 2008, particularly regulatory reform that targets system-wide features of finance (Freixas *et al.*, 2015). Thus, one of the regulatory responses to the financial crisis of 2008 was increased attention on so-called *macro-prudential* regulation. The loan-to-value measure is an example of this regulatory approach.

The fundamental issue is a fallacy of composition problem: Actions and regulatory requirements that make sense on the micro-level have potentially destabilizing or dysfunctional effects at the system-level, possibly leading to financial crises. For example, high inflation in the housing market will increase the equity of homeowners. From the point of view of the individual bank or the individual loan-taker, it could then be rational to increase the level of debt. However, from a macro perspective, this is

problematic since price-fluctuations could lead to market instabilities, e.g., if increasing interest rates leads to individuals defaulting on their loans and to bank losses.

This was part of the justification when the loan-to-value (LTV) regulation was introduced in Norway in 2010. Similar regulations have been introduced in several countries in recent years, including the United Kingdom, Ireland, Sweden, and New Zealand. The specific background in the Norwegian case was the high inflation that characterized the Norwegian housing market, and the corresponding increases in household debt, which worried the regulators in The Norwegian Financial Authority. Moreover, this occurred in a context of relatively low economic growth, making it difficult to use the standard measure of monetary policy, the key interest rate. Furthermore, while some commentators point to a change in the favourable tax scheme regarding home ownership and home mortgages in Norway as a possible solution, this has been politically unfeasible to change. Thus, a 90% cap on the loan-to-value ratio was implemented in 2010, lowered to 85% in 2012, as a more targeted measure to address these issues.

Although the LTV-requirement has been 85% from 2012 to the present, the legal form of the regulation changed from guidelines to (formal) regulations in 2015. There was some flexibility regarding the rule, and the purpose of this change was to restrict this flexibility. Before the change, the guidelines stated that “as a general rule” banks should require at least 15% equity. Banks could deviate from the rule after careful consideration of the loan takers ability to repay the loan, provided that such decisions were taken at a more senior level than usually. Thus, banks had a certain degree of freedom regarding the regulation.

After the change in 2015, 10% of the loans (during a quarter) could deviate from the rule, based on careful consideration of the loan takers’ ability to repay the loan. Hence, banks scope of action was limited. Later, additional regulations regarding the debt-to-income ratio, repayment-requirements and special requirements regarding the Oslo-region were introduced. Thus, although the main rule of the regulation has been unchanged since 2012, there has been a strengthening of the regulations both through the change of legal form and through these additional requirements. This article focuses on the early part of this period, the first five years following its introduction, when the regulation was most actively discussed.

The effects of this kind of regulation, along with other macro-prudential regulation, have been extensively analysed (Borchgrevink & Naess Torstensen, 2018; He *et al.*, 2016; Lindquist & Riiser, 2018; McDonald, 2015; Zhang & Tressel, 2017). However, in this article, it is not the financial effects of the regulation that are analysed, but rather the debate as such. The aim is not to criticize particular arguments or viewpoints, but rather to analyse how they are situated within a normative context: what is the reasoning behind the different viewpoints, and how are arguments justified? Arguably, this approach is useful to understand how regulation is embedded in society, how it must be legitimized and justified, and how specific institutions can be critiqued and challenged.

Theoretically, Boltanski and Thévenot (2006) pragmatic sociology of critique is used. In their model of how (public) arguments are subject to requirements of justification, they have identified a finite number of “worlds of justifications” or “orders of

worth”, which are normative frameworks that structure the legitimate types of public arguments and reasoning in modern societies. Boltanski & Thevenot’s model of how public arguments and statements are subject to the requirement of justification has been compared to both discourse theory (Holden & Scerri, 2015) and repertoire theory (Silber, 2003), but the differences, particularly with regard to critical discourse theory, must be highlighted.

While approaches like Bourdieu’s critical sociology (from which Boltanski & Thevenot distance themselves) or critical discourse analysis seek to reveal structures, ideologies and discourses as seen from the standpoint of an external observers, Boltanski and Thevenot’s sociology of critique highlight actors own critical capacities: how actors often engage in critiques, which in turn requires efforts at justifying arguments and actions.

This has been called a non-normative critique in that it do not seek to unmask oppressive structures or shed light on how actors are “victims” of a dominant ideology, but rather focus on how actors constantly engage in different forms of critiques and struggles, based on a variety of norms and goals (Hansen, 2016). The approach is particularly attuned to how various policy areas may be de-politicized, and how these may bring about re-politicizing efforts through actors’ own critical engagements (cf. Hansen, 2016).

Furthermore, it is not the discourse itself that is at the centre of attention, but how different social structures, in the form of established normative frameworks, are enacted in public debates. Boltanski and Thevenot’s model posits that there is a limited set of such normative frameworks that actors relate to and enact, and these serve to justify actions, arguments and critiques. Actors are seen as competently moving in and between these normative “orders of worth”. Within these orders, not only discourse but material objects may be important - Boltanski & Thevenot “takes aim at the institutional, technical, legal and material ‘order of things’ that frame the debates” (Holden & Scerri, 2015, p. 362). For example, a home can be seen as a civil right, a material framework structuring family life, a status symbol, or as a financial entity with a specific market value. Thus, there are several, *but limited*, ways in which a home could *legitimately* structure a debate.

An important concept in this theory is that of equivalence, which concerns how various actions, actors, arguments, and objects “hold together”, that is, how they are connected in acceptable ways (Boltanski & Thévenot, 2006). For example, the director of the Financial Authority cannot justify his actions, evaluations, and arguments by reference to religious texts; this would not constitute a legitimate way of holding the actions of the Financial Authority together. In a succinct statement, Boltanski and Chiapello describe principles of equivalence as “very general conventions directed towards a common good” (Boltanski & Chiapello, 2007, p. 22). This citation also highlights that these orders have emerged, and are enacted, not to achieve any kind of goal, but *a common good*.

In their original model, Boltanski and Thévenot Boltanski and Thevenot (1999, 2006) identified six separate worlds of justification, with their distinct principles of equivalence that frame legitimate arguments and justifications of how to achieve a common good. In later studies, other such normative orders have been proposed,

such as a green world (Thevenot *et al.*, 2000), and a project world (Boltanski & Chiapello, 2007). Here I will briefly introduce those orders of worth that seem most pertinent to the matter at hand: the civic order (since the starting point in the debate was concern that the regulation would cause social exclusion); the industrial order (since this is an expert-based regulation aimed at societal productivity); and the market order (since this is a market regulation).

In the market order, competition, price and profit are core elements. Competitiveness is fundamental, and money and prices are important coordinating mechanisms – and therefore the essential principle of equivalence in Boltanski & Thevenot’s terminology. Person and objects are linked through monetary means, and the/those most valuable are measured in prices and profit.

In the industrial order, the key elements are productivity and efficiency (this is the basis on which value is measured), and experts and professionals are central. Experts will, based on collected information and their professional judgment, evaluate situations and make decisions that promote (societal) productivity. The regulatory activity of an organisation like The Financial Authority of Norway is an obvious example.

In the civic world, solidarity and equality are fundamental elements. To promote common interests, to act according to what is perceived as the best interest of a collective, is the core value. Thus, public service is valued, while the selfish pursuit of individual gain is not.

To be seen as legitimate, and to be taken seriously, arguments and justifications must be grounded in such normative worlds. However, this is often problematic; both internally within an order, and externally between different orders of worth, disagreements, tensions or challenges often arise. Thus, the concepts of “tests” and disputes are important in Boltanski & Thevenot’s model (2006). In a dispute, conflicting arguments and justifications confront each other. Disputes imply that actors need to justify their actions, critiques, and arguments explicitly, based on or relating to different tests. Critique can be moderate, where the aim is to purify an order of worth (e.g., stop promoting employees based on their family ties), or more radical, where different orders of worth compete (Boltanski & Thévenot, Boltanski & Thevenot, 1999, p. 373). As I will show below, the debate on the loan-to-value ratio can be seen as an example of the latter type of dispute.

The relations between worlds of justification are problematic; compromises are possible, but these are unstable since they do not have a distinct basis for justification. Compromises always risk being subject to critique from one of the worlds of justifications involved. Such compromises and critique will be further explored in the final discussion.

This theoretical approach highlights the different normative basis on which arguments rests, and treats them symmetrically. There are problematic issues with such an approach. In the present context three such issues seem particular relevant.

First, it can hide differences in how arguments or justifications carry unequal weight depending on the context. Alex Honneth’s critique of Boltanski & Thevenot for disregarding “institutionalized norm systems” (Honneth, 2010, p. 388) and that “not tak[ing] seriously what is contained in the sociological concept of “order”” (Honneth, 2010, p. 385) are relevant in this regard. For example, in neoliberal society, with its emphasis on markets and competition, different viewpoints and arguments

regarding housing are seen as more legitimate, compared with the post-war heyday of the Keynesian welfare state.

More specifically, when organizations like The Central Bank and The Financial Authority, which arguably incorporate specialized knowledge and expertise on the relevant subject, support certain arguments and are skeptical of others, this influences the weight attached to different viewpoints. Moreover, from the perspective of economics, which can be seen as representing neoliberal reason par excellence, some arguments regarding finance and housing are legitimate, and some plainly dangerous. Because of such broader institutional and social structures, arguments about market imbalances made by an economist working in the central bank may have greater legitimacy than arguments made by radical politicians concerned about social injustices. To the extent that arguments and justifications are treated symmetrically, such differences are downplayed.

In his later work, Boltanski (2011) has modified his pragmatic sociology, towards a more traditional critical sociology (which he earlier rejected) (cf. Nachi, 2014). The concept of social institution is important, albeit perhaps vaguely defined (Susen, 2014) in this “critical turn”. The role of expert knowledge introduced above can be interpreted as a manifestation of the importance of institutions. This partly addresses Honneth’s concern regarding the social order, and I will return to issues of institutions, power and experts in the concluding discussion.

Second, the instrumental or strategic use of arguments based on *interests*, not on moral justifications, are not important in Boltanski & Thevenot’s theory. For example, when bank managers voice concern about growing inequality as a result of the regulation, it is tempting to see this as a case of strategic use of an argument. Concern regarding inequality has greater legitimacy than what one suspects is really on their minds - their ability to provide loans and make a profit.

Third, as mentioned, there is an increasing amount of economic literature on the specific financial effects of LTV-regulation. This is obviously relevant when considering such regulations, and it often provides justification for regulatory reforms in the first place. In this article, such arguments are for the most part treated symmetrically with other arguments, which given the knowledge and research involved would seem deeply problematic for many. However, it is the debate as such that is analysed in this article, not the economic merit of different viewpoints.

These are however obvious limitations to the perspective of this article; both the interests and financial effects of the regulation deserve more attention and analysis than this article provides. Nevertheless, I will argue that there are several advantages to the approach chosen.

The approach highlights the need for legitimacy of regulatory action, and show how this becomes a *public* issue when it affects a good such as housing. This is particularly important when the regulation is viewed as having uneven distributional consequences in societies characterized by increasing inequality. Moreover, it highlights the complexity of issues relating to housing, from specific financial factors to basic individual rights. Importantly, because of the intertwining of the housing and financial sectors, these issues are also crucial regarding financial regulation. In addition, the approach highlights not only differences in viewpoints, but reasons for difficulties in *reconciling* these (because there are different moral orders involved). This could have important political ramifications.

Furthermore, it points to a type of critique, i.e., critique of *specific* financial regulation, and not a *general* critique of financialized society or a similarly broad critique, which may be efficient in influencing institutional change. More on this in the final section.

Moreover, it demonstrate how expert-knowledge may be questioned, which arguably is particularly important if many of its assumptions are left unchallenged, within epistemic communities semi-detached from the societies they influence (i.e., in transnational communities of regulators).

Finally, and related to the last point, through its fundamental epistemology it is demonstrated how social actors may re-politicize important issues. Boltanski & Thevenot's approach is a sociology of (social actors practice of) critique, not critical social (or discourse) theory.

I will argue that these issues are general in nature, not limited to the case of LTV regulation in Norway. Thus, there are lessons to be drawn from this case that may be relevant in other nations and for other policies.

Data and methods

The empirical material in this study consist of newspaper articles from the period 2010-2015, which has been subjected to qualitative content analysis. Relevant articles were identified using the database Retriever¹. Articles containing the words “house loan”, “equity”, and “requirement” were included, and the sample was restricted to newspapers defined as regional or national newspapers (thus, excluding articles appearing in local papers, and other types of media)². Based on these criteria, the sample consists of 201 articles.

Most of the newspapers have no explicit affiliations to political parties, although there are political tendencies, perhaps most obviously in the left-leaning *Klassekampen* (which translated into “The Class Struggle”) and the liberal, market-supporting *Dagens Naeringsliv* (the leading business daily). In the present context, the important point to make is that there are articles both critical of, and supporting, the LTV-regulation in most of these newspapers. However, there has been no systematic effort to analyse the content of articles in relation to the news outlet it was published. The sole focus of the analytical approach is to analyse the meaning and arguments of the articles, regardless of outlet.

Although a qualitative analysis is the main approach in this study, a quantitative coding provides a useful overview of the material. [Figure 1](#) shows that there was some debate on this issue from 2011, that is the year after the regulation was introduced, but that the debate was at its most intense in the year 2012 and 2013, i.e., the period leading up to the 2013 general election in Norway.

The figure also shows that predominantly *critical* articles were the most frequent in the debate. Relative few articles were positive to the regulation, or defended the regulation strongly. There was less debate in the post-election years and most articles were either neutral to the regulation, or balanced in the sense that both opponents and proponents were represented.

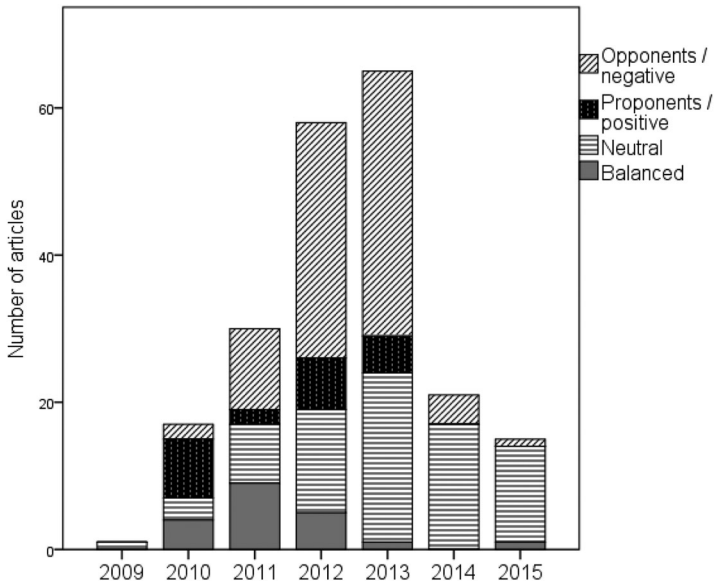


Figure 1. Number of newspaper articles, by content and year.

Although the investigation and analysis of material started in an empirically grounded fashion, it was evident early on that the model of Boltanski & Thevenot provided concepts that captured the most salient themes of the debate. Thus, the viewpoint and arguments in the newspaper articles were systematically organized using codes derived from the model, like the need for government intervention, market efficiency, or justice/injustice. The aim was to identify the main arguments and justifications in this debate.

Empirical findings

Several themes and arguments were introduced in the debate on loan-to-value requirements, from specific arguments on the regulation of markets to general arguments on fundamental rights and justice. While opponents of the regulation tended to base their critique on such general considerations, the proponents grounded their view on more specific analysis of the housing- and financial markets.

The most frequently used arguments in the debate referred to differences between social classes, generational injustices, and (im)balance in the housing market. Additional subjects brought up included that the regulation is ineffective and thus unnecessary, that the regulation protects homebuyers, that the regulation protects the banks, and therefore indirectly, the homebuyers, and finally the relation between this requirement and other aspects of the government policy on housing (in particular tax policy and the so-called “start-up loan”).

In Boltanski and Thevenot’s model, these arguments and justifications are grounded in the civic world, the industrial world and the market world.

Critique grounded in the civic world: an unjust and exclusionary regulation

The loan-to-value regulation has direct consequences on the most important and largest purchase most people make. A house is a complex good, having a wide-ranging meaning (where factors like a sense of belonging, social status, and nesting are important) (cf. Bourdieu, 2005). Thus, it is unsurprising that such a regulation is discussed. Moreover, the structure of the Norwegian housing market is important, since home ownership is the by far most common tenure status; as of 2016, 83% of the population live in home owning households in Norway. (This is a relatively high proportion - compared with the EU average of 69%, and with large EU nations like France, UK and especially Germany below this level)³. In such a context, it seems even more decisive to be able to buy a home, making a regulation that limits this ability even more controversial.

Many of the critical articles have this as a premise, the core argument being that regulations impeding people from gaining access to such a basic right are fundamentally unjust. This situation is accentuated by the (perceived) fact that this problem is highly uneven distributed; young first-time buyers and those with low income (or with parents with low income) are particularly affected.

The newspaper articles emphasizing this theme are almost all either critical of the regulation, arguing for its removal, or more balanced articles, discussing both arguments in support and against the regulation.

In the critical articles, many types of actors are given a voice, in different types of articles. In the present context, I emphasize the distinct types of actors, and their arguments (not the type of article in which these arguments are presented). Actors cited below include independent observers or commentators (i.e., not connected to the housing or financial sectors), actors involved in the most directly affected business (housing or finance), and politicians.

Starting with independent observers, an op-ed article in Stavanger Aftenblad (a large regional paper), offered the following critique:

Increased equity requirements for those who want to take on home mortgages favour first of all young people with rich parents, not those that are good at saving or those with sufficient income to be able to repay their mortgage (Stavanger Aftenblad; 3.7.2012).

Another example is from an earlier article in the leading business newspaper in Norway, Dagens Naeringsliv (DN):

Monday, DN wrote about the increased difficulties facing young people (...) since the introduction by the Financial Authority of the new requirements on equity to get mortgages. The expert panel of DN on the housing market recommended a youth rebellion against the politician that do not provide enough building plots (DN 7.12.2010).

The leader of the Norwegian Homeowners association, Petter Batta, have commented, or been referred to, in several articles, for example:

Petter Batta characterizes the situation for young home buyers as extreme. The banks as well, are highly critical of the Financial Authority's requirement of 15% equity to get a house mortgage. When housing pricing increases, this new rule entail large sums for first-time buyers (Nordlys - a regional newspaper, 06.06.12).

In these articles, the regulations are seen as favouring *those with rich parents, makes things difficult* for young people, or are *extreme*.

Actors from the housing and financial sectors typically argue that the regulation is unnecessary and unjust. An investor stated that the proposal to increase the requirement from 10% to 15% “was unsocial, pure and simple. With repayment requirements for mortgages, there is no need for more equity” (DN, 18.10.11). Several employees and leaders in the banking industry took part in the debate as well. An example is an economist in a medium-sized bank, who stated, “The requirement is good in the sense that banks become more solid. However, the people who are affected are first-time buyers without support from their parents. Here, something of a class divide might develop. So I don’t think it is a good idea” (Stavanger Aftenblad, 05.10.11). The CEO of the largest bank in Norway, Rune Bjerke in DNB, concurred: “This contributes to a class divide, where the young with resourceful parents can take out mortgages” (VG, 09.04.12). Thomas Sevang, head of communications in Nordea [a large Nordic bank] likewise stated that “it will probably make it more difficult to enter the housing market, and that is unfortunate” (DN, 05.01.12).

Thus, there is a predominantly negative view among these actors, mainly based on arguments that it is unfair, where some vulnerable groups are disproportionately affected. This is a common argument of the opponents. Some also argue on the ground that the regulation as ineffective; it will not reduce price increases in the real estate market.

Many politicians have publically addressed this issue; most have opposed the regulation. It was discussed in the general election in 2013 as well. The regulation was introduced while the centre-left coalition was in power, and the opposition, the centre-right parties, were almost all, albeit to a varying degree, critical of the regulation. For example, Knut Arild Hareide, leader of KrF (The Christian Democrats) said that “[the regulation] affects young people that do not have parents with capital” (Vårt Land – a national christian newspaper, 04.08.12). Likewise, Tord Lien, FrP (The Progress Party) claimed that “(...) the new requirements (...) lead to a hopeless situation for first-time buyers (...) A repeal of the requirement of 15% equity and improving the BSU-arrangement⁴ can make it easier for [this group] (Adresseavisen - a regional newspaper, 02.07.12). The Conservative Party and the Progress Party won the election in 2013 and formed a coalition government with the support of two parties from the political centre. It is noteworthy that these parties, although quite critical of the regulation during the campaign, so far have kept the requirement. Representatives of the Progress Party were particularly vocal, which is interesting since its leader became Finance Minister after the election.

All the citations above were found in critical articles. The same type of critical viewpoints also appeared in more balanced articles, containing both critical and supporting arguments.

Two arguments, in particular, dominate these articles. First, the generational injustice argument, emphasizing the problem that young first-time buyers face because of the requirement, a problem that weighs heavily on these people given the context – a housing market where almost all own their own home, and where tax policies favour those with a house mortgage. Not being able to enter the housing market in such a situation seem unjust to many. Furthermore, a substantial

proportion of private savings and equity is tied to increasing house prices; hence, not owning a house entail losing out of this opportunity to accumulate capital.

The other argument typical in these critical articles, in addition to the generational injustice, concern social classes. Many observers are worried that the less fortunate social class is disproportionately affected by the regulations, causing growing divisions between classes. Moreover, arguments on social classes are often linked to arguments on generational injustices, i.e., potential first-time house buyers are kept out of the market, but this is contingent on their social background.

Considerations of fairness are central in this line of reasoning. Everyone needs and all have a right to, a decent home.⁵ Stopping individuals from exercising this right is perceived as unfair. Thus, tellingly, in this debate, the right to decent housing is seen as the right to being able to *buy* a home (in contrast to the general principle that it is *access* to decent housing, not *ownership*, that is the fundamental right). Thus, the empirical material shows that the critics of the regulation argue on the basis of what Boltanski & Thevenot identifies as the civic world, where values like equality, fairness, and inclusion are primary norms, constituting worth.

This is an unusual type of critique of financial regulation. Debate and critique of the details of financial regulation tend to be based on consideration of efficiency and productivity, *the industrial world* in Boltanski & Thevenot's model. Experts, that is mostly academic economists, government officials or employees in the financial industry, discuss issues like capital or liquidity requirements of banks, risk management, issues relating to competition or asset bubbles, in the business section of the press. To the extent specific *distributional* effects of regulation are discussed, it is usually grounded in more or less radical left-wing positions denouncing the neo-liberal economy and the financial industry in *general*. Moreover, that center-right leaning politicians and bankers express concern about distributional consequences show the wide appeal of this type of argument.

Arguments supporting the regulation grounded in the industrial world: Designing "balanced" markets

The empirical findings presented so far, show the strong, persistent and widespread critique of the regulation. However, so far it has not been repealed. On the contrary, as described earlier, the regulation was strengthened during these years. Although the critics have been most vocal in this debate, the regulation has had its supporters as well. Many of these see it as necessary given the circumstances: A housing market characterized by high inflation over a considerable period, leading to fear of a housing bubble, followed by the possibility of a sudden correction in the market, which could have dire, economy-wide consequences. Thus, arguments based on these reasons are similar to the original justifications for the regulation.

Proponents of the regulation include representatives from the government, politicians, economists, as well as some independent observers and commentators. It is either seen as a necessary evil or plain sensible, given the state among house buyers (who take out excessive amounts of debt) and the housing market (with the noted imbalances).

Although the representatives of the government agency responsible for the regulation have not been very active in the debate, they have given some statements:

Skogstad Aamo [the then head of the Financial Authority] reacts to the way banks describe it as a duty that they at all times should provide full funding of home purchases: This is a bold model – and it was exactly such a policy that went horribly wrong in the USA, he says. (...) The head of the Financial Authority thinks that the banks have been lulled into believing that it is impossible to lose on house mortgages (DN, 04.03.10).

The current head of the Financial Authority addressed the positive effects of the regulation on first-time buyers:” The primary problem for first-time buyers in the current market is the high and rising housing prices. Regulations that may contribute to cool down the market will also make it easier for first-time buyers” (Aftenposten – a national newspaper, 29.09.11).

In an article discussing a proposal to reduce the equity requirements from 15% back to 10%, several economist warned against this (under the heading “Economists do not want to make it easier to take on mortgages”), e.g.:

This may threaten the stability of the financial system since more can get access to home mortgages. It is a not a good idea by the conservative parties to make this a political issue, against the advice of the experts in the Financial Authority, Andreassen (Chief Economist, Swedbank) says (Aftenposten, 29.09.13).

Few politicians have supported the regulation in public; it seems clear that this is a perceived as an unpopular policy to defend. Among the very few supporting statements from politicians, representatives of the Labour Party framed this as necessary given the circumstances:

The Labour Party thinks it is irresponsible to overrule expert opinions from the Financial Authority based on pure guesswork. Thus, we are concerns with developing other policies that can provide support for first-time buyers, like the ‘Start-up loan’ (Haakon Haugli, MP; Dagsavisen – a regional newspaper, 11.06.12).

It is the households with large mortgages that are the most vulnerable if the interest rate increases or the level of unemployment rises. It is consequently correct that the Financial Authority tell the banks to ensure that their customers have sufficient equity and security when they take out home mortgages (...). (The then Finance Minister, Sigbjorn Johnsen; DN, 02.02.12).

Thus, the market has to be corrected from the outside if one is to avoid the unfavourable effects of a housing bubble. Explicitly, one relies on experts and their knowledge in designing institutions that promotes societal efficiency (in this case by creating markets that are more “balanced” and stable). Thus, these arguments are grounded in the industrial world (as were the justification for the introduction of the regulation in the first place).

To the extent the proponents of the regulation mention negative social consequences at all (for example that some people are excluded from the market), this is viewed as an unfortunate, but necessary, side effect. However, there are some radical arguments directly challenging the predominant view that the regulation is unfair. These highlight that it is no fundamental right to own a home, and that is no human right to live in the city centre of Oslo or other major cities in Norway. Outside these centres, the housing cost is affordable for homebuyers with less financial resources as well.

Moreover, some proponents, among them the Financial Authority itself, suggested that this regulation, in fact, help the less privileged. The argument is that the market propel homebuyers to take on too much risk, which can have serious negative effects in the case of falling housing prices or critical economic events, like unemployment. Furthermore, it is precisely those with the lowest income and little or no equity that are most exposed in this respect. Regulating the risk-taking of homebuyers curtails this exposure.

Many of the statements and arguments supporting the regulation, was put forth in relatively balanced articles, providing both pros and cons regarding the regulation. A clear example is the following:

Let me start with two propositions: Justice is very, very important. A stable financial system is very, very important. Agree? Good! Then it is the question whether or not the two goals can be achieved simultaneously (...) (Journalist Toralf Sandø; Stavanger Aftenblad, 02.06.12).

Such tension between contrasting problems and goals has been raised by politicians as well:

The Financial Authority has a legitimate goal which in this case may partly conflict with the goal of ensuring that more people get access to the housing market. This kind of conflict often occurs in politics. It is a matter of finding the right balance [the then under-secretary of state] Tvinnerheim says (BT – a regional newspaper, 2013: 220)

These statements indicate the necessity of compromising. However, given the conflicting viewpoints and arguments in this debate, the possibility of such a compromise seems difficult. There are good reasons to compromise since both the view of the right to housing and access to the housing market on the one hand and the goal of stability in financial markets on the other, is legitimate. However, based on Boltanski & Thevenot's model, although these might be legitimate ways of grounding the issue, they belong to different worlds of justification. Thus, the difficulty in achieving a compromise.

The market order as justification for critique

Although the LTV-regulation is a market regulation, few arguments and statements are *directly* grounded in the market order and the market mechanisms. However, there are exceptions:

The banks themselves are capable of evaluating their customers' ability to handle their debt. It should be up to the banks themselves to decide who should be granted credit, based on careful reviewing of their customer's financial situation. (Chief economist Reid Krohn Pettersen in Norsk familieøkonomi ["Norwegian family economy", a consumer organization in Norway] (Stavanger Aftenblad, 16.08.13).

(The requirement) of 15 percent should be removed. The banks should instead emphasize the ability of individual borrowers to repay their mortgages (Ketil Solvik-Olsen, MP representing The Progress Party; Vårt Land, 07.03.13).

The context may explain why this line of reasoning was rare. Norway might be a neo-liberal society in some respects, but this should be seen as a particular variant of neoliberalism, where the market commonly is viewed more cautiously than in many

other nations, and where other coordinating mechanisms (still) has a high degree of support and legitimacy (e.g., collective wage bargaining). Moreover, although the memory of events like the financial crises sometimes seems surprisingly short-lived, the debate, particularly in its first years, should be seen in the light of this recent shock to the market system.

Discussion

The overview of arguments shows that while there have been a broad set of arguments and justifications in the debate, the opponents of the regulations have dominated, in both numbers and intensity. This begs the question of why nothing has changed. The regulation still exists and are today hardly discussed at all. This question is especially pertinent since politicians, who at one point were highly critical of the regulation, later were elected, came into office, and thus, presumably, should be able to do something about it.

The first possible explanation is based on one of the factors mentioned earlier, that it is not entirely clear-cut that social or “civic” goals are best served by removing the regulation. Two reasons are given. The first is that the increases in the housing prices create problems for many, notably first-time homebuyers and those from less privileged social backgrounds. Thus, efforts to slow down price increases in the housing market, a central justification of the regulation, should be welcomed precisely for these reasons. The second reason is that some groups, especially those that have difficulties entering the market, tend to take on too much risk. This could be described as irrationality (cf. Elster, 1984; 1999), but should also be seen in the light of the importance of home ownership in Norway. Excessively risky behaviour, in particular for people without financial means to handle losses well, is problematic. The loan-to-value regulation limits such behaviour.

The second explanation is related to the possible effects on the housing market itself, and the rest of the economy, of persistently high inflation. There was (and is) a broad consensus that this is a problem, and many think that the government should try to mitigate it. Of course, when evaluated in the market order, this is not a fundamental problem, since price adjustment is the main mechanism that creates order in the market. Thus, inflated prices during one period will eventually lead to a price correction that adequately reflect the underlying financial value of the houses. However, in both the industrial and the civic orders of worth, dramatic price fluctuations are seen as problematic, albeit for different reasons.

The primary goal of much of current financial regulation, grounded in the industrial order of worth, is to secure stable and well-functioning financial markets. The regulation analysed in this article is therefore typical, since high inflation and fear of market imbalance is the problem the regulation seeks to amend. Although one may acknowledge some unfavourable side effects of the regulation, this argument may nevertheless carry the day.

When the issue is grounded in the civic order of justification, the problem is the difficulty in getting access to the house market for some groups, a difficulty which increases with high inflation. This justifies regulation aiming at curbing inflation. A

general lesson may be that policies or regulatory requirements that can be justified in more than one order of worth, is more difficult to change, compared with regulations justified in one order alone.

Third and related to the second explanation, while almost everyone acknowledge the inflation in the real estate market as problematic, and that government policy should address this, it is a commonly accepted that this is difficult. Typically, if the level of inflation is perceived as too high, the central bank will increase the key interest rate, thus increasing the cost for borrowers. However, this could cause an economy-wide slowdown. For obvious reason, this is not something one wishes in a period of slow growth. Thus, the task is to find targeted methods to reduce the strong increase in real estate prices, without such economy-wide effects. The perception of the loan-to-value requirement as such a targeted policy and the lack of obvious alternatives may explain the withering away of critique of this regulation. Moreover, the absence of clear alternatives among the critics can perhaps be seen as an expression of what Boltanski & Chiapello (2007) argue is the lack of direction of the critics of capitalism today, which also makes the critique less effective.

A fourth possible explanation of the critic's lack of success in removing the regulation is a possible ambivalence regarding of the market order. As already mentioned, although the markets (the real estate market and financial markets) are at the centre of the debate, the explicit use of the market as a (positive) justification and "grammar" for arguments was rare. However, the market order is implicitly present, in a somewhat paradoxical fashion. The opponents, who primarily has the civic order of worth as their frame of reference, implicitly argued *for* the market. These critics argue for the removal of the regulation, not replacing it with an alternative regulation. Consequently, the market as such is regarded as more just and inclusive than the regulation. Thus, a regulatory effort with the industrial order of worth as frame of reference is met with critique from a standpoint grounded in the civic world, with the market as the solution. That a "purified" market is seen as a solution to problems of inequality and social exclusions is surprising, since it is precisely such a market order that often is identified as the cause of *increasing* inequalities (cf. Davies, 2017).

Some opponents of the regulation might have been uneasy with this implication of their arguments, which perhaps is the reason why it rarely was made explicit.

On the other hand, the experts in the Financial Authority justified the regulation with the goal of *stability* in financial markets. Such regulation can be seen as a typical neoliberal approach to practical policy (see, e.g., Peck, 2010). Neoliberal economies are characterized by an active state, with active regulatory policies to create "free" markets. In financial regulation, the primary goal is to secure stable, well-functioning markets; in the case analysed, through policies aiming to stop large price fluctuations. Herein lies a possible paradox or dilemma. A regulation that in this way is designed to stabilize the markets can potentially create social (and perhaps political) tensions. Ultimately, this can have a destabilizing effect on the neoliberal order (elections during the last years can be seen as an expression of such instabilities, i.e., the election of Trump and Brexit). Although it would be an exaggeration to see this debate as destabilizing in this way (it is not an event on a large enough scale), it could be seen as an example of *this type* of consequence.

The discussions and conflicts about this regulation made basic dilemmas in the market order appear more clearly. On the one hand, most elites and experts support the market economy established in recent decades, but on the other, at least regarding pragmatic political considerations, there is scepticism towards “a pure” market order and reluctance (at least in this contexts) of using the market order normatively (cf. Du Gay & Morgan, 2012).

A fifth factor to consider is the compromises involved. In the model of Boltanski and Thévenot (2006), compromises between different worlds are important. Compromises can be seen as arrangements and practices that draw on several orders of worth, where the basis of the practice is not a single (or “pure”) order of worth.

One compromise involves the so-called “start-up loan”, provided by the Norwegian State Housing Bank. This loan could be granted to first-time buyers who was unable to secure a mortgage in the regular market, and who was unable to save. This was a compromise because the “start-up loan” in some instances could be defined as part of buyers’ equity, in effect helping homebuyers to circumvent the loan-to-value requirement. Thus, it was a compromise between the industrial world (the LTV-regulation) and the civic (the start-up loan). This, arguably, took some of the sting out of the criticism.

The compromise, however, was criticized, mainly through arguments grounded in the industrial world. Several commentators argued that the start-up loan reduced the effectiveness of the loan-to-value regulation. Thus, the compromise was exposed to criticism from the orders involved, which is typical according to Boltanski and Thévenot (2006). Accordingly, from 2014, first-time buyers were no longer given priority when granting start-up loans. This explain the reduction in the number of start-up loan provided – from approximately 12500 in 2012 to 8800 in 2014. Nevertheless, the compromise was important during the years when the LTV-regulation was most actively debated.

The second compromise was granting banks some flexibility in the regulation. As discussed earlier, this was particularly prominent during the first years of the regulation, when bank were granted some autonomy regarding decisions concerning credit-worthiness. This flexibility was restricted after the strengthening of the regulation in 2015, but there still is some flexibility in that 10% of the loans granted could deviate from the regulation.

These compromises were significant in the efforts to implement and keep the regulation. Particular during the years of frequent and strong critique, (2011-2013), these compromises could serve as a kind of response to the critics of the regulation, because they arguably soften problematic effects of it. For example, politicians, particularly those who came to power in 2013, have used the argument of flexibility in the implementation of the regulation as an argument for keeping it. Thus, these compromises, although criticized, and although they may partly have undermined the effectiveness of the regulation, probably helped secure the continuation of the regulation.

Finally, the institutional factor must be emphasized. In addition to the reasons given above, the strength of the established institutions, the “global financial architecture” perceived as necessary to secure the stability of the financial markets, with the various national regulatory authorities as key actors, can arguably by itself prevent the critique to cause the regulation to be repelled. The neoliberal market

order rests among other things on the authority of organizations like the Norwegian Financial Authority, and the expertise that it represents. Thus, overruling such expertise would seem quite radical. This is likely a reason why politicians critical of the regulation before they came into power, kept it after they came into office. Overruling the Financial Authority and the regulations the experts of this organizations advocate was seemingly deemed too risky for the politicians. The fact that much public criticism was levied against the regulation, as was widespread criticism from leading politicians, politicians who later came into power, did not lead to changes, attest to the enduring power of this institutional framework.

Conclusion: contested financial institutions

Although the debate did not lead to specific changes, it represents something novel, and points to the possibility of transformations of financial regulation, by grounding the critique in a different normative order of worth than usually is the case with these institutions. Fundamentally, in Peter Wagner (2014, p. 242) words, “Institutions are not incontestable because of the plurality of patterns of justifications.” Usually, when the specifics of financial regulation are discussed, it is highly technical, and grounded in the industrial order of worth, thus making the discussions susceptible to the expertise of not only regulators but also experts in the financial sector itself (making the concept of *capture* relevant, cf. Carpenter & Moss, 2014).

However, this debate might indicate a type of approach to financial regulation that could transform such a narrow perspective and participation. It has in a sense opened up the black box (for the general public) of financial regulation. This is largely due to the close connection between finance and housing. While finance is often arcane and highly technical, housing often is not. The fact that this regulation directly affected the ability of people to acquire a home caused strong public reactions from a broad set of actors. Thus, it demonstrates the critical capacity of social actors that Boltanski & Thevenot’s emphasize.

Specifically, it shows how actors were able to re-politicize a policy area of great importance, that of financial regulations. This form of critique is crucial with regard to such policy areas, because of the importance of de-politicizing tendencies within them, like the dominance of expert-knowledge and transnational best practices (cf. Hansen, 2016). The debate highlighted the *distributional effects* of financial regulations. In this way, the debate revealed that such regulations are not only about finding the right technical solution to a technical problem, but have specific societal effects beyond what is needed to stabilize financial markets.

Unlike other critical approaches, Boltanski & Thevenot’s approach highlights the importance of the continuing need for re-politicizing efforts, and the usefulness of what Hansen (2016) calls a non-normative critique, i.e., a critique not from a particular external standpoint, but one that describe and explain the critical efforts own social actors. This article shows how social actors enact different regimes of justifications in contesting LTV-regulation and its effects on housing. Moreover, the article shows that while the regulation became publically contested, this was not enough to change the regulation. This is all the more remarkable given the critical stance of

leading politicians who came into power following the general election of 2013. The article discusses this a limitation in Boltanski & Thevenot's approach; it is not clear why some regimes of justifications are more important in some contexts and periods than others. Furthermore, the approach is less useful in explaining how and why some justifications may be strategically used to win arguments and supporters. The prevalence of critical arguments grounded in the civic order before the election in 2013, by politicians who later came into power, suggests such use of arguments. Regarding this, concepts like neoliberalization, globalization, or technocracy highlight economic, social and political changes that may be important in understanding how public justifications are embedded in broader societal changes, and why some critiques and justifications prevail and others do not, or why some are used strategically or opportunistically. While further investigations of how public justifications are influenced by, and presumably influence, such broader social structures are beyond the scope of this article, it is an important topic for further studies.

Notes

1. Cf. <https://www.retriever.no/product/mediearkiv/>.
2. In Norwegian, the equivalent to the term «loan-to-value» is not used, but rather “minimum level of equity required”.
3. Source: Eurostat (downloaded from http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=ilc_lvho02&lang=en; September 10 2018).
4. A savings scheme supported by the government, where young people save with the specific purpose of buying a home and get a tax refund.
5. It should be emphasized that this is a right as perceived by some of the participants in the debate; it is not a right by Norwegian law. It is only to provide a temporary place to live that is regulated by law (not to be able to *own* a home). (Thanks to a reviewer for clarifying this).

Disclosure Statement

No potential conflict of interest was reported by the author(s).

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