Types of planning and property rights

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Abstract
This research contributes to the debate concerning the nature of planning in complex systems, and particularly to the theory of teleocracy (the approach based on direct provisions aimed at specific ends) and nomocracy (the approach based on rules aimed at general rather than specific ends). It draws parallels with the theory of regulation and establishes a connection between rules, regulation and the nomocratic planning of social activities. It then suggests that a property rights analysis of the forms of social coordination/organisation can be instrumental in understanding the nature of social interactions. Based on the theory of property rights, the study concludes that the use of different types of planning, regulation or market mechanisms of social coordination is closely related to the concrete form of ownership over the resources employed in any given social activity.

Keywords
planning theory, property rights, regulation, teleocracy and nomocracy

Introduction
The global demise of socialism as an economic system is, no doubt, associated with the failure of central planning. Still, planning of many other types continues in both the public and private sectors of all developed democracies. In addition, over the past few decades, the ‘rise of the regulatory state’ (Majone, 1994) has become the new paradigm in macroeconomic governance. Therefore, it is not surprising that the debate about the essence of, the need for, and the role of planning is no less intense now than it was throughout the 20th century, though many authors (Archibugi, 2004; Levi-Faur, 2010, etc.) claim that the debate has led to no clear conclusions. A key issue of this debate concerns the types of planning. In the last few years, one of its major focuses has been the two types of planning distinguished by Moroni (2010), who used Hayek’s (1976)
terms ‘teleocratic’ (planning based on direct provisions aimed at specific ends) and ‘nomocratic’ (planning based on rules aimed at general rather than specific ends).

This article examines certain aspects of these two types of planning, regulation and the market by analysing forms of ownership. Since the 1960s, the theory of property rights has contributed significantly to progress in important fields of social science, including the theory of planning (e.g. Webster and Lai, 2003). By analysing property rights, Barzel (1997) has been particularly successful in explaining economic and social actions. In the same vein, this article proposes an explanation of the relationships between alternative types of social coordination by emphasising the configurations of property rights over the resources involved in any given activity.

Methodological notes and key assertions

This article examines planning, regulation and the market as basic ways of coordinating and organising social activities. They are all mechanisms of social relations, though their internal structures are, of course, very different.

This article makes two key assertions. First, regulation plays a special role in distinguishing between the two types of planning mentioned above: the nomocratic approach to planning and governance comprises the teleocratic approach and regulation. The second key assertion is that the different forms of property rights play a fundamental role in coordinating any social activity, and they actually determine which of the mechanisms will be employed to arrange the actions of the engaged agents. I support this assertion by investigating the role of property rights in social activities. Ultimately, the main goal of this article is to explore the usefulness of property rights analysis in theories of planning and regulation.

For this purpose, it is also necessary to clarify the essence of governance as well, because it too is closely connected to forms of social coordination, especially planning. Governance may be defined as the intentional management of the development of a system towards a desired state. As such, it is nothing more than developing and implementing plans (in the broadest sense).

In this research, I take an interdisciplinary approach by comparing different types of planning and regulation in various areas of social life: in economic (general, macroeconomic and corporate) and urban management and development.

Teleocratic and nomocratic planning

Even now, at the start of the 21st century, the nature of planning is not completely clear. Archibugi (2004) found that ‘in spite of the geometric progression in the quantity of scholars in the area of planning theory, ‘a diffuse, creeping uneasiness has pervaded all the participants of this discipline’. One key problem that theories have not been able to explain clearly and concisely is how planning could be pervasive in all branches and levels of the market economy but fail at the macroeconomic level. One reasonable explanation is based on the theory of complexity. The ‘classical’ rational principles of planning are efficient in a ‘simple’ system of the activities of a single person, household, or company, but a complex system requires different principles and methods. Any social
system made up of even a small number of individuals or entities is complex, let alone entire societies and macroeconomic systems. Thus, it can be concluded that the performance of planning in a complex social system is, in the least, related to issues like the interaction with the market and the coordination of numerous participants’ activities.

To address coordination issues, different theoretical approaches have developed to provide space for all participants to defend their interests, to enhance their ability to participate in the organisation of social, economic and urban activities. These approaches emerged with ‘advocacy planning’ (Davidoff, 1965) as early as the 1960s; in the 1980s and 1990s, ‘communicative’, ‘collaborative’ and ‘participatory’ planning approaches pursued similar goals (Forester, 1999; Healey, 1993, 1997; Innes, 1995). Other trends sought to improve the performance of planning by clarifying its purposes at the societal/macroeconomic level, as well as its general internal principles and mechanisms (e.g. Faludi, 1973). Some scholars have proposed more flexible approaches, which were often (though not always) meant to provide better opportunities for citizens, local groups and market actors to participate. Thus Healey juxtaposed flexible ‘policy planning’ and detailed and rigid ‘blueprint plans’: in contrast to the latter, the former allowed communities and businesses to provide input through a ‘negotiative process, involving exchange and bargaining among a range of actors’ (Healey, 2003: 103).

Over the last couple of decades, the theory of complexity in planning has come to the fore and gained topical importance. Arguably, central to this theory is the view that governance of complex social systems should rely on their self-organising abilities and/or emphasise rules and regulations over direct provisions. This trend is evident in the works of a number of scholars like Alfasi and Portugali (2007), Holcombe (2013), Innes and Booher (2010), Portugali (2011) and Webster and Lai (2003), to name but a few. Probably the most promising approach is the theory of teleocracy and nomocracy developed by Hayek (1968, 1973, 1976) and by a number of theorists in different sectors of social science in the past few decades (e.g. Harrop, 1992; Llewellyn, 1990; Offe, 1996). The most significant contribution to this theory in recent years was made by Moroni (2007, 2010, 2014), on whose works I draw extensively in this article.

The terms ‘teleocracy’ and ‘nomocracy’ were introduced by Oakeshott, a professor at the London School of Economics in the 1960s. Hayek (1973, 1976) discussed teleocracy (made order) and nomocracy (grown order) as two alternative approaches in the fields of governance and politics. Moroni (2010) was the first to use these terms in the field of urban/spatial planning. Moroni (2010) defined teleocratic planning as

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\text{rational, deliberate intervention necessarily via a plan, itself in turn a directional set of authoritative rules established with the end of achieving a desired overall state of affairs through deliberate coordination of the contents of the (private) independent urban activities. (p. 138)}
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Moroni (2010) defined nomocracy as the approach needed to deal ‘with complex systems such as the city’ by utilising

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\text{indirect ways of reaching an order, methods based on (non-directional) rules that are simple, abstract and general, purpose-independent, and prevalently negative: that is, basic and plain rules that refer to general types of situations or actions, not to specific ones. (p. 146)}
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Recently Moroni (2014: 9) further developed his theory by stating that teleocracy is an ordering system ‘in which “patterning-instruments” are the main tools used by the state to regulate (not only its actions but also, and in particular) the actions of private parties’. In contrast, nomocracy, he claimed, is ‘a form of government in which only “framework-instruments” are used to regulate private actions; whereas patterning-instruments are introduced solely as means to discipline and guide public actions’.

To summarise, there are several key differences between the two types of planning. The nomocratic approach is most relevant to complex social systems made up of independent individuals or individual entities, so nomocratic planning is aimed at ‘general types of situations or actions’ (Moroni, 2010: 146). In contrast, teleocratic planning is most relevant to ‘simple’ systems – that is, systems with a strong hierarchy, where the lower-tier participants must strictly fulfil the detailed orders of the centre; thus, teleocratic planning is targeted at strictly defined objectives. I have drawn a similar distinction between ‘planning in the broader (general) sense’ and ‘planning in the narrow sense’ (Slaev, 2014) in order to study the relationships between the two types of planning, governance, regulation and the market. The key factor is that ‘planning in the general/broader sense’ is aimed at broad goals, whereas ‘planning in its narrow sense’ is aimed at strictly defined objectives. While Oakeshott’s, Hayek’s and Moroni’s terms ‘teleocracy’ and ‘nomocracy’ are scientifically rigorous, on many occasions, I use the terms ‘planning in its narrow (or broad) sense’ because I think that they are more meaningful to those who are not acquainted with Hayek’s and Moroni’s theories and therefore easier for planning practitioners and the general public to understand.

The role of regulation in distinguishing between teleocratic and nomocratic planning

The first key assertion of this article is that the role of regulation is essential in distinguishing between the two types of planning. More specifically, planning in the general sense incorporates both planning in the narrow sense and regulation. By regulation, I mean what Moroni called a ‘framework instrument’. Thus, in other words, nomocratic governance incorporates teleocratic governance and framework-setting – a conclusion that one can infer from the works of Moroni (2014) and other scholars (e.g. Holcombe, 2013). Still, certain aspects and details of this relationship require clarification, and I should explain why I think it is useful to introduce the term ‘regulation’ into this system.

To make my point, however, I will start by emphasising the role of this element of the system (whether framework-setting, regulation or else) that distinguishes between teleocracy and nomocracy. As explained above, teleocracy is relevant to simple systems with strong hierarchies, whereas the purpose of nomocracy is to manage complex social systems made up of a number of individuals or individual entities. A key point in this logical structure is that nomocratic planning should allow all individuals and entities who are members of a complex system to participate in its development not as ‘servants’ obliged to fully obey the plans of the centre (as Coase, 1937, quoted Batt), but as independent agents capable of making their own plans and following their own goals within the limits
of the rules. According to the first key assertion of this article, regulation (or framework-setting) is the element of nomocracy that provides freedom for all members of the system to act as independent (though regulated) agents.

Regarding the role of framework-setting, Moroni (2014) found that teleocracy employs mainly patterning instruments: ‘if framework-instruments are employed as well, they have only a secondary, less relevant role’. But most importantly, as discussed in the first section of this article, Moroni (2014: 9) defined nomocracy as ‘a form of government’ which utilises both framework-instruments and patterning-instruments. He also stated that his ‘perspective recognises that both nomocracy and teleocracy are particular mixtures of both framework-instruments and patterning-instruments’.

To my understanding, and as I demonstrate later in this article, teleocratic planning does not include regulation/framework-instruments. Of course, in reality there is no perfect phenomenon, so there is no ‘pure’ teleocracy. Systems of planning, even the most teleocratic, always incorporate some regulation, but this imperfection does not invalidate the principle. Bertaud (2003) distinguished the role of the state (as teleocratic planner) in a socialist economy from the role of the state (as regulator) in a capitalist economy as follows:

I could compare a socialist economy to a ballet where everybody is acting according to a prearranged script; there [are] really no regulations for the way a ballet should be executed, but there is only a script, and everybody follows the script, and the script is under the control of the director … In a market economy, there is no script. It’s more like a soccer match, rather than a ballet. You need rules and you need a referee, and the referee, in the case of market, is the government. The government is the referee, and the referee has to follow the rules.

Therefore, I stick to a definition of the relationships between teleocracy, nomocracy and framework-setting implicit in the works of Moroni and defined unambiguously as follows: teleocracy utilises only direct provisions (patterning instruments), whereas nomocracy comprises teleocracy and regulation (framework-setting). To analyse this assertion, it is first necessary to define regulation for the purposes of this article.

**Definitions of regulation**

The main reason I prefer the term ‘regulation’ to ‘framework-instrument’ is that, much like planning, regulation is an established and widely practised instrument of governance. As such, also like planning, it is the subject of major theories and a separate branch of social science. In fact, it is surprising that there has not been more research on the relationship between planning and regulation to date. Still, work on the theory of regulation is probably less voluminous than the work on the planning theory because the former is relatively newer. Theoretical studies in this sphere emerged after World War II from the works of Bernstein (1955), Friedmann (1959) Lowi (1964) and others. Although it is a relative newcomer, regulation theory has proliferated over the past three decades, and today it is a major branch of social studies like politics, sociology and economics. Regulation theory experienced its most significant breakthrough in the area of governance widely referred to as the ‘rise of the regulatory state’ (Majone, 1994).
This phenomenon also goes by many other names, such as ‘regulatory explosion’ (Levi-Faur, 2010), ‘age of governance’ (Jordana and Levi-Faur, 2004) and ‘mega-regulation’ (Scott, 2012). Perhaps not surprisingly, the term ‘regulation’ can be even more confusing than the term ‘planning’.

Much of this confusion arises because ‘regulation’ has a variety of meanings articulated in a number of definitions. In the area of macroeconomic governance, the term carries an abundance of meanings. The earliest popular definition is usually considered to be that of Selznick (1985), according to which ‘regulation is sustained and focused control by a public agency over activities that are valued by a community’. Later definitions have, almost as a rule, provided wider and narrower meanings (p. 363). For example, Baldwin et al. (1998) identified ‘three main meanings for the notion of regulation: (a) targeted rules; (b) all modes of state intervention in the economy; and (c) all mechanisms of social control, by whomsoever exercised’. These three definitions of ‘regulation’, according to Jordana and Levi-Faur (2004), vary with respect to the broadness of their meaning. Christensen and Lægreid (2005) suggested that while Selznick’s definition reflected the narrow meaning of regulation, the term could ‘be defined more broadly as all types of state intervention in the economy or the private sphere designed to steer them and to realize public goals’. Black (2002) saw regulation as ‘the sustained and focused attempt to alter the behaviour of others according to defined standards or purposes with the intention of producing a broadly identified outcome or outcomes, which may involve mechanisms of standard-setting, information-gathering and behaviour-modification’. Prosser (2010) made ‘a major distinction … between regulation as infringement of private autonomy and regulation as a collaborative enterprise’ (p. 4).

Definitions of regulation are scarce, however, in the areas of urban development and corporate governance. A huge number of studies examine corporate regulations, land-use zoning and urban development codes, but most of them focus on the effect of regulation on firms’ or local economies’ efficiency, corporate management performance, environmental issues, property markets, social segregation and so on. (Bertaud, 1992; Knaap, 1998; Skaburskis, 1995; Slaev, 2010, 2012, to name but a few). Here I cite only one definition meant for use in the area of urban development – that of Kaza and Knaap (2011): who stated that ‘regulation … is the application of the police power (either by the state or by some other third party)’. Using this definition, they found that zoning is ‘the application of regulations and, thus, the application of the police power of the state’.

To summarise, the most popular meanings of regulation are as follows: (1) rules that members of a group have to comply with, and (2) any kind of intervention intended to change the behaviour of the members of a group (including individuals, households, firms, etc.). Because it is important in this article to distinguish between regulation and planning, I use the term ‘regulation’ only in the first sense – that is, rules of conduct. This meaning can be directly connected to Moroni’s term ‘framework-instrument’, associated with nomocracy based on rules. This connection highlights the importance of drawing parallels between the theory of ‘regulation’ and the theory of teleocracy and nomocracy. There is strong analogy between reasons to replace teleocratic planning based on ‘authoritative’ orders meant ‘to introduce a finalized coordination, in details’ with nomocratic planning based on ‘relational rules’ (Moroni, 2010), and reasons to replace governance based on direct provisions with governance based on regulation (which is what scholars
mean by the ‘rise of the regulatory state’) (Jordana and Levi-Faur, 2004; Prosser, 2010; Scott, 2012).

Thus, for the purpose of this article, ‘regulation’ should be defined as norms, principles, laws or, more generally, rules of conduct with which all individuals and entities within a group, a firm or a society must comply. Social rules differ from natural rules in that they are intentionally developed and imposed by a centre exercising coercive (police) power (Hayek, 1973, 1976). In this article, I use regulation exclusively to mean rules, sets of rules, the process of setting rules or, more specifically, what Hayek (1973: 45) termed deliberately made rules.

Relationships between regulation, nomocratic and teleocratic planning

As the preceding definition suggests, there is a close connection between regulation and nomocratic planning. This connection between rules and nomocracy was first identified in the theory of governance by Hayek (1976: 31–61), who emphasised that rules create a spontaneous order. Hayek found that spontaneous order emerged from rules regardless of whether the rules themselves were of spontaneous origin or were ‘the result of deliberate design’ (Hayek, 1973: 46).

To analyse the mechanism of regulation, its relation to teleocratic planning and to nomocratic planning will be examined in greater detail. First, with respect to centrality, both regulation and teleocratic planning are forms of centralised governance. Of course, if a single person is planning his or her activities, the term ‘central planning’ is not relevant. But since this article focuses on the organisation and coordination of social activities, for such purposes teleocratic planning is top-down and centralised. As for regulation, some scholars debate whether it is necessarily centralised or not, because in some situations regulatory powers are exercised by a decentralised institution (Black, 2002; Jordana and Levi-Faur, 2004). Nevertheless, closer examination of such situations reveals either that the state has transferred centralised powers to the regulating institution, or that the institution has assumed a central position by itself. In either case, the coercive powers exercised by the regulator are central powers.

However, centralised organisation is not the only feature that planning and regulation share. Kaza and Knaap (2011) note that planning is ‘thinking before acting’, whereas regulation is ‘exercising police power’, so they are ‘entirely different’. Although the two definitions proposed by these authors are no doubt correct, the conclusion that the mechanisms are entirely different is not. In fact, the two definitions identify essential similarities. ‘Thinking before acting’ means that (1) planning is purposeful – it has goals, and (2) it considers steps and methods to achieve its goals – the ‘path from here to there’, from point ‘A’ to point ‘B’ (Intriligator and Sheshinski, 1986; So and Getzels, 1988). Regulations in a social system are purposeful as well (Baldwin et al., 1998). Governments develop regulations based on specific considerations, analyses and, mainly, purposes and objectives. And while regulations do indeed ‘exercise police power’, central planning is also coercive and requires even stronger central power to compel all elements of the system to fulfil a plan.

The main difference between teleocratic planning and regulation is actually related to the fact that planning means getting from point ‘A’ to point ‘B’. Points are usually defined
by their coordinates. If ‘B’ is the objective, planning (particularly teleocratic planning) would require the coordinates of ‘B’ to be defined as strictly as possible – otherwise, one could not get to ‘B’. In contrast, regulations do not aim to achieve a strictly defined ‘B’. Regulations have a purpose; therefore, they too have a target, but it is not a point: for regulations, target ‘B’ is an area.

This characteristic of regulation requires further explanation. It is well established that regulations define activities that are either mandated or prohibited, but they are not targeted at any specific aim. Hayek (1973) found that the rules of nomos are ‘abstract’ and ‘independent of any particular result aimed at’ (p. 97). Moroni (2010) stressed that rules should be ‘purpose-independent’ (p. 146). Alfasi and Portugali (2007) argued in support of rules ‘disconnected from specific policies’. Black (2002), however, defined regulation as ‘the sustained and focused attempt to alter the behaviour of others according to defined standards or purposes with the intention of producing a broadly identified outcome or outcomes …’. Therefore, according to Black, regulation as a human activity is intentional and purposeful. Selznick (1985: 363) also defined regulation as sustained and focused – and therefore intentional – control. It, thus, becomes clear that social rules (regulations) are ‘independent of any particular result’ or specific ends, but as Hayek (1973) has repeatedly asserted, they still are intentional, they can be ‘entirely the result of deliberate design’ (p. 46), and they follow their own purpose and abstract (i.e. not specific) aims (Hayek, 1973: 88–93, 97–102, 112–118). So they are indeed aimed at ‘broadly identified outcomes’ (Black, 2002; also Christensen and Lægreid, 2005; Levi-Faur, 2010; Scott, 2010). Therefore, the broadly identified goals of regulations do form an ‘area’ and the role of rules is to frame that ‘area’. A few examples will help to illustrate this relationship.

In manufacturing, regulation defines only some of the parameters of a product, for example, standards relating to the defence of consumers’ rights or ecology. Such regulation establishes the framework within which the producers will develop their own detailed plans defining all specifications of the output (the exact point within the framework). In urban development, regulation lists land uses that may create nuisance, thus establishing the framework for land use, whereas the work plans will determine the exact land use within the established framework. Similarly, regulation defines the maximum height of a building, whereas the design plan will determine the actual height of a house within the framework defined by regulation. Finally, the speed-limit regulation defines the maximum speed, but the driver will determine the exact route and the actual speed of travel through the teleocratic planning of her or his journey.

Insofar as it is confirmed that regulation is a framework-setting activity, its relation to nomocratic planning can also be confirmed. Empirical studies support the observation that planning in its broad sense may seek to accomplish both broad and narrow objectives (Slaev, 2007, 2010). Narrow objectives are accomplished through patterning instruments (i.e. teleocratic planning), and broad objectives are accomplished through regulation. Moroni (2014) clearly demonstrated that nomocratic governance employs both patterning and framework-instruments. Holcombe (2013), who has analysed some practical aspects of Moroni’s theory, has demonstrated that governance in market conditions should employ detailed planning to develop the transportation network and to impose rules to regulate private actions (e.g. the ‘law of nuisance in preventing
incompatible uses of land’). It can be therefore concluded that nomocratic planning comprises both teleocratic planning and regulation.

If only because I define regulation as ‘deliberately made rules’, the first key assertion of this article rests firmly on Moroni’s conclusion that nomocracy comprises ‘patterning’ and ‘framework-instruments’. While I acknowledge this debt, I build upon Moroni’s work by drawing connections between definitions of regulation and planning that thus far have been used in separate strands of theory emerging from different fields of social science. This interdisciplinary approach is, thus, a means of bringing the insights of one field (say, urban planning theory) to bear on the questions and issues of another (say, macroeconomic theory), and vice versa. In this case, both areas of study seem to benefit.

To summarise this section of the article, the main functional or technical distinction between teleocratic planning and regulation is in the broadness of the objectives that they seek to achieve. By definition, teleocratic planning uses ‘patterning instruments’ (Moroni, 2014) and is directed towards particular ends (Hayek, 1968) that are narrow, specific, detailed and – most importantly – defined by the centre (the central body of the system). In contrast, regulation (that is, deliberately established sets of rules) uses ‘framework-instruments’ and is aimed at achieving broadly identified outcomes. In fact, regulation is the instrument used to promote the freedom of the decentralised agents. The goal of the centre in this case is not to lead development to a definite target – that is, to a point with strictly established coordinates – rather, its goal forms an area framed by the rules. In this way, the lower-tier agents have the freedom to target a number of points within the framed area. Thus, the ends are determined partly by the centre and partly by the decentralised agents. In other words, regulation is the main component of governance and planning that makes it possible for many agents to participate in the management of the process, though at different tiers and with different powers. Finally, nomocratic planning comprises teleocratic planning and regulation in that it is aimed at both narrowly and broadly defined goals.

**Planning, regulation and property rights**

My second and primary assertion is that the theory of property rights is needed to map the scopes of and exact differences between nomocratic and teleocratic planning, regulation and the market. The theory of property rights has gained and is still gaining great importance in social science. Barzel (1997) has demonstrated that the theory of property rights is exceptionally useful in explaining practically all phenomena and processes in economics such as market transactions, equilibrium, processes and adjustments and market development in general. Webster and Lai (2003) have been exceptionally successful in employing property rights analysis in the field of urban development.

In the past, market relations were associated with private property, and planning was associated with public ownership. The connection between private property and the market was considered essential, because for two individuals or entities to exchange goods or services, they must have the goods or the resources in their possession. This connection is emphasised by most economics textbooks (Cowell, 2004; Dilts, 2004; Reynolds, 2011) and particularly by studies that juxtapose capitalism with socialism (Marx, 1990...
However, private property is not the only basis for voluntary exchange. Other forms of ownership, such as joint, communal or state property, may enter market transactions as well. In fact, with the development of the theory of property rights, there has been a shift from the perception that the market is associated mainly with private ownership to the perception that the market is based on generally well-established institutions of property rights. Similarly, the perception that public ownership was the basis of planning (Marx, 1867) has shifted to the perception that private property may serve as the basis of planning as well. This shift began in the theory of the firm and corporate management (Coase, 1937; Williamson, 1975, etc.) and continued until the theory of property rights established that all types of ownership may be subject to planning (Alexander, 1992; Demsetz, 1967; Intriligator and Sheshinski, 1986). However, although markets and market transactions require strict definitions of property rights, it has not yet been clarified how planning relates to more or less strictly defined forms of ownership.

In the theory of the ‘regulatory state’, regulation is considered an instrument of governance used to replace ‘public ownership, public subsidies, and directly provided services’ (Hood et al., 1999; see also Levi-Faur and Gilad, 2004; Christensen and Lægreid, 2005). As such, regulation is usually regarded as a restraint on private autonomy (Prosser, 2010) by an agent exercising police power.

Ultimately, I assert that market relations, planning and regulation as alternative forms of social coordination are indeed connected with the forms of ownership – not through the general or the prevailing form of ownership in society, but through the concrete configuration of property rights in each specific interaction between participants in economic, urban or any kind of social development. When the relationships between the forms of social coordination are examined in the structure of each specific interaction (as in the following paragraphs), it becomes obvious that property rights to the resources involved are the essential condition for both planning and market arrangements.

Central to this assertion is the understanding that the form of coordination/organisation is determined by the person or entity ‘in charge’ – the one who sets the goals, makes the decisions, holds the interests. This person or entity takes advantage of positive results but also bears responsibility for any losses and negative outcomes. Responsibility is, in fact, a liability; thus, it is a resource (Barzel, 1997). Therefore, it is the owner of the resources who is in charge, who plans and controls the entire process, who makes decisions to combine her or his resources with those of others.

Allocation of activities between planning and the market in situations of individual (private) ownership over resources

Consider the issue of property rights in the context of the production of a good. When the market transaction costs are low enough, the good is produced by the market (Coase, 1937). This means that owners of resources interact with each other through market transactions. To take part in a market transaction, a person or a company must own some of the resources involved in the process of production, because the essence of any contract or market transaction is the transfer of property rights (Barzel, 1997). If a person or
a company did not own any resources (i.e. material resources, goods, capital or labour), she, he or it would not be able to take part in any transaction.

Alternatively, when the transaction costs for the production of the good are higher than the organisational costs of a company, then the company will produce the good through its internal organisation. To do so, the company will have to buy all resources needed for the production and become their sole owner. Thus, the market mechanism would be surpassed and replaced by planning (Coase, 1937). Therefore, full ownership over all resources involved in the production is a precondition for planning. In other words, for a person or a company to exercise planning power, she, he or it must own the resources in question. It makes no sense to plan how resources owned by someone else will be used or combined.

It is essential to understand what kind of planning is employed. If a person owns all resources necessary for an activity, he or she will employ teleocratic planning, because he or she will try to get as close as possible to the desired point ‘B’. If a company owns the resources, it will be even more necessary and unavoidable to use teleocratic planning in order to define in maximum detail what each department should produce, with what specifications, of what quality and in what quantity. Otherwise, if a department produced too little output, the next one in the chain of production would not be able to fulfil its plan. Alternatively, if the first department produced too much, the surplus would be wasted. Therefore, the firm as the owner employs teleocratic planning. Nomocratic planning is irrelevant in the case of full ownership over the resources employed in the production.

If the abovementioned conclusions are correct, then they reveal further details about why and how a market system is made up of agents who plan. The agents are individuals, households, companies, clubs and other organisations that plan their activities as long as they own the resources involved. Because all individuals and entities possess certain resources, they all are planning agents. This conclusion about the mutual pervasion of market and planning (Alexander, 2008; Intriligator and Sheshinski, 1986) is in fact based on Coase’s (1937) theory of the firm. As Coase noted, when the market transaction costs are higher than the firm’s organisational costs, then

A factor of production (or the owner thereof) [emphasis added] does not have to make a series of contracts with the factors with whom he is co-operating within the firm, as would be necessary, of course, if this co-operation were as a direct result of the working of the price mechanism.

Therefore, if the lower transaction or organisational cost is called the functional criterion for the allocation of economic activities between planning and the market, then the ownership of resources may be called the structural criterion. It is thus a fundamental factor in the ‘symbiosis’ between these two basic forms of social coordination/organisation. At the lowest level of a complex system, all individuals, companies and entities have to own the resources for their individual activities and arrange them through their internal organisation, that is, through teleocratic planning. At a higher level, economic and other social activities combine resources owned by a number individuals and entities; thus, at the higher level, social activities are arranged (coordinated) by the price mechanism.
Moroni (2010) explained teleocracy as a theory of planning that holds ‘that it is both possible and desirable to (authoritatively) plan a system composed of a plurality of private independent activities, that is, to introduce a finalized coordination, in detail, of said activities, through coordination of their contents’ (p. 139). Moroni proved that this view of planning could not be sustained because of the major contradiction between the authoritative plan and the ‘plurality of private independent activities’. Indeed, teleocratic planning is best suited to the simple system of sole ownership.

In conclusion, the answer to the question ‘who is in charge’ is clear for forms of private property, including properties of individuals, companies and clubs. When all resources belong to one person or entity, it is that person or entity who develops a teleocratic plan and is in charge of its implementation. Moreover, if different resources involved in an activity are individually owned by a number of owners, then the coordination of their actions is based on the market mechanism through a number of exchanges of property rights (transactions). However, in this system of individual/private property, no nomocratic planning is needed. As the next paragraph shows, nomocratic planning is needed in the complex system of joint or common properties or in different combinations of private and common ownership.

**Allocation of activities between planning, regulation and the market in situations of joint or common ownership over resources**

Clearly, the problem is more complex if the resources are owned jointly by several or many participants, that is, in ‘communal ownership’, as Demsetz (1967) termed it. Therefore, the theory of property rights is required to solve such a problem. To manage the common resource/s, the owners will have to employ rules that should define who may use the property and under what conditions they may use it, who can make decisions and what procedures they must follow and so on. In short, the co-owners will have to allocate the rights to use and manage the common resource/s. This applies to societies, stock or collective companies, clubs, municipalities, and even families – they all need rules (formal as well as informal) in order to use and manage common properties. According to the definition provided in the first section, any deliberately made rules are a form of regulation. Thus, any use of the common resources requires regulation.

Indeed, the theorists of nomocracy have discussed the relation between this approach in governance and planning and the forms of ownership. Hayek (1968, 1973, 1976) has established a definite connection between the nomocratic approach and public ownership. He has also maintained that nomocracy requires imposing rules on individuals, as well as administering public resources (Hayek, 1973: 48). Moroni (2007, 2010, 2014) has stressed on many occasions the connection between public property and the need to employ rules. Alfasi and Portugali (2007) and Holcombe (2013) have supported the same position.

However, an analysis of property rights reveals many important details. If property rights are not analysed, it is difficult to explain the particular reasons nomocracy is needed, how the teleocratic and nomocratic tools can best be combined, what the nomocratic rules should be aimed at and so on.
Coase’s (1960) theory offers major insight into the connection between public costs, externalities and property rights. However, Coase focused on public cost as the cost incurred by a third party of a market deal and did not study its public character in detail. Such a study was performed by Demsetz, who further developed Coase’s insight into the theory of property rights. Coase found that the most efficient way to deal with externalities would be a proper definition of property rights so that they could be traded and thereby efficiently allocated. It is clear how trading takes place in the case of a single third party, for example, between neighbours or between a polluter and a single victim. However, victims of pollution are, as a rule, numerous, so they need to organise if they wish to defend their property rights. Demsetz (1967: 354–359) studied in detail the problems of organisation that emerge when numerous victims suffer from pollution (or whenever a number of persons share common property). Demsetz stressed that they would have to organise to establish rules; however, the organisation should be headed by a central body to manage the common interests and communal property. As Demsetz has put it, ‘a delegation of authority for most decisions takes place and, for most of these, a small management group becomes the de facto owners’. Thus, the common interests are institutionalised and transformed into communal (common/joint/collective) property, which requires the establishment of rules and a central body with police power to impose and implement rules – clearly a type of organisation that should be termed regulation, according to the terminology adopted in this article.

The logic described above applies to any resources owned jointly or collectively. In the real world, a large part of the resources are inevitably owned collectively/publicly because they are too costly, because their supply is naturally limited, or because the value consumed by one consumer is too small to maintain its provision (supply). Traditional examples include national defence, police services, utilities and road networks and staircases in apartment buildings. Thus, any system of common ownership requires regulations that govern how the common property should be used by multiple co-owners. Regulations are, therefore, associated with transfer of rights to manage, that is, transfer of property rights.

It is essential that co-owners only partially transfer property rights to the joint entity. They retain individual property rights over other aspects of ownership or parts or items of property. In fact, two different options are possible when individuals or individual entities transfer property rights to a joint entity.

First, if they transferred all their property rights, then the result would be a new individual entity managed through teleocratic planning.

Second, if they transferred only part of their property rights, two sub-options are possible:

- If the co-owners transferred property rights over parts of their properties that jointly form an individual object, then the central body would act as the de facto (full) owner of this object by employing teleocratic management and planning.
- If the co-owners transferred property rights over specific aspects of their property, then the central body would impose regulations and exercise police power.
The second option (comprising the two sub-options) results in a nomocratic system of governance. Thus, analysing the transformation of property rights has yielded two important insights. First, it has revealed that the configuration of property rights is the criterion by which to distinguish ‘simple’ and complex social systems. A simple system is one in which property is owned by an individual or an individual entity, whereas a complex system is one in which property or properties are owned by multiple owners.

Second, analysing property rights has also revealed why the system of nomocracy, as defined by Moroni (2014), comprises teleocracy and regulation: because the partial transfer of property rights is twofold – that is, comprises two sub-options.

It thus follows that three configurations of property rights are possible in the system of any concrete economic or social activity:

- an individual or a legal entity combines resources over which she, he or the entity has full or exclusive property rights;
- a number of individuals and/or entities combine resources, products and services that they possess individually;
- individuals and/or entities combine resources owned jointly/collectively.

Basing my arguments on the conclusions made so far, I will now propose definitions of planning, regulation and the market for the specific purpose of this article:

Teleocratic planning (planning in the narrow sense) is the organisation of social activities based on full property rights to all resources employed, that is, all resources belong to a single owner, whether a person or an entity. The goals of the activities in this system reflect the interests of this single owner. If it is a company or a club, then the goals are defined by the central body. The owner of the resources predetermines the parameters of the results in detail.

Regulation is the organisation of economic/social activities based on common ownership over the resources employed (or a part of them); that is, a number of individuals or entities have transferred property rights over certain resources to a joint organisation. The activities in this case reflect both the interests of the central body and the interests of the individuals or entities. The parameters of the results are similarly predetermined.

Market is the coordination of economic/social activities based on exchanges between individuals or entities that individually hold full property rights over resources employed by each one of them. Therefore, the goals of activities reflect the interests of individuals and decentralised entities, and in turn, the results of each activity are predetermined by the parties of each single act of exchange.

Nomocratic planning (planning in the broad sense) is the organisation of economic/social activities based on the mixture of private and common ownership over the resources employed in an activity. The activities in this situation reflect both centralised and decentralised interests and the ends are likewise predetermined.

Some characteristics of the relations between property rights and the forms of coordination/organisation

One aspect or component of property rights is the right to manage property. Some juridical systems consider property rights to comprise the right to use and the right to manage.
In fact, any regulation results in reallocation of rights (powers) to manage the subject of property (Prosser, 2010). Thus, imposing regulation results in transferring property rights. Speed limits restrict how drivers may use their cars; minimum wage regulations restrict how employers may use their funds to pay their employees. In a number of examples, Barzel (1997) has clearly shown that any central control on prices of goods and resources (including the price of labour) results in a reallocation of property rights, because a part of the value is transferred to the public domain due to the price control.

The transfer of property rights from the members of a social structure to its central body is by no means always voluntary. In this respect, the level of democracy in a group or a society has major implications. The more democratic the group or society, the closer the transfer of property rights to the optimal state of the system will be. In a feudal society, the royal institution possessed property rights that in a democratic system should belong to private persons. Communist rule also expropriated all economic properties; in this way, the government assumed the role of the de facto owner of the entire economy and was able to (teleocratically) plan socio-economic development. Even in a well-developed democracy, because of the inevitable – though perhaps lower – coerciveness of regulation, the centre often acquires certain property rights that should belong to citizens.

The possibility of coercive transfer of property rights is a reason to consider the nature of the distinction between regulation, teleocratic and nomocratic planning from another point of view. According to the definitions proposed above, this distinction is analytical, insofar as it is based on an objective factor – the configurations of property rights. Thus, in a system of established property rights the criterion for allocation of social activities between planning, regulation and the market is, indeed, analytical. But a system of property rights is established in result of human interactions. According to Coase (1960), property rights will be, ultimately, optimally allocated, but this may take years as well as centuries, because it is up to the interests and the powers of all parties in a system where the centre, as a rule, exercises certain coercive powers and tends to acquire more property rights than relevant. Moreover, any system of human interactions is changing constantly, so is the optimal allocation of property rights. Thus, the criterion for allocation of social activities between regulation, teleocratic and nomocratic planning and the market is also normative – reflecting an optimal or ‘ideal’ state of a constantly changing system.

Finally, I should stress the strong links between the alternative mechanisms of coordination/organisation of social activities due to their essential similarities and differences. Central planning and regulations are similar insofar as they both require a central body that exercises central management, but they have different relations to the market. Markets, regulation and nomocratic planning have similar property bases – mixed individual and common property rights; therefore, in principle, they are complementary. Private ownership of all resources is possible in an artificial or idealised market system, but not in a real one. Thus common property is the reason ‘free’ markets need regulation (i.e. framework arrangements; Moroni, 2014) and central governance (Webster and Lai, 2003).

In summary, when a system of regulation emerges to help the members of a group or a society manage their common resources, a central body will be needed and the members will have to place certain resources under its control. Some of these resources
will be under the central body’s partial control (managed by regulation), and some will be under its full control (managed by teleocracy). Ultimately, a market system needs regulation because of the use of common property, but a system of regulation ‘produces’ nomocratic and teleocratic planning. Thus, all forms of coordination/organisation are strongly interconnected. I have already outlined similar conclusions drawn by Alfasi and Portugali (2007), Holcombe (2013) and Moroni (2010, 2014), but the following example may illustrate more practically the connections between the types of social coordination.

Typically, in a capitalist democracy, the bulk of urban land is privately owned by local citizens, so the market is the main mechanism of urban development. However, citizens also share common resources like microclimate, air quality, infrastructure (streets, utilities) and so on. Thus, while retaining exclusive ownership over their individual properties, the citizens convey full property rights over common resources and spaces to the municipality. They also grant some aspects of ownership (i.e. partial/limited property rights) of their own private plots and premises by agreeing to abide by government regulations. Through this ‘delegation of authority’ (Demsetz, 1967), the local government steers local urban development through nomocratic planning. This means that the local government as full owner employs teleocratic planning to define in detail the development of public spaces and public infrastructure by preparing detailed blueprints and design plans (architectural, structural, etc.). For private plots, the local government cannot employ equally strict planning tools, because it does not perform the role of the de facto owner of these plots; instead, it employs regulation by imposing rules, norms and standards.

Thus, because of the use of common resources such as streets, utilities, public space and air quality, any market situation requires a system of regulations. In turn, any system of regulations inevitably creates a system of planning, although in principle the latter should be much more limited than the former.

Conclusion

In this article, I have made two main assertions. The first one was that nomocracy (planning in its broad meaning of intentional development of any kind of plan) comprises teleocracy (planning in its narrow meaning of preparation and implementation of strictly detailed plans) and regulation (framework-setting). In fact, in the field of urban planning, this relationship between nomocracy, teleocracy and framework-setting has already been investigated by several authors who have come to similar conclusions (most notably Moroni, 2007, 2010, 2014). My first goal in this article was to draw a connection from this line of thinking to the theory of regulation, taking an interdisciplinary approach in order to show that the same relationship is characteristic of governance and planning in general.

The second assertion is that planning, regulation and the market as forms of coordination of social activities are based on the configurations of property rights over the resources employed in each concrete activity. In fact, my support of this assertion employed nothing more than analysing property rights in the coordination/organisation of human actions.
I have also tried to show that the analysis of property rights and their transfers and changes can be useful in the theories of planning and regulation. Such analysis could provide explanations of the following issues:

- what factor distinguishes simple and complex social systems,
- why nomocratic planning necessarily employs regulation (framework-setting) and teleocracy, and
- why the criterion for the allocation of human activities between the two types of planning and the market is partly analytical and partly normative.

Of course, it is impossible to fully develop such an analysis within the limited space of a single article. The main goal of this article was to show that the theory of property rights can be a useful vehicle for exploring the nature of planning and regulation and their internal connections. Moreover, property rights analysis can be used to investigate in depth how teleocratic and nomocratic tools can best be combined, what kind of goals nomocratic rules should be aimed at and what their content should be in order to best regulate a specific system. These issues represent promising opportunities for further research in several important directions.

**Funding**

The author acknowledges the financial support by the European Union FP7-ENV.2011.2.1.5-1 (TURAS Project) Grant Agreement no. 282834.

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