

‘An Experimental Offensive against the Mishandling of Risk in Society’: Reflecting on the Pioneering Work of the Risk Regulation Advisory Council in the UK

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Abstract

This article looks back at the history and legacy of the Risk Regulation Advisory Council in the UK. The Council was the first government body to explicitly challenge a culture of overreaction to ‘public risk’, one of a number of ways in which it was a unique and interesting experiment in addressing the political dimension of contemporary regulation. Whilst the RRAC was ultimately unsuccessful in bringing about a change in how risk is managed by government it has, at least, left a useful intellectual legacy and, more practically, its work is effectively being taken forward by the Risk and Responsibility programme of the Dutch government.

The ‘Missing Link’ of Politics in Regulation and UK ‘Risk Society’

This article concerns the history and legacy of an ‘experimental offensive against the mishandling of risk’, as the organization retrospectively termed itself.¹ Called the Risk Regulation Advisory Council, it was created under the last Labour government in the UK, in 2008, and both of the present authors were associated - one as a council member and one as an academic consultant who wrote several of its reports.² By way of introduction, it can be said to have anticipated a problem now being more widely recognised internationally in discussion about international regulatory reform, around the time of writing in 2011-12. In his welcome to the 2011 International Regulatory Reform conference, for example, the chairman called for recognition of the role and impact of politics on regulation, amongst a better regulation community ‘at a crossroads’: ‘Has it ever occurred to you to sometimes think that Better Regulation is a highly technocratic field which sometimes focuses more on instruments and techniques than on the political and societal context we operate in? To me, it has.’³ He pointed to a more complex and political road ahead, beyond the simple application of regulatory tools. Contributions at the conference - such as from the Polish Economic Ministry - complained of the overly technical nature of better regulation and need for a more political perspective, despite the difficulties involved.

¹ Risk Regulation Advisory Council, *Response with Responsibility: Policy Making for Public Risk in the 21st Century* (London: Department for Business, Enterprise and Regulatory Reform 2009), at p.4.

² Donald McRae was the council member and Adam Burgess the academic consultant, who became colleagues through discussions on the reports Burgess wrote. Burgess composed the original mapping document on ‘public risk’ and further reports on ‘regulatory storms’ and public inquiries.

³ Website of the International Regulatory Reform Conference 2011: Welcome. Available at: http://www.bertelsmann-stiftung.de/cps/rde/xchg/bst_engl/hs.xsl/prj_53890.ht

The RRAC was an experiment in addressing the ‘missing link’ of politics in producing better regulation, focusing particularly on the politics of risk. It was the product of a process of development from the more conventional movement for better regulation that evolved in the UK from the 1980s that was focused on removing perceived barriers to business. In one academic account the RRAC approach is described as a transition from better regulation to ‘risk tolerant deregulation’.⁴ Its predecessor, the Better Regulation Commission, increasingly focused attention beyond direct economic concerns to disproportionate responses to perceived risks in public life. These responses were not only seen as bad regulation but forming part of a cycle of unrealistic expectation that risk could be eliminated which, in turn, was further encouraging politicians towards over reactive, risk-averse reactions to issues such as accidents, child safety and food regulation. Considered the other way around, it is not possible to understand much of the high profile regulation in the UK in the 1990s in its own terms. Regulatory responses often bore little relation to the scale, even character of the problem they purported to address because they were the product of a wider ‘risk reflex’. Casting itself as an ‘experimental offensive’ against this new political culture, the RRAC was viewed in one academic account as marking a ‘new toleration of risk’ and criticised for not engaging with the ‘widespread popular views that governments should continue to protect against risk’.⁵ Whilst the RRAC never argued that there should be no public protection from risk, it did seek to question the limits of government responsibility and draw wider sections of society into a dialogue about this.

The RRAC was shaped by the powerful trend from the late 1980s towards overly reactive policy making in the public sphere, often focused around protection from relatively mundane, even improbable harm. The defining early example was legislation against ‘dangerous dogs’ under the last Conservative government, in the early 1990s. Following an attack on a six year old child by a dog in 1991, government relented on its initial stance that it was difficult to legislate against such problems, following dramatic media pressure demanding that ‘something must be done’. Legislation was rapidly formulated and passed through Parliament with little opposition.⁶ The Dangerous Dogs Act made it a criminal offence to have any dog dangerously out of control in a public place and placed additional controls on exotic ‘fighting dogs’ such as the American pit bull terrier. A range of further controls included insurance, registration, tattooing and the obligation for the dog to be muzzled and on the leash in public. The Act also stipulated the compulsory destruction of any of the specified breeds should provisions be breached, with no discretion available to the law courts. Predictably, for a response rooted in panic-like response to media pressure, it did not resolve the problem but created further confusion that persists to this day. More broadly, it set a precedent for an increasingly common pattern of disproportionate political reaction and expectation that risk could be eliminated rather than managed. When such responses were, unsurprisingly, unable to do so, this tended to only create further demands that ‘*something more be done*’ to banish

⁴ Anneliese Dodds, “The Core Executive’s Approach to Regulation: From ‘Better Regulation’ to ‘Risk-Tolerant Deregulation’”, 40 *Social Policy and Administration* (2006), pp. 526 et sqq.

⁵ Dodds, Core Executive’s Approach, supra note 4, at p.530.

⁶ The same response was evident in other European countries. See Christopher Hood and Martin Lodge, “Pavlovian Innovation, Pet Solutions and Economizing on Rationality? Politicians and Dangerous Dogs”, in Julia Black, Martin Lodge and Mark Thatcher (eds.), *Regulatory Innovation: A Comparative Analysis* (Cheltenham: Edward Elgar, 2006), pp. 138 et sqq.

the problem. Whilst such trends began under the Conservative governments of the early 1990s, such trends intensified under the Labour Party governments that followed. Following the random murder of two children at the village of Soham, in 2002, for example, parliament unanimously supported the introduction of universal vetting of all adults having regular contact with children.⁷

It is useful to consider the changes to British political culture that led to the creation of the RRAC in a broader context, understanding that they were far from accidental. In popular terms the UK was the nation of the resilient ‘stiff upper lip’ that stoically accepted misfortune and resolutely retained a sense of perspective against overreaction. Even today, the wartime injunction to ‘keep calm and carry on’ remains culturally popular, even if, actually, only as a reminder of a bygone age. The counter point here was the United States, where the modern culture of risk aversion originated in the late 1960s, focused particularly on environmental contamination and captured in Douglas and Wildavsky’s famous account.⁸ Such developments then appeared distinctively American. A British social scientist observed in 1979 that: ‘Americans seem to have taken an excessively strict interpretation of risk, reducing ‘reasonable risk’ practically to ‘zero risk’.⁹ Jasanoff elaborated upon what then appeared a profound and culturally entrenched contrast,¹⁰ later speculating that American exceptionalism may now be coming to an end.¹¹ Vogel supports the idea of a ‘flip flop’ around the same time, with Europe, generally, becoming more precautionary.¹²

What has been less explored is how the UK developed a particularly risk averse political culture where, in addition to such Europe-wide pressures, other developments combined to produce the distinctively risk-centred politics that stimulated reactions such as the RRAC. Most visible were major ‘panics’ over risks to public health and wellbeing. Booker and North delineate these as a British phenomenon in their own right and trace their evolution.¹³ There is a preliminary period between 1981-8 when different food scares began to combine, and between 1990-4 a process of institutionalisation through enhanced health and safety regimes and indirect accommodation to the new climate. The most significant risk alarm, over ‘mad cow disease’ reshaped European politics and the UK’s relationship with Europe more than any other single issue. Moran explores the extraordinary transformation from a mode of governance based on informal ‘club rule’ to one more comparable to the United States.¹⁴ He analyses how Britain has become a new kind of interventionist state dominating civil society even more thoroughly than in the post war welfare state period. Accompanied by the ‘rights revolution’, regulation moved from the economic to social spheres firstly in the United

⁷ See Adam Burgess, “Public Inquiries in the (Risk) Regulatory State”, 6 *British Politics* (2011), pp. 3. et sqq.

⁸ Mary Douglas and Aaron Wildavsky, *Risk and Culture*, (Berkeley, CA: University of California Press, 1983).

⁹ David Vogel, *National Styles of Regulation: Environmental Policy in Great Britain and the United States*, (Ithaca, NY: Cornell University Press, 1986), p.187.

¹⁰ Sheila Jasanoff, “Cultural Aspects of Risk Assessment in Britain and the United States,” in Brandon Johnson and Vincent Covello (eds.), *The Social and Cultural Construction of Risk* (New York: Reidel Press, 1987), pp. 359 et sqq.

¹¹ Sheila Jasanoff, “American Exceptionalism and the Political Acknowledgement of Risk”, 119 *Daedalus* (1990), pp. 61 sqq.

¹² David Vogel, *The Politics of Precaution: Regulating Health, Safety, and Environmental Risks in Europe and the United States* (Princeton University Press, 2012).

¹³ Christopher Booker and Richard North, *Scared to Death*, (London: Continuum, 2007).

¹⁴ Michael Moran, *The British Regulatory State: High Modernism and Hyper-Innovation*, (Oxford: Oxford University Press, 2003).

States, and with its expectations of public protection from workplace and consumer risk.¹⁵ Similar developments occurred in the UK in the 1980s, with a new relationship between the state and the individual through ‘citizens charters’, for example.¹⁶

The RRAC and its Work

The RRAC was the latest in a series of bodies established under the Labour governments of the 1990s and 2000s to encourage ‘better’, more efficient regulation of business and governance. The Better Regulation Task Force was created in 1997 as an independent advisory body to government. It was succeeded in 2005 by the Better Regulation Commission which advised and commented on government regulatory performance, like its predecessor, but also played a more active role, including vetting departmental plans for reducing regulatory burdens. Within government another body – the Better Regulation Executive – was also set up and focused on working with departments on regulatory design and communication. The already more externally focused Better Regulation Commission, meanwhile, was increasingly drawn to a wider perspective on the problem of regulation in society. This trajectory culminated in the BRC’s influential 2006 ‘Risk Report’ which brought to life the relationship between poor regulation and inadequate responses to risks in society.¹⁷ Its goal was to promote proportionate responses to public risk, ‘particularly when faced with event-led pressure’.

That report gained seminal status, partly because of its engaging style, structured around a series of stories of how manifestly poor decisions were made around everyday risks and their counter-productive results. Its impact reflected how disproportionate official response to public anxiety remains a compelling, if rarely considered narrative in contemporary society. Despite its appeal, a striking aspect of the BRC Risk Report was the “so what?” question. The BRC did try to suggest ways of engaging public risk in general terms but the report was really a statement of the problem, rather than a proposal for action. In truth, it was more a set of illustrations of the problem, rather than a statement of it, which also helps explain why it did not lead more directly to action.

Following the retirement in 2007 of Tony Blair as Prime Minister, the BRC became aware that it was unlikely to continue in its present form. Both Blair and Brown had been concerned with the impact of regulation but had very different approaches. Blair preferred external challenge to government, through the Better Regulation Task Force and then the BRC, whereas Brown preferred more direct, internal control, such as through the Better Regulation Executive. The BRC expected to be closed down once Brown took over. It saw the Risk Report as its chief selling point and also acknowledged Brown’s preference for action, so proposed changing into a body specifically geared to the challenge of implementing the Risk Report. They found an ally in Brown’s influential advisor, Shriti Vadera, who persuaded Brown of the worth of the ‘experimental offensive against risk’ and, at least initially, he gave the RRAC his

¹⁵ Cass Sunstein, *After the Rights Revolution: Reconceiving the Regulatory State* (Cambridge, Mass; Harvard University Press, 1990).

¹⁶ Adam Burgess, “Flattering Consumption: The Growth of Consumer Rights and Product Safety Concerns in Europe”, 1 *Journal of Consumer Culture*, (2001), pp. 93. sqq.

¹⁷ Better Regulation Commission, *Risk, Responsibility and Regulation: Whose Responsibility is it anyway?* (London: Better Regulation Commission, 2006).

blessing. This Prime Ministerial backing would be crucial to the RRAC being taken seriously within government departments. So, in effect, the BRC took its work forward in the form of the RRAC, complete with the mandate of the Prime Minister himself.

Chaired by a dynamic and successful businessman, Rick Haythornwaite, it had an independent group of 7 unpaid board members drawn from a variety of different backgrounds. The Council was given a restricted 15 month life span to try to implement the approach indicated by the Risk Report and begin to change the culture of risk policy making within government. With this limited lifespan and a small, independent unpaid council, the RRAC was able to be set up and running quickly, supported by a team of civil servants who reported to Vicky Pryce, joint head of the Government Economic Service and Director General for Economics at the Department for Business Enterprise and Regulatory Reform.

Council members were expected to give two days a month to RRAC work, one of which would involve a Board meeting of the whole team and the other would be involvement in one of the workstreams. There had already been a lot of background thinking between the initial approval by the Prime Minister in May 2007 and the launch in January 2008. A literature review of Risk Regulation was commissioned from one of the authors, despite early intentions that this was to be an action-based rather than paper-based project. The “action” was to be channelled through specific topics and the early meetings were dominated by identifying them, three of which became a practical focus:¹⁸

- The author of the Flanagan Report on Policing¹⁹ specifically requested in the Report that the RRAC consider the issue of *risk aversion in policing processes*, making this automatically a topic
- “*Health and Safety*” was the most common stereotype of the overreaction to risk and so was an obvious second choice: the particular angle was on the impact on small businesses
- The third topic was more general: a concern about the cumulative impact of government taking responsibility for managing risks. This was seen, on the one hand, in the growing cultural assumption that it was for officials – rather than individuals or communities – to manage risks. On the other hand, in the apparent – and perhaps corresponding - loss of responsibility elsewhere in wider society. This was the Communities topic, exploring the *loss of personal and community responsibility*

Each of these work streams had to engage officials and Ministers, as well as external stakeholders. There was a mixture of interest and opposition from both officials and Ministers, *mainly because of the perception of the RRAC trying to tell them how to do their job*. In addition to these work streams, the Secretariat continued to commission reports both around the topics and also into the ideas and concepts emerging from the discussions, such as the range of “risk actors”.

¹⁸ A fourth topic - of the broader, obesity or climate change type - was floated but never agreed upon.

¹⁹ <http://www.official-documents.gov.uk/document/cm74/7448/7448.pdf> See also <http://www.polic-supers.com/uploads/news/reducing-bureaucracy-policing.pdf> for a reference to it in a later study.

One Clear Success – “Trees”

The example of tree safety management was exceptional rather than typical of the RRAC’s work and the only time it made a significant, positive media impact. But it remains a usefully clear example of the type of problem they sought to address and of the potential for making a public impact, with the right kind of intervention. The regulation of tree safety became an issue in the summer of 2008. This was not because of any overall increase in the extent of harm caused by them; the average annual number of tree-related deaths between 1998 and 2003 was six, or one in 10 million averaged over the national population.²⁰ It was, rather, compensation claims and legal decisions that questioned the nature of liability in the case of accidents involving trees that challenged the principle that they, like other risks in British regulatory culture, should be simply kept ‘as low as reasonably practicable’ (ALARP) through the exercise of ‘reasonable’ care.²¹ Professionals supported the establishment of a reference standard against which individual tree inspectors’ competence could be validated, limiting potential litigation. This followed a ruling in 2006 which seemed to suggest that tree inspections should only be carried out by professional arboriculturalists, after a compensation claim from a motorcyclist injured when he collided with a fallen rotten tree. This ‘triggered a wave of anxiety amongst tree owners’ and a new standard for tree inspections was put forward by the British Standards Institute (BSI). At least one professional arboriculturalist’s inspection every five years was suggested as an inspection standard – for all trees. The ‘risk actors’ providing momentum were tree consultants ‘who stood to gain considerably from the new tree inspection requirements’.

A consultation was begun into the issue but, as the RRAC subsequently noted, ‘...few outside the arboriculturalist community would have been expected to notice, let alone respond...leading to affirmation of the recommendations by silence’.²² Concerns about these developments were brought to the RRAC, focused on the potential costs to tree owners, possible removal of trees with no consideration for the benefits they bring and, more generally, the disproportionate response to the relatively minor problem of human harm caused by trees. The RRAC campaigned to raise the profile of the issue, limiting the possibility of risk aversion by stealth and putting pressure on the BSI to justify its proposals. With the help of a professional media communications expert the RRAC gained favourable coverage in much of the national press (on 21 June): the Times, Sunday Times, Telegraph and the Daily Mail. Significantly it was also picked up by regional and local newspapers.²³ Due to the intervention of the RRAC, along with the National Tree Safety Group (NTSG), the new draft was suspended pending further research. Thus, the RRAC was at the centre of debate over tree regulation and ensured that a clearly critical voice was heard that challenged the default assumption of ‘safety first’.

²⁰ John Adams, “Dangerous Trees?” 30 *Arboricultural Journal*, (2007), pp. 95 sqq. at p.95.

²¹ Luke Bennett, “Trees and Public Liability – Who Really Decides What’s Reasonably Safe?” 33 *Arboricultural Journal* (2010), pp. 141 sqq.

²² RRAC, Response with Responsibility, *supra* note 1, at p.15.

²³ e.g. Tree fall legislation criticised, *Evening Herald* (Plymouth), June 27, 2008; Tree Plan Typical of Intrusive Behaviour, *The Journal* (Newcastle, UK), June 26, 2008; Garden trees ‘need official safety checks’, *The Evening Standard* (London), June 20, 2008; Fears over tree plans, *Somerset Guardian*, August 7, 2008. All newspaper citations generated through Lexis Nexis database.

Another strand of the RRAC's work concentrated on 'engaging with a broad community' through what they dubbed, 'risk forums'. The idea was to engage as many stakeholders as possible in a concentrated discussion for the particular issue at hand. They were facilitated by a mapping of all the interested parties behind the issue; what the RRAC called their 'risk landscapes'. In particular, they were designed to get around the persistent problem identified by the RRAC of how the 'loudest voices' generally set the tone of discussion around risk. They were held on the problems of policing and risk aversion, health and safety in small organisations, and on community resilience. On this basis participants were then forced to 'work towards a common understanding of desired outcomes and trade offs as well as shared views on where and how to intervene in order to tackle risk'.²⁴ The RRAC noted how their independence from government helped facilitate honest discussion as did their use of the 'Chatham House rule' that discussion not be attributed outside the forum.

An Innovative Initiative

The RRAC was distinctive and quite bold in a number of respects. Firstly was its *emphasis upon process* which set it apart from the predominant rule-centred conception of risk and regulation. The problem was a fluid and complex one in the RRAC's view. They did not clearly define the nature of the risks to be challenged, recognising that virtually any issue could become the object of the risk regulation reflex. At one moment demands that 'something be done' and risk eliminated could centre upon the murder of a child, at another time the same impulses could be focused upon a quite different target. This is an important perspective that directs us away from understanding reactions to risk being principally determined primarily by the nature of hazards themselves in interaction with psychological biases. Thus certain types of hazards – such as those connected to unfamiliar technology, for example – are understood to necessarily inspire 'dread' in the individual and society.²⁵ Instead, risk was understood as a socially and politically constructed phenomenon. In this context the RRAC evolved and worked with the loose notion of *public risk*²⁶, as simply those issues around which public concern – real or apparent – was generated, and that put pressure upon politicians to act.

What also followed from a process-based conception was an appreciation that they were *dealing with systems*. The RRAC recognised early on that simply removing regulation would not free up space and freedom to act free of constraint. Rather, other actors would fill the vacuum, making the choice less one between regulating and not regulating than fine tuning the least damaging options. On this basis the RRAC put significant emphasis upon mapping, eventually producing their 'risk landscape'; a policy making guide to the inter-relationship between the different actors shaping risks behind the scenes.

What was arguably most original from the perspective of other reflections on risk was the RRAC's *emphasis upon the centrality of political leadership* and, more generally, 'risk actors'. As we've noted, most perspectives on risk tend to objectify risk reactions, based on the character of the hazard itself. Alternatively, in sociological writing for example, they tend to be objectified as following from particular social conditions and processes of 'late

²⁴ RRAC, Risk With Responsibility, supra note 1, p.29.

²⁵ For an outline of established approaches to risk see, for example, Peter Taylor-Gooby and Jens Zinn, *Risk in Social Science* (Oxford: Oxford University Press, 2006).

²⁶ The term was coined by one of the authors as a hook in the initial proposal to Prime Minister Gordon Brown.

modernity', as in the famous thesis of the 'risk society'.²⁷ The role of more subjective factors in determining the nature and scale of reaction to hazards is almost entirely neglected in reflection around the subject, let alone more practical initiatives. By contrast, the nature of political reactions was recognised as critical to the shaping of expectation and the nature of subsequent political risk management, in the RRAC's perspective. The exemplary type of problem here is of politicians pressurised by media and victims' families to comment, following high profile incidents such as train crashes. The default position for the contemporary politician can be the unfortunate promise that no expense will be spared in the pursuit of safety and the promise that such incidents will never be repeated.²⁸

It can be argued that such defensive political reaction that routinely promised research, resources or inquiries rather than ever questioning risk intolerance was a critical driver of risk culture since its emergence in the USA of the late 1960s. Yet the critical role of political leadership was scarcely recognised in reflection or practical initiatives around risk before the RRAC.

Less originally, the RRAC placed significant *emphasis upon broader engagement* with stakeholders and the community. Again, this reflected a rejection of both a technical, rule based approach to risk or a formulaic approach that sought the right risk management/communication formula. This emphasis was exemplified by the risk forums, demonstrating a refreshing confidence in stakeholders being able to come to intelligent conclusions with minimal direction. The RRAC saw risk communication more generally as important. The excellent 'worriers guide to risk' produced for the RRAC by Cambridge Professor of the Public Understanding of Risk, David Spiegelhalter, provided a guide to thinking about the many risk concerns encountered by the public in 12 deceptively simple one sentence points.

The RRAC placed great *emphasis upon ideas*. Much of the early energy of the civil servants and some council members were directed towards producing and absorbing summaries of academic reflection on risk and previous experience with its public management. As the RRAC's life span came to a close there was a frantic process of completing various commissioned reports, on issues from the role of public inquiries to standard setters and insurers. Notions introduced through these reports such as that of 'risk actors' became part of the organisations vocabulary and practice. This is not to say that the relationship to the academic input commissioned by the RRAC was always successful, as research reports were limited by time pressures and direction by civil servants primarily schooled in economics and summarising ministerial intention. Whatever its limitations a wide range of interesting reports were produced under RRAC sponsorship – on everything from the role of standard setters to the impact of public inquiries – that merit greater attention.

A Limited Initiative

By most clear, objective criteria the RRAC was not successful. RRAC chairman, Rick Haythornwaite, in his foreword to the final RRAC report 'strongly recommended' that they should be replaced by a Public Risk Commission that could take their insights and

²⁷ Ulrich Beck, *The Risk Society: Towards a New Modernity*, (London: Sage, 1992).

²⁸ For example, deputy prime minister John Prescott told the media that he would "leave no stone unturned in ensuring a safe railway system in which the public has confidence" as he announced an urgent independent review of train safety systems following a London rail crash in 1999. See Prescott orders rail safety review, BBC News Online, 6 October 1999, available at: http://news.bbc.co.uk/1/hi/uk_politics/467113.stm

recommendations forward, imploring ‘government to seize this agenda’. Not only was the RRAC associated with a failed and departed administration, but it had minimal influence. It failed to transform political culture around risk, or even make any impact upon it. Having been born of such a personal directive from the Prime Minister, the RRAC was then tied to his political fortunes and the extent to which he remained engaged and committed to the project. Unfortunately neither was the case and the advisor so central to engaging his interest, Shriti Vadera, was too busy as a Minister herself to maintain an interest, especially when the world financial crisis struck. Without the Prime Minister’s support it was difficult for the RRAC to command ministerial support and policy makers were free to resist what they were likely to have seen as ‘someone telling me how to do my job’. In short, the RRAC then failed to engage the politicians who might, in principle, have seen their objectives as worthy...but impractical, particularly if it involved changes that impinged upon their domains. The RRAC failed to see the creation of a Public Risk Commission which it proposed to take its place and the only institutional successor was as a small part of the remit of the Regulatory Policy Committee. Instead the incoming Coalition government ignored the RRAC’s impressive body of work, becoming engrossed instead in behavioural approaches to risk management, especially so-called ‘nudge’.²⁹

At the same time, the RRAC’s initiatives away from government did not compensate for the lack of internal impact. Unfortunately, few members of the public ever saw the ‘worriers guide to risk’, for example. Whilst it is hard to judge what impact was made by the risk forums, it is probably fair to say that impacts were limited given that initiatives were not sustained. The forums were intended to generate “communities of practice” amongst some of the participants and the one from the Communities topic did meet on three occasions, but with no further consequence.

The extent of media coverage is an imperfect but useful measure of impact, heavily qualified by the fact that initiatives such as the risk forums were not orientated to generating publicity. The RRAC was discussed in only 30 articles in UK newspapers overall, 11 of those in the Times. Of these, the majority related to the announcement of the RRAC’s creation (footnote: generated on the Lexis Nexis newspaper database and searched on 15 March 2012). Seven of the reports were within a week of the launch on 16 January 2008 and another at the end of the same month. For example, one reported that: ‘Gordon Brown is so concerned that the cotton-wool culture is robbing British people of their spirit of adventure that he has asked the watchdog to report to him personally. (Rosemary Bennett, Risk watchdog is introduced to protect our spirit of adventure, The Times, 16 January 2008). A further report covered the RRAC’s attack on tree safety in June, and the other two mentions were incidental. Comparisons are difficult, but the RRAC was challenging ‘public risk’ and could reasonably have been expected to have made a greater public/media impact.³⁰

The nature of media coverage was one of approval for the general idea of challenging unnecessary regulation and disproportionate responses – then qualified by a lack of expectation that anything significant would actually result. New Labour had, by now, a considerable reputation for ‘spinning’ headline-grabbing initiatives merely to create the impression of effective government. In addition was the irony of what was seen as the

²⁹ See Adam Burgess, “Nudging’ Healthy Lifestyles: The UK Experiments with the Behavioural Alternative to Regulation and the Market”, 1 *European Journal of Risk and Regulation*, (2012), pp. 3. sqq.

³⁰ By comparison even the Better Regulation Commission was mentioned in 90 articles overall.

creation of a new organization forming part of state bureaucracy...to challenge bureaucratic risk aversion. The influential commentator, Matthew Parris, was scathing in his assessment, even before the organisation had had any chance to do anything, or Parris find out much about it. For him, the Prime Minister's latest initiative: 'reached new parodic heights, it goes beyond a joke'.³¹ He could not imagine a Brown-inspired initiative making any positive impact, being more likely to add to the bureaucratic, media-spinning problem. Being so closely tied to the Prime Minister himself was a potential advantage in securing acceptance of RRAC work within government but was, more publicly, problematic given Brown's reputation for technocratic management.

Ironically the Brown administration can be seen to have become an exemplar of the problem the RRAC sought to address, particularly as his fortunes declined – something which happened very rapidly after his short honeymoon period of office. Even as his sponsorship of the RRAC at least formally continued, Brown promoted a range of potential, populist risks that were precisely the kind of problem the RRAC sought to address. Invariably, these lacked any systematic evidence substantiating their claim to represent a significant problem in society. Most prominent was the relentless promotion of terrorist risk and the alleged need for further restrictions on civil liberties to curtail it. For example, Brown used the populist daily, *The Sun* to engage the British public, in an article entitled: 'I need your help to beat terrorists'.³² But other issues followed with the decline in his political fortunes from late 2007; issues that appeared to represent a contemporary means of connection with the public. For example, in September 2007, he immediately called on food watchdogs, manufacturers and the European Union to take action against food additives following a single widely publicised study suggesting they might affect children's behaviour, and chose the promise of universal health screening - and its suggestion of thereby banishing health risk - as a last ditch effort to save his Premiership, in his re-launch, in late 2009.³³ In November he announced his support for the media campaign to limit the newfound risk of supermarket plastic bags usage by supermarkets, pledging to have them 'banished' – through legislation, if necessary.³⁴ Brown's government reflected the way in which risk, health and safety became a part of the fabric of British life and a discourse of its, troubled, politics. Evidently, the RRAC was having little impact, as its sponsor felt no compunction in extending, rather than limiting the range of public risks in British society, thereby personifying the very problem the RRAC was supposed to be addressing – with his sponsorship.

Legacy...A Failed Experiment?

The principal contribution that the RRAC made to the development of Risk Regulation was to introduce the element of politics. It was innovative and quite radical in its approach, in a number of identifiable ways:

³¹ Matthew Parris, Health and safety problems? Ring my new hotline! *The Times*, 31 January 2008, p.19.

³² Gordon Brown, I need your help to beat the terrorists, *The Sun* 14 November 2007, p.8

³³ Cited in Burgess, Nudging Healthy Lifestyles, supra note 29, p.8.

³⁴ Gordon Brown, Banish the bags: Why Sarah and I know this is right, the *Daily Mail* 29 February 2008, p. 5.

- the group of hazards was to be identified by the shifting perceptions of the public, rather than looking at any particular area of activity (such as the environment)
- an essential element of the *public risk* concept was the political risk inherent in trying to manage heightened public anxiety, so the political dimension was always central
- they looked at the cumulative impact of regulation not on business but on collective and personal responsibility: this took the project well outside the normal Better Regulation parameters

More critically, perhaps the RRAC failed to grasp its own central lesson, namely that this was all about leadership and politicians. They described their task as changing the policy-making culture and perhaps focused too much on officials at the expense of getting strong buy-in from Ministers. In fairness, they tried to enlist the support of Ministers but failed to sell the product on its own merits when it had become apparent that there was no serious political backing from the Prime Minister. In terms of trying to sell-in to the policy-making community, the approach of using systems-mapping was in line with the more advanced thinking and did attract some interest (especially through the operation of the forums), but they certainly failed to change the culture of response to public concern.

A further irony connected with the failure to connect politically is how much some of the work foreshadowed the incoming Coalition government's emphasis upon the re-building of resilient communities, captured by the curiously named idea of the "Big Society". Perhaps the political philosophy was out of tune with the time but the idea of communities re-taking responsibility for their own affairs was by no means inconsistent with New Labour politics. It could still have worked under New Labour if they had been able to find a political champion. In its own terms it is curious that some kind of organisation was not institutionalised by the new Coalition government as the emphasis upon re-establishing community responsibility and even of challenging risk aversion was natural territory for the incoming administration and for Cameron, in particular. Unfortunately, the rich literature of the RRAC was archived very quickly after the end of its term, in May 2009, reflecting how its work was simply discarded by the new administration.³⁵ Yet another irony is that the RRAC set out intent on not simply producing reports - but instead producing action. But because the (limited) action did not lead to any lasting consequences, the legacy is in fact through reports and ideas. There is a large amount of material archived but freely available.

For an historian of "risk societies" – such as one of the present authors – this was an important moment as the first attempt to directly challenge its most damaging aspects. The chief legacy of the RRAC lies with the Dutch Risk and Responsibility programme which fully recognises the value of the RRAC work and has consciously built on it. It is also able to learn from the mistakes made in the UK and it has a full two-year timescale. As for the current regulatory reform agenda more widely, we can only hope that they also take the next step and recognise that it is not only the role of politics in general that need to be engaged but the particularly tricky politics of risk. Yet whilst negotiating the uncertainties of risk remains more challenging than the relative comfort of keeping to an internal, rule based approach

³⁵ Articles can be found at:

<http://bis.ecgroup.net/Publications/AboutUs/RiskandRegulationAdvisoryCouncil.aspx>

there are at least now precedents and even a blue print in the pioneering work of the RRAC and its successor, the exciting Risk and Responsibility programme of the Dutch government.