

Regulation in a Time of Turbulence

Cary Coglianese* & Daniel E. Walters**

The modern world is a regulated one. We call on regulation to provide a steadying hand when market processes fail¹ and sometimes to express society's deep value commitments, such as nondiscrimination.² As a result, in a world that is increasingly turbulent—buffeted by changes in climate, social and political forces, and technological developments—we see regulation at the fore.

As regulatory scholars, we see the turbulence of today and its regulatory implications happening all around the world—and even in our own neighborhoods. The editors of this volume live in two different parts of the United States—one of us in the northerneastern part of the country, the other in the South. In just the two states in which we reside—Pennsylvania and Texas—we can feel the palpability of growing climatic, technological, social, and political turbulence. That turbulence—and its implications for regulation—are increasingly impossible to overlook.

Consider first the state of Texas. Compared to twenty years ago, Texas might as well be considered a different state today, with rapidly changing demographics and patterns of growth and immigration have put pressure on existing public infrastructure and services. Climate change has, like other parts of the world, exposed the state to bouts of both extreme heat and extreme cold. The regulated electric power system, for example, failed horribly in February 2021 when Winter Storm Uri forced grid regulators to shut off power for millions of Texans for days, causing 246 deaths and an estimated \$300 billion in economic damages.³

Moreover, the state's grid regulator—which is largely separate from the rest of the United States—now faces the need to improve electricity reliability not only in the face of climate change but also a surge of new cryptocurrency mining operations and artificial intelligence data centers that

* Edward B. Shils Professor of Law and Professor of Political Science; Director, Penn Program on Regulation; University of Pennsylvania Carey Law School.

** Associate Professor, Texas A&M University School of Law.

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¹ STEPHEN BREYER, *REGULATION AND ITS REFORM* ___ (1984).

² CASS R. SUNSTEIN, *AFTER THE RIGHTS REVOLUTION: RECONCEIVING THE REGULATORY STATE* ___ (1993).

³ Patrick Svitek, *Texas Puts Final Estimate of Winter Storm Death Toll at 246*, TEX. TRIB. (Jan. 2, 2022), <https://www.texastribune.org/2022/01/02/texas-winter-storm-final-death-toll-246/>; Julian Aguilar, *Cost of Last Year's Winter Storm Could Reach \$300 Billion New Report Says*, KERA NEWS (Feb. 16, 2022, 5:41 PM), <https://www.keranews.org/texas-news/2022-02-16/cost-of-last-years-winter-storm-could-reach-300-billion-new-report-says>.

stretch the state's electricity capacity even further.⁴ Meanwhile, Texas's heavily populated international border region with Mexico has been pushed to the limits by a surge in migration from South and Central America that even defenders of immigration acknowledge is an infrastructure and services crisis.⁵ In sum, it is clear to nearly anyone living in the Lone Star State that new risks, liabilities, and challenges are rippling through Texas sometimes at a pace that might seem to be faster than regulators can respond.

At the same time, and despite its proudly libertarian reputation, Texas stands as a prime example of how regulation is increasingly situated at the center of the culture wars in the United States. Even before the Supreme Court overturned its *Roe v. Wade* decision in 2022 and opened the floodgates to restrictions on abortions across the United States, the Texas legislature adopted controversial regulations that authorized private parties to sue doctors who provided abortions that were otherwise protected, at the time, by the U.S. Constitution.⁶ In the wake of *Dobbs v. Jackson Women's Health Organization* overturning *Roe*, Texas, like many other states, has thrown lives into chaos by prohibiting abortions even in some instances when the procedure is necessary for the health of the mother.⁷ At the same time, Texas has joined, and in some ways led, a nationwide effort to regulate the bounds of acceptable speech in schools and on campus.⁸ Even in the halls of public higher education institutions, which have long been thought to enjoy a special immunity from regulation due to the interest in academic freedom, Texas has sought to police diversity, equity, and inclusion initiatives.⁹

In Pennsylvania, where the issues might seem somewhat different, the story of regulatory turbulence is much the same. As one of a handful of swing states, Pennsylvania has been ground zero in U.S. national electoral politics and, by extension, the regulation of voting. In the wake of the 2020 national election, former President Donald Trump and his supporters filed scores of lawsuits,

⁴ Phil Prazan, *Texas Thirsty for Energy as Datacenters, Crypto Mining, and EVs Increase*, NBCDFW NEWS (May 9, 2024, 7:28 PM), <https://www.nbcdfw.com/news/politics/lone-star-politics/texas-needs-energy-for-evs-crypto-datamining/3536718/>.

⁵ Jim Henson & Joshua Blank, *New UT/Texas Politics Project Poll: As Primary Voting Begins, Texans See a Crisis on the Border*, THE TEX. POL. PROJECT (Feb 19, 2024), <https://texaspolitics.utexas.edu/blog/new-uttexas-politics-project-poll-primary-voting-begins-texans-see-crisis-border>.

⁶ Jon Michaels & David Noll, Opinion, *We Are Becoming a Nation of Vigilantes*, N.Y. TIMES (Sept. 2, 2021) <https://www.nytimes.com/2021/09/04/opinion/texas-abortion-law.html>.

⁷ Rebecca Goldman, *Abortion Rights and Access One Year After Dobbs*, LEAGUE OF WOMEN VOTERS: BLOG (Aug. 2, 2023), <https://www.lwv.org/blog/abortion-rights-and-access-one-year-after-dobbs#:~:text=As%20of%20June%202023%2C%20one,at%2020%2D22%20weeks%20LMP>.

⁸ Todd J. Gillman, *Texas Ban on "Sexually Explicit" Books in School Libraries Halted by Federal Appeals Court*, THE DALLAS MORNING NEWS (Jan. 17, 2024, 3:55 PM), <https://www.dallasnews.com/news/education/2024/01/17/texas-ban-on-sexually-explicit-books-in-school-libraries-halted-by-federal-appeals-court/>; Greg Stohr, *Drag Show Ban at Texas University Left Intact by Supreme Court*, BLOOMBERG LAW (Mar. 15, 2024, 1:19 PM), <https://news.bloomberglaw.com/us-law-week/drag-show-ban-at-texas-university-left-intact-by-supreme-court>.

⁹ Acacia Coronado, *Texas Ban on University Diversity Efforts Provides a Glimpse of the Future Across GOP-Led States*, ASSOCIATED PRESS (Feb. 17, 2024, 1:39 AM), <https://apnews.com/article/2exas-university-diversity-ban-dei-46e4b6193abe27b6abbdfcd1945cf38>.

many of them in Pennsylvania, seeking to overturn the results of the election.¹⁰ While these lawsuits were mostly dismissed by the courts as frivolous, the effort was enough to drive Pennsylvania, as well as the rest of the country, to look closely at election systems for vulnerabilities that might need better regulation and insulation.¹¹

Outside of turbulence surrounding electoral processes, Pennsylvania, like Texas, finds itself at the center of a changing energy regulatory landscape. For the last 20 years, Pennsylvania has experienced a shale natural gas boom, driven on by hydraulic fracturing techniques.¹² As a result, energy companies have been proposing new natural gas pipelines and other infrastructure.¹³ Many of these projects have imposed new challenges on a Federal Energy Regulatory Commission that has responsibility for assessing both the public need for such infrastructure and the climate impacts of it,¹⁴ setting up heated regulatory fights that are sometimes ending up in court.¹⁵

Pennsylvania is also not immune to the regulatory issues surrounding immigration. The state's largest city, Philadelphia, has worked to adopt "sanctuary" policies to provide a safe haven for migrants.¹⁶ More recently, the politics of immigration in Pennsylvania has been complicated by the politics of immigration in Texas, as the latter state has been busing migrants to northern cities like Philadelphia, putting pressure on them to reconsider some of their related regulations and policies.¹⁷ Despite being on the opposite end of the country and nowhere near an international border, Pennsylvania now finds itself affected by turbulence over international migration.

¹⁰ Katie Meyer, *SCOTUS Dismisses GOP Lawsuits Challenging 2020 Election Process in PA*, WHY.COM (Feb. 22, 2021), <https://why.org/articles/scotus-dismisses-gop-lawsuits-challenging-2020-election-process-in-pa/>.

¹¹ Russell Wheeler, *Trump's Judicial Campaign to Upend the 2020 Election: A Failure, but not a Wipe-Out*, THE BROOKINGS INST. (Nov. 30, 2021), <https://www.brookings.edu/articles/trumps-judicial-campaign-to-upend-the-2020-election-a-failure-but-not-a-wipe-out/>.

¹² David E. Hess, *Feature: 60 Years of Fracking, 20 Years of Shale Gas: Pennsylvania's Oil and Gas Infrastructure is Hiding in Plain Sight*, PA. ENV'T DIG. BLOG (Jan. 17, 2023), <https://paenvironmentdaily.blogspot.com/2023/01/feature-60-years-of-fracking-20-years.html#:~:text=The%20first%20commercial%20oil%20well,gas%20well%20fracked%20in%202004.>

¹³ Anthony Hennen, *Pennsylvania Pipeline Capacity Problem Persists*, THE CENTER SQUARE (Jan. 10, 2024), https://www.thecentersquare.com/pennsylvania/article_bba112d0-b006-11ee-948f-9f0b522a81ac.html.

¹⁴ Zach Bright, *FERC Greenlights Pipeline Projects Despite Democratic Rift*, E&E NEWS (Jan. 19, 2024, 6:30 AM), <https://www.eenews.net/articles/ferc-greenlights-pipeline-projects-despite-democratic-rift/>.

¹⁵ Scott Disavino, *PennEast Becomes the Latest to Scuttle a Natural Gas Pipeline Project*, REUTERS (Sept. 27, 2021, 4:59 PM), <https://www.reuters.com/business/energy/penneast-end-development-pennsylvania-new-jersey-natgas-pipe-2021-09-27/>.

¹⁶ J. D. Prose, *Pa. Legislators' Bill Would Ban 'Sanctuary' Cities, Counties for Undocumented Immigrants*, PENNLIVE.COM (Jan. 5, 2024, 2:35 PM) <https://www.pennlive.com/news/2024/01/pa-legislators-bill-would-ban-sanctuary-cities-counties-for-undocumented-immigrants.html>; Jonathan Stempel, *Philadelphia Beats U.S. Appeal in Sanctuary City Case*, REUTERS (Feb. 15, 2019 1:22 PM), <https://www.reuters.com/article/idUSKCN1Q42BR/>.

¹⁷ Josh Sanders & Adam Fox, *New Sanctuary Movement of Philadelphia Working with Asylum Seekers Sent by Buses from Texas*, COLUM. BROAD. SYS. NEWS (Jan. 9, 2024, 6:40 PM), <https://www.cbsnews.com/philadelphia/news/philadelphia-migrants-new-sanctuary-movement-texas/>.

These are just some of the ways that the turbulence of our times affects the politics and substance of regulation in our own states of residence. But the views from our perches in Texas and Pennsylvania is not dissimilar to the views in localities, regions, and countries around the world. We are witnessing everywhere a major unfolding global crises of climate change, pandemics, technological disruption, economic, social and political inequality, mass migration, trade instabilities and tensions, and reactionary and populist, nationalist, and even authoritarian political movements. Often, these crises interact with one another in complex ways that make the collective challenge akin to a “wicked problem,” which tend to resist resolution.¹⁸

Global climate change has already had significant impacts on both natural ecosystems and public health.¹⁹ Predictions for continued warming carry warnings of worsening natural disasters, food insecurity, population displacement, and even war—with the brunt of these harmful effects often disproportionately affecting the most vulnerable and least wealthy parts of the world or segments of society.²⁰ Some of these impacts, such as mass climate-driven migration, are becoming less prediction and more reality. In May 2024, unprecedented flooding in Brazil, likely caused or exacerbated by climate change, resulted in 150 deaths and the displacement of more than 620,000 people.²¹ Globally, an estimated 7.7 million people have been internally displaced in 82 countries due to climate change, and those numbers are expected to grow to 216 million by 2050.²² Societal efforts to counteract these risks by mitigating the root causes of climate change—fossil-fuel-based emissions—have in turn fomented popular uprisings and backlash to carbon taxes in places like France and Canada,²³ as well as mounting antagonism between world powers over protective restrictions on trade meant to implement green industrial policy at the national level.²⁴ Policymakers sometimes hold out hope for technological answers that might alleviate the climate crisis without the need for painful changes to established routines of modern life, but even these sci-fi-sounding technological solutions—like using artificial intelligence (AI) to identify and automatically implement more efficient ways to use energy, or injecting sulfates in the upper atmosphere to cool the planet—present their own regulatory challenges.²⁵

¹⁸ See Robin Kundis Craig, *Resilience Theory and Wicked Problems*, 73 Vand. L. Rev. 1733 (2020).

¹⁹ INTERGOVERNMENTAL PANEL ON CLIMATE CHANGE, CLIMATE CHANGE 2023 SYNTHESIS REPORT (2023), https://www.ipcc.ch/report/ar6/syr/downloads/report/IPCC_AR6_SYR_LongerReport.pdf.

²⁰ Id.

²¹ Leah Sarnoff, *Why Climate Migration in Brazil has Become a Global Crisis*, AM. BROAD. CORP. NEWS (May 17, 2024, 8:46 AM), <https://abcnews.go.com/International/catastrophe-strikes-climate-migration-brazil-global-warning-sign/story?id=110271206>.

²² Id.

²³ Ian Austen, *Justin Trudeau is Facing a Carbon Tax Backlash. He's Not Alone*, N.Y. TIMES (Dec. 7, 2018), <https://www.nytimes.com/2018/12/07/world/canada/canada-trudeau-carbon-tax.html>.

²⁴ Noah Kaufman, Sagatom Saha & Christopher Bataille, *Green Industrial Policy Will Drive Decarbonization, but at what Cost to Trade?*, FINANCE AND DEVELOPMENT (2023), <https://www.imf.org/en/Publications/fandd/issues/2023/06/green-trade-tensions-kaufman-saha-bataille>; David Wallace-Wells, *America is Losing the Green Tech Race to China*, N.Y. TIMES (May 22, 2024), <https://www.nytimes.com/2024/05/22/opinion/america-green-tech-trade-war-china.html>.

²⁵ Carol Ryan, *Energy-Guzzling AI is Also the Future of Energy Savings*, WALL ST. J. (Apr. 23, 2024, 5:30 AM) <https://www.wsj.com/business/energy-oil/ai-data-centers-energy-savings-d602296c>; Kiley Price,

AI more generally appears poised to deliver massive disruptive change across the globe, eliminating or transforming labor markets as machines come to perform an increasing array of tasks handled until now by people.²⁶ They are also presenting their own array of risks that merit the deployment of sensible and vigilant regulatory responses.²⁷ The AI tools that drive the social media platforms that have become ubiquitous around the world are helping to fuel an epidemic of mis- and dis-information that extremist political movements and aspiring dictators alike have capitalized on to subvert free democracies and to distract from the global responsibility to address systemic societal risks.²⁸ AI presents an array of other disquieting concerns about losses of autonomy and privacy as well as new types of safety and discrimination risks²⁹—all with salient regulatory implications. Sometimes these implications are directly affecting the work of regulators in more traditional spaces, as the availability of regulatory information and the rapid communication with regulators and about their work is transforming relatively obscure forums for policymaking into arenas that are very much now in the public spotlight.

Individually and in concert, these sources of turbulence in every part of the world seem more pervasive, more interconnected, and more severe, than at any other point in modern history. And as our own parochial examples from Texas and Pennsylvania indicate, these global trends are hitting home in all our communities. They are just as true for regulators in Tokyo and Paris, or in Thailand and Pakistan. The discomfort and even peril of current social, political, and economic conditions calls out for a steady hand of sensible and just forms of regulation.

Regulatory Answers for Turbulent Times

Previous episodes of social and economic turbulence have had their own regulatory implications. Rapid industrialization in the late 19th century in the West prompted progressive reformers in nations around the world to reconceptualize the relationship between markets, government, and the people.³⁰ Out of the depths of the Great Depression in the United States in the 1930s, regulation emerged as a key plank in the public policy response to the economic fallout.³¹ Similarly, as new environmental and social threats emerged in the middle of the 20th century around

Geoengineering Faces a Wave of Backlash Over Regulatory Gaps and Unknown Risks, INSIDE CLIMATE NEWS (Mar. 26, 2024), <https://insideclimatenews.org/news/26032024/geoengineering-backlash-regulations-sunlight/>.

²⁶ Rebecca Stropoli, *A.I. is Going to Disrupt the Labor Market. It Doesn't Have to Destroy It*, CHI. BOOTH REV. (Nov. 14, 2023), <https://www.chicagobooth.edu/review/ai-is-going-disrupt-labor-market-it-doesnt-have-destroy-it>.

²⁷ Cary Coglianese, *Regulating Machine Learning: The Challenge of Heterogeneity*, TECHREG CHRON. (Feb. 22, 2023), <https://www.pymnts.com/cpi-posts/regulating-machine-learning-the-challenge-of-heterogeneity/>.

²⁸ Jeremy White, *See How Easily A.I. Chatbots Can Be Taught to Spew Disinformation*, N.Y. TIMES (May 19, 2024), <https://www.nytimes.com/interactive/2024/05/19/technology/biased-ai-chatbots.html>.

²⁹ *Blueprint for an AI Bill of Rights*, OFF. OF SCI. AND TECH. <https://www.whitehouse.gov/ostp/ai-bill-of-rights/>.

³⁰ WILLIAM J. NOVAK, *NEW DEMOCRACY: THE CREATION OF THE MODERN AMERICAN STATE* (2022).

³¹ Alan Brinkley, *The New Deal and the Idea of the State*, in *THE RISE AND FALL OF THE NEW DEAL ORDER 1930-1980* (Steve Fraser & Gary Gerstle, eds. 1990).

the globe, new systems of regulation emerged in countries everywhere that aimed to protect their publics from health threats and proactively clean up spoiled environmental resources and address workplace hazards.³²

After decades of relative economic stasis through public or private monopoly ownership of key infrastructure, many countries came to favor a new era of privatization and deregulation—or at least new forms of lighter-touch regulation.³³ Yet through it all, regulation and its centrality to market activity and societal controversy has never faded—indeed, in the face of privatization, demands for regulation have often grown. Given the historical trajectories, it seems safe to expect that the response to the turbulent trends of the current era will produce pressures for a new wave of regulation—or perhaps a different kind of regulation than we have seen before, responding to the distinctive threats of today, whether they are threats to democracy or threats posed by technology, climate change, and inequality.

Regulators around the world and at every level appear to be taking what might turn out to be initial steps in the direction of a new regulation for a turbulent era. Just a few examples of these steps include the European Union’s adoption of comprehensive AI legislation,³⁴ a nascent but emerging green industrial policy agenda in the United States,³⁵ and international efforts to improve pandemic preparedness in the wake of the tragic COVID-19 pandemic.³⁶ Whether these responses bring us genuinely new varieties of regulation or simply new riffs on old themes, there is little doubt that regulators are preparing themselves for decades of work smoothing out the turbulence of our times.

One motivation for this volume is simply to take stock of this emerging regulatory response to our turbulent era. It can be difficult to appreciate the degree to which regulation as a whole is evolving to meet the moment without diving deep into particular regulatory domains and surveying how regulators are addressing threats within their purview. The converse is true as well: it can be difficult to understand exactly how regulators are responding to the threats they individually regulate without placing those actions in the context of a more global, trans-substantive perspective.

The Challenge of Regulating in a Turbulent Era

³² PAUL SABIN, *PUBLIC CITIZENS: THE ATTACK ON BIG GOVERNMENT AND THE REMAKING OF AMERICAN LIBERALISM* (2021).

³³ IAN AYRES & JOHN BRAITHWAITE, *RESPONSIVE REGULATION: TRANSCENDING THE DEREGULATION DEBATE* (1995); CHIARA CORDELLI, *THE PRIVATIZED STATE* (2020).

³⁴ *EU AI Act: First Regulation On Artificial Intelligence*, EUR. PARLIAMENT (Dec. 19, 2023), <https://www.europarl.europa.eu/topics/en/article/20230601STO93804/eu-ai-act-first-regulation-on-artificial-intelligence>.

³⁵ *New Shores, An Experiment in Green Industrial Policy*, CENTER FOR STRATEGIC AND INTERNATIONAL STUDIES (Sept. 28, 2023), <https://www.csis.org/analysis/new-shores-experiment-green-industrial-policy>.

³⁶ *Who Launches New Initiative to Improve Pandemic Preparedness*, WORLD HEALTH ORG. (Apr. 26, 2023), <https://www.who.int/news/item/26-04-2023-who-launches-new-initiative-to-improve-pandemic-preparedness>.

As much as it seems a sure bet regulation will play an increasingly important role as a solution to problems created by an increasingly turbulent world, it also seems likely that regulation itself will be affected by the turbulence. Regulatory challenges are presented by every major force bearing down on the world today—and regulation faces enormous headwinds as it is called on to play a greater role than in previous eras. This volume aims to shine a light on a distinctive feature of this turbulent era: namely, that *so much of today's turbulence creates regulatory turbulence*. Regulatory regimes are likely to be adversely disrupted at a time when they also will need to be strengthened and reconfigured to deliver public value under conditions of great uncertainty.

We see at least three broad implications for regulation from our turbulent era.

First, and most obviously, the turbulence of today can be expected to stretch the capacity of regulators to keep up with the exponential growth of informational demands and lightning-fast pace of societal and market changes.³⁷ Technologies such as artificial intelligence are not only proliferating that will need to be regulated but these changes will also complicate efforts to monitor and detect violations.³⁸ Unless regulators arm themselves with new information—and keep up to date with rapidly evolving technological trends—they will quickly fall behind in their efforts. As it is, regulators in the United States and abroad are already taxed and under-resourced, and in many cases greater investment in regulatory capacity is a political nonstarter.

Second, regulatory responses can lead to backlash that might undermine support for the regulatory task.³⁹ In the United States, widespread resistance to both face-masking protocols and vaccine requirements helped contribute to a lackluster pandemic response compared to other nations.⁴⁰ Many of these public health efforts were challenged in court and, surprisingly, some prevailed—no doubt in part due to some judges' more general regulatory antipathy.⁴¹ Somewhat perversely, the more challenging the problem in need of regulation is, and the more innovative or stringent the regulatory response is, the greater likelihood that the regulatory response will be viewed as intrusive or even illegal—at least in the United States, under an emerging “major questions” doctrine.⁴² Beyond the United States, broader trends favoring authoritarian populism in many parts of the globe can lead opportunistic political leaders to stoke the fires of anti-regulatory sentiments.⁴³

Finally, regulators have almost always been siloed (usually because regulation reacts to the latest crisis), but that may need to change if regulators are going to be effective in a time when

³⁷ Cary Coglianese, *Regulating New Tech: Problems, Pathways, and People*, TECHREG CHRON. (2021), https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=3756&context=faculty_scholarship.

³⁸ Cary Coglianese, *Optimizing Regulation for an Optimizing Economy*, 4 U. PA. J.L. & PUB. AFF. 1 (2018).

³⁹ ERIC PATASHNIK, COUNTERMOBILIZATION: POLICY FEEDBACK AND BACKLASH IN A POLARIZED AGE (2023).

⁴⁰ Neysun Mahboudi, *Comparing Nation's Responses to Covid-19*, THE REG. REV. (Apr. 20, 2020), <https://www.theregreview.org/2020/04/20/comparing-nations-responses-covid-19/>.

⁴¹ Wendy E. Parmet & Faith Khalik, *Judicial Review of Public Health Powers Since the Start of the COVID-19 Pandemic: Trends and Implications*, 113 AM. J. PUB. HEALTH 280 (2022).

⁴² Daniel T. Deacon & Leah M. Litman, *The New Major Questions Doctrine*, 109 VA. L. REV. 1009 (2023).

⁴³ Cary Coglianese, *The Law as Scapegoat*, in THE CRISIS OF CONFIDENCE IN LEGISLATION 337 (Maria De Benedetto, Nicola Lupo & Nicoletta Rangone eds., 2020).

regulatory threats are so interconnected. It is reasonable to expect that regulators will increasingly be forced to collaborate with each other across subject-matter domains and jurisdictional boundaries to ensure that problems are tackled synoptically. Sometimes, rather than cooperation, there might be competition or even antagonism between regulators in different systems or at different levels of government. For instance, we have already seen deep inter-governmental conflicts emerge as Texas has attempted to regulate migration at the Southern border in ways that the federal government does not support.⁴⁴ It may also be that new regulatory institutions—both public and private—will emerge to fill regulatory gaps that become visible. The institutional politics that will flow from all of this will themselves be a source of turbulence for regulators interested in regulating in the face of turbulence around the world.

This Volume

It is unquestionable that our world's deep social, economic, technological, ecological, and political turbulence has profound implications for regulation. This volume surfaces these implications by exploring the many facets of our turbulent world and their regulatory implications in specific areas. Topics explored in this volume by world-recognized experts include:

- *Financial technology (“Fintech”)*, covered by Hilary Allen, Professor of Law at the American University Washington College of Law;
- *Social media*, covered by Hannah Bloch-Wehba, Associate Professor of Law at the Texas A&M University School of Law;
- *AI*, covered by Joanna Bryson, Professor of Ethics and Technology at the Hertie School;
- *Reproductive rights*, covered by Greer Donley, Associate Professor of Law at the University of Pittsburgh School of Law;
- *ESG backlash in business regulation*, covered by Lisa M. Fairfax, Presidential Professor at the University of Pennsylvania Carey Law School;
- *Technology and public engagement in regulation*, covered by Michael Eric Herz, Arthur Kaplan Professor of Law at Cardozo School of Law;
- *Antitrust*, covered by Herbert Hovenkamp, James G. Dinan University Professor at the University of Pennsylvania Carey Law School;
- *Democratic backsliding*, covered by Aziz Z. Huq, Frank and Bernice J. Greenberg Professor of Law at the University of Chicago School of Law;
- *Public trust and regulation*, covered by David Levi-Faur, Professor in the Department of Political Science and School of Public Policy, Hebrew University of Jerusalem;
- *Global trade*, covered by Petros C. Mavroidis, Edwin B. Parker Professor of Foreign & Comparative Law at the Columbia Law School;
- *Climate change*, covered by Hari M. Osofsky, Dean and Myra James Bradwell Professor of Law at the Northwestern University Pritzker School of Law;
- *Pandemics*, covered by Alexandra Phelan, Associate Professor at the Johns Hopkins Bloomberg School of Public Health;

⁴⁴ Ankush Khardori, *The Crisis Within Texas' Border Crisis*, POLITICO (Jan. 30, 2024, 7:13 PM), <https://www.politico.com/newsletters/politico-nightly/2024/01/30/the-crisis-within-texas-border-crisis-00138691>.

- *Gender identity and sexual orientation*, covered by Dara Purvis, Professor of Law at the Temple University Beasley School of Law;
- *Inequality and racial justice*, covered by Sofia Ranchordas, Public Law Professor at the University of Groningen;
- *Migration*, covered by Cristina Rodríguez, Leighton Homer Surbeck Professor of Law at the Yale Law School;
- *Populism*, covered by Dani Rodrik, Ford Foundation Professor of International Political Economy at the John F. Kennedy School of Government at Harvard University;
- *Democracy and elections*, covered by Joshua Sellers, Professor of Law at the University of Texas School of Law.

Conclusion

As this extraordinarily sweeping set of topics indicates, getting a handle on regulation in a turbulent era requires thinking quite broadly, even about topics that have not so far been viewed as classically regulatory problems. Given the uncertainties of the future, it seems likely that even the sweeping coverage in this volume will not exhaust all the venues where we expect regulation to be challenges in the future nor where sound regulatory policy will need to play an increasingly important role over the decades to come. As much as it is our hope that the chapters in this volume collectively bring us closer to an understanding of regulation in our present turbulent era needed to inform effective policy deliberation in the future, because turbulence is both widespread and can be unpredictable, it is entirely possible that this book will constitute but the first volume grappling with regulation in a turbulent era.