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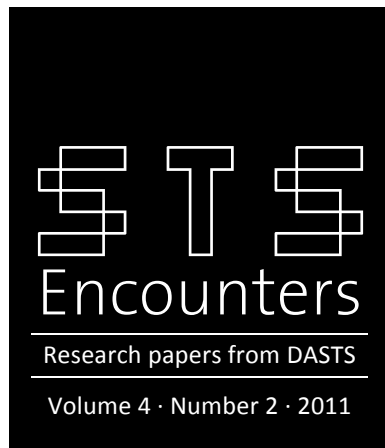
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## **The Responsive Raid**

An Analysis of the Dual Logics of  
Generalization in judging  
Businesses' Tax Compliance and  
in doing Responsive Regulation

Karen Boll

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# The Responsive Raid

## An Analysis of the Dual Logics of Generalization in judging Businesses' Tax Compliance and in doing Responsive Regulation

Karen Boll

*The article investigates an instance of responsive regulation as a team of inspectors conducts an unannounced raid. The raid takes place in Denmark and its aim is to judge and regulate tax compliance in a number of small businesses. The article argues that different 'logics of generalization' is at play as inspectors as well as business owners value the state-of-affairs in the businesses. Furthermore, the article discusses how the inspectors are responsive in the raid. It argues that they are responsive – not primarily towards the behaviour of the taxpayers – but towards a general public. The article hereby engages in the debate concerning what responsive regulation is and how it is played out in practice as the state regulates citizens and businesses. The overall analytical framework is inspired by Helen Verran's notion of 'relational empiricism', and the analysis is an example of how this analytic can be used as a heuristic to analyze ethnographic data.*

### Introduction

In contemporary society there are a myriad of small businesses characterized by having significant flows of cash in and out of their businesses: e.g. restaurants, inns, pizzerias and bars. One of the jobs of tax administrations is to detect and regulate the tax compliance practices of these businesses. Tax inspectors are thus the street level bureaucrats (Lipsky, 2010 [1980]), who bear the responsibility for the day-to-day front line operation of securing tax compliance. This can be done following different enforcement strategies; one well-

known strategy is the *deterrence* approach where businesses are deterred from non-compliance; another, newer, strategy is *responsive regulation* where the tax administration's enforcement strategy suits the taxpayers' so called motivational postures. The trend today is that more and more tax regulators aspire to the ideal of responsive regulation (OECD, 2004, 2010). This enforcement strategy is seen to have the benefit that it makes possible more targeted and thereby cost-effective treatments and regulation strategies. Also, it is assumed to be fairer as – for instance – taxpayers who are willing, but not able to comply, are not met with inspection, but are met with guidance to help develop their ability to comply.

Different bodies of literature have investigated the phenomenon of responsive regulation. There are the regulatory researchers who introduced the concept (Ayres & Braithwaite, 1992; J. Braithwaite, 2002; V. Braithwaite, 2007, 2003b). They describe the underpinning ideas of responsive regulation and how it can be implemented in regulatory contexts. Also, there are researchers who advocate that responsive regulation in relation to tax regulation is a better enforcement strategy compared to deterrence (e.g. Leviner, 2009; Murphy, 2008; Murphy, Tyler, & Curtis, 2009; Torgler, 2008). Other researchers deal with responsive regulation more broadly and investigate how street level bureaucrats seek to be responsive in different ways (P. May & Winter, 2000; P. J. May & Wood, 2003; Nielsen, 2006; Nielsen & Parker, 2009; Parker, 2006). In this article I join forces with the researchers (e.g. Nielsen, 2006; Nielsen & Parker, 2009) to find out *how responsive regulation takes place in practice*. However, my methodology for investigating this issue differs. Whereas Nielsen and Parker's practice studies are based on quantitative surveys, I employ an ethnographic approach. In particular, I use Helen Verran's 'relational empiricism' as a starting point for analysis. Thus, I use Verran's notion of two logics of generalizing: a *one-many* and a *whole-parts* (Verran, 2001, 2007a, 2007b; Winthereik & Verran, Forthcoming) to analyze the judgments of compliance and the enactments of responsive regulation.

I first describe responsive regulation, how it has been adopted as the leading enforcement strategy in the Danish Tax and Customs Administration (SKAT), and I introduce a specific case of responsive regulation; an unannounced raid toward restaurants and bars<sup>1</sup>. Secondly, I introduce Helen Verran's two logics of generalizing. I then briefly introduce my observations of the raid. Analyzing the raid I show that even though the inspectors and the business owners are looking at the same things during the raid, they *start out* their judgment of the state-of-affairs in the businesses by focusing on different matters. The tax inspectors judge non-compliance by having a pre-given uniform idea of non-compliance and thus use a 'one-many' logic. In contrast, one of the business owners in my story starts his generalization by having several different parts which he adds up whereby a vague idea of non-compliance appears and I therefore conclude that he uses a 'whole-parts' logic. I use the analysis of the different logics to argue that the tax inspectors are not primarily responsive to the behaviors of the individual businesses as the literature suggests. Instead, I argue that the inspectors to a greater extent are responsive to the general public. Furthermore, I take a look at the debriefing following the raid. In relation to this I argue that the tax inspectors now use a 'whole-parts' logic as they generalize about how they work with enhancing compliance in the businesses. Hence, I show that the tax inspectors move back and forth between using different logics in doing their work: in the *business office* they use a 'one-many' and in the *tax office* they use a 'whole-parts'. The article's conclusion sums up on the insights presented in the analysis and presents a (self) reflection on how my analysis itself employs a 'whole-parts' logic in investigating responsive regulation, which

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<sup>1</sup> The Danish word for describing the 'raid' is "Kontrolaktion" or "Razzia". When I use the word raid in English for characterizing the inspections, raid should not be understood as an attack, assault or storm, but as a surprise visit by the tax inspectors to seize fraud.

again is different from the current literature that investigates responsive regulation using a 'one-many' logic<sup>2</sup>.

## Responsive regulation

According to regulatory researchers John Braithwaite and Ian Ayres responsive regulation is enforcement that depends on context, regulatory culture and history, and it encourages an attitude from the regulator where a variety of regulatory approaches are used (Ayres & Braithwaite, 1992, p. 5):

"For the responsive regulator, there are no optimal or best regulatory solutions, just solutions that respond better than others to the plural configurations of support and opposition that exist at a particular moment in history" (p. 5)

In practice, responsive regulation is often implemented by the adoption of 'regulatory pyramids' (V. Braithwaite, 2003a, 2003b). In such pyramids taxpayers are classified into different segments; some contain the *opponents*, and some contain the *partners* among the taxpayers. These different segments are motivated by different elements in their decisions to comply with the tax regulation, and they should be met with different attitudes from the inspectors. Meeting

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<sup>2</sup> The article was originally written as an assignment for the PhD course 'Framing Screens'. In this re-written version for Encounters the focus on screens and their framing is expressed by my use of 'logics'. I perceive the described logics as screens that are *framed* by something and *frame* something else: The screens are framed by tax laws, what happens in the businesses, and a wider set of issues concerning the governments' politics. And the screens frame or judge the businesses, that is the screens filter what the inspectors and the business owners see as relevant in judging the state-of-affairs in the businesses. Understood this way, the article both investigates the filtering that makes the encounters between inspectors and inspected happen in particular ways, and investigate how these filtering processes are themselves framed.

different taxpayers, the tax inspectors thus have to oscillate between being friendly and helpful, and skeptical and questioning. That is, they need to react with 'social intelligence' to the regulatees' behaviors (Nielsen & Parker, 2009, p. 379). Responsive regulators are thus responsive towards the *behavior* of the taxpayers and must determine "whether the regulatee cooperates with the regulator by admitting responsibility for the (alleged) breach, correcting it, and preventing it recurring" (Ayres & Braithwaite 1992, p.36 in: Nielsen & Parker, 2009, p. 381).

In Valery Braithwaite's description of the differences between the deterrence doctrine and responsive regulation, she writes that the traditional popular stereotype of the taxman is assumed to be an official who collects "revenue through the process of detecting non-compliance and imposing penalties" (V. Braithwaite, 2003a, p. 15). Yet, she claims, this stereotype provides a simplistic account of the realities of modern (responsive) tax administration. She writes that modern tax administration is characterized by detecting non-compliance *and* meeting this with a responsiveness "that recognizes and deals with the wrongful act, but at the same time works to bring the more cooperative motivational postures to the fore" (p. 35). In other words: "The challenge for tax administrators is to play a two-handed game: To deal with the wrongdoing today, while nurturing consent of tomorrow" (p. 35).

In 2005 the Danish Tax and Customs Administration (SKAT) implemented the so-called 'treatment strategy'. This strategy was influenced by ideas of responsive regulation and differentiated treatments of the taxpayers. Specifically, the strategy was intended to reshape the encounter between the tax administration and the taxpayers. Taxpayers should not be lumped together, for instance, as simply intentionally non-compliant taxpayers. Rather, they should be seen as having different reasons for not being compliant; some might be "determined not to comply" while others might be "unwilling to comply", but possible to influence and yet others might be "willing to comply", but unable consistently to succeed (SKAT,

2007c). By using this rough segmentation of the taxpayers the tax administration encouraged tax inspectors to employ different treatments (ranging from service and guidance to audit and inspection) depending on the taxpayers' reasons to be or not to be compliant.

In the article at large I focus on the maneuvering room for the inspectors in being responsive to the taxpayers. Also, I focus on the practices of doing responsive regulation. Investigating these issues with emphasis on the question of how responsive regulation takes place in practice is thus the aim of the article.

The question of how responsive regulation takes place in practice has been addressed by Nielsen and Parker (2009) and Nielsen (2006). In *Testing Responsive Regulation in Regulatory Enforcement* (2009) the authors state that researchers rarely have sought to "set out general, empirically testable rules about being a 'responsive' regulator", and they write that responsive regulation is indeed an "inherently untestable" enforcement strategy as it contains such different enforcement (p. 377). Hence they state that: "most of the prominent arguments for this strategy are theoretical and few have tested its effectiveness" (Nielsen, 2006, p. 395)

In Nielsen and Parker's (2009) own attempt to identify and measure responsive regulation they employed a 'self-report survey' from businesses in Australia who have experienced responsive regulation from federal officers. They conclude that they could not find examples of what they call 'complete chains of responsive interaction' in the investigations, but they could find effects of responsiveness at 'single stages' of the investigation and enforcement process. Nielsen and Parker's work is interesting as it points to the problems of doing responsive regulation and of identifying effects (p. 377). As a consequence, the authors encourage more 'micro-research' which focuses on "the very language or rhetoric of how regulators communicate threat and cooperation, and how regulatees 'hear' those messages" (p. 396). The present analysis responds to this request; it does, how-

ever, investigate responsive regulation in a way that differs from Nielsen and Parker's focus on communication and language.

## Dual logics of generalization

Philosopher of Science, Helen Verran, has developed a mode of analysis which she calls 'relational empiricism' (Verran, 2007b). This mode focuses on description of the particularity of the many ways in which different things contribute to create a 'general picture' (p. 179). Her analyses focus on relations between such particularities and a whole. In this 'parts-whole' the whole is only ever 'vaguely delineated' (p. 181):

"Relational empiricism studies the 'lives' of these vague wholes, specifying the ways its parts come to life and perhaps die off, identifying the mediations that are important in the 'doing' of this vague whole" (p. 181)

Verran notes that there are strong affinities between her ideas and the work of researchers like Michel Callon and Bruno Latour (Verran, 2001; 2007a, p.36; 2007b, p. 166 & 174). Verran's relational empiricism and actor-network theory scholars are both interested in how entities – 'vague wholes', 'networks' or 'actors' – are achievements that are relationally constructed.

For the present purposes, what is particularly useful in Helen Verran's approach is her discussion of what she calls two logics of generalization: a 'one-many' and a 'whole-parts' to analyze phenomena (1999, 2001, 2007a; Winthereik & Verran, Forthcoming). The notion of two logics of generalization was originally developed by looking at how children in Africa and Australia generalize when doing mathematics. However, Verran's broader argument is that such different logics exist as part of the collective life in general (Verran, 2001, p. 30). Key to the logics is that they start their generalization at two different points.

The 'one-many' generalization *starts out* by taking for granted that there is a given unity of some kind of entity. Verran herself has been looking at how children generalize about length. From this she explains that some children generalize starting from an idea of what a meter is – exemplified by a meter ruler – and this given unity of length is used to measure length. The logic starts by having an idea of a 'one' (a meter ruler) which can be turned into a 'many', depending on how 'many' meters or centimeters that go into that 'one' (Verran, 2001). Thus, the logic might best be described as building on the idea that generalization starts from having (one) 'evidence base' of a general statement, which then has a number of (many) sub-groups, categories or stories: "A defined, solid, single object that becomes instituted in a plurality of ways" (Verran, 2007b, p. 180).

In contrast, the 'whole-parts' generalization *starts out* by taking plurality for granted. Looking at Verran's example of length, the children who measure length using this generalization, start out by bundling strings around a card and they count and count until they reach a number for how these 'parts' become a 'whole' (Verran, 2001). This logic might best be described as being constituted by having an idea of a vague whole which has emergent parts that never add up to a complete picture (Winthereik & Verran, Forthcoming).

Verran's argument is that either generalization is 'done' based on a belief in a uniform 'evidence-based' entity (the one-many). Or generalization is 'done' in relation to how things 'add up to a vague whole' (the whole-parts)<sup>3</sup>. To Verran the two logics are not a com-

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<sup>3</sup> Verran has used these logics in analysis of several different empirical phenomena: In showing that a value generation exercise concerning the value of the world's ecosystem was characterized by a conflation of the two logics (Verran, 2011 - Forthcoming). In arguing how two logics of generalization can be (or should be) embedded in ethnographic stories (Winthereik & Verran, Forthcoming). And in an analysis of Africa's economies where she emphasizes that the two logics are two alternative forms of reasoning (Verran, 2007b). Though being developed in relation to mathematics, the

prehensive *theory* about how generalization functions; a theory wherein the ethnographic data are used as evidence for generalizations. Rather, the two logics should be understood as a *grid*, a *heuristic*, or a simple *terminology* that can help the analyst categorize the ethnographic data. Following this, the logics can be understood – for instance – as *indexes* that *measure* and *value* the ‘real’, enabling us to learn about that reality. In this way the logics are “working as a device in the clotting of the real” (2011 - Forthcoming, last section). By indexing or clotting the ‘real’ the reader can develop an “informed familiarity, and a concern to work with” the analyzed phenomenon (Verran, 2011 - Forthcoming).

In the following I use Verran’s two logics of generalization to analyze the tax raid and thus clot it in a particular way. Just as Verran describes how children are looking at strings, cards, chalk and meter rulers to generalize about length, I have seen how inspectors and business owners are looking at IT registrations, logo T-shirts, employees, pay slips and pizzas in ways that allow them to generalize about the state-of-affairs in businesses. Yet, the inspectors and business owners have different ‘indexes’ or ‘screens’ that they use to judge these state-of-affairs.

In addition to being inspired by Helen Verran’s work I also include Albert R. Jonson and Stephen Toulmin’s work on ‘casuistry’(1988). Their work on case-based reasoning, or casuistry, is useful for conceptualizing *bureaucratic decision making* which is an issue which Helen Verran does not focus on. Jonson and Toulmin state that in *morality* as well as in *public administration* the general assumption is that practical decisions rest on a clear system of invariable rules or principles. While this might have a certain attractiveness from a theoretical point of view, studies of actual decision-making in medicine and in public administration show that in the actual act of dealing with particular real-life cases and situations

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logics do indeed exist in the ‘collective life in all times and places’ and they can be used to analyze the logics at play in different ethnographic data.

rules and principles never “take us more than part of the way” (Jonson & Toulmin, 1988, p. 9). They argue that rules: “Far from playing an exclusive or even an indispensable part in law and ethics..., they have a limited and conditional role” (p. 10) <sup>4</sup>. Hence, decisions and judgments are:

”[...] always made at particular times, on the basis of the given facts and observations, and so are often ‘timely’ and ‘context dependent’. They remain, that is, *substantive* and *practical*, with all the fallibility and revisability that these terms imply” (p. 45)

My understanding of the tax inspectors’ work is inspired by Jonson and Toulmin’s understanding of cased based reasoning. The tax inspectors do certainly work within a framework of the tax rules, but these rules only have a limited role, whereby the decision making is *substantive* and *practical* and dependent on the particular time, facts, observations and context. I believe that combining this understanding of *case-based reasoning* and Verran’s *logics of generalization* provides me with a good outset for describing how *substantive* and *practical* judgments of tax compliance take place and thereby how responsive regulation plays out in practice.

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<sup>4</sup> Jonson and Toulmin’s understanding of case based reasoning aligns with Michael Lipsky’s description of the work of street level bureaucrats (2010 [1980]). From studying their work Lipsky highlights that the work of these bureaucrats is essential paradoxical: “On the one hand, the work is often highly scripted to achieve policy objectives that have their origins in the political process. On the other hand, the work requires improvisation and responsiveness to the individual case” (Preface, xii). Hence, the bureaucrats have considerable discretion in determining the benefits and sanctions provided. In this article this discretion is described using Helen Verran’s logics.

## Observing the raid

During my PhD study I spent 10 months embedded on and off in a compliance unit of the Danish Tax and Customs Administration (SKAT). During this time, I was engaged in conducting participant observation by following and observing tax inspectors' work of detecting and regulating non-compliance. The material presented in this article relies on a specific part of the fieldwork which was conducted a November evening in 2009 where an unannounced raid took place. The raid was targeted restaurants and bars in an area south-west of Copenhagen, Denmark. The raid was organised by SKAT as collaboration between several local units of SKAT, different units of the National Directorate of Labour and a number of local municipalities. The aim of the raid was to visit a number of selected businesses and inspect possible fraud.

The evenings' teams consisted of a total of 16 people: 10 from SKAT, three from the National Directorate of Labour and three from the local municipality. I was to follow a team that consisted of three people: Jakob, Helene and Lis. Jakob was the project manager of the raid and an experienced inspector. Helene was a younger employee, but she had been working with raids for quite some time. Lis had been employed in the legal office in the local municipality for three months working with benefit fraud, and this was her first raid. Prior to the raid Jakob had invited me to come to the raid's briefing and the following debriefing. I received copies of some of the central documents that the tax inspectors used, among others the prints that the inspectors had obtained from SKAT's IT systems from where they had their suspicion of fraud. These documents contained information about the businesses' annual turnover, their number of employees etc. I was also given copies of the enquiry forms which the inspectors filled out during the raid. The team of inspectors that I followed visited five businesses during the evening's raid. In what

follows I describe their visits to a pizzeria, Boss Pizzeria, and an inn, The Husky Inn<sup>5</sup>.

## The raid

Boss' Pizzeria was selected for inspection as there had been a period where SKAT had not been informed about any employment in the pizzeria. In SKAT's view this signals cash-in-hand jobs as it is difficult for an owner to run a pizzeria alone. Furthermore, one of the former employees turned out to also have received social benefits. The team of inspectors knew this since they had run a request on this employee's information in SKAT's IT systems prior to the raid.

On the evening of the raid the inspectors are sitting in an undercover car in front of Boss' Pizzeria. While they are repeating the basic facts of the pizzeria and its present and former employees, they are looking through the large front window of the pizzeria. Here they can see that three employees are busy working inside. They are wearing yellow pizza-logo T-shirts. The incongruence between the papers, which the inspectors hold in their hands and the activities inside the pizzeria makes them excited; there is an opportunity of catching someone in the act doing cash-in-hand jobs. Upon approaching the pizzeria the inspectors decide to split up. Helene and Lis walk to the backdoor to see whether anyone tries to slip out as they realize that a raid is taking place. Jakob and I enter the pizzeria and queue up with the other customers. When it is our turn Jakob asks for Haachim, the owner of the pizzeria. Haachim presents himself and the actual inspection begins.

Observing the inspection it is apparent that the inspectors have clear procedures that they follow. The inspectors bring a document containing a list of questions which they pose to the business owner and they have a guideline for introducing themselves. At Boss' Pizze-

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<sup>5</sup> All names – including the names of the inspected businesses – have been replaced by synonyms by the author. All quotes reproduced were noted by the author during the raid and during its brief and debrief.



ria – where we arrived just around 6.30 p.m. – Jakob says to Haachim, the owner:

We're here on an unannounced visit to see who is working. We're purposefully coming at this time where you are most busy as we need to see who is working. Do you have pay slips for these employees?

Haachim answers: "I do not have any pay slips." Jakob continues: "Who then is employing these employees?" Haachim: "I do. [Haachim points at the two employees in yellow logo T-shirts]. This one has just started and the other is part time." At this point in time, Jakob has already posed two of the central questions concerning pay slips and employment, and only a few minutes into the visit the inspectors are alerted; there are no pay slips and the owner uses the 'good old' excuse that one of the employees has just been employed.

Jakob finishes the interview with Haachim by following the questionnaire for interviewing business owners and explains that Helene is going to interview the employees one by one. Helene directs her attention to one of the employees: "Do you have a medical card?" The employee, Muhammed, does not speak Danish very well and talks to Haachim in Arabic. Haachim explains that he will help translate and Muhammed shows his medical card to Helene. She continues: "When were you employed?" Muhammed with help from Haachim: "10 days ago." Helene: "Do you have an employment contract?" Muhammed: "No." Helene: "What kind of work do you do?" Muhammed: "I make pizzas. I make food." Helene asks if he receives any social benefits. Muhammed answers: "Yes, I receive unemployment benefits from Kriefa [a Danish labor union]." A shiver goes through the inspectors. Here things are on the wrong side of the law. Helene: "Do you have the papers from the labor union for filling out the documentation for your work now?" Muhammed: "No."

Apart from Haachim and the two employees someone else is present in the kitchen; a tough-looking young man. He has dark skin and

is wearing military trousers with a large belt buckle and a black shining jacket with padding. He wears a gold necklace and gold rings. His black hair and beard are shaved short with a pattern at his jaw. He is standing sprawled up against the kitchen table, partly looking at us, partly occupied by sending text messages on his mobile phone. As Haachim is accounting for the employees, Helene interrupts the conversation and asks: "What about the man standing over there? Can we see his identification card?" The young man is not saying anything and looks indifferently at us. Haachim answers: "He is just visiting." Helene replies rigorously to the young man: "When we came, you were holding a tray for the dishwasher". Haachim repeats his answer: "He is just a friend." Helene: "Then he is not allowed to stand in the kitchen." The young man finally comments: "I just needed to wash my hands." Haachim interrupts again: "He does not wear working clothes. Is it a *crime* to stand in a kitchen?" Helene rests her case. The atmosphere is tense.

Aside from the questionnaire the inspectors have inquiry forms. What is written down on these inquiry forms is information almost similar to my description above. Looking at the forms I can see that Helene has noted that Muhammed was employed 10 days ago; that he has no employment contract; that his job is to make food; that he wears work clothes; that he receives his payment in cash; and that he receives unemployment benefits. On top of the form the relevant tax laws and paragraphs are described to ensure inspectors and business owners that the inspectors only ask questions which they are allowed to ask according to the law. At the bottom of the page Helene has signed the form, confirming that she is responsible for its content.

The inquiry form lets the inspectors note certain legally relevant facts. However, the inspectors also work with their senses and intuition. One central feature which is not noted anywhere is the pace at the little pizzeria. Already as we enter the pizzeria Jakob and I are queuing for some time before we reach the counter. The phone is constantly ringing, Chadi, one of the employees, answers: "One

number 10 and one number 18. Yes." A calzone is coming out of the oven and Muhammed is taking a pork loin from the refrigerator and a frozen hamburger patty from the fridge. A lot of food is sold here and neither Chadi nor Muhammed seem like inexperienced workers. They are working a fast pace and Muhammed could easily be taken for an employee with more than 10 days of experience at the pizzeria. In addition to the pace at the pizzeria, the language adds to the inspectors' suspicion about what is going on at the pizzeria. As Helene interviews Muhammed, he discusses intensely in Arabic with Haachim. What they are discussing we do not know, but it is intimidating that the inspectors are excluded from the discussion, and there is no doubt that the inspectors suspect that Haachim instructs Muhammed about what to answer.

Information about the pace of the pizzeria, the language issue, and the young man in the kitchen is not reported anywhere in the inspectors' forms. However, the presumable turn-over is referred to indirectly as Jakob after 15-20 minutes judges the pizzeria as non-compliant and decides that Haachim needs to fill out a 'log-book'. This is the penalty that the inspectors impose on the businesses if suspicion of fraud is strong. The requirement to fill out a log-book should prevent the owner from using non-registered employees and paying cash-in-hand as the owner needs to report on an everyday basis as to who is working.

Thus, by the end of the visit Jakob shows Haachim the paper with the basic facts of the pizzeria. He shows that during a period there were no employees at the pizzeria. Jakob asks Haachim: "Were you alone in the pizzeria during this period of nearly a month? Did you make *it all* by yourself?" Haachim does not answer. Jakob continues: "This does not make sense. And you're not registering the hours that your employees are working. You need to fill out a log-book". Jakob explains about the log-book:

Here you have to write who is at work, when they come, when they leave, and whether they are ill. The

log-book needs to be in the pizzeria. We need to be able to access it. If we come on an inspection and we see that you're not using it, it will cost you 5,800 DKK [780 EURO]

Jakob helps Haachim fill out the formal information on the first page and explains that the log-book has to be filled out for a year, and that there is a possibility of four inspections in that period of time. After presenting the log-book we leave Boss' Pizzeria.

### **Adding up to non-compliance using the 'one-many' logic**

I suggest that the above narrative embodies a 'one-many' logic. First of all, it should be remembered that a 'one-many' logic *starts out* by taking for granted that there is one given unity of some kind of entity. Secondly, it is central that this unity has a number of (many) sub-groups, categories or stories adding up to the 'one'.

In this case the one given unity is an idea of non-compliance. What is happening in the situation is that the inspectors are equipped with prior knowledge of fraud at the pizzeria as the owner has provided insufficient registration of his employees to SKAT's IT-systems. This prior knowledge creates a general statement, a piece of evidence, with which the tax inspectors approach the business. Thus, they start out their generalization of the state-of-affairs in the business by having this idea of non-compliance which follows the tax laws and which emphasises that insufficient registration of employees is a breach of law. This 'one' or unity can either be confirmed or dismissed by the 'many' facts that exist in the business. In this case the facts (the missing pay slips, no contracts for the employees, one employee who has just started, and another who receives salary and unemployment benefits) add up to judging the business non-compliant. In this logic judging is done by having a uniform 'one'

perception of non-compliance wherein ‘many’ facts are gathered to confirm this judgment.

The inspection also illustrates Jonson and Toulmin’s thesis that judgments done by civil servants rest on ‘casuistry’. The situation illustrates that the tax rules do not have an indispensable and conditional role. In such a case the decision that the business is non-compliant could have been made from the tax office and a letter could have been sent to the business owner. This would have been an example of a decision which rested on a clear system of rules or principles. As is clear, this is not at all what happens here. On the contrary, in the situation there is attentiveness to the particular situation; the facts observed at the pizzeria. The decision is likewise practical and involves – precisely – case based reasoning. Verran’s ‘one-many’ logic thus captures the delicate balance between the ‘one’ which are the limited and non-conditional tax rules and the ‘many’ practical facts that need to be taken into consideration to make an actual judgment.

A similar ‘one-many’ logic can be used to describe the way the inspectors judge the state-of-affairs at The Husky Inn. This inn was also selected for inspection as there were inadequate registration of employees. Similar to the first case the decisive observation was that a business owner cannot run an inn on his own and again, the inspectors assume non-compliance due to prior knowledge of missing registration by the owner. This law-defined idea of non-compliance is then held up against what takes place on the specific night of the raid. At The Husky Inn the inspectors see a potential escape of an employee, missing employment contracts, a waitress receiving both salary and unemployment benefit, and they see a business owner who provides explanations that contradict what his employee says; the employee claims that she receives money for the work done this particular evening, while the business owner is saying that her work is an act of friendship and explains that she is allowed to have her son’s birthday party at the inn in return for her work. According to the inspectors’ point of view these observations indicate breaches of

the law and confirm their judgment of non-compliance. As a consequence, in this case as well, the owner is required to fill out a log-book.

## **The business owner’s explanations at The Husky Inn**

As Erhard, the owner of The Husky Inn, understands that the inspectors are going to judge his business as non-compliant, he starts talking. Listening to Jakob’s claim that there is insufficient registration of employees, that employment contracts are missing and that his waitress receives unemployment benefits, Erhard begins a long explanation.

Firstly, he explains that he has a debt of 700,000 DKK (94,000 EURO). This money was lost a few years ago selling an inn that had gone bankrupt, while purchasing the inn that he presently runs. Secondly, Erhard links his situation to the financial crisis and his wife’s critical situation:

We are really struggling to make the business run. Before we were open from 11 a.m. to 11 p.m.; now we are open from 4 p.m. to 10 p.m. Last year when the financial crisis started the guests just stopped coming here. On Mondays and Tuesdays we are just sitting looking at each other. We have tried to sell the place, but nothing happens, no one is interested in buying it. Then, what happened was that we got a daughter. And my wife got a caesarean section. Unfortunately, from this she got a permanent injury on her bladder and she had her uterus removed. She cannot stand up for many hours any longer. So, when she is feeling bad, the waitress Karen takes care of the inn. My wife cannot do it on her own anymore. We try to do what we can on our own.

Erhard is affected by his wife's condition and the hopelessness of the situation. He is not hostile towards us, but expresses despair. He continues: "From one day to the next the customers just stopped coming. *No one came. We can earn 400 DKK [53 EURO] on a Monday night!*" As Jakob explains that they need to have contracts for the employees Erhard cries out:

But, with the waitress Karen we *cannot* employ her on a regular basis with a contract; we do not have the money to do that. Also, I had pneumonia for three weeks and I lost 4 kilo on two days [Erhard is a tall slim man]. *We do not earn anything on this. We are selling menus that cost 70 DKK [9 EURO] per person. We make announcements in the local newspaper. Also we are trying to get funerals. We have very little money in the till.*

The inspectors listen. But, they maintain their judgment of Erhard's business as non-compliant. Hearing Jakob's announcement that he, Erhard, needs to fill out a log-book Erhard comments: "Agghhh, aah..no...Filling out a log-book is like this self-monitoring that we also do for the food inspectorate. It is a waste of paper!".

### **Adding up to a vague whole using the 'whole-parts' logic**

Now, the central question is how the business owner, Erhard, generalizes about the state-of-affairs in his business. I will argue that he uses a 'whole-parts' logic. Recalling that this logic *starts out* by taking plurality for granted. In this logic there is focus on how different 'parts' become a 'whole', having in mind that the parts never add up to a complete picture.

Erhard is aware that things are not the way they are supposed to be in his business. Due to this, he does not directly object to the judgment of the inspectors. Nor, however, does he directly accept it as he immediately tries to make the inspectors understand that this state-of-affair has its reasonable causes. Indeed, Erhard draws attention to the many different factors that cause non-compliance; the financial crisis, the missing customers, their debt, his wife's operation, his pneumonia, and he explains about their attempt to make money in spite of all this, by trying to make money on funerals and by reducing their opening hours.

I interpret this long list of initiatives as indicating that Erhard starts his generalization of the state-of-affairs of his business by taking this plurality of events for granted. He sees his business' state-of-affairs in the light of these diverse events. As Erhard starts to add them up – as he is indirectly provoked to account for the state-of-affairs – a picture of non-compliance emerges both for him and for the tax inspectors. In contrast to the tax inspectors, Erhard does not start by generalizing from a clear (legally) defined idea of non-compliance. Instead he composes a picture of all the events that has lead to his miserable situation. *A vague whole of non-compliance* is thus emerging by listing a plurality of *matters* that add up: the huge debt, the financial crisis, the missing customers, his wife's illness, etc. The emergence of this picture of non-compliance in relation to the tax rules leads Erhard to – on the one hand – accept the inspectors' judgment and – on the other hand – express despair as he feels that it is not fair that he has to fill out a log-book on top of all the other issues he needs to deal with.

It is interesting to compare Erhard's way of drawing in a plurality of events to account for the situation of his business to what happens at Boss' Pizzeria. At Boss' Pizzeria the owner, Haachim, is quiet. Most of the time Haachim provides only short answers to Jakob's questions. As Jakob shows him the information from SKAT about the 'missing' employees in his business, Haachim remains silent. At one point in time though, Haachim speaks up. This is when Helene be-

gins to question the young man in military trousers in the kitchen. In Helene's view this man belongs to the work force of the pizzeria. Haachim makes clear that in his view of the situation the man is a friend standing in a kitchen. Apart from these few comments Haachim does not provide any explanation for what is going on at the pizzeria. We do not know why there are no employment contracts or pay slips, why he pays salary to a man who receives unemployment benefits, or why he has not registered his employees in SKAT's IT-systems. Haachim does not provide any explanation and the inspectors are not asking. Because of Haachim's silence it is not evident to argue either for the use of a 'whole-parts' or a 'one-many' logic in this case. The visit simply does not say much about his reasoning about his business' state-of-affairs. Nevertheless, it is important to note that Haachim does not oppose the inspectors' judgment of the state-of-affairs of his pizzeria. Except from objecting to Helene's claim Haachim have no objections to the inspectors' judgment.

### **Responsiveness in the raid**

Responsive regulation rests on the idea that taxpayers should receive different forms of enforcement depending on their motivational posture and the context of the regulation. Furthermore, according to the literature on responsive regulation, 'responsiveness' is directed towards the behaviors of the taxpayers; do they cooperate in admitting responsibility for the accused breaches of law, do they agree on correcting it, and are they working to ensure that it does not happen again. My immediate concern looking at the raid is thus to question *whether and how responsive regulation takes place during the raid.*

Schematically speaking, both Haachim and Erhard cooperate in admitting responsibility for the accused breaches of law; they answer questions and provide the information that the tax inspectors' ask for. Whether they agree on correcting it and whether they will

work to ensure that it does not happen again is uncertain. From observing the raid the only conclusion concerning such direct responsiveness is that even though Erhard seeks to 'speak his case', this does not place Erhard any better than Haachim in the inspectors' judgment. Thus, their different ways of behaving and interacting with the inspectors do not influence the enforcement or the judgments. The inspectors are not responsive to on-site accounts.

The reason why the inspectors are not responsive to such accounts is that they use the logic of 'one-many' to generalize. In this generalization judgments are made by the inspectors' having a uniform 'one' perception of non-compliance wherein the 'many' facts related to compliance (pay slips, contracts, salary, unemployment benefits, etc.) are added to confirm this judgment. This logic of generalizing differs from Erhard's logic of generalizing, as his logic does not take its point of departure in any pre-given idea of compliance or non-compliance. Instead, he starts out by listing a plurality of diverse things (his debt, the financial crisis, the missing customers, his wife's illness, etc.) which he sees as explaining the state-of-affairs of his business. These two logics of generalizing are very different as they take different things for granted and bring in different evidence to add up to the conclusion of non-compliance. This has the effect that it is difficult for the tax inspectors to 'listen' to and be 'responsive' to Erhard's logic as it builds on a logic of generalizing that is incompatible with theirs.

When Valery Braithwaite emphasizes that the modern responsive tax inspectors' role is to play a two-handed game: "To deal with the wrongdoing today, while nurturing consent of tomorrow" (V. Braithwaite, 2003a, p. 35), it can be concluded that the 'nurturing consent of tomorrow' is not a dominant feature of this *particular* raid. Here the focus is primarily on detecting the 'wrongdoing of today'. However, the facet of 'nurturing consent of tomorrow' and being 'responsive' is an aspect of the inspectors' work that becomes more dominant when looking beyond the particular raid.

## Responsiveness beyond the raid

At the briefing before the raid all the inspectors are equipped with SKAT jackets. These have a big 'Fairplay'-logo printed on the back. This refers to the raid's purpose which is to enhance fair play among businesses by targeting inspections and penalties at non-compliant businesses. While we are finding suitable jackets, my contact person explains that fair play is about "noise and once more, more noise. It's about visibility of SKAT's actions. We need to have visibility and we need to go public with everything that we do".

Hence, being at Boss' Pizzeria, which is a tiny place, the three inspectors (and me) are present with clear logos on our jackets whereby not a single customer can possibly be in doubt about what is going on. Also, at The Husky Inn the logo-jackets made noise; as we are sitting waiting for Erhard to arrive, a guest is having a beer at the bar. Seeing the fair play logos on the jackets the man asks out loudly: "What is fair play?" Jakob explains that we are from SKAT and we are working for fair play among businesses. The man replies:

Oh, bugger! You're from SKAT!! Damned, it is SKAT who is visiting tonight [he is reflecting a bit and having a short break in his speak and then adds more reflexively]. It is not fair play that you're just coming unannounced like that!

Let us have a look at SKAT's own perception of fair play. In addition to creating visibility during the raid, the raid is also related to the webpage called 'fairplay-skat.dk'. At this webpage it is described what raids SKAT has accomplished and planned in the regions of Denmark and what lines of business are targeted. Some of the raids in 2010 deal with respectively bakeries, brothels, fashion outlets and restaurants. The raids are unannounced in the sense that no particular business knows whether it has been selected for inspection, but the raids are announced as the targeted lines of business are stated

at the webpage. In addition, every raid is followed up by a press release describing how many businesses have been inspected and what the results of the raid were. I observed that in the press release relating to the raid it is stated that a total of 22 businesses received a visit. From these visits three persons ran off, one was arrested by the Police because of illegal immigration, 5 had log-books imposed, one was required to acquire a cash register, and 5 persons were exposed as receiving welfare payments while working.

The particular raid is also connected to a political agenda. In 2004 the Danish liberal-conservative (rightwing) government published the report *Fairplay* (Regeringen, 2004). The report describes the government's initiatives to enhance minimize untaxed work. The report (1) argues that a practice of cheating and fiddling is quite common among businesses, (2) states that it is unacceptable as it prevents fair competition and it means fewer money to finance key welfare services such as the healthcare system and schools, (3) states that it threatens cherished values which should be safeguarded: "The government believes that the values behind Denmark of today – freedom with responsibility, care for our fellow human beings, and the private property rights – are worth upholding", (4) finally, this means that initiatives must be started which change the attitudes and practices concerning *businesses' cheating and fiddling, benefit fraud* and the use of *moonlighting and illegal work* (Regeringen, 2004, p.1). The report hereby launched what have since been called the Fairplay I, II and III legislation. These 'packages' of legislation were all different amendments to the current tax and VAT laws whereby inspection of (potential) *cheating and fiddling* businesses was made easier and the penalties were made more severe. Clearly, the raid cannot be solely understood as a random inspection where inspectors meet taxpayers. Rather the raid is connected to and part and parcel of the government's attempt to safeguard 'the values behind Denmark of today'.

Through my description of the inspectors' Fairplay logo-jackets, the fair play webpage, the press release, and the Fairplay legislation

I want to draw attention to a different enactment of 'responsiveness'. Looking 'beyond' the actual raid, such elements as the *visibility* of the inspectors, the *noise* they make, and the wish to *safeguard* 'the values behind Denmark of today' are central. Pointing to these connections leads me to suggest that the tax inspectors are engaged in activities that enact responsiveness towards what might be called the 'general public'. This general public is represented by the man at the bar saying 'Oh, bugger! You're from SKAT!! Damned'; by the customers at the pizzeria who are waiting in the line; by the compliant businesses who need to know that SKAT upholds fair competition; and the general public is represented by the Danes that cherish the 'values behind Denmark of today'. Being responsive towards this 'general public' and this public's sentiments concerning *cheating and fiddling* with benefits, taxes, moonlighting and illegal work is the key to understand what 'responsiveness' is all about during the raid.

As noted earlier Valery Braithwaite has argued that inspectors, in being responsive, are involved in a two-handed game; they have to deal with the wrongdoings of today, while nurturing consent of tomorrow. In the raid, the inspectors' nurturing of consent is thus not to be understood as if they nurture healthy compliance practices in the *actual inspected businesses*; instead the inspectors nurture compliance *in general* by being *visible*, by making *noise* during the raid and thus instantiating the government's Fairplay initiatives. In this light, the raid can be described as responsive – not because it is particularly responsive to the challenges or problems of the inspected businesses – but because the raid creates awareness of the inspectors' work to the wider public. As will be shown below, this orientation has consequences for the individual inspections as these are not as effective as the tax inspectors had hoped.

### **The debrief; changing between logics**

This last section draws attention to the debrief the following day. At this debrief an ambiguous ground for conducting the raid is empha-

sized as the inspectors bring up a number of thought-provoking views on the raid. Based on a description of these views I argue that the inspectors' confident and legally backed up 'one-many' logic, which they use in the businesses as they judge individual compliance, is supplemented by a much more uncertain 'whole-parts' logic that they use in discussing future strategies.

As described the raid was organized as collaboration between several local tax units in the area south-west of Copenhagen. Because of this format the following day's debrief starts out with the inspectors discussing the different strategies for doing inspection used by the participating tax units. It appears that one participating local tax unit, as opposed to another participating tax unit, takes a hard line; according to the inspectors sitting at the debrief the inspectors in the first unit would give a penalty if a business has even 15 bottles without official deposit logos. In the latter the inspectors would never do that as they consider such a breach of the law too marginal to do anything about. This issue of being a hard-liner or soft-liner connects to the problem of having resources to follow up on the imposed log-books. One of the inspectors reflects on the effect of their work:

It is really strange that there is constantly fraud and mistakes at one third of the pizzerias. Even though we have been focussing on these issues for the last two years there are still lots of mistakes. What is it that we need to do better?

Having observed, the evening before, that the inspectors did not show much interest in the context and reasons for the non-compliance, I am not astonished that their work might have little effect on the level of the individual business. However, the inspectors' concerns do not prepare the ground for a discussion of better focus on understanding the businesses and their reasons for being non-compliant. Instead, 'doing more' is related to a discussion of

resources for following up on the log-books, for instance, by giving fees. An inspector adds: “We need to have more focus on following up on the log-books. They need to get fines if they are not filling them out, we need to follow up”. Another inspector comments: “But, that takes a lot of resources”. Hence, ‘doing more’ work and to enhance the effect of the tax inspectors’ work they focus on resources for doing *more* inspection of the log-books.

The inspectors also discuss the problem of selecting the ‘right’ businesses for inspection. An inspector claims that it is a problem that the businesses which they select are based on the businesses’ industrial classification codes in SKAT’s systems. The problem is that many businesses are registered with wrong classification codes and this means that they will never appear on SKAT’s lists:

When we are driving around in the countryside, we see many pizzerias which are not on our list. They probably use the wrong classification codes. Maybe they are coded as a coffee house or something else. If they use a wrong code, we’ll never see them on our list. I think it might be an idea just driving out into the countryside and see the pizzerias that exist there. We need to look at the pizzerias that exist out there and not only at the ones existing in our systems.

Based on the excerpts, I suggest that a plurality of matters are highlighted by the inspectors whereby the contours of a ‘whole-parts’ logic appear. At the debrief there is no given ‘yard-stick’ or clear definition of how the tax inspector can best increase compliance among businesses. Instead, they emphasize a variety of events that constitute their current practice; the differences in practice for being hard or soft liners, the problems with resources for following up, the problems of businesses that do not change their practice as a result of penalties, and SKAT’s IT-systems that do not mirror reality. These

elements add up to a vague whole of the tax inspectors’ work with enhancing non-compliance.

Using the different logics are connected to certain places. In the *tax office* the inspectors operate with a *vague idea* of how to ensure compliance; they know that their efforts might not change a great deal, they know that the real fraudsters, the ones that are not on their lists, might not be targeted, and they know that there are no resources for following up on all log-books. By comparison, as the inspectors are in the *business offices* they judge individual cases of non-compliance by using the ‘one-many’ logic. In the *business offices* they *start out* by having a (clear) legal definition as to when a business is non-compliant. Here they ‘screen off’ the emergent parts and vague wholes in order to apply the ‘one-many’ logic. As a consequence, the inspectors move back and forth between the two logics as they move *between the offices* and as they generalize about *different matters*: individual cases of non-compliance versus strategies for ensuring compliance.

## Conclusion

The article posed two questions in relation to responsive regulation at its beginning: what is the maneuvering room for the inspectors in being responsive to the taxpayers? and how does responsive regulation take place in practice?

I investigated the maneuvering room for the inspectors by discussing Jonson and Toulmin’s notion of ‘casuistry’. Far from playing an exclusive or indispensable part of decision making their argument suggests that rules have only a limited and conditional role (Jonsen & Toulmin, 1988, 10). This role of the rules I have captured using Helen Verran’s notion of a ‘one-many’ logic which is used by the inspectors and which is based on a legal definition of compliance. This ‘one’ is then measured up against the observed state-of-affairs in the businesses. I contrasted this logic to Erhard’s logic of generalizing; Erhard talked about the situation in his business by



listing a plurality of events. The inspectors and the business owners (especially Erhard) come up with the *same judgment*, but they do it in *different ways*. That they do it in different ways is also related to the inspectors' and business owners' different 'vocations'; the former need to fulfill their obligations as inspectors, the latter seek to fulfill their roles as business owners.

Looking beyond the generalizations done in the businesses I have argued that the inspectors' judgments of the businesses as non-compliant rely on their ability to move back and forth between the two logics. In the *tax office*, the inspectors work with a 'whole-parts' notion of non-compliance as they do their work of planning and reflecting upon the raid. In the *businesses*, when they do their inspection, however, they switch to a 'one-many' logic. My analysis thus suggests that being in the *business office* the inspectors need to make a judgment based upon a rather ambiguous and vague idea of how they actually work with ensuring compliance when they are in the *tax office*. This situation causes frustration for the inspectors; they are confident in doing their 'one-many' generalization in the business office, but they are also aware that the inspections are problematic as they might not target the right fraudsters and they might not be effective in nurturing compliance in the long run. Thus, they judge rightly in particular situations, but these situations rely on a rather vague selection. A problem which is apparent to the inspectors and which the analysis of their generalizations make visible.

Looking at how responsive regulation takes place in practice, the analysis shows that the inspectors are not primarily responsive to the individual businesses, their behaviors and their contextual on site accounts. The inspectors and the business owners use different logics as they generalize about the state-of-affairs and because of the incompatibility of the logics on site accounts cannot be incorporated into the inspectors' logic. Thus, Responsiveness is not primarily played out in relation to the individual businesses as these are being evaluated, but is to a greater extent played out in relation to the 'general public'. The logo-jackets, the webpage, the press releases,

and the government's Fairplay initiatives help construct responsiveness to the wider public. It is in these activities that primarily embed responsiveness in the style of 'nurturing consent of tomorrow'.

I have been able to draw these conclusions concerning responsiveness because of the specificity of the study; the *nailing down* of what is being asked during the raid, what the business owners are answering, what the inspectors are looking at, what the customers see, what the inspectors and the employees are wearing, what the inspectors are worried about, and how the government 'talks' to the Danes' feelings of safeguarding the values of today's Denmark. This specificity provides the basis for claiming that responsive regulation is enacted in relation to the 'general public'; it is enacted in a plurality of ways.

In arguing these points, the analysis exemplifies what Helen Veran calls 'relational empirism'. In the analysis I have taken plurality as a starting point in not defining beforehand *what* responsive regulation *is*, but in seeing it as a vague whole that must be assembled. In the article I have accounted for the different '*parts*' (the raid, the jackets, the webpage, the press-releases and the Fairplay initiatives) which become a '*whole*' (responsive regulation). In my ethnographic story this investigation of responsive regulation is thus in contrast to a 'one-many' way of generalizing about responsive regulation. Such an investigation is exemplified by the regulatory researchers' approach to responsive regulation as described at the beginning of the article. This research has a clearly defined idea of responsiveness that assumes an inspector to be responsive to the behavior of the inspected. Investigating responsive regulation with the 'whole-parts' logic provides a radically different understanding of responsive regulation in emphasizing that it emerges in a plurality of instances and among a plurality of actors. Hence, in the analysis I have thus (first) juxtaposed the identified logics in the raid to (second) gain a 'vague idea' of what responsive regulation is in practice; I have *screened* the tax inspectors' and business owners' *screening* of the raid to provide an account of what responsive regulation is. This

way of reasoning provides me with a comprehensive, but not a definitive idea of responsive regulation as a phenomenon that is indeed played out in fashions that were not anticipated in the current literature on responsive regulation.

Two final points should be made concerning the work of the tax inspectors as street level bureaucrats, who bear the responsibility for the day-to-day front line operation of securing tax compliance. First of all, the way that these inspectors “deliver benefits and sanctions structure and delimit people’s lives and opportunities” (Lipsky, 2010 [1980], p. 4). Their judgments have effects on whether Erhard and Haachim can continue running their businesses; it affects where their daily bread-and-butter comes from. Thus, consequences follow from the generalizations; the waitress, Karen, may lose her job at the inn; the pizzeria employee, Muhammed, may lose his unemployment benefits, Erhard might fall even more ill from stress and pneumonia. People and businesses change because of the inspectors’ decisions. Hence, it matters that these judgments are *made correctly with discretion*, but also that the *judgments are accepted*.

Second, as Lipsky also points out: “when taken together the individual decisions of these workers become, or add to, agency policy.” (p.3). The tax inspectors are the ‘faces’ of the Danish Tax and Customs Administration, indeed, to an important extent their actions *are* the tax administration. Thus, it matters whether their actions and decisions add up to an enforcement strategy building on ‘responsive regulation’. Or whether their actions and decisions add up to an enforcement strategy building on the idea that inspection of (potential) *cheating and fiddling* businesses should be made easier and that penalties should be made more severe. If the street level tax inspectors are understood as *policy-makers* by their very fulfillment of their work, we clearly need to be attentive to how and why they do their work in particular ways. As I have demonstrated, being attentive to different logics of generalizing may be a way of doing so.

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