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The State and the Regulation of Work and Employment: Theoretical contributions, forgotten lessons and new forms of engagement ¹

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Abstract

Within the work and employment literature there has been a tendency to conflate the concept of regulation with the legislative role of the state and the enforcement of rules through various state agencies. Yet there has been limited engagement with the question of the state and its role in more abstract terms. There has been a historic tendency to view the state as a coherent, unitary actor – a tendency repeated by various theoretical perspectives. More recently, work and employment debates on regulation have too often reduced the question of the state to a one dimensional focus on its various functions: the state as legislator; as employer; or in terms of its coercive apparatus. There has been relatively limited engagement with the role of the state in more conceptual terms (notable exceptions include Clark, 2000; Howell, 2005; Hyman, 2008). Drawing on contributions from adjacent disciplines, the paper argues that the role of the state needs to be addressed at various levels of abstraction – an approach that has been increasingly overlooked in work and employment debates. Understanding the role of the state and its regulatory function requires a nuanced analysis of the various spaces and actors involved the regulatory process. In turn, such analysis needs to be located in terms of broader socio-economic configurations so as to avoid a narrow focus on institutionalism, and a piecemeal, fragmented view of the state. While the paper draws primarily on the UK for illustration, the intention is that the argument has theoretical generalisability beyond this context.

Introduction

With the growth of interest in ‘deregulation’ in terms of both employment and the wider economy, the role of the state is increasingly a subject of debate in the work and employment literature. These debates engage in terms of the impact of the withdrawal of the state but less so with the nature of the state, how it engages and how it ‘withdraws’: there has been much written on how the role of the state has been increasingly limited but less on the roles the state continues to play even within increasingly marketised settings. Yet, how should we debate the role and the nature of the state in such contexts? What are the problems with the key approaches to our understanding of the state within the work and employment literature? What alternative approaches can we develop that enable us to understand the role of the state, in the context of new forms of market relations and interventions involving an array of new actors within and beyond the state?

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The paper will argue that part of the problem in understanding the role of the state is the lack of interest in the panoply of roles that it has played, and the complex ways *regulation* has been historically developed, structured and reformed in relation to the spaces the state intervenes in and the actors to which it relates. Within the study of work and employment, the state has often been viewed as a unified entity; presented as a pre-constituted peak level actor in its relations with capital and labour, or at best as a co-ordinated set of institutions driven by the legislative mechanisms of central government. However, the state is an issue for discussion in its own right, in terms of how it aligns itself with the broader interests of capital, appears within the micro level regulatory spaces of the economy, and is configured in terms of its own internal structures and processes. Such analysis should also be embedded in terms of the state's role at more abstract levels: we should understand how the state relates to broader interests and social actors, and how its autonomy is configured. The article focuses on various strands in the debate on and in the UK. Whilst inspired by German and French interventions, the UK focus is germane due to the ongoing liberalisation of the state and the role of deregulation. These developments open the possibility of viewing the complex and contradictory roles of the state, which in turn inspires a concern with *how* we should view the state in terms of its structures, roles and context. Such concerns have been reflected in neo-Marxist and more critical approaches, which in our view have made a strong contribution to the debate, through the work of Clark, Howell and Hyman, amongst others.

To these ends, we draw together strands of debates on work and employment to understand how alliances and boundaries between actors and interests are established and become important to the regulation of employment and the broader socio-economic context. The state is not a homogenous, unitary entity: but its unity is an object of interest and concern. We will also reference the notion of regulatory space (Hancher and Moran, 1989; MacKenzie and Martínez Lucio, 2005) which can help enhance our understanding of the complex and varied role of the state. We examine how the state's role within certain regulatory spaces, and alongside other regulatory actors, developed in operational terms. We explore how its internal boundaries are secured, and are changing: how there is an increasing presence of external regulatory actors within the state's boundaries, and complex organisational structures that raise issues for how we study the state. Our contention is that the state is becoming an even more politicised terrain and that a more systematic approach is required in the study of its role.

Discussing the State in Industrial Relations

Within the Anglo-American work and employment literature there has been a general absence of analysis that has engaged with and problematised the role of the state. There are of course notable exceptions. In his seminal work, *Rethinking Industrial Relations*, Kelly (1998) scorns the failure of the industrial relations tradition in terms of its theoretical endeavours. He points to the failure of analysis, and even lack of interest, concerning the state. In part, this may be explained by the failure or limits of state regulation within the British context (for a further discussion see MacKenzie and Martínez Lucio, 2004 and 2014). 'With the disintegration of Britain's 'bargained corporatism' from 1979 the topic gradually disappeared from the intellectual agenda

of most British researchers' (Kelly, 1998:13). That state engagement in terms of corporatism has also been seen as somewhat of an after-thought, and a less than clear experience (Hyman, 1989), may have compounded the situation. Kelly makes the point that leading theorists of the state in Britain such as Bob Jessop are absent from many of the textbooks on industrial relations, which rely instead on viewing the state as either a legislator or an employer (Kelly, 1998, 13). Even more subtle and broader historical approaches, such as Howell (2005), have tended to be largely ignored in mainstream debates: the state is not problematized by those working on the changing nature of work and employment, especially in a context of the increasing prevalence of managerial approaches and micro-level sociologically focused research on work and employment.

Regardless of such a contemporary paucity of systematic debate on the state, various views of the state are discernable within the industrial relations literature historically. The pluralist industrial relations tradition views the state as one actor amongst others in the interplay that constitutes the regulation of industrial relations. The pluralist view (Clegg, 1976) sees the state as an actor that in effect stands outside the employment process. The realm of pluralism within industrial relations is, of course, quite broad and with a range of internal tensions (see Poole, 1981: 72-91). Increasingly, however, the pluralist tradition within the field of industrial relations became detached from the pluralist view of the state within political science, which posits the state as a disaggregated plurality of potentially competing power centres. Industrial relations pluralists were concerned with processes of regulation between the state and, more importantly, unions and employers bodies; in particular the role of collective bargaining as a vehicle – or main vehicle even – for job regulation (Clegg, 1976). Here the state played various roles as 'honest broker', 'negotiator', as a guardian and developer of rules, and perhaps ultimately as an arbiter. Yet within the UK's pluralist tradition there have been a strain of ethical concerns and awareness of corporate bias. There has also been a focus on the social role of regulation, through a strong social democratic progressive orientation in the work of Clegg and others in the pluralist traditions, especially in relation to how a relatively more radical sociology of work was fused with industrial relations (Ackers, 2011). Although, it would be fair to say that the state was not systematically analysed as an entity and actor but rather tended to be approached in a more empirical manner.

The development of the corporatist debate in the 1970s became linked to the pluralist view in that the state was also seen as a quasi-autonomous macro level actor, intermediating between peak organisations of capital and labour. It was a player alongside these other actors in the regulation of the economy and labour markets. The state was an actor that sought consensus and concertation between capital and labour, and access to their regulatory capacities, in order to provide a centralised and co-ordinated approach the economic relations (Compston, 2002). This school of thought represented a second stream of debate on the state. For Schmitter (1974), corporatism was seen to be a 'post-liberal form of interest intermediation'. The post-Second World War era saw a process of intermediation where the state attempted to include capital and labour organisations within decision-making processes regarding public and economic matters: this agenda was driven as much by political imperatives - the need to include, and so contain, subordinate classes – as economic ones (ibid).

However, this representation of corporatism reproduced pluralist assumptions in the way each actor was autonomous, entering into relations due to economic necessity and political imperatives. Furthermore, as Hyman (1989) pointed out, the corporatist view shared the pluralist perspective of the state being just another actor, a negotiator amongst others. In effect, the theory of corporatist concertation was based on a vision of 'bargained' industrial relations. Alternatively, there was a distinct Marxist view of this type of corporatist state, which saw it as being more than just a form of political bargaining. Corporatism represented the state's encroachment into the details of joint regulation and economic activity due to the failure of socio-economic actors to deliver stable, effective and consistent economic results. Panitch (1981) and Jessop (1982) argued that the state was attempting to create the basis for social cohesion through macro level negotiated inclusion. However, Panitch (1981) argued that in the long term all this did was further politicise labour conflict by bringing the state directly into matters of industrial relations, and matters of industrial relations directly into the state. Marxist-corporatist theories of the state were dominated therefore by concerns over its role as a vehicle for economic and coercive action, or as a vehicle for undermining labour autonomy and action in the long-term through the incorporation of its leadership.

The work of Clark (1996) sought to re-envision the state in terms of its transformation, and increasing complexity, in the age of de-regulated and flexible labour markets. Clark was not alone in depicting the state as having withdrawn from the regulation of the employment relationship and the economy through policies to free up market forces. The neo-liberal rhetoric of the state and its ideological 'mobilisation' against regulation and collectivism is a salient feature of this period. In this approach, the state facilitates the interests of capital through its rhetoric and the strategic nature of its withdrawal across various fronts of engagement

These different features of the state and its role in various dimensions of the economy and society are confronted in another set of debates, which have located the state within varieties of capitalism (Hall and Soskice, 2001). In these approaches the state is understood in terms of the variety of ways economies are coordinated and the role of different types of stakeholders and actors. The state is seen to play a role in the way actors are coordinated and projects in relation to them established. The case of the United Kingdom, for example, is seen as being a liberal market economy where financial stakeholder interests and more short-term, less regulated approaches to employment relations have prevailed (ibid). This pattern is in part due to the uneven nature of industrial development and Fordist organisation of work, and a history of libertarian *laissez faire* economics leading to the growing financialisation of the economy (Clark, 2000).

The conclusion, applied with varying degrees of sophistication by exponents of this approach, are that coordinated market economies have more proactive states in terms of regulation, welfare and economic activity than their liberal market counterparts. This is a debate that has allowed regulation and the state to enter more directly into questions of economic and social context but which does not then problematize the state per se. Mechanisms of coordination occur in liberal market economies but the assumption is repeated that such marketized arrangements reflect some sort of idealized *laissez faire* antithesis of state involvement.

The focus of this range of academic approaches is on the different functions of the state and their role in various national contexts (see Hyman 2008: 263). In this respect such understandings of the state are concerned with overarching purpose and narrative. Such concerns are reflected in Crouch's interest in locating state action across various dimensions of contestation, pluralism and corporatism (Crouch, 1993, see Hyman *ibid*) and with the way weak, market-facing, approaches undermine more concerted, coordinated and worker oriented alternatives (Crouch, 1993). The tension within the state and the political struggles across it are not often a focus of analysis.

Kelly (1998), as mentioned earlier, has reminded us to take the state more seriously. He posits the state as an actor in the process of mobilisation within civil society, as a form of repressive intervention which can be seen to politicise questions and struggles regarding perceived injustices. Beyond the politicising of labour mobilisations in specific instances, Kelly sees the state as primarily providing a repressive dimension to the process of industrial relations. Yet, here again, the state is seen as essentially a unified actor, be it as a point of reference within corporatist decision making, as an economic actor or as repressive actor. The state is seen as a player with coherent interests, directed from some pivotal elite within and around the state. The question of its autonomy- be it total, relative, or potential (see Jessop (1990) for a discussion as well as Poulantzas (1974) and Skocpol (1979) on the topic) - is not really discussed within industrial relations debates. Moreover, the spaces and activities within which the state intervenes are not seen as integral to any discussion of the state and its roles. Ultimately, there is a *de facto* congruence assumed in terms of executive, legislative and interventionist aspects both internally and in relation to external elites. Often this goes further by seeing the question of regulation in terms of legislation. These characteristics are present in the debates on industrial relations and the state across various schools of thought. Regardless of whether the state is viewed as one actor among others within an industrial relations system, or – as explored below - reflecting the social relations of capitalism, ultimately working for the systemic interests of the capitalist mode of production (albeit with total, relative or potential autonomy) the state tends to be treated as a relatively unitary actor.

Therefore, if we are to discuss the role of the state then we need to be clear about three specific challenges. Firstly, we need to remain alert to the political question of interests and representation. Secondly, we need to understand the role of the state in terms of the regulatory spaces in which it intervenes. Thirdly, we need to understand the internal relations between the range of organisational structures and agencies of the state, and the way these are mediated and changed in terms of the two dimensions outlined above. The links between the different elements of the state, the links between these elements of the state and other actors, and the context of state action need to be considered more carefully. Even if we take the extreme example highlighted by Kelly concerning the repressive role of the state, historically this has not been prosecuted in a unitary and unilateral manner. As Darlington and Lyddon (2003) point out in their seminal yet polemical review of the British strike wave of 1973, an array of intelligence and coercive state apparatus was mobilised in alliance with reactionary aspects of the media, private agencies dedicated to blacklisting, and particular employers. Thus, even this coercive feature of the state is part of a process of co-ordination with actors within civil society. Kelly himself, in a discussion of the 1984-5 Miner's Strike in the UK, pointed to such developments in terms of how the

right wing government used the police, courts, intelligence services (both official and unofficial) and the welfare system to weaken the strength of the strikers.

The role of the state, even when focusing on the repressive dimension, is complex: it involves an array of policies and actors across a period of time. Whilst Kelly's (1998) critique focuses on mobilisation theory to show how the state's responses politicise industrial relations, it also alludes to the complex role of the state's repressive character. Whilst there is no doubting the Conservative government's planning for the Miners' Strike (see Beynon, 1985), and the overarching anti-collectivism that drove them politically, the links between these policies and practices were also the product of a set of alliances based on shared ideological predispositions and, ultimately, class interests. Therefore, we need to observe the pattern of state intervention in terms of a wider time frame than is often applied, and with sensitivity to the array of actors involved in the processes within and beyond the state.

The state and the politics of intervention

We now turn to the question of regulation and its political processes more directly. The industrial relations discipline has addressed some of the issues, as we have outlined above, but the informality and complexity of regulation has faded from the debate in the UK. Given the Anglo-Saxon context, this has been in part due to the nature of regulatory development during the twentieth century, where the state has not been as overt a player as in other cases (Clark, 1996, 2000). Clark has argued for the need to embed any analysis in an approach which is sensitive to the economic and industrial structures of a national context: the way Fordist structures have or have not evolved generally; the structure of economic governance; and the dynamics of labour market policies. Clark was one of the first industrial relations scholars to embed regulation theory from a political economic perspective into industrial relations analysis (ibid). Other contributions have been implicit or tangentially concerned with the internal dynamics and politics of regulation, and have drawn attention to the questions of informal regulatory processes, actors and relations more broadly and the way regulation is discreetly constructed in certain cases (Mackenzie and Martínez Lucio, 2005).

We, therefore, focus on the lessons learnt from developments within the UK context because of the peculiar characteristics – not necessarily superior characteristics – of the state as the curious 'other' due to its uneven development as a regulator. Within the UK the apparatus of regulation has been developed in quite formally 'de-centred' ways during the twentieth century. The extent of 'de-regulation' and withdrawal are formally extensive; but there are examples of new forms of 'arm-length' regulation, which are suggestive of novel forms of intervention and political relations between actors. Ironically, the UK context is held up as a paradigm of change and economic regulatory withdrawal within Europe, yet there are quite novel forms of re-regulation that raise pertinent questions about how we view regulation and how we view the state (Howell, 2005).

The state must be understood in terms of a much broader comprehension of regulation, one that recognises the processes by which the state *manages*, *shares* and in effect *shifts* the locus of regulation between different sites. This is done through

modes of representation, intervention or even coercion. As noted, Kelly (1998) bemoans the lack of attention paid to the work of Bob Jessop, given that since Ralph Miliband's death he remains the major theorist of the state in the UK. Yet, Jessop's contribution is often misconstrued. His aim is not solely to show that the state is capitalist and therefore by association both conceited and coercive, though he would probably not disagree with such associations. Rather, in his move from structuralism to regulation theory he has sought to ensure that we understand that the Capitalist State is an ensemble of institutions of representation, intervention and administration (Jessop, 1982). The structuralist tradition has demonstrated the importance of mechanisms that support and underpin the role of the state in the economy, such as industrial relations institutions like collective bargaining or social relations as reflected in the family. This recognition has been transformed within the regulation school generally into a less reductionist approach, which highlights the need to understand the co-ordination of regulation within the state and between the state and social actors as issues in their own right (Jessop, 1990, 1995; Théret, 1994). This conforms to Baldwin et al's (1998) third typology of theories of regulation, which views it as 'all mechanisms of social control – including unintentional and non-state processes...' (ibid: 4).

'... the state can be described as a relatively unified ensemble of socially embedded, socially regularized, and strategically selective institutions, organizations, social forces, and activities organized around (or at least involved in) making collectively binding decisions for an imagined political community...' (Jessop, 2002: 40)

The state can therefore be viewed, as far as Jessop is concerned, at six levels of activity (Jessop, 2002: 42): modes of political representation; internal articulation of the state apparatus; modes of intervention and their articulation; political projects articulated by different social forces; prevailing state projects and discourses; and broad hegemonic projects that links and legitimises the state.

Any discussion of regulation in relation to current changes in employment must also be sensitive to the meaning and function of regulation (Howell, 2005). Regulation theory facilitates an awareness of the contradictory and crisis ridden nature of state development, linked to different historical approaches to accumulation and the uneven autonomy between the state and the economic context (Howell, 2005: 31-33). On the other the hand, it is also important to recognize the role of different sites, spheres and actors that populate the regulatory landscape, and the relationship between them (MacKenzie and Martínez Lucio, 2005). Such an approach should be sensitive to a multi-disciplinary, socio-political understanding of regulation and regulatory change. It is important to chart the role of the state in terms of both its relationships with other actors at the macro and micro level, and relationships within the state itself. For example, Howell (2005) attempts to fuse regulation theory with industrial relations approaches in his seminal UK based study. Such an approach allows the role of the state to be appreciated in its fuller and yet, ironically, more limited sense. Within industrial relations debates, Hyman (2008) has developed a parallel agenda which looks at the state across various dimensions: its role as an employer; establishing procedural regulation; substantive employment rights; economic (including demand and supply side) roles; and indirect wage/welfare intervention. Thus the state can be mapped across such competing roles. On the basis of such mapping, the form and the

spaces of regulatory intervention by the state, internally and externally, can be understood.

The organisational, institutional and economic dimensions of the state also are supported by discursive and ideological dimensions (Jessop, 1982) or what can be called narrative dimensions (Howell 2005: 39-41). Hyman (1975) pointed to the importance of such prevailing ideologies in framing and contextualising the nature of state intervention, such as in the use of 'fairness' to curtail class conflict and politics. This discursive side to the role of the state is rarely a point of debate in the study of the state in mainstream industrial relations analysis. Hence, we have a significant turn to regulation theory, which has informed the work of Clark, Hyman and Howell, especially the latter. Whilst neo-Marxian in some respects, such an analysis questions some of the more essentialist views of the state and builds on the notion of relative autonomy either directly or indirectly (Poulantzas, 1974). The contributions of Clark, Hyman and Howell, for example, suggest radical and Marxist perspectives within the study of work and employment have increasingly begun to address the complexity of state institutions, their contradictory nature and relations, and the question of the state's autonomy (see Jessop, 2002).

The question of autonomy: the state and social actors

Exploring the relationship with other actors representing capital and labour is a fundamental pre-requisite for any engagement with the notion of the state. It is inappropriate to talk of 'relations' and 'interventions' without clarifying these roles, otherwise actions are discussed in isolation of purpose and interest.

No debate on the state can proceed without explicitly addressing the state's relation with capital, given that the state exists within a capitalist context. Such concerns have been the subject of much discussion in political science (see Dunleavy and O'Leary, 1987; Jessop, 1990): within industrial relations, it has not. It is assumed that the state is either one actor amongst many or it is an extension of, and instrument for, the capitalist class. Its interests may occasionally be driven by questions of order-maintenance, and hence lead to an attempt to placate labour demands in the short term, but overall the state is rendered independent of labour interests. As stated earlier, Kelly (1998) was correct to bemoan the problem of the absence of the state from debates on industrial relations.

The state, within capitalism, is a reflection of the social relations of the capitalist mode of production. It attempts to perpetuate the interests of capitalism at a systematic level: the stability of the system and the balance of power within the social relations of capitalism. Therefore it cannot be assumed that the state necessarily represents the interests of a given unit or constituency of capital. Indeed, the state may act against the interests of individual units or sections of capital in the longer-term interests of the socio-economic system (see for example Jessop, 1990, 2002 for a discussion). Such analysis requires different levels of abstraction. Ultimately the direction of travel may be towards facilitating the systemic reproduction and renewal of social relations to facilitate accumulation, but this is fraught with contradictory developments and periodic crisis. There may be contradictions in the state's behaviour: that its actions may work against the interests of specific units of capital;

that its actions may be damaging to the logic of accumulation in (the short term); that the state may prop up the interests of capitals that are facing crises in accumulation to the detriment of broader systemic progress. Such behaviour would eventually lead to a broader systemic crisis and a disjuncture in the social relations of capitalism, producing a new set of social relations that will accommodate the logic of accumulation. In more concrete terms, such tensions can be seen in the UK state's historic favouring of financial sector over the interests of industrial capital (Coates, 1994). The nature of state intervention in support of the banking system in recent years fetishized the post-2008 economic downturn as a financial crisis rather than as being symptomatic of a broader crisis of capitalism, which would require alternate forms of state action. The longer term implications of state action, or inaction, remain to be seen. Some observers appear pessimistic as to whether a new effective set of social and economic relations is feasible given the current crisis (Streeck, 2016).

The problem becomes how these contradictions are played out in any given social formation, or context, at a more concrete level. Jessop has grappled with these questions for nearly three decades. Having moved from a Structuralist Marxist position to one based on regulation theory, he has argued that the nature of the capitalist state is complex, and that in the long term (or final instance, *à la* Poulantzas, 1974) it may tend to concern itself with the overall needs of capital but in the short and medium term it is driven by more contradictory political concerns.

‘... the institutional separation of the state from the market economy, a separation which is a necessary feature of capitalist societies, results in the dominance of different (and potentially contradictory) institutional logics and modes of calculation in the state and the economy ... [T]here is no guarantee that political outcomes will serve the needs of capital – even assuming that these could be objectively identified in advance in sufficient detail to provide the basis for a capitalistically rational plan of state action and inaction’ (Jessop, 2002: 41).

The problem for the state is that the short and long-term interests of capitalism, and different factions or capitals, are not always clear (Poulantzas, 1974), to neither the state nor to capital. The state is an institutional ensemble of forms of representation, intervention and administration that require projects in their own right to create consistent forms of intervention (Jessop, 1990). Analysis must pay attention ‘...to the structurally inscribed strategic selectivity of the specific state forms and political regimes: and move away from the abstract, often essentialist theorization towards more detailed accounts of the interplay of social struggles and institutions.’ (Jessop, 2002: 41).

In effect, the state remains an institutional ensemble committed to the reproduction of the capitalist system. This reproduction, calls for complementary and consistent political, economic, social and intellectual interventions (Torfing, 1990), something that is not always easily achieved. It assumes that the state's form is not simply organised around one function, role or agency: there is a question of complementarity, coherence, consistency and co-ordination (Torfing, 1990). This approach resonates with Koch (2006) who argues that the state is proactive even in changes that ostensibly represent market led regulatory changes.

Once we understand this dynamic then the problem of social and economic regulation becomes much more transparent. The role of the state has to be *crafted* in terms of its interventions in the economy and employment relations through alliances, the extant spaces for intervention within policy making, and being mindful of the balance of forces and embedded practices in specific contexts. In Jessop's analysis, this shows the state is relatively autonomous of capitalist interests, and in some cases appears to be acting against certain factions of capital, but within a context of sustaining the prospects for systemic regeneration and economic reproduction (Jessop, 2002: 42).

It is within this logic of systemic reproduction that the regulation of employment exists. Yet, we can see the plurality of actors that constitute the struggle around the employment relationship whilst being alert to the fact that: firstly, such actors are constituted through 'structural antagonisms' brought by the nature of the employment within the capitalist system (see Edwards, 1995); and, secondly, that their actor capacity is shaped by the resources and legitimacy distributed and bestowed by the socio-economic system and its ideological processes. However, it is only through the application of higher levels of abstraction can structural antagonisms and mechanisms of employment regulation be reconciled with the logic of the role of the state within capitalism.

At a low level of abstraction, when it come to the buying and selling of labour, as with any market exchange, it is in the interests of both parties that the transaction takes place, however the interests of those parties diverge over the terms of that exchange. The mechanisms put in place to regulate this conflict of interest are the central concern of pluralist observers, the assumption being that collective bargaining can offset the imbalance of market power enjoyed by employers. That such mechanisms can be in turn underpinned or undermined by government intervention has necessitated a rethinking of the state's role in pluralist models of industrial relations. It is only through abstraction to a level of analysis that recognises that the inherent imbalance of power between capital and labour cannot be redressed and the conflict of interests are ultimately irreconcilable, regardless of positive manifestations in terms of the redistribution of wealth achieved through effective mechanisms of collective bargaining, that the logic of state action can be understood.

Whether being supportive of the redistributive potential of collective bargaining, or facilitating the reassertion of employer power, the varying and even contradictory behaviour of the state at the concrete level does not change the fundamental nature of the relationship between the owners of the means of production and those compelled to sell their labour. Therefore, although aspects of pluralist analysis have begun to engage with the state and the problematic issue of regulation – in a way reflecting an engagement with the nuances and detail of regulation derived from critical Marxist traditions – pluralists, broadly speaking remain wedded to the notion that permanent resolutions and regulatory fixes are possible: something we doubt.

The state as an actor in industrial relations: the role of regulatory spaces

How does an understanding of the regulatory spaces and the interrelation of actors within these spaces help our perspective on the state? All too often, the concept of regulation is reduced to pertaining to one specific function performed by a narrowly

defined set of actors, namely a monitoring role played by the state. However, processes of regulation may be provided by a much wider range of actors, operating within a wide range of regulatory spaces, within and beyond the boundaries of the state (Martínez Lucio and MacKenzie, 2004). Regulation does not exist in a vacuum; it operates within an economic and social context. Within this, the role of the state is obviously still of great importance. Although not coterminous with the role of the state, the way regulation emerges is shaped by the imperative to construct cohesive, consistent and complementary systems of state intervention (Torfing, 1990), involving actors and spaces both internal and external to its formal boundaries (MacKenzie and Martínez Lucio, 2005).

The function of regulation is ultimately to facilitate social and economic reproduction: attention must then turn to how the process of regulation is then conducted. To these ends, we suggest a view of the conduct of regulation through an analytical framework made up of a variety of levels, spaces and actors; producing regulatory processes that are adjacent and at times inter-locking, and both mutually supportive or potentially competing (MacKenzie and Martínez Lucio, 2005, 2014). Regulatory spaces represent the boundaries of influence of regulatory processes. Within this regulatory space, each actor will have their own domain - their own 'sphere' of jurisdiction where they are the sole actor. For instance management and trade unions interact within a regulatory space, but each actor has their own sphere of jurisdiction. The boundaries of regulatory spaces may overlap (for example in terms of social reproduction, the family is a key institution that operates alongside, and may at times overlap with, the education system, and indeed the boundaries between the two may alter over time, perhaps due to shifting social needs or changes in political agendas). Hence, any conceptualisation of regulatory actors must be sensitive to multiple roles and the diverse spaces and spheres in which they operate. To these ends we have built upon, and extended, Hancher and Moran's (1989) own development of Crouch's (1986) notion of regulatory space. However, we maintain that these spaces are not just national and macro specific, they exist and operate at numerous levels, with a variety of spaces interacting and overlapping, with some actors spanning multiple spaces.

The role of the central state provides the obvious starting point. Although there are important national variations, in the European context this has tended to reflect the various institutional manifestations of the Keynesian Welfare state (Tomlinson, 1991), often pursued through concertation between social actors (Schmitter, 1974; Compston, 2002). Corporatist concertation could entail the transfer to other sites and sharing of regulatory roles, and thus the inclusion of other actors within a regulatory space previously monopolised the state. This may have reflected actor capacity problems of state bodies, due to finite resources and growing demands on the Keynesian Welfare State in the latter decades of the 20th century (Compston, 2002), thus creating additional spaces of regulation.

Hence, discussions of the state need to be alert to the role of bargaining and negotiation not just in terms of substantive outcomes but of process as well. Actors can, up to a point, 'negotiate' the boundaries of their roles and their presence. Depending on the resources and legitimacy of these actors, negotiations can shape the nature of the state in a given context. These roles can be in relation to the overall control of sectors and discrete areas of the economy. Similarly, space can be renegotiated at the level of the organisation and the regulation of employment

relations, in terms of jurisdiction over the governance of wages or labour market supply, for example (MacKenzie and Martínez Lucio, 2005). The boundaries between these levels and the relationship between actors occupying various regulatory spaces may vary in terms of context and over time, but their inter-relationships are vital to understanding the complete picture of regulation and its changing patterns (Tomlinson, 1991; Jessop, 2002: 61-68). These various levels, in terms of peak organisations, corporate entities, patterns of joint regulation at the micro level and so on, and their inter-relations, are central to national systems of regulation. Within these levels, there may be a multiplicity of regulatory spaces, sites and actors. Regulatory jurisdictions may overlap and be constantly renegotiated. The boundaries between regulatory spaces may be fluid and contested. Regulatory responsibility may transfer between existing actors, or to new entrant actors. This process of transfer may be negotiated and consensual in nature or it can be coerced and based on a variety of interventionist measures – what we term ‘colonisation’ (MacKenzie and Martínez Lucio, 2005, 2014).

To break this down further, within regulatory sites the logic of reproduction is based on the establishment of order and regularity, in terms of establishing shared rules and sustaining consistent decision making processes. One outcome is the ongoing reproduction of the regulatory process itself, its continued efficacy and the maintenance of the conditions achieved through the establishment of governance mechanisms. Secondly, such arrangements will have specific regulatory goals, which may reflect certain political agendas and explicit interests. These specific regulatory goals ultimately contribute to the legitimacy and toleration of one regulatory actor by another, and can act as a measure of actor capacity. Continuity of the regulatory actor may be contingent on the successful achievement of these broader outcomes. In cases where such conditions are not realised then a re-alignment of actors and regulatory spaces is possible in a manner that involves the marginalisation, displacement, and even elimination of specific actors, in material and ideological terms (MacKenzie and Martínez Lucio, 2005, 2014). Alliances may emerge between actors that are antagonistic towards others. These may be either aggressive or defensive in terms of displacing other actors, or resisting their own displacement, through direct elimination or through the redrawing of boundaries between regulatory spaces.

The uses of such an approach are varied. Firstly, one can begin to understand the role of negotiation and accommodation within regulatory processes and change. Within the composition of regulation, there are alliances – implicit and explicit, informal and formal – that facilitate the manner in which regulatory activity is pursued. However, this is not a reified view of negotiation as an act of bargaining and formal exchange: negotiations may be implicit, tacit and based on an acceptance of pre-established roles and norms. This in part draws from but differentiates such an approach from the pluralist perspective because it acknowledges the role of negotiation but in a more strategic, political and competitive manner. This approach is also distinct because it allows for an analysis of change and tension within these relations and an acknowledgement of structural limitations.

Actors and regulatory spaces inside the state

The state is composed of repressive forces, forms of representation, modes of intervention, legislative functions and others (Jessop, 2002). That each of these have a distinct administrative structures, personnel and even cultures is clear: that they are 'managed' from a co-ordinating centre in the form of government is also the stuff of basic politics textbooks. However, the process of intervening in a coherent and congruent manner, the challenge of co-ordinating such intervention, and the way in which state agencies form effective working relations with other actors, can not to be taken for granted. For all its bureaucratic panache, administrative idealism and military/repressive resources, in many respects, the post-war welfare state in a range of developed countries, was based on a series of accommodations and negotiations across a range of diverse and disparate regulatory spaces. In this respect, the 'post-war settlement' meant not solely a political compromise between the peak organisations of labour, capital and the state, but a tapestry of compromises across numerous regulatory spaces and involving a range of actors from inside and outside the state. Within this context, different agencies of the state established their own *modus operandi* and alliances within regulatory spaces. Hence, the state consisted of a variety of relatively autonomous institutions working on different aspects of economic and social regulation and reproduction. Moreover, as Jessop (2002) has pointed out, changes within the state required political projects and strategies for the reformulation of its internal boundaries, as developed as those targeted to its external roles.

Thus, the *process* of state intervention is an issue even before we think in terms of its effects and outcomes. The logic applied to regulatory spaces is therefore applicable to the state's apparatus itself. Institutions of the state may need to engage in alliances and negotiations within regulatory spaces, to construct common projects and create synergies that facilitate the flow of expert knowledge. If we look back at Kelly's (1998) analysis of the British miners' strike, we find that a complex programme of planning and institutional re-alignment was required. This is not to suggest an analysis of the state that separates it from the broader economic processes and social relations that underpin its activities. The framework for understanding regulation outlined above, suggests we analyse such internal state relations in the light of the external political and economic relations at the macro and micro level.

Projects of regulatory change therefore often also reflect the outcome of the restructuring of the internal operation of the state as well as the redefinition of its presence within the economy and society: the shift away from previous welfarist, Keynesian, or corporatist approaches therefore required a complex and concerted set of acts (Gamble, 1988). There is something curious about the multidimensional nature of recent experiences of regulatory change and the reshaping of the realms of the public and private spheres (Crouch, 2011). Post-1979, regulatory change in the UK shifted from a strategy typified by negotiation to one characterised by the colonisation of economic and social regulatory spaces, often by factions of capital (see MacKenzie and Martínez Lucio, 2014, for a review of these developments and related debates, notably regarding colonisation). This included both phases of deregulation and aspects of current re-regulation. The process of colonisation has involved an amalgam of factors, both external and internal to the formal boundaries of the state. Processes of privatisation, marketization and other structural reforms can be viewed in terms of the realignment of regulatory spaces internal to the state, prosecuted across a series of political projects.

Firstly, it involved a cultural project privileging or stigmatising specific actors, such as trade unions. More recently, there has been a recurrence of images of public employees as ‘protected’ and unmotivated being utilised by political elites as a means of legitimising spending cuts and pension reforms, echoing similar processes employed in the 1980s to garner support for privatisation.

Secondly, this cultural project has been supplemented by an assertive use of legislation and coercive apparatus. In the United Kingdom during the 1980s, anti-trade union legislation was developed that limited the right to strike, often with reference to individual rights – or particular neo-liberal views of rights. Yet this political framework is not in itself enough. It requires a corresponding *set of parallel actors* (new management cadres for example) that concurrently exert pressure on regulatory actors and customs.

Thirdly, there has been the exposure of internal regulatory actors to external ‘market’ pressures, through processes of privatisation, subcontracting and shifts in organisational boundaries (MacKenzie, 2002). The representation of the ‘market’ within the state, and the imperatives it is perceived to unleash, has been a vital ingredient of change in the past few decades. Privatisation processes included the assertion of a prevailing rhetoric regarding what the new market requires, and what new forms of organisational behaviour were now relevant to the state and its structures (Crouch, 2011).

Fourth, there have been alliances with external bodies propagating new forms of management practices. Many public organisations have experienced marketization programmes that have invoked the support new forms of worker representation and individual consultation, as used – to an extent – in the private sector. This is seen to counter the established collective voices in the public sector, based on trade unions. The colonisation of regulatory space by encroachment on employee representation through management-supported systems has been a prevalent feature of privatisation, and marketization within the boundaries of the state. Externally, new ways of acquiring knowledge of the spaces, subjects and processes of regulation through the emergence of business schools, consultancies and think-tanks has been a central feature of new public sector management training. The ‘efficiencies’ and ‘effectiveness’ of the private sector are summoned through the almost evangelical qualities of business school education, with the aim of unsettling and de-legitimising the traditions of the public sector. Moreover, state agencies can be proactive in attempting to re-shape the regulation of the employment relationship, both within and beyond its boundaries, through conciliation and advisory work; providing mediators and even trainers with ‘expert authority’ in the practice of industrial relations can be an effective way of promoting particular agendas (Martínez Lucio and Stuart, 2011).

Finally, in terms of indirect regulatory interventions, there has been the facilitating of an emergence of new state-sponsored private sector actors entering public regulatory spaces. The UK state has fostered synergies between different regulatory and public bodies with private actors. For example, Almond et al’s (2015) work on regional governance and FDI in England shows local state actors and multinational corporations engaging jointly in public roles in the context of FDI initiatives. The state has re-aligned its internal economic institutions, educational agencies and others,

through new public agencies involving private actors in designing training initiatives, new regional coordination systems and dialogue mechanisms. Yet, a role for organised labour is not always systematically included in these initiatives. Therefore, such regional developments may involve state sponsored colonisation of regulatory space; governmental projects may support new entrant actors and undermine other more established ones. Processes of redressing the internal balance of the state can provide space for multinational corporations as new entrant actors displace disfavoured areas of the state apparatus (Clark, 2000). Over time these private actors can take on different trajectories and different agendas: they can also dominate and politically capture, or colonise such spaces (Majone, 1994; Crouch, 2013). Consequently, what appears to emerge is a greater challenge to the state's democratic features through these commercial links (Streeck, 2017: 97-165), which may trigger countervailing control strategies from the centre. New forms of financial auditing systems, hierarchical controls through performance targets and a 'managerialising' of the local state's internal administrative culture can be seen as manifestations of the central state reasserting control over the activities of these local spaces (Cox and Nilsen, 2014:148).

Conclusion

The state is not a homogenous, unitary entity. We need to separate out levels of analysis between "the state" as a unitary abstraction and the state as a collection of institutions organised around various projects and potentially competing agendas. The tendency to treat the state as a unitary actor comes from the conflation of levels of abstraction. At a higher level of abstraction, analysis is concerned with the role of the state vis-a-vis capital and systemic reproduction. At such a level of analysis, there is logic in abstracting the state to the point of a unitary actor. The problem is that many observers, particularly within the industrial relations field, who are working at lower levels of abstraction, continue with this conceit. However, by the time analysis has descended to a level of abstraction where the relationship between unions and employers, or their associations, are the central concern, it becomes more problematic to treat the state as a unitary actor, although this does not preclude the possibility of guiding agendas or attempted projects to create elements of consistency and cohesion.

To understand the state we need to see how it relates to broader interests and social actors: how its autonomy is configured within a capitalist context. We also need to ensure that we then understand how alliances and boundaries are established: how the state's role in regulatory spaces and alongside other regulatory actors develops in operational and strategic terms. It is not simply a case of seeing the state in singularly capitalist-functionalist terms but as sites with competing relations and interests that are aligned in various ways to dominant players and interests, therefore viewing capitalism itself as a contradictory and in many respects incomplete context. Such issues seem to be less prevalent in the current debates on the state, suggesting the need for more nuanced understandings of regulation.

Finally, we need to see how the internal boundaries of the state are secured, and changed: how is there an increasingly complex presence of – even external – regulatory actors within the state's boundaries? Internally, different patterns of regulatory change involve and affect different elements of the state – requiring them to

enter into alliances for attempts at or defence against a new politics of intervention, in the form of the colonisation of regulatory space.

Returning to political science perspective on pluralism provides insight into the competing interests of elements of the state: struggles for control over resources and service provision between the local and central state; territorial competition for dominion between ministries; jurisdictional conflicts between the legislator and the judiciary. Inter alia, such examples demonstrate that the state is both subject and object of intervention in terms of its realignment of boundaries of regulatory space. To this extent we have to talk about regulatory spaces *within* the state and not just the state *within* regulatory spaces. Hence the state can be viewed at three levels: the state as a reflection of the social relations of capitalism and its role in the reproduction of these social relations; its intervention and interplay within regulatory spaces within which it is one actor amongst others; and its internal constituents and processes – the spaces within which alliances and contestation takes place. This way we can see how patterns of change in terms of regulation (regulation, de-regulation, and re-regulation) are actually politically structured and developed. We can avert the simple binary of assuming that the state being involved or not is synonymous with there being or not being regulation.

While we recognise that the state reflects the social relations of the capitalist mode of production and therefore the logic of accumulation manifest within them, albeit in a contradiction ridden and crisis prone way, we also argue for the merits of recognising the articulation, and re-articulation, of the hegemony of the interests of capital as a complex process (building on the work of Jessop who - beyond Howell (2005) - is rarely engaged with in the industrial relations discipline). Negotiation and accommodation with other actors may be seen as a necessity given the panorama of regulatory spaces and pre-existent social actors, and the limits of the state's organisational capacity.

Yet we should not reify negotiation, especially formal established bargaining processes, as a feature of regulation. Negotiated order is but one feature amongst the panoply of processes reflecting relations between actors in industrial relations. The reality is that our understanding of regulation and regulatory space need to be linked more closely to a discussion around the importance of conflict and difference, and not simply the negotiation of order as an end in itself. It is also important to recognise that conflict and order are again as much features of the internal workings of the state as they are its external role. As within any large bureaucratic structure, made up of a multiplicity of individual units that essentially compete for influence and resources, there is the potential for the pursuit of sub-goals. Such goals may also become sub-optimal goals through the focus on operational issues within individual state bodies rather than the strategic policy concerns of the executive. In turn, individual units may become essentially self-interested and begin to prioritise goals associated with organisational survival over substantive goals (MacKenzie et al, 2012).

In policy and history terms, it means that should we wish to study the state in industrial relations, or human resource management, in terms of regulation, de-regulation and re-regulation (regulatory change, as we prefer to call it) then we need to be alert to the subtleties of state roles and indeed the increasingly complex apparatus of the state itself. There have been important changes in relations between

state, capital and labour: especially the growing role of capital as a regulatory actor - and the way capital is colonising the regulatory spaces of industrial relations, at various levels. It also means that when we talk of re-regulation we need to understand which aspects of the state are involved, and how they are involved. In the end we should address the issue of state in a way that best helps understand what it is the state does, with whom and how it is done. We need to highlight how critical links between the state and other socio-economic actors shape the nature of change in employment and economic relations: to these ends we should readdress the state within the industrial relations tradition, drawing on a new wave of work within the field, and with greater respect for the work of observers within political science and political sociology.

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