

**STATES MAKING & MARKET
BUILDING FOR THE GLOBAL SOUTH:
THE DEVELOPMENTAL STATE
VS. THE REGULATORY STATE?**

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Abstract: The developmental state and the regulatory state are often portrayed as two antagonistic forms of state; and it is often argued that the rise of the regulatory state led to the decline or at least the stagnation of developmental institutions in general and the developmental state in particular. This paper contests this conventional treatment of these two forms of state and clarifies some ambiguities around their shifting meanings. This should allow us to think about the regulatory and developmental states of both the North and the South as institutional layers in long, ongoing parallel processes of state building, market building and forging state–market relations. It deductively defines the ‘developmental’ and ‘regulatory’ states in order to free them from the confines of certain era, nation, region and sector. Applying a polymorphic institutional approach, it asserts that all states are both developmental and regulatory at the same time. We need to conceptualize them not as either this or that, but as different morphs of the state, representing varieties of regulatory and developmental states. Their relationships are conceptualized as constitutive rather than as trade-offs, and the analysis adopts a polymorphic rather than a monomorphic approach. We need concepts of forms of state that can travel further to help us capture the importance of both developmentalism as an institutional imperative and regulation as a policy instrument in both the North and the South. Working across these two distinct bodies of literature, the paper clarifies major concepts and reduces ambiguity, which may help knock down the walls between regulatory and developmental scholarships and help develop a polymorphous institutional theory.

Key words: regulation, developmental state, regulatory state, regulatory capitalism, political economy

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Scholars sometimes complain that it is especially difficult to innovate in development studies. I am not sure that this is correct. Yet even if it is correct, development studies are not devoid of conceptual confusions. One of these confusions derives from the antagonistic positioning of developmental and regulatory states as antagonistic and mutually substitutive forms of state. A second confusion derives from methodological nationalism that strives to characterize states by a single monomorphic definitive article '*the*'. A third stems from a monomorphic conceptualization of the shift from a developmental state to a regulatory state as one result, sometimes the main result, of neoliberal transformation, as if the developmental state was not also about market building and market nurturing. The three have all resulted with one basic misperception of the continuity and similarities in the logics of the developmental state and the regulatory state. The invisible walls between the scholarly communities of regulatory governance on the one hand and developmental studies on the other had allowed these confusions to continue for too long. What I argue here is that the Developmental State and the Regulatory State represent an ongoing and largely continuous process of state and market building. The ultimate goal of the regulatory state is to allow, enforce and promote development and in this sense the regulatory state is a constitutive element of the developmental state.

The origin of the confusion around the relations between the regulatory state and the developmental state may be traced to some of the founding scholars of both the developmental governance and the regulatory governance fields. Thus, in the developmental field it was the late Chalmers Johnson (1982) who first coined the notion of the developmental state and first contrasted it with the regulatory state. In the field of regulatory governance, it was Giandomenico Majone (1994; 1997) who in the 1990s practically reinvented regulation as a European political science enterprise. What Johnson initially contrasted in a static, monomorphic manner as two opposite forms of state was later portrayed by Majone as a *shift* from one type to another. The age of the rise of the regulatory state, so the argument goes, is therefore the age of the

decline of the developmental state. The rise of the first and the decline of the second, it is now widely held, are in turn causally associated with the rise of neoliberalism and the belief in the superiority of markets as mechanisms for maximizing the public good.¹

Johnson's and Majone's works were, and still are, highly influential in their respective fields. The fields of public policy, political economy and developmental studies would have been considerably poorer without their contributions. Nonetheless, their methodological nationalism, their monomorphic approach, the contrast they draw between the regulatory state and the developmental state and their understanding of the regulatory state as a minimal state hinders further theoretical development and exchange between these two bodies of scholarship. This situation is perpetuated by the mutual isolation of the two scholarly communities and by the layers of ambiguity created through conceptualizing these forms of state in a trade-off manner. In the second and third generations of developmental state and regulatory state literature, things are even muddier. It is not only that the two states are contrasted as if they are not both mainly about market building, market nurturing as well as state building and state nurturing. A critical rethinking is needed of the relations between development and regulation. Johnson clearly acknowledges that regulation is an instrument of the developmental state. Similarly, Majone certainly had development in mind when he studied the forms and logic of the European integration process. Yet the scholarly traditions that they launched rarely meet (to assess the extent of the divide, just cross-reference the authors' names, 'Majone' and 'Johnson', in any citation database). We need to clarify the origins, use and definitions of the two bodies of literature in a way that will help us to understand regulation as instrument of development.

At the same time we also need definitions of the regulatory state and the developmental state that can travel and be useful beyond the post-war and the neoliberal eras and beyond the tendency to treat the global South as *essentially* different from the global North. The assumption of essential differences allows us to think about the developmental state as essentially Southern and about the regulatory state as essentially Northern. But, while *the modern state* originated in Europe and therefore in the North, and while European state practices are highly influential, there is nothing that makes the developmental state more Southern than the regulatory state.

The challenge facing the South as well as the North is to nurture both the regulatory state and the developmental state, while the challenge facing scholars is to see the states of the South as a source of positive knowledge of regulation and development rather than only an object of study (Dowdle, 2013).

I call the approach that contrasts these two forms of state a ‘tradeoff approach’. As an alternative I offer a ‘constitutive’ approach, whereby the regulatory state and the developmental state mutually constitute each other and where regulatory governance and regimes can be thought of accordingly as constitutive for developmental governance. The aims are developmental, the tools and the conflict over the distributive implications are regulatory. The context is that of the sometimes ambiguous and sometimes contradictory and unintended consequences of neoliberalism on the one hand and the search for a growth strategy on the other. The arguments made here allow me to emphasize more generally the interdependency of state and economic institutions: state *with* markets, politics *with* economics and an era of globalization *with* the state, rather than *against* and *instead of* the state. My analysis of the state is eclectic by design. I draw on Polanyi (1944 [1957]), on the literature about the relative autonomy of the capitalist state (Poulantzas, 1969; Jessop, 2002; Hay, 1999), on the Weberian historical approach of Mann (1993), and on the example of forms of state by Caporaso (1996) in order to demonstrate the polymorphous nature of the state in particular and institutions generally. If institutions (states included) are indeed polymorphous, then transforming one kind of monomorphic state (e.g. the positive state) into another (e.g. the regulatory state) is logically impossible and the effects of neoliberalism are less clear than is often assumed. At the same time, if institutions are polymorphous then variations in state forms across polities and within polities are abundant. Comparative capitalism as a research field needs to look at variations of forms within states and not only across them.

This paper is structured in six sections. The first section discusses the origins, characteristics and shifting meanings of the concept of the developmental state in the current literature; and it suggests that the current literature fails to distinguish between commitment to development, the imperative of developmentalism, and a set of conjectural causes and institutional features that make development possible. The

second section offers an alternative conceptualization and definition, which frees the term ‘developmental state’ from its confines and allows it to express the developmentalism, which is embedded in the institutional DNA of the capitalist state. The third section extends the discussion to the development of the concept of the regulatory state. The fourth section examines the significance of juxtaposing developmental and the regulatory states. The fifth section develops a constitutive approach to the polymorphous capitalist state. The sixth section concludes.

I. What is the Developmental State?

The concept of the developmental state first appeared in 1982 in Chalmers Johnson’s *MITI and the Japanese Economic Miracle: The Growth of Industrial Policy, 1925–1975*. Johnson introduced it in order to distinguish between different types of capitalism and to challenge conventions on the role of the state in the economy. The Japanese developmental state, Johnson argued, was a central actor in shaping the country’s ‘economic miracle’. In so doing he was challenging laissez-faire accounts, which either tended to minimize the role of the state and politics in development or made them a major obstacle to growth and development (Johnson, 1982; 1999).² The developmental state was distinguished from the regulatory state and the “plan-rational” Soviet-type state. Johnson’s developmental state model includes four other elements that together define much of the first generation of ‘developmental state studies’ (Woo-Cumings, 1999; Weiss, 1998; 2003). The first element is the existence of a small, inexpensive, but elite state bureaucracy, staffed by the best managerial talent available in the system, which made development a priority. The second is a political system in which the bureaucracy is given sufficient scope to take the initiative and operate effectively. The third is the perfection of market-oriented methods of state intervention in the economy. The fourth is a pilot organization like the Ministry of International Trade and Industry (MITI) (Johnson, 1982, pp. 315–20). Most of the scholarly interest in the following years focused on the elements of Johnson’s model and only meager attention was paid to the concept of the development state itself. In other words, the debate was mostly around the lessons from Japan and their applicability beyond East Asia. The concept of the state and the normalization and rationalization of its developmental role were accorded secondary or even tertiary importance.

Nonetheless, the developmental policy community thrived on the concept, which was itself celebrated. Thus, in a reflective collection on the concept Meredith Woo-Cumings, the editor, characterized the term ‘developmental state’ as a shorthand for the seamless web of political, bureaucratic, and moneyed influences that structured economic life in capitalist Northeast Asia (Woo-Cumings, 1999, p. 1). Johnson’s contribution to the same volume tells the story of the volume and reveals how his publisher urged him to generalize what was a case study into a model and thus show how the concept evolved in an inductive manner. Much like many other adjectives describing the state, the concept of the ‘developmental’ state was rather thin on theoretical definitions and thick on characterizations. Unlike other strands of the comparative capitalism literature, the notion of the developmental state for a long time did not give rise to an extensive literature on a variety of types, which limited the theoretical discussion. So we need to elaborate this ‘shorthand’ to clarify what the developmental state is and what it is not. I focus on six issues: geographical coverage of the notion; level of development; performances; characteristics such as autonomy, centralization and authoritarianism; specific policies such as trade orientation and foreign direct-investment policies; and varieties of the developmental state.

First, studies tend overwhelmingly to apply the concept of the developmental state to East Asia, and thus exceptionalize the East Asian experience and contextualize the logic of the developmental state. To address this somewhat restricted account scholars increasingly expand the discussion well beyond East Asia, dealing not only with the experience of relatively poorly performing regions such as Latin America, Africa and the Middle East but also that of countries such as France (Loriaux, 1999), Israel (Levi-Faur, 1997; Maman, 1999; Breznitz, 2007; Krampf, 2010), Ireland (Ó Riain, 2004) and even the United States (Block, 2008; Schrank and Whitford, 2009). In other words, they extended the notion of the developmental state from the South to the North. Second, the notion of the developmental state is mostly applied to developing countries which had a successful growth experience. Nonetheless, some of the most successful state-led growth experience is in the developed countries of the North. While conditions, trajectories and performances differ, we should have one social science rather than two, divided according to dichotomous categories. Third, it is

common to define developmental states with reference to their growth performance. The assumption, sometimes implicit and sometimes explicit, is that developmental states are successful states. This was the direction taken by Peter Evans, whose *Embedded Autonomy* (1995) gave a new edge to the theory of the developmental state. Evans departed significantly from Johnson's definition. For him a developmental state is one that presides over industrial transformation and can be plausibly argued to have played a role in making it happen (Evans, 1995, p. 12). 'We know a developmental state,' he wrote, 'when the consequences of its actions promote rather than impede transformation' (1995, p. 44). Yet outcomes do not necessarily correlate with priorities, aims and the essence of institutions. We should avoid tautological strategies and disconnect, at least conceptually, policies and institutional priorities that are aimed at development from developmental outcomes. Developmental states can therefore fail in the same way that welfare states and regulatory states can fail. This does not mean that they stop being 'developmental' or 'welfare' or 'regulatory' states, just that their commitment to growth, welfare or fair regulation is fruitless. Outcomes should be left for empirical and theoretical investigation, and not be part of the definition.

Fourth, the developmental state is too often identified by specific state characteristics derived from the particularities of East Asia and the conditions of the post-war era. This has the effect of coloring the developmental state with the characteristics of the region and the specific era. These characteristics include, inter alia, hierarchical bureaucratic structures and policies that conform to the market. Still, there is no reason to treat these characteristics as defining features. In other words, we still need to identify the conditions which produce a successful developmental state. Fifth, the developmental state is too often identified by specific policies such as import substitution (as opposed to export substitution) or attitudes toward foreign direct investment strategies. Here again we need to distinguish between the concept and the particular tools and strategies that some states have adopted, in this or some other context or era.

The sixth and last issue is that the notion of the developmental state should be open enough to allow us to distinguish between types or varieties of it, much like our ability to discuss and assess varieties of welfare states. It is futile to look for *the*

developmental state. Two examples among many demonstrate the direction in which the notion of the developmental state should be moving. First, consider the varieties of old and new directions, as clearly seen in the works of Block, Ó Riain and Trubek. Ó Riain, in particular, notes that the most effective developmental states of the 1990s were transformed, from the bureaucratic model that characterized the East Asian economies to the flexible version. The flexible developmental state, he wrote:

... is defined by its ability to nurture post-Fordist networks of production and innovation, to attract international investment, and to link these local and global technology and business networks together in ways that promote development. The ability is sustained by the multiple embeddedness of the state in professional-led networks of innovation and in international capital, and by the state's flexible organizational structure that enables the effective management of this multiplicity. (Ó Riain, 2000, pp. 158–9)

The term 'new flexible developmental state' is increasingly attractive as a framework of analysis. In Fred Block's formulation, 'flexible' is replaced with 'network' and the order of adjectives changed. His 'Developmental Network State' is grounded in Europe and the United States. It is democratic rather than authoritarian because it helps firms develop innovative products and processes rather than constraining trade or investment. The notion of the new developmental state is nowadays most prominent in David Trubek's work. Trubek's analysis of the relations between the rule of law and development lead him, of course, to focus on the state. His developmental state is less centralized and envisions new forms of governance and law that are more experimental, participatory, flexible, multi-level and revisable (Trubek, 2011; Trubek and Trubek, 2007). The research projects of Ó Riain and the Trubeks therefore go in the same direction of envisaging the new developmental state with less emphasis on the role of Weberian forms of bureaucratic structures and procedures. What is even more notable and directly relevant to the subject of this paper is that Block, Ó Riain and Trubek are extending the reach of the developmental state from the Global South to the Global North.

A second example of the effort to develop a perspective on the varieties of the developmental state is the notion of the competition state. The concept was first developed by Phil Cerny (1990; 1997) without explicit connection with East Asia or the developmental state literature. Cerny's original formulation of the notion, much like Majone's, associated the competition state with the dictates of globalization and a retreat of positivist forms of the state and the rise of neoliberal ones. Why is the analysis of the competition state relevant to the discussion of the developmental state? And why did Cerny distance his concept from the developmental state literature? To answer these questions, we need first to see competition as a strategy of development. The notion of the competition state, as I understand it, suggests that competition is designed, nurtured and enforced by a state's organizations and regimes and not necessarily or exclusively by market rules, market actors and market forces (Levi-Faur, 1998).³ The logics of the competition state and the developmental state are therefore similar – they are both forms of a capitalist state with an orientation toward development. Both are driven by the imperative for growth in capitalist democracies. They both capture the central role of the state in the financial and market aspects of social relations and the aspirations of both elites and non-elites for material welfare. Note, however, that the developmental state does not confine itself to a single strategy of development, as the competition state does. Prioritizing development does not necessarily suggest competition. In this respect the competition state can be thought of as a type or variant of the developmental state. But this can't be done if we take a narrow East Asian and post-war view. In other words, Cerny's example suggests that the old usage of the notion may make the developmental state obsolete.

All in all, the definition of the developmental state should not be associated with a region, a stage of development or a successful growth performance. I also suggest that the term 'developmental state' should not be associated with particular industrial strategies (such as import substitution or export promotion) or a particular attitude toward foreign direct investment. The theoretical developments toward a network or a neo-developmental state that adopts the governance and networks perspective as an alternative to the model of merit bureaucracy and state-led administrative guidance reinforce my argument about one of the most basic characteristics of the 'old' developmental state literature. The core conditions for successful development are not strategies or state structure but the governed interdependence in relation to society and

the economy and the orientation of the polity in general – state, economy and society – toward development.

II. An Alternative Definition of the Developmental State

In this section I suggest an alternative definition of the developmental state. It is not necessary to accept my definition in order to agree that the current literature and definitions of the developmental state are too ambiguous. Nor does one have to accept the definition, either in full or in part, in order to recognize constitutive relations or at least overlaps between the regulatory state and the developmental state. Nonetheless, I do hope that the definition I propose here will make more sense than Johnson's essentialism and Evans's performance-oriented approach. I define the developmental state as a state with a dutiful and credible commitment to development. The duty refers to the expectations of citizens and other stakeholders who perceive the state as responsible for development, however defined. Credibility is an acquired attribute, which state elites have to gain in order to fulfill their duty. Credibility means that rhetorical commitments are reliable and trustworthy and that the subject of credibility has, in the eyes of a diverse set of domestic and transnational actors, the capacity to deliver. At the same time development is also a duty of state elites who are accountable to these actors and derive their legitimacy from this commitment and duty. The notion of dutiful and credible commitment therefore helps me to capture the significance of development in the developmental state and its relationship to accountability. The developmental state has a responsibility, a duty, to deliver development. This responsibility can be delegated to market and social actors, but the state is nonetheless, even in neoliberal polities, the developmental institution of last resort. This holds equally for both the Global South and the Global North. Legitimacy rests on development performances in both.

Let me now note and clarify four aspects and implications of this definition. First, like Johnson's (1982; 1999), this definition allows me to emphasize the priorities of the state. Unlike Johnson, I emphasize both social expectations (duty) and acquired legitimacy (credibility). In addition, I do not suggest that development is necessarily the highest priority of the state. The many adjectives used to define states, such as

developmental, welfare, regulatory and risk, are indicative of states' multiple dimensions and priorities. Johnson, while clearly aware of the plurality of the functions and logics of the state, wanted to emphasize one dimension, and therefore implicitly assumed that the essence of the state could be defined by its highest priority without considering the extent to which priorities are complementary or in conflict. His concept of the developmental state therefore necessitated dichotomous categories. A country is either developmental or not, depending on its highest priority. But then it is only reasonable to ask: why choose the extreme position? What if a state puts other concerns before development? Does that automatically nullify the commitment to development and turn it into a different type of state? I think not, and I also think this concept is partly responsible for the long time it took for a variety of developmental state literatures to emerge.

Second, the most influential alternative definition of the developmental state has been offered by Evans (1995). His developmental state is one that presides over industrial transformation and can be plausibly argued to have played a role in making it happen (Evans, 1995, p. 12). He explicitly (if only in a footnote, 1995, p. 255) rejects Johnson's concept. Instead he adheres to results or performances as the best signifier. 'We know a developmental state when the consequences of its actions promote rather than impede transformation' (1995, p. 44). I accept that a credible commitment to growth depends on successfully delivering it, and I agree that autonomous states are more likely to deliver than dependent ones; but I do not include these expectations in the definition and believe that delivery should be matter for empirical investigation.

Third, my definition does not include a preference for a particular strategy of growth, preconditions for autonomy or instruments of growth (e.g. public ownership, fiscal subsidies, or regulation). Some instruments are better than others, and so are some strategies. Critical to the Block–Ó Riain–Trubek project of the neo/new/flexible developmental state is the definition which allows the state to be decentered/hidden/flexible.

Fourth, my definition is deductive. It conveys the idea that all states are expected to be committed to growth and that that both the political future of state elites and the future of the state itself depend on growth. Growth legitimizes action and political power

even if political culture perceives the market as the primary instrument of growth. Capitalism, with its two centuries of unprecedented even if unequal and often unsustainable growth, derives its legitimacy from this growth. The way forward is no longer either comparative capitalism on the national level or comparative capitalism that focuses on one morph of the state. I will elaborate this argument in the sections that follow the discussion of the regulatory state.

III. What is the Regulatory State?⁴

We live in an age of regulation, not in an age of deregulation. This means that rule making, rule monitoring and rule enforcement by private and public bureaucrats are increasingly important instruments and institutions in the governance of capitalism (Levi-Faur, 2011). States and other organizations invest more in regulation than in other instruments and functions such as the provision of goods and services. They are increasingly involved in outsourcing and collaborative enterprises that necessitate the application of, and growing reliance on, regulation, and they find ways to increase their power and influence via regulation when and where fiscal resources and direct expenses are constrained. Elsewhere the present age has been called the age of regulatory capitalism, suggesting the co-expansion of public and private regulation at all levels to an extent that makes capitalism highly dependent on regulation (Levi-Faur, 2005; Djelic and Sahlin-Anderson, 2006; Braithwaite, 2008). The most important institution of the age of regulation is the regulatory state.

The notion of the regulatory state here and there in the literature but with little centrality for the analysis. For example, Dahl and Linbloom's *Politics, Economics and Welfare* [1953] mentions the term in passing as a form of control where the state rules out relations that rule out subjective equality (p. 124). Most visibly however, the term is visible for the first time in the scholarly discourse in the title of James Anderson's book *The Emergence of the Modern Regulatory State* (1962).⁵ Anderson analyzed governmental and bureaucratic expansion through specialized independent agencies such as those that were set up in the US 'progressive era', from the 1890s to the 1920s. He did not, however, define or conceptualize the term. Nor did he employ it in a comparative or theoretical manner. His main effort was devoted to understanding the organization and expansion of the administrative state at the federal

level in the context of the revolt against the power of big business. The term ‘regulatory state’ caught on only slowly in the United States, and its use was confined to scholars who studied American administrative law and American public administration (Sunstein, 1990; Rose-Ackerman, 1992). It was relegated to the subtitles of major works. Thus, Cass Sunstein’s book *After the Rights Revolution* (1990) is subtitled *Reconceiving the Regulatory State*. Similarly, Rose-Ackerman’s *Rethinking the Progressive Agenda* (1992) is subtitled *The Reform of the American Regulatory State*. The reform she has in mind is that of ‘the modern regulatory-welfare state’ (1992, pp. 3, 190) and reflects the fact that in the post-war period the distinctions between regulatory governance and service provision at the federal level became blurred even in the United States⁶.

A change in the fortune of the term followed the publication of the fourth edition of Seidman and Gilmour’s *Politics, Position and Power: From the Positive to the Regulatory State* (1986). Like his predecessors, Seidman did not define the regulatory state, but there was something new in his understanding of the concept. He saw it not as one which is connected necessarily with the rise of public administration in the progressive era or as the product of a social movement against big business, but as one which is closely connected to outsourcing and privatization. By the end of the 1970s the regulatory state was, for both opponents and proponents, a command-and-control or hierarchical and progressive state which was born – at least at the federal level – at the end of the nineteenth century as a result of populist political struggles against big business. Seidman, however, used the notion of the regulatory state to make sense of US President Ronald Reagan’s ‘revolution’ (Seidman and Gilmour, 1986: 119). The context was no longer that of popular movements but of a general dissatisfaction with the administrative state, which was followed by the outsourcing of administrative functions by the federal government. Whereas Anderson equated the regulatory state with the independent regulatory agencies at the federal level that were established in three waves from the end of the nineteenth century onwards, for Seidman the rise happened after the mid-1970s. In other words, Seidman and Anderson understand the regulatory state in different ways, reflecting different periods and different characteristics. Still, the regulatory state was not central to Seidman’s work, and he did not develop it further. In the fifth edition of the book

(Seidman, 1997) he dropped the original subtitle and instead opted for *The Dynamics of Federal Organization*.

The term ‘regulatory state’ appeared on the scholarly agenda in Europe in the 1990s. Seidman’s transition from the positive state to the regulatory state had attracted the interest of Giandomenico Majone. In a series of path-breaking papers, Majone set the agenda for the study of regulation, first in the European Union (EU) and later well beyond it, making the concept common currency in social science discourse (Majone, 1991; 1994; 1997). In his 1997 paper, he explicitly adopted Seidman’s subtitle and transformed it into a title: ‘From the Positive to the Regulatory State’.

Majone’s conceptualization is similar to Seidman’s: limited government by proxy – a state that puts administrative and economic efficiency first. Majone does not define the notion of the regulatory state but instead does an excellent job of characterizing the politics of regulation and of the regulatory space (building to some extent on Lowi, 1964, and Wilson, 1980, and highly influenced by the US experience; see Majone, 1991). Majone’s analysis is at the EU level, and interprets the growth of the European regulatory state in the context of the severe limits on taxation and spending in the European Union. Regulatory agencies at the EU level are not part of Majone’s conceptualization, partly because in the early 1990s the EU concentrated regulatory powers within the European Commission rather than in agencies (a radical change occurred only in the 2000s) and partly because the EU member states were only then frantically beginning to establish and reform regulatory agencies across various sectors.

Majone begins by making distinctions between the positive and regulatory state according to functions, instruments, arenas of conflict, institutions, actors, policy style, culture and accountability. To take functions first, for Majone the main purpose of the regulatory state is to correct market failures. This is contrasted with other types of state that deal directly with Keynesian macroeconomic stabilization, social welfare, risk and redistribution. In other words, the regulatory state is a rather neoliberal state. This liberal, market-correcting function is then implemented in peculiar institutions and arenas of conflict: no longer centralized, party-led and class-oriented budgetary conflicts but dozens of conflicts over the fine print of rules the understanding of

which requires a high degree of expertise in, or at least intimate knowledge of, the institutions and the implications of the rules. As the number of pages and sections of budget books continue to grow, accounting for budgetary allocations, which has always been a difficult task, has become even more complicated because rules have been adopted with, at best, only a rough estimate of their costs and benefits and without any framework of national accounts or regulatory budgets. Majone's characterization of the regulatory state as a state that aims for and encourages a move from distributive and redistributive politics to regulatory politics and policy is highly influential. Yet his characterization of the positive and the regulatory state does not allow us to distinguish between varieties of positive states and varieties of regulatory states. His notion of the positive state amalgamates the developmental state, and the welfare state into one 'positive' entity. Most important, however, his regulatory state is neoliberal in the sense that it is essentially built on problems of market failure where the major source of growth is economic efficiency via a market-led competitive order.

In the same year that Ó Riain (2000) coined the term 'flexible developmental state', John Braithwaite coined the term 'new regulatory state' (Braithwaite, 2000). Braithwaite's new regulatory state is contrasted with the old regulatory state, which implicitly preceded the 1970s. Reflecting changes introduced from the 1980s, Braithwaite's new regulatory state does more 'steering' than 'rowing', and is contrasted with the night-watchman state on the one hand and the old direct-control and hierarchical regulatory state on the other. The new regulatory state differs from the old in its reliance on self-regulatory organization, enforced self-regulation, compliance systems, codes of practice and other responsive techniques that substitute for direct command and control. The new regulatory state is therefore about the decentering of the state, 'rule at a distance', ranking and shaming and other forms of soft regulation (Braithwaite, 2000). (Michael Moran, 2000, p. 6, made similar observations at the same time yet without using the term 'new regulatory state'.) The understanding of the regulatory state as a decentered state dominates the literature. When scholars apply the notion of the regulatory state, they mean the regulatory state in the age of governance.⁷

But how should we define the regulatory state? It should be clear that we need a definition that will help us to distinguish core features from characteristics, essence from image, historical context from core features, the national from the transnational and global, and the normative from the factual. The strategy I adopt here defines the regulatory state broadly enough to allow it to be useful beyond specific historical contexts or institutional dimensions but narrow enough to allow us to distinguish it from competing conceptualizations such as the welfare state, the developmental state and the risk state. My definition does not attach to the regulatory state any positive or negative goals or aims per se. Instead, I define the regulatory state on the basis of its instruments of control; that is, the regulatory state is a state that applies and extends rule making, rule monitoring and rule enforcement either directly or indirectly in a consistent, reflexive way. Rule making, monitoring and enforcement can be done directly via the bureaucratic organs of the state or indirectly via the supervision of another organizational regulatory system.⁸ The regulatory state claims a legitimate monopoly over the deployment and distribution of power through rule making, rule monitoring and rule enforcement.⁹ It is this *claim* to monopoly, which the state may delegate or share, practise or not practise, at will or under constraint, that matters. In this way, the regulatory state is distinguished from the police and warfare states that are defined by their claim to a legitimate monopoly of the means of violence. Of course, the claim to a monopoly does not suggest *actual* monopoly, either nowadays or in the past. A claim is just a claim, no more and no less, and there are gaps in the *actual* monopoly over the distribution regulatory authority just as there are gaps in the actual monopoly over the means of violence.

This definition allows the regulatory state to promote equality or economic growth; to emphasize either efficiency or efficacy; to enslave and to empower; or all of these at the same time. It does not require the regulatory state to have a preference for, or an inclination toward, judicial or quasi-judicial mechanisms of conflict resolution. This definition is agnostic on the substantial centralization and decentralization of the state; it is also agnostic on the extent of delegation employed. It does not suggest that regulatory agencies are unique or essential to the regulatory state, nor that capture or autonomy is essential to it. The term 'regulatory state' means more reliance on regulation, not necessarily more reliance on *autonomous* regulators. The overarching premise is the entrenchment of the rule of regulatory law in the internal and external

working of the administrative state. In this way, the regulatory state concerns itself with the administrative process of governing capitalism. The purpose of the regulation, the procedures of rule making, the type of monitoring, the agents of enforcement, the moral judgment, and the day-to-day relations with the regulatees vary from one regulatory state to another and from one period to another. The defining feature, however, remains the capacity and preference for governing via regulation, meaning rules rather than violence, tax and managerial-service bureaucracy.

IV. The Regulatory State vs. The Developmental State?

Since we now have a better grasp of the origins and the intellectual journey of the terms ‘regulatory state’ and ‘developmental state’, it is possible to move on to discuss the extent to which it makes sense to contrast the two states. I start with a quotation from Johnson’s original treatment of these concepts as contradictory:

These two differing orientations toward private economic activities, the regulatory orientation and the developmental orientation, produced two different kinds of government–business relationships. The United States is a good example of a state in which the regulatory orientation predominates, whereas Japan is a good example of a state in which the developmental orientation predominates. A regulatory, or market-rational, state concerns itself with the forms and procedures – the rules, if you will – of economic competition, *but it does not concern itself with substantive matters...* (Johnson, 1982, p. 19; emphasis added)

In Johnson’s formulation Japan is a developmental state which prioritizes development and where the bureaucracy can use discretion administratively to ‘guide’ business. The United States, by contrast, is a regulatory state that emphasizes rules and procedures and limits the administrative capacities of the bureaucracy. Note that Johnson understands rules and regulation in a procedural rather than a substantive sense. The content of the rules is ignored, which therefore limits – by definition – any in-depth and extensive understanding of the regulatory state and its transformative capacities.¹⁰ There are two problems with this conceptualization of regulation. First, to imply that the rules in rule-governed states do not have a purpose

or do not reflect politics, interests, ideas and power is problematic, because procedural rules, or the rules of the game, are purposive in shaping the results and determining the winners even if they do not name the winners. Regulation includes procedural rules, but these are neither the most numerous nor the most important. While there are systematic attempts to depoliticize regulation in general and the rule of procedures in particular, these attempts are at best unconvincing. One can regulate *for* development, and such regulations can be highly transformative and highly intrusive. Intellectual property regulations base their contested legitimacy on their developmental effects (Drahos, 2010). They are good examples of highly intrusive and highly transformative regulations that create winners and losers at the level of the corporation as well as at the level of the global division of wealth. Changing the procedure changes the results; and to the extent that this is the case, procedures are not neutral. In addition, only a small number of rules in the regulatory state are procedural. Most are purposive. In an era of regulation, the meaning, scope, intensity and purpose of rule-making processes and institutions deserve more attention than is generated by the current juxtaposition between the regulatory state and the developmental state.

Second, the juxtaposition between the rule-governed state and the purpose-governed state implies that purpose-governed states do not or cannot use rules in order to advance their purposes. For this reason it does not make sense to use it. The point was ignored, first by Johnson and later by Majone and each author's followers. The juxtaposition was useful as a metaphor to convey the differences between the United States and Japan and, by extension, the differences between Anglo-Saxon and East Asian capitalism. The differences between countries are real; but the differences between forms of developmentalism cannot be captured in terms of the intensity of rules in the United States or the centralization and flexibility of policymaking capacities in East Asia or Continental Europe. The reason is simple: there is nothing in the rule-orientation of the United States that prohibits developmental policies, and there is nothing in East Asian developmentalism that prohibits more rule-based governance. Perhaps this was why Peter Evans's path-breaking study of the developmental state contrasts it not with the regulatory state but with the predatory state (exemplified by Mobutu's Zair).

Kanishka Jayasuriya, one of the more astute scholars of both development and regulation, follows Majone in embracing the emergence of the regulatory state as a new form and locating its origins within the process of globalization. This new model 'shifts the function of the state from the direct allocation of social and material goods and resources to the provision of regulatory frameworks within the economy order' (Jayasuriya, 2005, p. 384; see also 2001; 2004). The regulatory state and its processes of rule making, rule monitoring and rule enforcement are considered as constituting a 'framework state', a state that has arm's-length relations with the business and social communities, acts as an arbiter in the pluralist tradition, and relies on meta-regulation, that is, the regulation of regulation rather than the application of direct, intimate and closer controls. Like Johnson and Majone, Jayasuriya accepts the minimal version of the regulatory state. If so, why not call it a neoliberal state? Why distinguish and distance the regulatory state from the neoliberal state? The reason is simple. Regulatory states and an extensive role for the state more generally are anathema to neoliberal predictions and prescriptions. But by adopting this perspective Jayasuriya ignores the fact that the regulatory state can be as interventionist and as centralized as any other form of state and, more important, that the regulatory state and the neoliberal state are both forms of the capitalist state.

The dichotomy between the developmental state and the regulatory state and the assumption of a shift from one to the other goes well beyond Johnson, Majone and Jayasuriya. It is now becoming increasingly influential in the study of China. While economists often continue to discuss China as a case of liberal economic policy, other social scientists find it useful to discuss its economic policies within the frameworks of the regulatory state and the developmental state (Pearson, 2005; 2007; Phillips, 2006; Walter, 2006; Liu, 2010; Collins and Gottwald, 2011; Breslin, 2011; Peck and Zhang, 2011). Nonetheless, many China scholars find it difficult to identify the Chinese state as a developmental state (e.g. Howell, 2006). This difficulty suggests that the current definitions are losing their attractiveness, and supports my approach to the developmental state. Take, for example, a recent study of Chinese economic policy by Hsueh, who observes that the concepts of the regulatory state and the developmental state are both useful (either positively or negatively) to discussions about China's political economy. In doing so Hsueh conveys not only her understanding of the regulatory state and the developmental state but, in the tradition

of Johnson and Majone, also their zero-sum relations. China's economic and political transformation is understood as a transformation from a centrally planned economy to a regulatory state (Hsueh, 2011, p. 265). Regulatory institutions were restructured to promote competition and oversee market developments. The strategy of restructuring included different degrees of liberalization and decentralization, depending on the Chinese Communist Party's interpretation of the national interest. A bifurcated strategy allowed the party-state to retain control over areas deemed strategic. The regulatory state has therefore emerged in the context of strategic liberalization, regulation of some areas, deregulation of others and re-regulation of yet others. The locus of regulation differs and is divided between the different levels of government. The Chinese regulatory state does not have the same liberal characteristics as those of Europe and North America. It reflects the localization of regulatory ideas and capacities in the service of China's developmental and other strategic goals. While embracing the regulatory state as a useful concept, Hsueh rejects 'the developmental state model' as an analytical construct for understanding the role of the state in the context of the gradual but sweeping changes in China's political economy. For her, the developmental state serves as a coordinator of economic growth, insulates private industry from penetration by foreign capital by decoupling technology and investment, acts as a market gatekeeper, filters external entry into the market, and at the same time uses market-conforming mechanisms to spur industrial development in key sectors. China's economic development does not reflect this model. Thus, China scholars find the Chinese state lacks both the internal coherence and the strong ties to a docile society, which is a characteristic of the 'embedded' developmental state. Moreover, China has extensively liberalized foreign direct investment, paralleling the more open strategy pursued by the Latin American newly industrialized countries (Hsueh, 2011: 14). 'The Chinese model... represents a radical break from the developmental state' (Hsueh, 2011, pp. 267-8).

Hsueh clearly has an extensive knowledge of the developmental state literature. She is correct with regard to the emergence of an illiberal regulatory state in China. She is less accurate, like many others, in three important respects. First, she suggests that China is not a developmental state. Second, following Johnson and Majone, she contrasts the developmental and the regulatory states and does not consider that the two can co-expand. Third, she doesn't look for variations in either the regulatory state

or the developmental state.¹¹ All this is far from unique to Hsueh's study but is reflected in the general ways in which we compare forms of capitalism: we adopt methodological nationalism and monomorphic analysis. As an alternative I suggest in the next section that polities, such as China, can co-expand different forms of states and that forms states should be thought of also as standing in constitutive rather than trade-off relationships.

V. The Regulatory State with the Developmental State: A Constitutive Approach

In order to complete our journey we need not only to reject the monomorphic methodological nationalism manifested in the contrast between developmental state and the regulatory state. It also useful to suggest an alternative, namely, to analyze the relations between the two as constitutive. This would go in the same direction as a recent paper by Hopkin and Blyth (2012), who question the infatuation of policymakers, pundits and political economists with of the notion of trade-offs. I start with the rejection of the usually implicit (though sometimes explicit) suggestion that states can or should be defined by one essential characteristic, or in other words that they are monomorphic. Instead I maintain, following Mann (1993), that states are polymorphic. Far from being singular and centralized, Mann writes, modern states are polymorphous power networks stretching between center and territories. In chemistry a polymorph is a substance that crystallizes in two or more different forms, usually belonging to different systems. The term conveys the way states crystallize at the center – but in each case at a different center – of a number of power networks (Mann, 1993, p. 75). While some of the morphs of the state represent 'higher-level crystallization', others represent 'lower-level crystallization'. The relations between the different morphs, Mann tells us, are not necessarily diametrically opposed, nor are the relations necessarily hierarchical. This makes sense only if we consider the many adjectives of the state that we use: democratic, weak, corporatist, city, activist, predatory, crony, administrative, pluralist, corporatist, contract, neoliberal and social-democratic. Such a plurality can signify confusion but it can also signify the polymorphic nature of the state. I maintain that the latter interpretation makes better

sense as most of those adjectives represent a useful conceptual progression and do not stand in competition with each other.

Polymorphic analysis allows for a diversity of state forms within a single polity. It also allows us, directly on the basis set out by Mann (1993), to conceive of the capitalist state as higher form of crystallization than other morphs such as the regulatory state and the developmental state. None of this would seem strange either to Knudsen and Rothstein (1994), who imagined the state as a coral reef, an institutional complex shaped by deposits over a long period, or to Caporaso (1996), who analyzed the European Union polity in the light of three stylized state forms: the Westphalian, the regulatory and the postmodern. Thinking of both the developmental state and the regulatory state as forms of the capitalist state will also allow us to examine the effects, limits and paradoxical outcomes of neoliberalism not as a transition from a Keynesian to a neoliberal form of state but rather as the neoliberal impacts on the regulatory state and on the developmental state. It may also help us understand the difficulties and pains of transplantation as the challenge of adjusting developmentalism, better regulation and polycentered governance in authoritarian settings (Ozel, 2012; Kayaalp, 2012; Jarvis, 2012; Dubash and Morgan, 2012).

But polymorphism allows us to do more than to suggest a different approach for the effects of neoliberalism. It also allows us to think differently in the field of comparative capitalism. This field was and still is methodologically national and monomorphic in the sense that it aims to capture the essence of the polity by reference to a system level and a single morph. This is a form of generalization that might be useful for characterizing Japan, Germany, the United States or Sweden. It is much less useful for characterizing states that are not archetypical. The number of the world's countries is growing but the number of archetypical states is stable. The distance between the developmental state in the Japanese style and the rest of the world is growing, and so is the distance between the Japan of the 21st century and Johnson's Japan. To make our categories and concept relevant we need to rethink them. Polymorphism allows us to see not only that states can be both regulatory and developmental but that all states, in order to be both modern and postmodern capitalist states, Northern and Southern, should be both regulatory and developmental. The field of comparative capitalism is therefore much wider than we have so far understood.

Monomorphic cross-national analysis should not exclude polymorphic intra-national analysis of forms of states, and vice versa.

Beyond the polymorphic approach I suggest that the developmental and the regulatory forms of states are constitutive, in two major ways. First, I suggest that while we usually think about regulation as a response to market failures, it is possible and indeed desirable to consider a new type of regulation: regulation-*for*-development rather than only regulation-*of*-development or regulation-*against*-development. If development is about commodification, then we regulate *for* development, we regulate *against* development, and we regulate development itself. If development is about de-commodification then we are doing the same. We regulate *for* development, we regulate *against* development, and we regulate development. Most often regulation is not simply about de-commodification but about re-commodification. This means that regulation redraws the lines between forms of commodification and de-commodification. It falls within a trade-off approach when it is directed *against* re-commodification or de-commodification, it has a rather exogenous effect when it is *of* re-commodification or de-commodification, and it has a constitutive endogenous effect when it is *for* re-commodification or de-commodification.

Second, we can and should think about the regulatory state differently than we think about the developmental state. While both are useful forms of state, the notion of the regulatory state tells us about the state's preference for using as an instrument of government. It does not tell us about the purposes or the aims of the rules. By contrast, the concept of the developmental state does not tell us anything about the instruments of development; it tells us only about the aims. The regulatory state and the developmental state therefore stand on somewhat different grounds. The former represents instrument, capacity and tendency to prefer the instrument of regulation; the latter represents the aims of the state. The question then arises: can regulation be useful in the promotion of development? In other words, can we have regulation-*for*-development? It is clear that both Johnson and Majone would answer in the affirmative. The difference between the two would probably concern the importance – scope and depth – of regulations as administrative tools as well as the desired level of application. Johnson's work and legacy imply that regulation would play a more critical and central role in capitalist governance than Majone originally envisaged. On

this point we had better follow Johnson, since regulation is expanding and becoming an endogenous and constitutive aspect of the making of capitalism in general and the developmental state in particular (Levi-Faur, 2005). Regulation serves the furthering of market integration, the liberalization of infrastructures and the creation of multilateral and bilateral trade regimes. Freer markets are associated with more rules. This in turns leads us to two possible understandings of the relations between the regulatory state and the developmental state: co-expansion and hybridization.

The co-expansion hypothesis suggests that the regulatory state and the developmental state grow (or decline) together. Co-expansion is, however, not inevitable and we should not expect it be linear or deterministic. The decline of the developmental state may occur in parallel with the rise of the regulatory state. But then the regulatory state should find a different justification or logic for growth. The regulatory state cannot, therefore, grow without a reason or justification or in a purposeless manner as envisioned by Hayek (Gray, 1981). At stake is our understanding not only of the developmental state and the regulatory state but also of the dual role of regulation. Regulation can constrain developmental institutions or empower them. It is possible to regulate for development but also in order to constrain development. States can do both. Different institutions of the state can act in a more or less coherent way. They can prioritize development via regulation and they can prioritize other goals that may constrain development. Still, a key assertion of the constitutive approach is that developmentalism demands more and more regulation and that regulation demands more and more development. First, the demand for regulation-for-development depends on the developmental role of state and private institutions at the global and the national levels. The more effective regulation is in promoting development, the stronger the demand for regulation is. The hybridization hypothesis accepts the co-expansion suggestion; but instead of imagining the regulatory state and the developmental state as two different morphs of the states it foresees a state with two adjectives: the regulatory–developmental state.

VI. Conclusions

This paper proposes an institutional polymorphic theory of the state of where the states of the South and the states of the North are equally morphs of the capitalist state. It advances four major arguments on the basis of the analysis. First, the relations between the developmental state and the regulatory state are constitutive rather than mutually antagonistic. The constitutive approach to regulation suggests that the developmental and regulatory states are not opposite but interdependent forms of governance. This may have broader implications in the sense that the trade-offs of power versus plenty, guns versus butter and states versus markets are partially misleading because they are partial! It is possible, and indeed it was forcefully argued, that power and plenty, guns and butter and state and markets are interdependent. What makes capitalism work so successfully is the institutional flexibility and institutional innovations that allow it to promote both power and plenty and both guns and butter, and to expand the power and reach of both states and markets. It is the embeddedness, disembeddedness and re-embeddedness of markets in the state and the economy that allows us to understand the dynamics of capitalist economies and societies. Individual actors may face the trade-offs between power and plenty and between guns and butter, and the decisions they make will determine their success. Institutions, on the other hand, are successful to the extent that they supply the right incentives for the actors to make a calculated choice. To do so successfully they must allow for both plenty and power and for institutional expansion of, *inter alia*, both the regulatory and the developmental states.

Second, we need to allow for, and indeed to explore, the possibility that all states are developmental and all states are regulatory. Consequently, instead of thinking in terms of *the* regulatory state and *the* developmental state, we need to think in terms of varieties and hybrids of both. Developmentalism as a feature of institutions (as captured by adjectives attached to ‘state’, ‘regime’ and ‘governance’) reflects the bias of these institutions toward growth and sometimes also their credible commitment to progress. States, of course, vary in their commitment to development and in their capacities to promote development. They also differ in the types of development that they pursue and, of course, in their capacities to deliver growth and in the types of growth they pursue (e.g. sustainable growth, steady growth, balanced growth or

indiscriminate growth). Yet they all are developmental in the sense that few things are as central to the stability, legitimacy and resilience of the capitalist order as growth. Growth is both power and plenty, a source of both input and output legitimacy and a measure of the performance of state elites. I cannot think of a capitalist state in which developmentalism is not a priority. It may be an empty commitment but there is little escape from it. At the same time all states are regulatory, and it is impossible to grasp fully the varied facets of the state without the notion of the regulatory state. While states vary in their commitment, application and performance with regard to the use of regulation as an instrument of governance, they all employ regulatory instruments extensively. In this sense all states are regulatory. Of course, not all states apply regulation to the same extent or degree of efficiency, or according to the same procedures and norms. Some are more successful and reflexive than others; some serve as examples to follow, others do not.

Still, since all states are both developmental and regulatory, the main issue becomes the variation among them on a number of important criteria such as credible commitment, capabilities, structure, aims, performance and public philosophies, the extent to which they have experienced a shift from government to governance, and the form of capitalism in which they are embedded. If all states are regulatory and developmental, the research agenda is changing and so is the conceptualization of comparative capitalism: no longer capitalism that varies only or mainly across nations but capitalism that varies both across and within nations. The polymorphous approach to institutions thus pushes the comparative analysis forward not by the essentialization of one morph of an institution (be it capitalism or the state) but by working out its various morphs.

Third, it might be useful to consider not only the possibility of the coexistence of the regulatory state and the developmental state but also their co-expansion. The approach developed here allows us to grasp the continuity in the expansion of the role and functions of the state and thus helps us to contest assertions that economic globalization and neoliberal interests and ideas have resulted in significant deregulation or the decline of the developmental state. This contestation is in itself nothing new (Vogel, 1996; Weiss, 1998; Thurbon, 2011). What this paper does is to present an approach to rule-based governance where power is poly-centered (i.e. new

developmental and the new regulatory state) and polymorphic, but the state has the discretion to act as rule maker, rule monitor and rule enforcer of first or last resort. This is a peculiar twist in most of the governance literature. While the emergence of governance as a scholarly research agenda and as a perspective of change is commonly understood as effecting a shift from government to governance, it may suggest an *expansion* rather than a *shift*, in other words the expansion of government via governance (Levi-Faur, 2012) or governance *with* rather than *without* the state (Börzel and Risse, 2010). This ‘big governance’ perspective suggests that governance as decentered institutional order allows and probably encourages (but does not dictate) the expansion of both regulatory and developmental institutions with and without the state and well beyond it.

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Notes

¹ In other words, neoliberalism is responsible for both the break-up of statist forms of commodification (e.g. the developmental state) and the rise of market forms of commodification (e.g. the regulatory state).

² Positive accounts of the developmental role of the state in economic development are as old as the scholarly literature on development (List, 1838; 1841; Gerschenkron, 1962; Weiss and Hobson, 1995). Scholarly interest in issues of industrial policies increased and intensified in the 1980s (Grant, 1982; Katzenstein, 1985; Dore, 1986). Johnson was therefore not the first to publish in this field, and the reception of his study should be read in context as part of the debate on industrial policy more generally. Whatever the reason, Johnson's terminology was widely embraced. It reflects an expectation that the state (and other institutions) will enjoy autonomy in the sense most elaborately presented by Poulantzas (1969) in relation to the capitalist economy and by Nordlinger (1987) in relation to the society and state organization. This expectation, which was and still is contested, formed the main basis of the developmental state literature.

³ Levi-Faur (1998), like Cerny, embraces the centrality of competition policies, institutions and regimes in the logic of state action but differs in one important respect. His competition state is highly interventionist and reflects the continuing neo-mercantilist role of the state in market confirmation, market nurturing and market enforcement. Whereas Cerny sees a break with the past, Levi-Faur identifies a continuation of the developmental mission of the state, this time via regulation for competition. The competition state is highly interventionist and represents a renaissance of the nation state rather than its retreat under the pressure of globalization.

⁴ This section draws on a more extensive paper on the issue, Levi-Faur (2013).

⁵ It probably originated in Anderson's earlier dissertation of 1960 with the same main title. It appeared occasionally in the literature even before then, but as far as I can find never as centrally as in the title of Anderson's work.

⁶ Major works on American political development that brought the state back in ignored the idea. Skowronek (1982), for example, mentioned the regulatory state only once and even then in passing. In a later work by Orren and Skowronek (2006) there is no mention of it at all. Whatever the reason, the loose use of the term as a mere label is still prevalent in the United States.

⁷ This is not the case in the literature of development. I observe similar trends but not a similar pace. The image of the developmental state as hierarchical and bureaucratic is still dominant. If networks, flexible capacities and governance are going to be increasingly relevant to the theory of development, this will probably be reflected in a more dominant role for, and wider application of, the notion of new developmental state. The same holds for the notion of 'developmental governance'. Both are strongly advocated (Pemple, 1999; Bruszt, 2008) on the grounds that they amount to a more general approach to the state, but both are less commonly applied than the notion of regulatory regimes and regulatory governance.

⁸ This indirect form of regulation is often called 'meta-regulation' (regulation of regulation; see Parker, 2002) or 'meta-governance' (governance of governance; see Jessop, 2003).

⁹ The claim to monopoly can be limited in liberal regulatory states. It is a claim to a monopoly over the possibility of making rules of general application; and in a liberal setting we can expect a plurality of legalities or regulatory orderings and, in practice, of claims to exercise final authority. I owe this insight to Christine Parker.

¹⁰ To understand the origins of this distinction and gauge Johnson's very narrow view of regulation and the rule-making process, I returned to his book. I found that his interpretation rests on Bertrand de Jouvenel's distinction between a 'rule-governed state' (nomocratic) and a 'purpose-governed state' (teleocratic). De Jouvenel, was one of the founders of the economically liberal international Mont Pelèrin Society (Mirowski and Plehwe, 2009). Johnson was drawing on him indirectly, referring to Kelly's (1979) paper in a special issue of *Daedalus* on 'The State'. See also Plant (2009), who discusses these distinctions in Michael Oakeshott's work.

¹¹ I suggest that what China experienced in the post-Mao period is the co-evolution of the developmental state and the regulatory state. China meets both challenges successfully when we assess its achievements in terms of both economic growth and the extension of regulatory capacities. Its record seems less impressive if development is assessed in Sen's (1999) terms as the extension of human capacities, in progressive terms, or against the creation of a liberal regulatory state.