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## Relevance of the Regulatory State in North/South Intersections

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## Relevance of the regulatory state in North/South intersections

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### Abstract:

Purpose – What seems like a new social anthropology of global regulation is an endeavour much too grand for this paper, even though it has much merit. To contain the analysis which follows, the discussion of social embeddedness will be restricted to a comparison of markets which retain some local or regional integrity from those which have become largely removed from cultural or communal social bonds. An example is between markets trading in goods and services with a consumer base which is local and subsistence, and markets in derivative products that are inextricably dependent on supranational location. The paper aims to discuss these issues.

Design/methodology/approach – North World regulatory principle operates within consolidated state frameworks, dislocated market societies and reflects socially disembedded productivity relationships. The same could be said for dominant economic regulatory scholarship. More recent efforts to develop critical analysis of South World regulatory problems and answers have consistently remained connected to the referent of the regulatory state. This paper questions the utility of such a comparative conviction in a global governance reality wherein South World regulatory environments are largely subject to North World state interests and multi-national opportunism fostered by disaggregated, often dysfunctional, domestic states.

Findings – If, as in many South World contexts, the state is dysfunctional or destructive in translating regulatory principle, then what are the social bonds which advance the integrity of regulatory principle, and what of externalities which work to draw culturally located principle towards a more hegemonic regulatory project? Could appreciating the relationship between regulatory principle and social bonding be exhibited in degrees of market embeddedness? Might the reimagining of regulatory principle be possible by reflecting on motives and outcomes for regulation that have other than wealth maximization as core value? The paper answers these conjectures as a basis for empirical research.

Research limitations/implications – In the spirit of regulatory anthropology it is not helpful to remain immersed in some strained geographic regulatory dichotomy, employing some good state/bad state polarity. Neither World exists in regulatory isolation. International regulatory organizations ensure this through their Western/Northern development models, and perpetuate post-colonial influences over South World development agendas. That said, there are two regulatory worlds, and hybrids between. Despite this, regulatory principle is not immune from cultural forces and social bonding. The paper addresses various dualities in order to propose a new way of viewing South World regulatory paradigms.

Practical implications – The framework for analysis will enable a repositioning of critical scholarship and regulatory policy away from the model frameworks of consolidated states and towards the real regulatory needs and potentials of the South World.

Social implications – Through applying the analytical technique of social embeddedness above market community paradigms this analysis offers a novel approach to exploring economy in contexts where markets are not dislocated and products are not fictitious. In this way the contemporary materialist economic crisis can be viewed against principles of sustainability rather than growth, productivity and exchange.

Originality/value – The paper draws upon established scholarship regarding market embeddedness and social bonding but unique in applying this to a South World void of regulatory discourse set free of comparison with inappropriate regulatory state referents.

Keywords: Development, Governance, Culture, Economic philosophy/theory, Global political economy, Social goods

## **Introduction**

Regulation and economy are inextricable. There is nothing new in either the suggestion that contemporary regulation policy (local, regional or global) is disproportionately motivated by economic considerations (Llewellyn, 1999), or that individual profit-driven economics as a central regulatory objective may have had its day (Shutt, 2010). Regulating economy is no longer confined to concerns of economic governance alone. It is also largely accepted that globalized risk priorities such as the war on terror have seen the use of economically directed regulatory devices (such as financial transaction reporting) employed for purposes additional to their original economic remit (Munshani, 2010). By extending economic regulation into fields outside economy, covering other essential aspirations of human comfort such as collective human security and universalizing individual integrity, we have exposed economic regulation to evaluation well beyond the measure of wealth creation. Even when the essential economic motivation behind regulation is blatantly apparent, arguments against regulation focus on the failings of financial regulation in particular to achieve its economic intentions (Wallison, 2009). Maybe one of the problems with the determination of regulation's influence on economy (or its distance from it) has been the emphasis on cash above conscience[1].

As we elaborate later, looking at cultural relativity, and specifically global economic divisions in any model sense, has its dangers. Can a culturally/socially relative analysis of regulation produce realistic reflections for regulatory theory or policy when at a regional and global level socio-economic development is currently constrained within one prevailing theoretical model (both economic and regulatory)? The paper suggests that possibilities now exist, with this dominant paradigm challenged and weakened in influence, for fundamental transformations in regulatory principle to be understood through a socio-culturally relative analysis which rejects as an obligatory, critical referent a North/West World construction of the consolidated state, otherwise against which regulatory developments must be compared and measured[2].

What seems like a new social anthropology of global regulation is an endeavour much too grand for this paper, even though it has much merit. To contain the analysis which follows, the discussion of social embeddedness will be restricted to a comparison of markets which retain some local or regional integrity from those which have become largely removed from cultural or communal social bonds. An example is between markets trading in goods and services with a consumer base which is local and subsistence, and markets in derivative products that are inextricably dependent on supranational location[3].

## **Contexts for the analysis**

Like Granovetter (1985), we are also here focusing on the embeddedness of economic behaviour, because of an anthropological interest in transitions from premarket societies, to the more autonomous market relations of modernized societies. Associated with this transition is a growth in regulation which supports progressively less embedded market conditions and outcomes which have culminated in post-Fordist capitalist market and product abstraction. In terms of social bonding this transition is evidenced by the separation of economy from other frames of social relations, and the development of markets no longer reliant on organic bonding such as kinship and obligation. Under these conditions, the motivations for the market are aligned with individual gain and the regulatory outcomes are no longer livelihoods submerged in social relations.

Whether one challenges either the level of embeddedness in pre-market societies or the degree and rate of change along with modernization, as the recent near collapse of the global financial market indicates, radical dislocation of product and production from any social location (which has been the case with fictitious financial commodification and associated marketing) has relegated the value of embeddedness in the sphere of North World regulation to little more than some normative ideal. In contrast, social embeddedness is a positive indicator of regulatory bonding, aligned with the fundamental principles of the particular social unit. For example Fordian capitalism regulated the industrial workforce with the appearance of a welfare orientation, but was in reality more driven by principles in keeping with the protestant ethic and the commitment to make the market work better for capital (Morvaridi, 2012).

Regional and global regulatory crises are enunciated from a Western/Northern focus. The subject of regulation policy and commentary itself is a Western conceptualization (or at least viewed from an irredentist perspective) and many of the theories and techniques discussed in regulatory scholarship are building blocks to a theoretical, state-referential model assumed to be superior to, or at least dominant over, those of other cultures and societies.

## **Mechanics of embeddedness – how “solid” is solidarity**

Turning away from solidarity which holds society together, to reflect on the types of solidarity in social relations – communal and associative (Weber, 1978, Chapter 1) – in post-Fordist economies, it is apparent that social relationships moulded through the division of labour are no longer universally built on coordinated interests (if they ever were). Associative labour relationships are now more likely to be externally forced/and mechanically imposed. Times have changed and where we diverge from Durkheim's treatment of the mechanical/organic dialectic is initially by questioning the contemporary relevance of his version of the division of labour as “the supreme law of human societies and the condition of their progress” (Durkheim, 1893, p. 39). Weber would doubt as an idealized interpretation of the forces behind such a division, and favour Durkheim's interpretation that mechanical solidarity constructed through law may be imposed devices to control social behaviours and relationships which “offend(s) strong and defined states of the collective conscience” (Durkheim, 1893, p. 39). Indeed in post-Fordist capitalist economies, we would argue that as a result of the unnatural nature of labour division (and more importantly disembedded market arrangements which sustain and are sustained by its artificiality), mechanical rather than organic solidarity prevails due to the recurrent failure of Durkheim's belief in the resilience of meritocracy. A complex division of labour as he saw it meant that people were allocated in society according to merit; therefore moral regulation and economic regulation are needed to maintain order, for people to “compose their differences peaceably” (Durkheim, 1893, p. 60). Contrary to this view, in a global setting, the violence entailed in maintaining the post-colonial North/South economic divide suggests that discriminatory economic ordering requires mechanical enforcement if the oppression of discriminatory peace is to

be maintained. Merit is not an organic discriminator where labour prices are depressed, skill retarded and opportunity constrained in the South for the economic benefit of the North. Poverty-based discrimination between the world divide questions the real market reasons behind socio-economic developmental failures of South World countries, so often used to justify colonialism. The provident North image suggests that only the systematic adoption of the values, practices and resources of modernization can overcome the absence of social capital to establish the necessary preconditions for greater material prosperity in the South (Woolcock, 1998, p. 153). This places a large amount of the focus on nation states and transnational corporations, and rational individuals and firms, to lead the South to economic prosperity, while overlooking the vital role of domestic civil society and other institutional arrangements, appropriately resourced and regulated, that can and should mediate the space between states and markets. In this regard pressures for autonomy (commercial in particular) which feature in North World development models devalue the significance of economic embeddedness[4], in favour of atomized markets and autonomous productivity paradigms, mechanically maintained.

We argue that it is this economic and regulatory myopia which ignores the significance of socially embedded economic relations for a South World development model which can avoid the exacerbation of discriminatory mechanical ordering which underpins the North World development dominion. In order to add detail to this revision we engage Granovetter's two concepts of embeddedness and autonomy (Granovetter, 1985, p. 493). In his argument, all economic action is inherently enmeshed in social relations of one configuration or another, and development brought about a change in the kind, not degree of embeddedness. Three claims of this embeddedness thesis require:

- (1) all forms of exchange are inherently embedded in social relationships;
- (2) embeddedness itself can take several distinct forms – e.g. social ties, cultural practices and political contexts; and
- (3) embeddedness within a network can bring benefits as well as costs.

Woolcock (1998) is interested in the consideration of embeddedness and autonomy at the micro and macro level: manifest through intra-community ties (embeddedness, micro), state-society relations (embeddedness, macro), extra community networks (autonomy, micro) and institutional capacity and credibility (autonomy, macro). He employs four terms to explore social capital in these forms: integration (intra-community ties), linkage (extra-community networks), synergy (state-society relations) and organizational integrity (institutional capacity and credibility) (Woolcock, 1998). These categories are not inconsistent with Polanyi's interest in market exchange, redistribution and reciprocity, which we later employ. Examining the relationship between embeddedness and the forces behind regulatory bonding in different cultural settings, these four indicia with their emphasis on community positioning, state relativity and institutionalization can assist to distinguish how different cultural environments may exhibit particular principles towards embeddedness which can have a powerful influence over the nature and style of regulatory bonding. For our analysis, their emphasis on macro state embeddedness would be a backdrop to a more subjective evaluation of what makes up for state disaggregation. Where Woolcock's classification is compatible with other interesting approaches to understanding the economic resonance of social embeddedness is through its fundamental distinction of autonomy, such a feature of North World economic models.

Uphoff (1996) argues that both top-down efforts and bottom-up development must occur in a positive-sum way, when appreciating the importance of social embeddedness (Uphoff, 1996, p. 273). Therefore, social relations which connect top-down resources and bottom-up capacity building must be forged if economy is to complement social capital in different cultures. For sustainable economic development, the interaction between top-down and bottom-up must be a dynamic one. These observations emphasize the utility of a sociological perspective on economic development which not only looks at resource flows and capacity building in economic measure, but positions these within specific cultural experiences and relationships.

According to Woolcock, when we look at bottom-up development (micro level), intensive intra-community integration must be accompanied by linkages that transcend the community, so that:

- (1) the economic and non-economic claims of community members can be resisted when they undermine the group's economic viability and expansion;
- (2) entry to more sophisticated factor and product markets can be secured; and
- (3) individuals of superior ability and ambition within the business group can insert themselves into larger and more complex social networks.

The latter point is crucial in understanding the dual analytical presence of embeddedness: a component within a system, and that system within a social world. Woolcock was writing from a consolidated state perspective. For top-down development (macro level), independent groups in civil society must be included in the state's shaping of government policies and performance. State-society relations in development such as the combinations of the state's organizational capacity and its engagement and responsiveness to civil society are needed for countries to be developmental. In these processes embedded autonomy may be viewed as “a concrete set of social ties which bind the state to society and provide institutionalised channels for the continual negotiation and renegotiation of goals and policies” (Evans, 1992, p. 164). Essential for this analysis is a functioning state as a source for regulatory sponsorship and initiative. In social frames where such is not the case then the challenge is for civil society and other bonding processes and institutions to provide the conditions where otherwise state responsibilities would be embedded. This is neither strained nor indeed impossible in so many societies and cultures where the state has never played a critical or dominant regulatory function. In these settings the pre-existing social bonds need activation and enlivening rather than replacement with fragile and unsustainable state function which too often has been the direction of North to South regulatory capacity building.

To a certain extent, as artificial and state-reliant as the bio-directional analysis may seem, bottom-up and top-down might be interpreted as metaphors for the dynamics of North to South World regulatory influence (top down) and the emergent (and we suspect more organic and embedded) local regulatory dynamics in South World societies.

### **Redirecting analytical focus**

When talking specifically in terms of the regulatory state (and we suggest it holds as well for regulatory discourse at large), Dubash and Morgan (2012) have recently observed:

With the exception of a small but growing body of work on Latin America, most work on the regulatory state deals with the US or Europe, or takes a relatively undifferentiated “legal transplant” approach to the developed world (Dubash and Morgan, 2012, p. 261).

Such a diffusion Kayaalp (2012) approach seldom achieves its desired outcome of global institutional homogeneity, even with the existing global pervasiveness of regulatory models, because of the differences between that adopted global policy and the generated practice on the ground. When a transplant of the global model is adopted, it undergoes a process of translation and gains a different meaning from those inherent in that original model. Furthermore, given that regulation is a result of the involvement and interaction of a variety of different actors that necessarily differ in their negotiations, conflicts and resistance across cultures, regulation as a multidimensional process cannot simply be transplanted as a framework of predetermined duties and responsibilities which neglects the regulatory process that takes place thereafter. For example, the de facto operation of independent regulatory agencies in Turkey, sharply diverge from their de jure constellations, and

weak institutions were merely reshaped through the implementation of reforms and the transplantation of global models (Özel, 2012).

It would be over-simplified, however, to distinguish the South World regulatory character, again in terms of state comparison and in its case dysfunctional or disaggregated state regulatory capacity. Defining the South World in terms of shared histories of countries rather than the delimitations of political geography or state functionality, enables the acknowledgement of diversity within that World (Dubash and Morgan, 2012, p. 261), particularly in terms of its engagement with globalization (Findlay, 1999). Also, considering the different lived histories of cultures and peoples rather than only their stages of economic modernization or their geo-political value, breaks the comparison free from North-centric temporal and spatial determinants which may end to justify rather than explain the current analytical focus of global regulation.

As is revealed in some of the examples of transitional South World regulatory states (expanded on in the section to follow), there can exist a positive state somewhere between the consolidated Northern style, and the disaggregated states which feature in the South. The positive state is characterized by active and effective integration between civil society and at least one arm of the state (such as the judiciary) so as to make possible a representative coalition enabling at least something of the state to facilitate domestically relevant regulatory intervention. The positive state seems to be a necessary feature of transitional South World regulation wherein the state referent remains valuable but distinct from the North World state centering/decentering alternatives.

In addition to recognizing these state distinctions there are two responsibilities on those who seek to reposition regulatory analysis to correct an apparent North state-centered substantive bias, or at least to declare it. The first is to establish why repositioning would address the bias, and then to indicate how repositioning is to be achieved. Alternative to this debate, there are other ways of doing regulation which reside in the South World, and interrogating these more than in terms of state reflection but rather as to their principles and regulatory motives and outcomes, would add value to the regulation of global crisis, if revealed and analysed because of their organic forms and their tendency towards social embeddedness. It is anticipated that by focusing on different principles for regulation (which are likely not to depend on the state), then interrogating other regulatory motivations for social bonding (not driven by the state) complementary regulatory outcomes (outside state intervention) which satisfy wider social frames beside economy, will be revealed[5].

An analysis that focuses on non-state mechanisms of regulation is enhanced beyond the Northern, de-centered state regulation debate (Morgan and Yeung, 2007) when we look at the influence or absence South World disaggregated states, not as a referent but as a regulatory diversion or impediment. These cultures with faint institutional regulatory shadows (discussed in Findlay, 2013, Chapter 1) are often described as weak states because state actors do not command sufficient and broad-based authority or the legitimacy of state policies is recurrently called into question. What exists of the state (specifically in its governance domain) lacks the requisite capacity to regulate in some of the most fundamental fields taken for granted in Northern/Western governance frames, and in a market sense in particular, is unable to withstand political and social challenges from non-state actors, particularly those with better developed and more resilient governance frames and linkages to consolidated external state authorities. By unpacking the weak state (or indeed the non- or anti-state), through focusing on the social bonds of internal and external non-state actors (in civil society and commercial market contexts largely ungoverned by the state), there is the potential to reveal pre, or non-state regulatory landscapes. More than this, to compare where the provident state offers regulatory capacity and to examine what substitutes for it or replaces it in the South World may be a more revealing way to employ state referents.

Where regulation is less than comprehensive or where lacunae exist and particular areas of social interaction remain unregulated, such settings are often described as fragmented regulatory space, and this is so particularly in the South World contexts. In the literature, when the narrow regulatory standards applicable to Western/North

World scholars are unthinkingly applied to South World regulatory derivations, and conditions which allow for non-state action to predominate are determined as wanting, too often this occurs minus further consideration of explanations outside of vague notions of cultural relativity. The phenomenon of non-state actors taking the rein in regulatory affairs is reflective of a deeper and more intricate management of exchange networks that is socially located in wider interactive social frames, which may and indeed should prove to be more desirable for organic and principled regulation not burdened by politicized state interests.

The analysis of regulation without the consolidated state referent, we suggest, offers a more fruitful opportunity not only to appreciate the dynamics of regulation in localized South World situations. In addition, this analysis should provide the possibility for understanding local, regional and global crises identified within a South World perspective. For example, reflect on corruption and the bonds of exploitation which corrupt political and commercial relationships exert over South World development agendas. Politicians are not only compromised through the exploitation by commercial externalities, of their own self-interest, but particular social bonding framed within a limited election cycle create real dilemmas facing elected officials when approaching the question of regulatory reform, with anti-corruption at the fore. Elected officials in such situations have a disincentive to push for regulatory reforms in short-term. The need to cede control over their respective realms of authority means that elected politicians may actually decline to vote in favour of such changes, or overcome the dilemma by subjecting the regulatory agencies to patronage through other means. The entry of local civil society non-state actors (not driven alone by sectarian interests) into the regulatory landscape, in these political and commercial bonds, has the capacity to safeguard against possibilities of corruption as they serve as a check and balance countervailing regulatory force. The difficulty with this state-replacement analysis, however, is that even in the most disaggregated states, externalities such as bribes from multinational commercial interest, can also infect segments of civil society and subject these to the same negative bonds which corrupt politicians advance (Newton, 2001, p. 210).

Understanding the complexity of contested social bonding in South World settings where governance is strained between disaggregated state institutions and processes, and sectarian and divided civil society bonding cannot be achieved from an external analytical standpoint. From an empirical scholar's perspective a way forward is to seek out and broadcast regulatory and culturally defining literature from the South World about the South World. Unfortunately literature which might claim any such heritage is extremely limited and largely confined to the commentary of external scholars on the regulatory state, or local commentators reflecting on adaptations of North World regulatory (and state-referential) experiments (for instance, see the content of the Special Issue, 2012).

### **Is Turkey the pin-up boy? Utility of regulatory intersection**

Much of the literature discussing South World states tracks the transition towards a regulatory state with the implementation of regulatory reforms and transplants adapted from the North (Amann and Baer, 2005). Sectoral analyses are often undertaken with respect to these states (e.g. Hsueh, 2012; Jordana and Levi-Faur, 2005), yet they remain caught within the narrow confines of the regulatory models set up by the North. Particularly when foreign direct investment is the focus and motivation for regulatory reform, the dialectic circles infrastructural initiatives undertaken by the government to build a private sector (Kirkpatrick et al., 2006), and this distinction between state and private actors is often perpetuated such that the regulatory endeavours undertaken often simply address only the relation between the state and such private actors, neglecting the sophisticated networks of exchange existing as between such private actors that have impact of the operation of regulation in that limited sense.

We were recently asked the question as to why Turkey, Columbia, Brazil and India seemed to be the now states of the South when the literature is searching to understand the regulatory state outside the North World. Besides a



flippant response that this is where researchers might want to take their holidays, or chance meetings with local researchers at conferences, there may be more credible reasons for this phenomenon.

Transition between the North and South World states may be founded on the benefit of economic union (as for Turkey), or the favoured nation status (from the USA to Brazil and Columbia), or the robust emergence from centralized to tiger economies (in India's case). The utility of these case studies, we argue, rests somewhere in their transitional stages between social embeddedness and globalized dislocation, without totally sacrifice wider social bonding frameworks. This transition, particularly in the case of Turkey and India, can be trans-positioned against the retention of resilient and recurrent principled social bonding unique to culture.

That said, we anticipate that the analytical utility of these “transitional states” may be more limited than it would first appear. The reason lies in the reality that all the case study nation states in this block (even including the new Columbia) either retain strong and consolidated state frameworks, or are through geo-political significance, the recipients of interest and influence from very strong neighbour states. The state, therefore, comfortably remains the regulatory referent and the literature confirms this. Even when a sub-national state analysis is adopted, to suggest that the national framework may be challenged through a disaggregation of the state, the state is continuously referred to as the creator of central rules, and regional sub-states are analyzed vis-à-vis the central state (Sinha, 2003).

Another reason we suggest that the transitional state context may not advance or refute our search for the connection between principle, organic regulatory form and social embeddedness as a progression to reveal the merit in repositioning principled regulation, resides in the nature of their economies. These transitional states are on their way to, or have significantly attained the North economic paradigm. As such it is in their interest to immerse themselves in North World regulatory thinking and practice. It would be fair to suspect, therefore, that the motivations and outcomes of regulation in these case studies have come to reflect North World practice, and local adaptations are viewed as nothing more.

For these states to retain a transitional status, fractures within the state frame will prevent any entirely compatible reflection on regulation's relationship with a consolidated state. For example, it is not impossible to perceive of governance situations in such transitional states where the government is corrupt, weak or compromised and the executive or the judiciary retain some regulatory legitimacy and potential. Recent South World (transitional state) regulatory research focus is concerned with the extent to which the judicial discretion can activate even weak legislative frameworks, and produce accountable and more effective regulatory projects. Judicial activism, for instance, enables the judiciary to play a pivotal role in otherwise contested regulatory affairs, and this can occur at various stages of the regulatory exercise such as the initial stages of pushing for the setting up of an independent regulatory authority[6], so that courts may actually become the instigator for particular regulatory models. This was the case in India when the Indian Supreme Court paved the way for the liberalization of its telecommunication industry (Thiruvengadam and Joshi, 2012, pp. 334-335). More than this, the Indian judiciary legitimated the regulator and its jurisdiction to make policy decisions (Thiruvengadam and Joshi, 2012, p. 333). The judiciary, through its decisions, can place not inconsiderable pressure on regulatory agencies to adopt certain regulatory mechanisms. This is especially so if the regulatory dialogue at the court level was technocratic in nature (Urueña, 2012). In the case of Colombia, the mix of actors in its regulatory landscape has led it to be described as a constitutional variant of the regulatory state, because of its judiciary playing an active counter-majoritarian role by pushing for constitutional protection for basic civil rights (Urueña, 2012, pp. 288-289). A state considered as such means that the redistribution exercise usually undertaken by regulatory agencies which are independent from the state is now subsumed under the domain of a central state institutional entity, in this case the judiciary, which has representational links to the citizens of the state.

While current regulatory literature sees the traditional regulatory state as one with increased delegation of governmental power to regulatory agencies (Oliver et al., 2010, Chapter 2) – that is, the extension of rule-making, monitoring and enforcement tasks via bureaucratic organs of the state (Levi-Faur, 2011, p. 14) – the trend among transitional South World states seems to be a reversion to Majone's (1997) positive state (Majone, 1997). The facilitation of more and better public involvement in lawmaking areas whether through the judiciary or collective action undertaken by civil society (discussed below) locates regulatory principle in the hands of society, thereby enhancing the organic character of such regulation, which means that it is more socially embedded.

Quite apart from the judiciary, civil society groups add to the mix of forces at work in the regulatory process where the state shadow is faint. Civil society capacity can range from technical expertise to correct or make up for state weakness or omission, down to the provision of critical public interest accountability. State officials and regulators in these circumstances are strengthened in legitimacy and capacity through harnessing the connections that such civil society constellations have to large constituency bases as a means for collecting, disseminating and accessing regulatory information and dialogue (Hochstetler, 2012). The extent of civil society participation in South World states can sometimes reach a point of co-option of the regulatory process and thereby the regulatory agenda is clearly set by non-state actors. This was so in the Philippines when regulatory mobilization (Chng, 2012) in the form of collective action taken by community organizations and private vendors resulted in locally legitimate norms and networks to operate outside the formal regulatory framework.

In some transitional settings the public/private, state/civil society demarcation is far from clear and this can be a consequence of the structure of the state and its relationships with civil society, in situations where the private sphere is increasing in significance, while the state remains pervasive. As in the case of China, because of the strong nationalist sentiments that persisted since the early 1900s, the state has been playing a dominant role in both regulatory affairs as well as in the private markets. The situation has been described as one where “government power is married to the profits of the firms” (Lu, 2000, p. 280) in that government agencies set up official firms which sell consulting services regarding regulatory decisions such that there is a conflict of interest given that these firms were subsidiaries of the agencies whose decisions were sought. In this example, what has taken place is an institutionalization of corruption through the state's increasingly entrepreneurial role in the very sectors that it regulates. As a result, any simple transplantation of the prevailing global regulatory model that sees liberalization and the delegation of regulatory authority to independent agencies, will not succeed. Furthermore, the pervasiveness of organizational corruption encourages deviant actions by government agencies such that they behave like principals pursuing their own interests that are not necessarily in congruence with those of the state (Lu, 2000).

Within the state/private regulatory intersection, fundamental dysfunctions can erode clarity in regulatory principle. A culture of corruption could be so prevalent such to be accepted into society as part of the regulatory environment as in the case of China, where state actions are categorized into those which the state has designed to be perceived as regulatory inevitable (such as *guan xi*), and those that are kept concealed but not escaping the understanding and experience of civil society. Particularly when media outlets are co-opted by the state, it becomes more and more difficult to draw parallels between the regulatory design and practical regulatory outcome, if the state and its media have a vested interest in making what the state sets out to regulate look like a natural consequence of regulatory activity (Figure 1 (2009) Figure 2, p. 27).

Also, where the subsisting regulatory arrangement that has become entrenched is one where informal relationships predominantly provide security for state and private malfeasance, and formal institutional frameworks are altogether absent or complicit in the regulatory challenge, society has adapted by engaging other strategies including risk management and uncertainty management to confront the perverted excesses of state regulation. In such situations, the legitimacy and therefore value accorded to actions of the state becomes so undermined it results in rejection or boycott of state regulatory initiatives, as a consequence of epidemic distrust.

## **The comparative approach – liberating embedded principle**

The comparative approach means that understanding other societies implies a consciousness of our own culturally bounded conceptions. In other words, to compare is to ponder simultaneously over the unity of mankind and its obvious diversity (Berthoud, 1990, p. 172).

In addition to the utility of South/North comparison directed to social embeddedness rather than regulatory state modelling, we advance the importance of comparison within cultural locations. Internal comparison enables different locations of motivation and outcome to be understood as influencing preferred principle in various contexts of social bonding. Polanyi assists us here. Within market patterns individuals and groups can be moved by material motives or by ideal motives. The first is dependent initially on everyday needs and then can develop into wealth as a motivator and an outcome when subsistence is transformed into surplus. The second notion is linked with actions and values like solidarity, honour, pride, moral duty or civic obligation, or even to face (Polanyi, 1968, p. 69).

Social bonding, we suggest, is not just the outcome of particular regulatory motivations. In fact, social bonding influences and is influenced by various principles such as:

- utilitarianism;
- atomism;
- individualism;
- naturalism; and
- evolutionism.

These different bonding contexts in turn convey critical meanings for market mentality. Take for instance the economic rationalism which underpins utilitarian bonding, reducing individual and collective motivation and outcomes to means/ends corollaries. In a contemporary, modernized economic context rationalism principles are further reduced to favouring material ends. Polanyi (1977) is not willing to constrain a utilitarian value scale in purely materialist terms, and spoke of “the erroneous conception of unlimited human wants and needs” and the “false notion of the good life as a utilitarian culmination of human pleasures” (Polanyi, 1977, pp. xlvi and 13). The modern economic wealth/pleasure/utility principle set rests on a vision of modernist materialist values as rational, and traditional values as pre-logical, superstitious and obscurantist. Hannah Arendt (1988) in her book *The Human Condition* reveals the deep ethnocentric prejudice exhibited in this approach to rationalism:

[...] among other principal characteristics of the modern time [...] we find the typical attitudes of homo faber: the instrumentalisation of the world [...] the faith in the universal bearing of the means-ends category, the conviction that all problems can be solved, and all human motivations can be reduced to the principle of utility.

Polanyi suggests an alternative approach to economic determinism individually driven, and economic rationalism wealth focused. For Polanyi the capitalist market mentality was even at the middle of the last century, obsolete. To escape this mentality would require a reform of human consciousness. But this should not be unthinkable, as it was what happened when the industrial revolution produced “such a forced conversion to a utilitarian outlook (that) fatefully warped Western mans’ understanding of himself” (Polanyi, 1968, p. 63).

Polanyi turned to history and anthropology to test the contemporary universal truth of market mentality. In so doing he was neither searching for paradise lost, nor preferring a romanticist anti-market mentality. He refused to reduce man to a utilitarian atom, and rejected methodological individualism which is the heart of contemporary

economic analysis. Polanyi preferred to advance the crucial role of values in understanding societies, preferring a holistic approach to appreciate the function and meaning of any specific phenomenon within its social and cultural whole. In seeing the study of economy as just part of that whole Polanyi invited an analytical approach from two directions: values and motives on the one side and physical operations on the other. While agreeing that these analytical directions are valuable, for the study of transforming regulatory principle we consider what particular culturally motives and outcomes are key social indicators of the values which construct broad regulatory principle.

Economy may better be viewed, as Polanyi does, within the parameters of physical operations and their outcomes, while the other social sphere, the religious/political, better informs motivations and values. This duality again is only instructive insofar as it can be integrated into a wider cultural understanding, but one in which economic determinism is no more, and perhaps less influential, than the whole. An inclusive view of man and society thereby enlightens and repositions economic ideas within a range of contesting values vying to shape overarching regulatory principle.

萧瀚

Fixed Figure 1

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Fixed Figure 2

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## Notes

- See the revival of interest in the moral base for socially responsible economics and the growing push for corporate social responsibility in the wake of recurrent international financial crises. More than this, and consistent with a strong sub-theme underpinning our analysis, is that the development of new social and economic paradigms complemented by social responsibility is inevitable within developed political economies (Korhonen, 2002).
- A methodology to explore these considerations is to engage some of the literature examining South/Eastern regulatory initiatives (and further, fundamental principles of culturally located bonding), in order to challenge a monolithic construction of the regulatory state (weak, failed or otherwise).
- Another indication of social dislocation is the contemporary emphasis in share valuation on speculative rather than productive profit expectation. Such qualifications, even if they may seem somewhat model, would make manageable the critical reflection on new ways of seeing mechanical purpose for global regulation.
- In this paper, social embeddedness is employed as a critical tool to unlocking the analysis of regulation as a question of community/social bonding. The embeddedness of economic behavior refers to how economic transactions are embedded in the social relations within that society. The necessary implication is that economic activity is but one category of social activity, and therefore economic growth as the only measure for regulatory effectiveness cannot continue to persist. Through an interrogation of the principle of mechanical/organic solidarity which maintains social order, the organization of social life and social activity takes on a form and meaning that is law itself, or for our purposes, regulation.
- The direction of this focus in what follows will be broadly on three types of literature:
  - Commentary and analysis on the regulatory state of the South. This is generally written by scholars who have a research familiarization with the South state, and these states are likely to be transitional and significant as an interface between the North and South regulatory worlds.
  - Commentary and analysis on regulatory projects in disaggregated states of the South. There is a preference here for writing from within that state, which is more likely to be focused on communitarian and collaborative strategies beyond the state.
  - Cultural studies literature which indicates other principles and motivations behind regulatory change, emanating from any of the major traditions of the South. This will be an eclectic and non-discipline-specific literature.
- This was the case for the telecommunications industry in India, where the court, in dealing with litigation concerning the constitutionality of privatization of telecom services, ruled that the legitimation of such an economic policy would depend on the presence of an independent regulatory authority to oversee such a policy endeavour. Following that decision, the Indian government moved to set up a regulatory authority (see Thiruvengadam and Joshi, 2012).

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