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**PUBLIC MANAGEMENT AND
REGULATORY GOVERNANCE:
PROBLEMS OF POLICY TRANSFER
TO DEVELOPING COUNTRIES**

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PUBLIC MANAGEMENT AND REGULATORY GOVERNANCE: PROBLEMS OF POLICY TRANSFER TO DEVELOPING COUNTRIES

Abstract

The focus of this paper is on the conceptual and empirical problems that arise in the analysis of the administrative and political context of economic and social regulation in developing countries. After a discussion of the significance of dominant ideas in current debates on economic and social development policy, the paper examines the main characteristics of regulatory governance in developed economies, since the privatisation and regulatory reforms recently introduced into developing economies are broadly modelled on developed country experience. It is argued that regulatory reforms need to be analysed in the broader context of the new public management (NPM) and governance reforms which have been spreading across both developed and developing systems of government in the last two decades. One reason for close attention to systems of governance is that in developing countries, the state is likely to retain greater responsibilities for economic and social regulation than is now the case in developed economies. In this event, 'Western' models of regulation will not be easily emulated or transferred because of the resistant political and administrative cultures that must receive them. The forms of this 'reality gap' are examined, and the implications for the reshaping of state-market relations in developing countries are considered, as well as the implications for pro-poor strategies.

INTRODUCTION: THE DEBATE ON ECONOMIC DEVELOPMENT STRATEGIES

Analysis of regulatory governance in developing economies immediately encounters several difficulties. First, concepts of regulatory governance and the regulatory state are still relatively new in developed economies, and are generally the product of a post-privatisation phase of neo-liberal economic reform. Meanwhile, the application of these reforms to developing economies has been actively pursued, particularly by aid donors, but there has at this point been little independent evaluation of the effectiveness of this reform process, let alone of the economic results and social effects. The picture is particularly blurred in respect of the reforms, such as privatisation, contracting, and regulation, which involve a new conception of state-market relations, and so add in the complexities of governance and political institutions in developing countries. To add to this complex set of relationships, major players themselves appear now to be seriously divided about the appropriateness of current economic reforms and their relation to broader development strategies.

The broad church of development studies has long contained many doctrines, sharing only a more or less optimistic belief in the inevitability of progress, but with wide divergences of view about how this could or should be achieved. The post-1945 period could be said to be dominated by a neo-Keynsian consensus, in which key policy elements were state-managed macroeconomic strategies, redistributive taxation, public control over labour and money markets, and the satisfaction of social needs through state-owned enterprise and state-engineered social welfare systems (Cammack, 2002). These precepts applied equally to thinking about how economic and social development should be pursued in the world's developing economies. But persistent failures of this modernising project, particularly in Africa, and the vicissitudes and eventual collapse of the socialist alternative to capitalism, produced in the last two decades of the century what has been termed the triumph of neoliberalism, which rejected Keynesian tenets and advocated a reshaped relationship of state and market in which the latter would be the dominant partner. Where we should locate neoliberalism conceptually is still disputed. It may be regarded as fundamentally consistent with neoclassical economics and therefore an extension of the modernisation project (Simon and Narman, 1999:270); as a new doctrine which overturns the statist development orthodoxy in favour of a set of universal prescriptions for developed and developing economies alike, and which amounts to the construction of a 'legitimising' ideology to support capitalist expansion while concealing the problems created by capitalism itself (Cammack, 2002); or as an inevitable response to the failures of development policy, with mainstream development discourse absorbing and adapting radical alternatives to create a constantly shifting orthodoxy (Schuurman, 1993).

There can be no gainsaying the practical hold that neoliberal policies have exerted since the 1980s through their adoption and promotion by official aid agencies and bilateral donors. This has been characterised as the 'Washington consensus', a broad set of ingredients in a recipe for successful economic growth and development originally spelled out by Williamson (1990, 1996) and regarded as agreed upon by crucial Washington institutions, including the IMF, the World Bank, and the US Treasury. A key perception was that 'the role of the State was to "roll back" itself: liberalisation, deregulation, privatisation were the key watchwords' (Florio, 2002:379). After more than a decade in which this policy consensus dominated official development policy agendas, it began to come under attack. This was in part because of the shocks administered by economic failures and crises in Russia, Asia, and Latin America. If the proof of the pudding was in the eating, this particular pudding was causing

severe indigestion. Some of the criticisms are highly relevant to discussion later in this paper of the limits created by underdeveloped institutions. Florio, on Russia, comments that ‘there is now a wide understanding that in the absence of the basic institutional and social prerequisites, market reforms in Russia...backfired in a most damaging way’ (Florio, 2002:406), adding that ‘some Washington officials simply did not understand the country’ (Florio, 2002:405). In a World Bank Discussion Paper Nellis writes that ‘any number of Russian economists...have concluded that the whole privatisation approach was wrong; that it should have been preceded (not accompanied) by institution-building; and that the proper way forward is to strengthen the structures of the state’ (Nellis, 1999, quoted in Florio, 2002:394). But the clearest assault on the received thinking of the Washington institutions came from Joseph Stiglitz, a Nobel prize-winning economist. Stiglitz’s now famous savaging of the IMF, while at the time Chief Economist at the World Bank, and his more recent attacks on the neoliberal orthodoxy subsequent to his effective dismissal, in truth do no more than follow the logic of his theoretical work, which draws attention to the limits to free markets of incomplete information, inadequate markets, and unworkable institutions. He is at pains now to point out that these limiting conditions are especially likely to be present in developing countries, and is particularly harsh on the shortcomings of premature privatisation, arguing that many developing and transitional economies do not have financial systems capable of handling such transactions, or regulatory systems capable of preventing harmful behaviours after privatisation; nor do they have systems of corporate governance capable of monitoring these restructured institutions. (Stiglitz 2002). A recent review judges that Stiglitz

‘makes a strong case for policies that favour gradualism over “shock therapy”; that put the emphasis not on what developing countries have in common, but on how each is different; that place the concerns of the poor above those of creditors;...and that fight poverty and promote economic growth directly rather than merely establish the conditions under which economies will be likely to grow, and poverty to decline, on their own.’ (Friedman, 2002:53)

The challenge that such views offer to official orthodoxy doubtless explains the dramatic events at the World Bank in late 1999 and early 2000, when in rapid succession Stiglitz was forced out, and Ravi Kanbur, editor of the draft World Development Report 2000, felt compelled to resign. A fascinating account (Hunter Wade, 2002) makes clear that all this was both outward sign and immediate consequence of ideological battles and organisational

power struggles raging within the Washington institutions. This is characterised by Hunter Wade as a conflict between two agendas being simultaneously pursued; a 'Finance Ministry' agenda supporting the usual range of neoliberal market propositions, and a 'Civil Society' agenda sceptical of these propositions, and committed to strategies of social empowerment and regulation in the social interest. These differing agendas are supported and promoted outside the aid donor institutions, the Finance agenda by finance ministries in other countries, including some developing economies, and the Civil Society agenda by developmental non-governmental organisations, again including those in developing countries. But, Hunter Wade argues, it is 'American thinking about the roles of governments and markets [that] sets the conceptual centre of Bank thinking, not European, Japanese or developing country thinking' (Hunter Wade, 2002:218). In effect, Stiglitz and Kanbur were sacrificial lambs to the god of neoliberal orthodoxy. One of Hunter Wade's conclusions is relevant to the overall thrust of this paper: '...the Bank would be a better development agency if the US...had less control over it, if people from other states, with knowledge of other (social democratic, developmental state) forms of capitalism had more influence over what the Bank says and does, causing the Bank to affirm a wider range of institutional ecologies' (Hunter Wade, 2002:235).

An interesting perspective on this debate is offered by Khan (2002), who asserts a distinction between two models of the state in developing countries. The first is a service-delivery model in which the core functions of the state are undermined by governance failures and economic under-performance. The solution is the mix of liberal economic and democratising reforms advocated and supported by the aid donors. Khan suggests that a more realistic model is that of the 'social transformation' state which leads the transition towards an industrial capitalist economy; that 'getting developing economies through this transformation successfully has historically required stronger and more interventionist state capacities than are envisaged in the liberal-market consensus' (Khan, 2002:4); and that states in developing countries play a much more critical role than the service-delivery model suggests. A major implication of this is better understanding of the role of powerful social groups and their political constellations in relation to the state, and a recognition that 'the effectiveness of institutional capacities depends on their compatibility with the underlying distribution of power' (p.35). In short, 'it is well to recognise explicitly that institutional reform is deeply political' (p.36).

The point being stressed in this introductory section is that the big themes we deal with- states, markets, competition, regulation, poverty- are exceedingly complex, but are also characterised by contested understandings and conceptualisations. Effective development policy is not just a matter of getting the practice right, but of getting the ideas right. Interestingly, a recent World Bank report, *Perspectives on Development* (World Bank 2002) promotes this view, but it is clear that in the World Bank world, some ideas are more equal than others. It states, for example: ‘Whether ideas are imported from abroad or produced within the developing countries they should avoid the biases of ideology: ideological biases have only too easily permeated development thought’ and that ‘disciplined thinking on the proper balance between state and market has too often been neglected’ (World Bank, 2002:65). This reveals an apparent lack of awareness that the bank’s own policies rest on a particular set of beliefs that many commentators have described as “ideological”, and an implication that views on state-market relationships that differ from the Bank’s view must by definition be “undisciplined” and so unacceptable. Perhaps the report’s authors had not noticed the bitter and ideological internecine warfare going on around them in their own institution.

It is alarming to discover that influential aid donor policy initiatives often rest on ideas that are based on untested *a priori* assumptions, or are strongly disputed by other practitioners. It is disconcerting when policymakers appear not to recognise that their policy choices reflect an ideological preference between alternatives, a situation compounded when, as often, the empirical base for these preferences is weak. What this discussion should alert us to is the necessity to avoid taking existing policy preferences for granted in any given field of development, to be ready to acknowledge successes and failures on the ground, and to be willing to change our preconceptions (and policies) in accordance with these real effects. The need to reflect on the links between theory and practice will guide the rest of this paper.

PUBLIC MANAGEMENT AND REGULATORY GOVERNANCE: DEVELOPED COUNTRY MODELS

An earlier paper on regulatory governance made a number of basic linkages between regulation, ‘new public management’ (NPM) reforms, and broader concepts of governance (Minogue, 2001b). These are summarised briefly here, and will in some cases be developed in more depth below:

1. The analysis of regulation goes beyond examination of the formal rules which govern relationships between the public and private sectors to the broader framework of state-market relations
2. Regulation is then seen as part of the whole range of neoliberal market reforms, which include privatisation and reshaped state-market mechanisms such as contracting and public-private partnerships
3. Since much regulation is carried out inside government (Hood et al 1999) , it is appropriate to consider the effects on regulatory policy and practice of public management reforms that introduce into the state sector the entrepreneurial disciplines of the market-place.
4. Since regulation can be categorised as a distinctive mode of policymaking (Majone 1999) it is appropriate to examine its relation to the general public policy process.
5. Finally, the significant effects on regulatory systems and processes of political ideas, institutions and relationships of power require analysis of governance frameworks and an understanding of such concepts as ‘the regulatory state’, ‘regulatory capture’ and ‘regulatory space’.

How should we tie in regulatory reforms to generic public management changes? First, we can do so by treating regulatory innovations as part and parcel of the generic reform movement labelled as New Public Management. (NPM). The literature on NPM characterises it as a set of principles rooted in neoliberal thought, and involving a new conception of state-society, public-private relationships (best exemplified by influential hand-me-down derivatives of public choice theory such as Osborne and Gaebler,1992). Conceptually, NPM is a response to perceived failures of the ‘command and control’ state, with its Keynesian philosophy of stabilisation and distribution, and strong internal values of public interest and public accountability. NPM rests on the following assumptions, which need to be critically examined for internal coherence as well as being tested against the results of reform practices:

1. The public interest state has led to extensive government failure and inefficiency, and should be replaced, as far as practicable, by superior market mechanisms.
2. A more efficient public sector requires the separation of policy from execution, which would be decentralised

3. An entrepreneurial culture based on managerial incentives will produce better government performance than a public service culture based on public interest principles
4. Accountability rooted in a direct relationship between 'manager' and 'customer' is preferable to legal and political forms of accountability

In brief, the key idea is that the state has become too large, too interventionist, and too costly; that many of its activities could be transferred to a willing and capable private sector; and that the disciplines of the marketplace should be applied to any residual state bureaucracy.

There are clear internal contradictions here. First, the notion that state failure is produced by an informal conspiracy by officials (both elected and appointed) to advance their own interests depends on the supposition that social behaviour is governed by individual self interest. Yet it is this same characteristic of self-interest that is held to make market-based forms superior, because the market resolution of self-interested transactions will produce perfect efficiency. Secondly, the separation of politics from management is a major tenet, yet designing and implementing radical reforms of this type demands a substantial exertion of political will and leadership. Related to this, NPM requires the creation of managerial and institutional autonomy in a variety of decentralised forms, yet the effective implementation of such reforms must be driven by a centralised strategy, and strong central direction and resourcing. Because of these contradictions, commentators such as Hood (1991,1995) suggest that NPM is conceptually incoherent, and mixes different types of reform strategy and managerial 'fashions'.

Whatever the view that might be taken of the concepts underlying NPM, there can be no dispute about the success of this model in dominating the public management reform agenda in developed economies in the past two decades (what follows summarises a more detailed account in Minogue 1998). The explanation for this seems to lie in a combination of pressures on these governments to control rising levels of public expenditure while simultaneously holding down direct taxation, and to respond to political demands for improved levels of performance in the delivery of public services. With local variations, the design of the NPM model normally included a reduction of the size and scope of the public sector, particularly through privatisation (in social as well as economic spheres); restructuring and reduction of central bureaucracies; the introduction into state agencies of competitive disciplines through contracting of services and internal markets; and the use of performance

management and auditing to increase operational efficiency. The aim of such reforms was to produce an entrepreneurial, results-oriented, performance driven public management culture inside an enabling rather than direct provider state.

It is remarkably difficult to arrive at an informed judgement of whether this model has succeeded in practice. Given the emphasis of NPM on such elements as efficiency gains, performance measurement and auditing, and a commitment to results, it is surprising to find so little attention in the literature to evaluation. The implementation of the reform model has been extensive, particularly in the UK, New Zealand and Canada, and proponents (usually involved practitioners) claim real improvements in systems, processes, operations, and cultures; but as Pollitt and Bouckaert (2000:97-133) show, there is an absence of persuasive empirical evidence with which to measure results on any of these dimensions. There is a genuinely changed discourse of reform, but little to link reforms of structures to processes and outcomes, whether in terms of better policymaking or better delivery of public services. Where the language of results-based management is employed this is often directed to the *introduction* of institutional changes, not to the *effects* of those changes as measured by outcomes. The UK provides a good illustration of the problems surrounding the evaluation of NPM reforms. While it is clear that a major structural transformation has taken place, with substantial privatisation across a whole range of public utilities and services, the restructuring and reduction of the central civil service, and the introduction of mixed public –private provision through mechanisms such as contracting out, public-private finance arrangements, and public-private partnerships, the results are thoroughly contested. It is worth rehearsing here the arguments on both sides. The arguments expressed in favour of the reform model are:

- the market offers a more efficient alternative to the failed traditional state model
- there have been clear efficiency gains through the application of this model
- public managers now have more autonomy and better incentives to manage well
- consumers of public services have now been given more choice and can hold public managers directly accountable for their service delivery
- overall efficiency gains have helped to control public spending and deliver low-tax regimes
- the public administration has been transformed from a ‘bureaucratic’ culture into an ‘entrepreneurial’ culture.

Against these positions it is argued by a substantial range of critics that:

- the market has been revealed to be a flawed alternative to the state
- the evidence on efficiency gains is ambiguous and indeterminate, particularly because any cost savings are often dissipated by relatively unmeasurable transactions costs
- increased managerial autonomy has blurred lines of accountability and increased the risk of policy errors and delivery failures
- the introduction of competitive principles has turned public bodies into conflictual rather than collaborative organisations
- there has been considerable demoralisation of public workforces
- in several cases public services have got worse rather than better

The absence of adequate evaluative analysis and information makes it impossible to judge neutrally between these two contrasting positions and strengthens the conviction that practitioners essentially make a political choice between ideological alternatives, rather than a rational, informed choice between differing sets of technical managerial principles. We might conclude at this point that as well as being a contested concept, NPM is also a contested practice in terms of judgement of its outcomes.

The relation of public management reforms to changing modes of regulation is also beset by potential contradictions. Lane (2001), for example, characterises public sector reforms as essentially a comprehensive shift from long-term contracting (primarily through government bureaucracies and public enterprises) to short-term contracting (primarily through contracting out and tendering mechanisms). This move ‘presupposes massive deregulation, opening up both the public sector and the regulated sector of the private economy to competition’ (Lane, 2001:43). On the other hand, this extensive reduction of bureaucratic-legal interventions, or what has been called the “hollowing out” of the state (Rhodes, 1994) creates a new requirement for regulatory mechanisms to protect public interest concerns, to make good the loss or weakening of traditional forms of accountability, and to respond to what Moran terms the crisis of the collapse of self-regulation (Moran, 2002). Moran, summarising a ‘complex political economy of regulation literature’ (Moran, 2002:2) identifies a *pluralist* stream which emphasises that the nature of regulation is contingent on the distribution of power among different social groups, and will vary from case to case, and between different national political environments (the obvious contrast in developed country models being that between ‘a litigious and adversarial regulatory culture in the United States and a British culture which

stresses informal resolution of issues and a culture of consensus between regulators and regulated' (Moran, 2002:2, drawing on Vogel 1986). An alternative construct is a *rational actor* model in which the strategic pursuit of sectional interests produces benefits not to the public interest but to the powerful actors who dominate the process: politicians, business interests, and bureaucrats. This latter approach is close to, and has roots in, the neoliberal paradigm which, as we saw earlier, contributed so significantly to generic ideas about the reform of the state-market relationship. In essence these two approaches represent familiar and competing explanatory frameworks for the origins and nature of regulation. Moran, examining the reasons for the growth of deregulation, identifies a loss of confidence in the regulatory state, partly because of persistent implementation failure, partly because of pessimism occasioned by regulatory capture. But his discussion reminds us that there is more than one version of the regulatory state. Sometimes the literature refers to all aspects of the 'command and control' state, and specifically to the expansion from traditional economic regulation to wider social regulation, particularly in respect of welfare, health, and the environment: it has rightly been said that 'regulation...is as old as government itself' (Majone, 1996:9). At other points the focus is much narrower, and refers to the creation of new regulatory institutions in the wake of privatisation and deregulation reforms, a phenomenon often termed 're-regulation'. We therefore need to be cautious in using the description 'regulatory state', since it appears to have different meanings attached to it.

Moran draws attention to this problem by reference to two major contributors to the literature on regulatory theory and practice. First, Majone (1999,1996) has defined the European Union (EU) as a particular form of regulatory state, distinguished by its overarching responsibility for regulatory policy, but lack of powers over implementation, leaving the conundrum of how to legitimise 'non-majoritarian' institutions and their actions. In short, if we create truly independent regulatory agencies, who will control them, or mediate any conflicts of interest between their actions and broader public interest concerns? This question might also be addressed to proponents of self-regulation as the only viable response to problems of regulatory overload (whether of the traditional or the post-privatisation kind). Here Moran turns to the formulation by Ayres and Braithwaite (1992) of 'responsive regulation' as a means of transcending the limits of legal formalism; regulation is essential to secure efficiency and to manage risk, but effective regulation 'in conditions of great complexity depends on fostering norms among the regulated such that they will voluntarily comply, and depends upon the creation of a constant dialogue between regulators and regulated.' (Moran,

2002:6). Elsewhere, Braithwaite (1999) argues that we have moved to ‘a world where private powers pose many more threats to liberty than public power’ and that accordingly we need to escape from traditional forms of political accountability, since these ‘cause regulated actors to work defensively to avoid blame, instead of creatively to seize responsibility for achieving valued outcomes’ (Braithwaite, 1999:91). But this approach appears to beg two questions. First, who decides what the appropriate norms should be, or which values should inform what outcomes? If these norms and values are pre-determined, then they will have to be imposed, which will invite strategies of avoidance; if they depend upon dialogue, they will represent a negotiated bargain, and opportunities for capture. As Moran admits, ‘non-formal modes of regulation are themselves subject to the same sort of destructive influences as afflict formal modes’ and both ‘are undermined by the creativity of strategic actors searching for advantage’ (Moran, 2002:7). Braithwaite’s call (1999:92-94) for a new architecture of regulation built on trust, and for new institutions of accountability resting on committee systems and circles of guardians is simplistic in the extreme, for it writes out of the equation any consideration either of real bureaucratic behaviour or of the imperatives of civil politics. There is a flawed assumption at the heart of Braithwaite’s conception, namely, that the traditional state has been completely replaced by the regulatory state, when in truth changes in the state-market relationship are less clear-cut than this, and in any case will vary considerably between regions and countries.

Moreover, Moran’s exploration of British regulation deals another blow to Braithwaite’s formulation, and illustrates my contention of the close juncture between regulatory governance and new public management reforms, by reference to Power’s study of what he has termed the ‘audit explosion’ (Power, 1997). By this he means the substantial expansion of the scope and powers of public audit institutions (the National Audit Office, the Audit Commission); the plethora of new or reoriented institutions of performance evaluation across a wide range of public services, notably in health and education; and the formal contract arrangements which have replaced direct local authority provision in many services. Power argues that these ‘rituals of verification’ have expanded to fill the gap left by the breakdown of trust, either in government itself or in the probity and self-regulation of professional groups. This could also be seen as a general crisis in social relations, what Habermas called a ‘crisis of legitimation’, such that there is ‘a sudden uncertainty about what to value and put one’s faith in’ (Inglis,2000:419). New managerial and regulatory reforms might therefore be seen as reflections and consequences of this breakdown of trust, and Braithwaite fails to

explain how trust-based, responsive regulation can be expected to turn this situation on its head.

What is missing from his, and indeed most accounts of regulation, is understanding of the cultural elements that are essential to explanations of social behaviour, whether in general, in national systems, in organisations, or in particular groups; and of interactions and transactions between these various entities. This explanatory mode is well understood in social science, but is often neglected by the economists and lawyers who dominate the regulation literature. The commentators cited in this section (Moran, 2002; Inglis, 2000; Hood et al 1999; Hood 1998) all recommend a cultural analysis of the social relationships underlying regulation, and are attracted to the insights of anthropology in securing an adequate understanding both of why institutions work (or fail) as they do, and also of the ways in which trust can be built on shared values. According to Moran, ‘the upshot is to paint a picture which subverts the efforts in the literature to develop some general theory of regulatory effectiveness’ (Moran, 2002:15); while Inglis, drawing his instances from the British education sector, mounts an excoriating attack on the pernicious ways in which neoliberal managerial reforms have subverted and damaged public service institutions built up on relations of mutuality and a commonality of public interest.

What then emerges as significant is the extent to which this debate must continue to include ‘regulation inside government’ (the title of Hood et al 1999). The reshaping of the managerial state has brought into existence new regulatory institutions and practices, while at the same time leaving within the boundaries of the state some traditional regulatory responsibilities, in turn reconditioned by innovative regulatory practices (such as audit and performance management as discussed briefly above). We may add to this the regulatory responsibilities and relationships created by membership of the EU. Regulation therefore takes place inside government, outside government, across national government boundaries, and in institutions which cross the public-private divide. Finally, we should not lose sight of the arena of meta-regulation ie how regulatory strategies are designed and through what institutional networks and relationships. It is the wide-ranging nature of these arrangements that has brought into currency the idea of the ‘regulatory state’ but this too readily implies a replacement of other types of state, such as the ‘traditional’ state, or the ‘welfare state’, or the ‘enabling state’. These are all crude labels, and in reality we are likely to find elements of each, and of the regulatory state, present in any particular national state we choose to examine. Perhaps this is

why the notion of 'regulatory space' has been deployed. Drawn from the prior notion of 'policy space' in public policy studies, 'regulatory space' offers a canvas onto which we can paint a variety of occupants and their relational configuration; their provenance as state, non-state or hybrid actors matters less than their activities, transactions, motivations, and power or influence; this framework can also accommodate 'the variations introduced by differences in markets and issue arenas' (Hansher and Moran, 1989:276). In turn, we might say that the combination of space, actors, behaviour and issues is one already dealt with by studies of the public policy process (Sutton, 2000), and that studies of regulation necessarily involve the usual elements in public policy analysis: design/formulation; decision-making; implementation; evaluation-the whole policy cycle. In sum, analysis of regulation involves analysis of ideas, institutions, processes, activities, and actors, in all their myriad interrelationships in economic, social and political spheres. The conceptions of the regulatory state and regulatory space offer us the broadest possible analytical framework, in direct contradiction to the narrow formulations favoured in the standard literature on regulation. Scott (2000) illustrates this approach in a discussion of the ways in which new public management reforms, in fragmenting the British state, 'has made more transparent the existing dense networks of accountability associated with both public and private actors concerned with the delivery of public services' (p.40), making it possible to develop 'extended' models of more sharpened accountability which are 'central, instrumental features of regulatory governance' (p.48). But Scott is at pains to argue that these extended accountability structures go beyond a mere neoliberal model of accountability, and suggests that 'the investigation of any particular policy domain reveals complex structures of extended accountability, best described as hybrid in character' (p.49). This leads to a notion of *interdependence* of a range of public and private actors, each having 'powers and capacities which constrain the capacities of others' (p.52), but Scott admits that in practice transparency problems associated with new public management reforms may allow interdependency to slide in to regulatory capture.

POLICY TRANSFER ISSUES: PUBLIC MANAGEMENT IN DEVELOPING COUNTRIES

One justification for evaluating NPM reforms in developed economies is that the NPM model, or versions of it, have been widely imitated in developing countries, by the process we label "policy transfer", principally through the mediating channels of the international and bilateral aid agencies (Common, 1998). Regulatory reforms are an integral part of the NPM

model, specifically in being closely tied to market-oriented institutional changes such as privatisation and contracting. The discussion above sounds a number of cautionary notes. In the first place, it is not at all clear that the NPM reform model has been effective even in developed economies, and a critical literature places substantial costs as well as credits in the balance sheet. Consideration of the appropriateness of for developing countries of developed country models of managerial and regulatory reform must incorporate a critical evaluation of the weaknesses in, and failures of these models. Secondly, NPM entails a transformative conception of the state; while it is clear that the state in developing countries is much in need of renewal and reinvigoration, there is very little agreement on what kind of state this should be. Should we be trying to reduce the scope of that state, or should we be trying to build up its capabilities, powers and resources in order that it may achieve the developmental objectives required by its own citizens? Finally, the most obvious issue is that of cultural difference. Not only are low and middle economies distinctively different in economic, social and political terms from rich economies, but there is considerable variation between national cultures within these broad categories. Taylor (2001) has pointed to the problem that in transferring an NPM model to developing economies, we are making a double transfer, from developed to developing state, then across the public-private boundary. Both types of transfer are culturally problematic, and Taylor stresses the sociological naivety of those who promote NPM managerial practices that ignore or conflict with the social and political dynamics of public service organisations and systems in developing countries, an argument strongly expressed also by a leading practitioner of NPM in developed economies (Schick, 1998).

Once we begin to think about the crucial issue of the social and political dynamics likely to be encountered in the developing country state and its relations with both market and society, we must consider a further strand in the development agenda usually labelled as 'good governance'. This proposes that developing political systems must embrace what are regarded as universal principles of democratisation, political pluralism, human rights, the rule of law, and competent administration of public policy. 'Good governance' and 'new public management' are regarded as mutually supportive, with enhanced accountability and improved efficiency reinforcing each other. The main aid donors include in their good governance agenda the range of economic management reforms that encompass privatisation and regulation, and the interplay of public and private sectors (see, eg UNDP, 1995, World Bank, 1994). This is logical enough, since the case for moving responsibilities out of the public sector rests largely on the presumption of government failure, institutional and

administrative weaknesses in public management, and the distorting effects of political interventions and corruption. So we see that in the dominant development policy agenda espoused by the major aid donors, two transformative conceptions are brought together: a radical reshaping of the state and its relations with the market, and a particular model of state-society relations, incorporating 'universalist' political values. Moreover, this is an agenda that aid donors are intent on realising through both economic and political conditionalities attached to development assistance. Again, the ideas are strongly contested, and even on the most optimistic view, the application through practical reform programmes will encounter problems of adaptation to complex cultural systems. The specific issue of corruption (perhaps the defining limit of a range of governance pathologies) is used here to illustrate these difficulties, and to raise questions about the way that the standard literature on economic reforms treats the social and political contexts into which these reforms must be introduced (the following section draws heavily on Minogue 2002).

CORRUPTION AND GOVERNANCE

If corruption is regarded only in moral terms, then it is unproblematic: it is bad, and should be eliminated. But this approach is neither adequate nor helpful, for it allows no room to treat corruption as a form of behaviour which has to be explained. The more persistent and widespread its occurrence, the more we need to understand it rather than indulge in high-minded condemnation. Corruption has in recent years received increasing attention as part of the good governance agenda being pursued by both multilateral and bilateral donors (before this it was the 'guilty secret' of aid relationships, hostage to the overriding priorities of the Cold War, which did not allow that the manifest corruption of such pro-Western clients as Zaire should be open to criticism). Yet there is no hint in the plethora of publications that the analysis of corruption is another area of contested understandings. This is in no small part due to the dominance in this emerging literature of economic treatments of corruption in terms of opportunistic, self-interested individuals who seize the opportunities to extract 'rents' provided by the bureaucratic pathologies of the 'third world' state (Broadman and Recanatini, 2002, Ackerman 1999, Gray and Kaufman, 1998, Klitgaard, 1988). A telling example of the limitations of this approach is found in Hither and Shah (2001), who assert that 'corruption is a symptom of failed governance' and expound 'a framework based on the incentives for opportunistic behaviour by public officials' (Huther and Shah, 2001:2). The whole discussion is in terms of a calculation by individuals of their cost-benefit position set against a consciousness of expected gains and benefits. Policy, therefore, 'must change the cost-benefit

calculations of public officials' (p.3) and can do so by reducing the number of official transactions, and reducing the scope for gains. Their anti-corruption strategy envisages the de-monopolisation of public services, the promotion of competition in the private sector, and the injection of a new culture of contractualism in the public sector (we see here the whole thrust of neo-liberal assumptions about state and market). In effect this analysis is merely a wish-list that makes no attempt to analyse wider social and political causation for the economic inefficiencies identified. The unrealistic nature of their analysis can be illustrated by one quotation: 'for a country in which few are held accountable for corrupt activities, anti-corruption efforts should focus on judicial independence resource' (p.6). There is no recognition that by definition in such a country there would be no such thing as judicial independence. Again, they argue that 'widespread corruption is likely to be the result of multiple governance failures so successful anti-corruption campaigns are likely to be multi-pronged' (p.6); but no attempt is made to analyse the reasons for multiple governance failures, or that whatever these reasons are would also defeat an anticorruption campaign. Later, the authors judge that anti-corruption policies work best where good governance systems are in place, but of course this is a tautology: if good governance systems are in place, by definition the incidence of corruption will already be low. Finally, they do the fashionable thing and discuss how levels of corruption might be quantified, but admit that such an approach is subject to 'large measurement errors' (p.10).

A further example is provided by Lederman, Loayza, and Reis Soares (2001). This paper sets out to quantify the political determinants of corruption, desirable political institutions being defined as those that increase political accountability or generate a competitive environment in the provision of public services, since it is assumed that these will reduce corruption. Their political analysis rests heavily on the modernisation model set out by Diamond, Linz and Lipset (1990), with no recognition that this model is drawn from developed country political systems and bears little relation to the realities of political organisation and behaviour in developing countries. In relation to the structure of provision of public goods, the solutions recommended are either to decentralise government services, or introduce competition among government agencies. No practical examples are cited, and the evidence that liberalisation of public services can lead to increased corruption (Harriss-White and White, 1996) is ignored. It is difficult to avoid the conclusion that this whole discussion is as much about government failure and inefficiency as it is about corruption. Such definitional weaknesses and confusions even appear in World Bank reports on grassroots anti-corruption initiatives. For example , it

is evident in a description of claimed success for an anticorruption initiative in Venezuela (World Bank, 2000) that no hard evidence is given of what constitutes the ‘corruption’ to which the initiative responds, and that institutional analysis appears to conflate ‘corruption’ with ‘normal’ bureaucratic pathologies.

These examples have been cited to illustrate how the whole ‘official’ literature appears to assume that there is universal agreement on the definition of corruption, when there is not. Meanwhile, a range of non-economic treatments by anthropologists and political scientists is virtually ignored. An anthropological perspective immediately alerts us to the severe limitations of the economic orthodoxy. For example, Sissener (2001) counters the narrowness of the economic view of corruption, and its reliance on a ‘public office’ definition, with a contextual analysis which treats “corrupt” behaviour as a ‘social act ... [whose] meaning must be understood with reference to the social relationships between people in historically specific social settings’ (Sissener, 2001:5). Using examples from India, China and Nepal, Sissener argues that ‘a narrow definition of corruption makes it difficult to explain how behaviour that transcends Weberian borders of what is deemed acceptable for holders of public office is seen as legitimate and even laudable to those involved’ (Sissener, 2001:11). Ledevena (1998) analysing *blat* in Russia; and Yang (1994) on the pervasiveness of *guanxi* in China (both involving the use of personalistic networks to obtain goods, services or jobs in short supply, and both operating across public-private boundaries) are cited to support the contention that anti-corruption reforms are unlikely to have any effect in these conditions, where persistently rooted social behaviour is not seen as unacceptable by the practitioners. There is no mention of *blat* or *guanxi* in the lengthening list of World Bank publications on corruption.

Economists also frequently neglect the literature on the political dimensions of corruption. Yet Williams (1999) and Khan (2002,1998) remind us of some well established certainties about political development, namely, that partisan organisation is at the heart of modern politics; that this requires ‘spoils’ to construct alliances and reward supporters; and that spoils are allocated (and have been in early modern British and American political history) on the basis that in political contests to control the state, there are always winners and losers. This process may be a necessary stage in the creation of modern political institutions and the political stability that is above all a precondition for effective economic progress and reform.

World Bank analysis of the political context of corruption is both condemnatory and superficial, striving to create a spurious rigour by establishing correlations between types of political institution, levels of corruption, and categories of economic performance. This approach makes indefensible or untested assumptions about causal relationships between democratic regime types and successful economic performance, and is rarely based on any empirical studies of actually existent corruption. The models produced by this type of exercise are so generalised and yet so narrowly conceived that they are almost worthless, and possibly mystifying, as tools of explanatory or causal analysis. Dominant neoliberal analysis assumes that neoliberal reforms, together with a contingent effect of economic growth, will bring economic efficiency and a corresponding reduction of corrupt practice and its deleterious economic effects. But there is evidence that these reforms have been associated with increased corruption, both the privatisation of public monopolies, and the creation of new agencies of democratisation having increased, not reduced what has been termed the 'new corruption' (Harriss-White and White 1996; Duckett, 2001).

A more satisfactory approach is demonstrated by Khan (1998, 1996) who is concerned to distinguish between the 'allocative' effects and the 'corrosive' effects of corruption, ie allocative, because it gives access to resources otherwise not available to the recipient, corrosive, because this may be a wasteful and inefficient form of allocation. Khan draws attention to the absence in developing countries of a competent state which can protect property and other rights. Groups contending the existing allocation of rights strike bargains through a state-led patron-client model, sometimes described as 'patrimonial' (where a dominant state disperses resources to its supporters), or as 'clientelist' where powerful groups extract resources from the state. Since the detail and context of these political settlements vary, so do the associated effects of corruption so that, for example, 'while the South Korean state could impose performance criteria on its clients, the Pakistani state could not' (Khan, 1996:15). He concludes that 'if the problem of inefficiency associated with corruption is due to the operation of corruption in a clientelist settlement, liberalisation may have little effect on corruption' (Khan, 1996:20). Pointing to the possibility that the reduction of corruption in successful developers may have been the result rather than the precondition of such successful development, he calls for an explanatory framework that gives due weight to deeper structural causes (Khan, 1998). This approach is supported elsewhere, by Brinkerhoff (2000), who sees narrowly economic treatments of corruption as 'unhelpful because they isolate corrupt practices from the political and institutional settings in which they

occur' (Brinkerhoff, 2000:241); and by Johnston, a prolific writer on corruption, who points to the necessary limits of institutional reforms which neglect the social reality through which institutions must work, and suggests that in the long term, forms of social empowerment that transform 'the opportunities and alternatives that people have in life' is the more appropriate strategy. (Johnston, 1997:5). A similar problem arises with corruption.

GOVERNANCE REFORMS IN DEVELOPING COUNTRIES: THE REALITY GAP

The purpose of the illustrative discussion of corruption was to highlight two problems with which research into, or analysis of, economic policy reforms in developing countries will have to contend. The first is the problem of cultural relativism, exacerbated by the contested nature of the neoliberal ideas which underlie the design of current economic and institutional reforms. Analysts may be able to agree on what constitutes the practical reform agenda, while disagreeing on the appropriateness or likely effects of this agenda. Research may then have the valuable function of constituting a learning process in which both those (largely the aid donors) who drive and fund the economic reform agenda, and those who receive and implement it (largely the maligned state bureaucracies) may cooperate in a necessary adaptation of preconceived blueprints to actual conditions. There is some evidence in relation to managerial reforms that this learning process is already developing (see, eg Harrison, 2001). The second, related problem arises directly from the condition of underdevelopment itself. It is clear that the economic, social and political conditions for the range of neo-liberal economic and political reforms favoured by the aid donors are rarely present in low and middle income countries. Development agencies are still inclined to proffer models based on conditions and practices in high income economies, then become frustrated when such models do not seem to work, or receive little more than a diplomatic lip-service. Donor-led reforms are too often based on prior solutions, with little foundation in the complex social and political contexts into which reforms must be fitted. A good example is provided by Vietnam, where after a decade of donor-assisted economic and administrative reforms, there is almost no discussion in reform documentation of the Vietnamese Communist Party, crucial to the effective implementation of state-market reforms. More empirical research is needed into specific country systems as the pre-requisite for purpose-built reforms rooted in local social, economic and political realities.

Indeed, empirical research has still to demonstrate both the appropriateness and impact of neoliberal institutional reforms in developing countries, where privatisation itself has made a

chequered and uneven progress (Cook, Kirkpatrick and Nixson, 1998), and where post-privatisation regulatory reforms are still in process of design and introduction, or where they have been introduced remain to be evaluated. A central element in regulatory governance will be the analysis of accountability, since improved accountability and transparency are usually posited as the principal objectives of regulatory reform (assuming this to be defined as re-regulation rather than deregulation). Traditional forms of accountability essentially take three forms (Ogus 2002): financial accountability, to ensure efficiency and probity, usually secured by a system of public audit; procedural accountability, so that bureaucratic actions operate in fair, transparent and equitable ways, usually secured by appropriate rules, including law; and substantive accountability, which ensures that actions are justifiable by reference to some criterion of public interest. This last type is usually secured through political mechanisms.

The neoliberal version of accountability with which current regulatory reform is so closely implicated rests on evaluation of performance against pre-set standards or targets, and offers incentives to managers as well as some loosening of the traditional restraints. While financial and procedural accountabilities can be brought within such a framework (and improvements here would undeniably be a gain) it is a framework which sits uneasily with developing country governance (or substantive accountability). The decentralisation of managerial and institutional autonomy involved, and reliance on a competitive model of public service delivery assumes the existence of market and civil society institutions which in many developing countries are more notable for their absence or deficiencies. Moreover, while the advantages of autonomous regulatory agencies standing at arms length from state political control and intervention are obvious; but there are serious disadvantages too, including the reduction of public interest accountability, and fragmentation at the heart of governments already suffering problems of institutional incoherence. In the political conditions of developing countries we cannot expect significant public agencies to operate as though politics did not exist, as the practice of privatisation has already demonstrated (Cook, Kirkpatrick and Nixson, 1998; World Bank, 1995). Moreover, giving to the managers of regulated services simultaneously more discretion and more financial responsibility appears to put in place precisely those conditions which may lead to increased corruption, (Harriss-White and White, 1996); while giving more autonomy to regulators (by taking them outside government frameworks) is unlikely to reduce regulatory and political capture where constitutional, legal and public interest mechanisms of accountability are deficient. As limited experiments with executive agencies in developing countries have shown, where there

is a conflict between economic efficiency objectives and the internal dynamics of political governance, the imperatives of politics will usually prevail (Harrison 2001, Therkildsen 2000,). One conclusion we might draw here is that accountability finally is underwritten less by formal institutions than by relations of trust, the argument that now makes the running in the regulatory literature in developed economies, as discussed earlier (Moran, 2002, Braithwaite 1999). In this respect, rather than taking the negative, indeed contradictory attitudes adopted by the aid donors to the social and personalistic networks that characterise the governance institutions of many developing countries (contradictory because political networks are ‘bad’ while civil society networks are ‘good’), we could regard these relations of trust as a foundation on which to build effective regulatory governance.

The principal thrust of this paper has been to rehearse the problematic nature of policy transfer from developed to developing countries in the field of regulatory governance. In the first place, the dominant economic reform model is itself a contested conceptual model, and even in developed economies has produced a contested literature of evaluation and appropriateness. Despite these disputes, reflected in internal debates and power struggles in the major institutions promoting neoliberal reforms, it is this dominant model which is being ‘transferred’ to developing economies through aid programmes and by imitation. Problems of adaptation to different economic, social, political, legal and administrative cultures will inevitably arise, and must be the focus of a research agenda concerned to assess policy effectiveness in the context of the stubborn and complex realities of underdevelopment. This is a reminder, too, that the developmental state has an essential role; it will remain both the object and the subject of reform, and is likely to retain considerably greater direct regulatory responsibilities than is now customary in developed countries. In relation to the pro-poor policy agenda, a significant issue will be the appropriateness of existing forms of public service provision. For example, the Johannesburg conference made clear that huge numbers of poor people are deprived of access to clean water and affordable energy, a situation likely to produce a crisis of provision over the next two decades. The question of whether such provision should be the responsibility of the state or the market, and how water and energy markets should be structured and regulated is therefore one of the key issues of sustainable development; and the debate on the effects of privatisation and competition reforms on the principle (and equitable distribution objectives) of universal access is already taking place (Clarke and Wallsten, 2002). Effective research in this field has a real contribution to make to effective policy.

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