

# ROUNDTABLE

## The limits of neo-liberalism

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*William Davies' The Limits of Neo-Liberalism: Authority, Sovereignty and the Logic of Competition (Sage, 2014) provides a searching new investigation of the meaning and implications of the neo-liberal project. Davies identifies neo-liberalism as centrally concerned with the replacement of politics by economics. He examines the consequent efforts of economic experts to make government amenable to measurement, and to re-model society and state in terms of competition. By picking apart the neo-liberal conflation of economics and politics, Davies poses the question: to what extent can economics provide government legitimacy? Renewal gathers here three reflections on the book, and a response from William Davies.*

### **The free economy and the sovereign state**

*Bob Jessop, Distinguished Professor of Sociology, Lancaster University*

This rich and provocative book develops many lines of critical inquiry into actually existing neo-liberalism in 'advanced' capitalist societies. Together these insights provide a novel perspective on what is a very familiar, albeit depressing, topic, especially in the wake of the North Atlantic Financial Crisis, which was prepared in large part through the imprudent pursuit of neo-liberal doctrine and principles. Here I focus on the author's attempt, as the title indicates, to locate the limits of neo-liberalism in the complex and contradictory relation between the virtues of unfettered market competition and the imperatives of state sovereignty. Davies explores this tension-ridden relation through a more general account of the normative, motivational and structural power of competitiveness as a principle of social organisation – a principle based on the over-extension of the alleged economic rationality of markets as a way of coping with uncertain futures. This narrative has a clear political as well as scientific purpose: to demonstrate the coercive power of the treadmill of competition and its crucial role in extending and consolidating neo-liberalism even as it generates some benefits to economic and political subjects.

This approach to neo-liberalism raises two initial sets of questions. First, given the institutional separation between the market economy and sovereign state, how are

they related in practice in neo-liberalism? Here Davies examines the state's role alongside other factors and actors in creating the conditions for neo-liberalism; its role in the routine reproduction of neo-liberal conventions and rules of the game; and its role in compensating for market failure during crises. He notes that the state is more visible in the first and third of these roles but does not disappear in 'normal' periods. On the contrary, the survival of a state with sovereign authority, rather than its withering into a mere night-watchman, is essential to its resurgence during economic emergencies. Only a sovereign state, with its unique, if often latent, powers, could pursue the exceptional policies deemed necessary to 'rescue the national economy', even though they contradict neo-liberal market principles. This important counter-narrative is typically ignored or denied in analyses that endorse neo-liberalism and even aim to shrink the state so much that it can be drowned in a bathtub.

Second, one might ask how neo-liberal solutions to social problems emerge and get consolidated and whether they are as rational as neo-liberals proclaim? Here Will Davies draws critically on the French theory of 'conventions'. This combines economic and sociological analysis to explain the emergence of collective rationality, institutions and practices to steer individual action in the face of uncertain outcomes and feedback effects. Whereas many convention theorists assume that conventions emerge in a rational search for efficient solutions to given collective action problems, Davies emphasises the struggles that occur over problem definitions and solutions and, hence, their social and political contingency. This goes some way to allaying my initial worry that convention theory tends to emphasise the mutual benefits from working within agreed rules of the game and thereby neglects the asymmetries of hegemony and domination inscribed in entrenched institutional structures and power relations. More is at stake here, however, than recognising that competition within agreed rules of the game generates inequality; for the forms and stakes of competition are embedded in much wider structures of power and domination.

Davies provides a genealogy of neo-liberalism from the 1930s onwards, focusing on the gradual development and dissemination of the neo-liberal doctrine and practice of economic freedom, especially as manifested in the alleged virtues of competition, and its extra-economic preconditions. He is concerned neither with the *microeconomic* foundations of competitive market forces that allegedly derive from the self-interested calculation of rational economic agents nor with the emergent *macro-political* logic of neo-liberalism considered as a more or less successful expression of a hegemonic project intended to recreate the conditions for capital accumulation and bourgeois domination after the economic, political and social

crises of the 1970s. Instead Davies examines some of the crucial *meso-level* complexities of the institutional and normative construction of neo-liberal practices and neo-liberal subjects around competition and competitiveness as idealised but nonetheless constraining principles of social organisation. This enables a nuanced analysis of the many tensions, fault-lines, and crisis-tendencies of this project.

### *Competition and legitimacy*

Competition and competitiveness are key themes in the *justifications* offered to legitimate neo-liberalism and motivate people and organisations to comply with its imperatives. In part, these justifications resurrect the foundational categories of classical political economy: the laws of supply and demand, their role in the efficient allocation of capital among competing ends, and their mediation through market competition. But neo-liberal intellectuals and think tanks have tried to reformulate and revalidate these categories in the light of the crisis-prone economic, political and social development of capitalism. To explain how they secured social acceptance of the neo-liberal project, Davies explores the artefactual contingencies of negotiated social norms, socially constituted rules of the game, and emergent practices of competitive markets. Far from being a single, spontaneous, interconnected and self-equilibrating mechanism, markets are heterogeneous products of institutional design, depend on specific forms of expertise, authority, commensuration, and calculation, and require adherence to norms and regulations that are widely accepted as legitimate. Given the great diversity of coordination problems and solutions, convention theorists typically seek to explain the specificities of particular cases rather than derive them from general principles. While this is a valid procedure, it risks losing sight of the wood by focusing on the trees. This is a special challenge to anyone who wants to describe, explain and critique a social project that is as wide-ranging in its fields of application and as global in its ultimate reach as neo-liberalism. The key to this conundrum is, for Davies, the polyvalent nature of competition and competitiveness as an organising principle – a principle with a productive fuzziness that can be used to justify different kinds of social norms and practice in different contexts whilst retaining some semblance of overall coherence and that is consistent with certain kinds of state action that are oriented to promoting competition, entrepreneurship, and local, national, or even macro-regional competitiveness.

Thus, economically, neo-liberalism endorses the virtues of formally free, monetised exchange among autonomous economic agents but also recognises that these

virtues will be realised in different ways in different contexts. The core set of neo-liberal economic policies comprise: liberalisation (make markets more competitive), deregulation (reduce state intervention in the operation of market forces), privatisation (bring state-owned or state-funded activities into the private sector), the use of market proxies in the residual public sector (to simulate and stimulate the efficiency-generating benefits of competition), internationalisation (to promote competition and the spread of best practice), and cuts in direct taxes (to enable consumers greater freedom to choose how to spend 'their' money). While broadly consistent, these policy principles are sufficiently complex to create a broad field for debate among experts, trial-and-error experimentation in institutional design and normative negotiation, efforts at coherence or commensuration across different social fields, and so forth. Davies takes the field of 'law and economics' to show, in a fine case study of these complexities, how neo-liberal conventions and practices reorganised the crucial interface among the market, the legal profession, and legal and judicial institutions at international as well as national scale. A parallel study shows how the competitiveness agenda penetrated the state's executive branch.

The political and ideological aspects of neo-liberalism also vary but can be linked, at least rhetorically, to the same fuzzy principles of formal freedom and competition. Politically, competition for votes and political support in liberal democratic regimes should occur within constitutional limits to prevent the tyranny of the majority (at least in regard to the sanctity of private property, freedom of contract, and sound money). In this context, economic competition and conflict would occur within the limits of market rationality and political competition and conflict would occur within the limits of a constitutionally-regulated transfer of power and exercise of sovereign authority. This in turn depends, as Michel Foucault (2008) among others noted, on the constitution of economic and political subjects who can govern themselves in line with (neo-)liberal principles within an institutional framework that they accept as legitimate and that, by accident or design, maximises the scope for formally free choice. Quite clearly, then, the role of competition changes its meaning across these fields and, if it is the most important principle of organisation of a liberal capitalist world, it is one that is internally heterogeneous and even incoherent. This poses important problems of commensuration of neo-liberal principles.

A key issue in accounts of neo-liberalism is whether its analysts work within, outside or against the neo-liberal project. Do they accept the profit-oriented, mar-

ket-mediated rationality of capitalism and the importance of developing equivalent modes of social coordination where competitive market mechanisms do not (yet) exist? Davies develops his argument outside and, in large part, against neo-liberal conventions. He shows that there is nothing natural about neo-liberalism but that it was socially constructed and, indeed, as Karl Polanyi might have observed, deliberately planned! Apparently similar arguments have linked the triumph of neo-liberalism to the crisis of the post-war growth model and mixed economy and the ascendancy of finance-dominated accumulation as well as in neo-Gramscian analyses that explore how neo-liberalism gained hegemonic status based on a secular war of position for intellectual, moral and, eventually, political leadership. In contrast, Will Davies studies the emergence of conventions and activities at more specific economic, juridico-political, and intellectual sites and seeks to explain their distinctive features.

*Bringing domination back in*

A third set of questions concerns whether the conventional demarcation between the market and sovereign state is overstated and whether they are more entangled, even in normal circumstances, than many accounts of neo-liberalism suggest. The idealised neo-liberal treatment of the market ignores (or denigrates and proposes to eliminate) the extent to which profits are realised not only through liberal markets but also through force and domination, predatory exploitation of weaker or less informed economic agents, and unusual deals with political authority (on these types of orientation to profit, see Weber, 1961). These other economic strategies are still important in the neo-liberal era. Indeed, without unusual deals with political authority facilitated by campaign finance, lobbying, and revolving doors, the 'deregulation, desupervision and de facto decriminalisation' (Black, 2012) of finance would not have developed so easily, if at all; this in turn enabled predatory financial practices such as mortgage fraud, foreclosure fraud, the sale of interest rate swaps, the manipulation of LIBOR and other interest rates, foreign exchange markets, gold and silver sales, and other false markets, front running trades in dark pools, and so on.

Likewise, force and domination continue to play a key role in the neo-liberal opening and integration of the world market, which is the ultimate, albeit changing, horizon of competition. Such global integration tends to universalise competition, to reinforce its treadmill effects and, consequently, to generalise capital's contradictions. This takes specific forms in the current period thanks to

the ascendancy of financial capital over productive capital and this is reflected in the growing significance of financial crises and the resort to unusual financial measures to limit their recessionary impact. This exemplifies the problems with a largely conventionalist account of neo-liberalism, even one that emphasises sociological over economic reasoning, to the extent that it studies political economy in terms of exchange relations, the management of competitive uncertainty, and inequalities that are generated by liberal market forces (or their proxies). For this neglects the bigger picture of relations of hegemony and domination and enables those with power, in the words of Karl Deutsch (1957, 111), not to have to learn from their mistakes. This is what enables the dominant forces to declare a state of emergency and to use exceptional measures to restore their power, privileges, and wealth. It is in addressing issues of power and domination relations that the fundamental challenge to neo-liberalism must be developed. New conventions are certainly required to deal with the multiple crises that afflict the contemporary world (and that are not all due directly or indirectly to neo-liberalism) and new justifications for a temporarily discredited neo-liberal (but not yet, I suggest, post-neo-liberal) order are required. But we should also ask whether the economic logic of neo-liberalism, which has one-sidedly privileged exchange over use-value and financial over industrial capital, has retained its structural power even if it has suffered a crisis of legitimacy. Without further challenges to the macrostructures of domination, piecemeal changes risk absorption or neutralisation.

## Critiquing a shadow

*Stephanie Mudge, Assistant Professor of Sociology, the University of California, Davis*

The various and sundry 'isms' found in twentieth century western history all had a group basis, being carried forth by conservatives, liberals, socialists, communists. At first Keynesianism was no exception, except for its unusual associations with members of a particular social scientific profession. Even now, well after Keynesianism's widely noted demise, the term 'Keynesian' may call to mind a particular kind of figure: a credentialed economist, trained in the theories and analytical techniques of macroeconomic analysis, perhaps an academic or government employee (or a bit of both). We might also think of someone who, politically speaking, leans centre-left – a pragmatic progressive, favouring the development of one's positions on policy questions via historical and empirical evaluation, motiv-

ated by a basic commitment to broad social welfare and human progress. For an economist circa 1965, the term ‘Keynesian’ might have invoked more or less the whole mainstream of the profession: political leanings notwithstanding, to say one was a ‘Keynesian economist’ was not that different from just saying one was an economist. Keynesianism had captured the profession, not least because in some senses – by remaking states as economies and making itself their keepers – it had captured the world beyond it.

Then, in the late 1930s came the neo-liberals – a grab bag of academics, journalists, and other sorts of intellectuals; most leaning right but some left; many existing at the margins of politics and academe alike. Economists were well represented. At first, some of them took on the label ‘neo-liberal’. They found an audience, especially, after Hayek’s *Road to Serfdom’s* (1944) wild successes in the US, thanks especially to a *Reader’s Digest* abridged version and a *Look* magazine cartoon series. In time they transformed economics, and a world wrapped up with it, from the inside. Like the Keynesians in the 1960s, by the 1990s they had won: having morphed from a loose collective, to an intellectual-political movement on the right, to a general hegemonic phenomenon, the neo-liberals could be just plain (classical) liberals again.

Ever since then, those interested in understanding neo-liberalism have had a conceptual problem: if we go by self-reports, the term ‘neo-liberal’ now refers to a virtually unpopulated social category. (I should note that this was not true of Keynesians, who could still be found in professional economics in the 1990s). How do we engage with and think around something that is everywhere and nowhere? Self-identified neo-liberals are hard to come by; there is no political party or national regime that touts the ‘neo-liberal’ moniker; it does not denote a definite professional position in economics or anywhere else. And yet many take the view that neo-liberalism’s continued reign is among the most perplexing puzzles of our time. How does one engage with, or hope to critique, a shadow?

*Tracking the long shadows of professional economics and the neo-liberal state*

Absent neo-liberals, those of us interested in neo-liberalism’s analysis tend to turn to more familiar entities that cast very long shadows indeed: the economics profession; research organisations, foundations, and think tanks; states and governments. Davies makes this kind of move, offering a fresh take by bringing Boltanski-esque conventions theory to the task. In the process he imports the particularly Weberian problematic of the (in)commensurability of value spheres,

asking how neo-liberalism – via, especially, economics and the state – becomes a means of political authority and a tool of governance. More specifically, Davies engages with neo-liberalism as a form of liberal economic rationality on which political authority depends and which provides the basis of a particular form of the state. He is interested, first, in the paradox of a powerful state form built on its ostensible critique. A second focus is the ways in which the experts and expertise through with neo-liberalism operates have constructed a notion of competition that goes beyond markets to provide a general model of social organisation, and has then imposed that model on the world by – among other things – achieving an economic takeover of the law.

What is neo-liberalism, then? When one is chasing shadows basic questions like this are never really settled. Davies' answer is, I think, useful: invoking a bit of Weber and a bit of Foucault, neo-liberalism for him is 'the pursuit of the disenchantment of politics by economics'. Against a reduction of neo-liberalism to just another stage of capitalism (as in some Marxist analyses), Davies suggests that we can view it as the effect of a self-conscious intellectual project to undermine value-rational notions of the common good via economic theories, argumentation, and calculation, remaking all action as economic action regardless of context. Davies identifies four movements in this process: the development of techniques of measurement and evaluation 'in and around markets' (I can only assume he is referring to the development of statistics here – if so, I will briefly note that this contrasts with my understanding of statistics' development as being closely tied to the efforts of the tax-collecting modern state); the codification of those techniques as a basis of neo-classical economics from the 1870s; their application to the state and other non-market institutions from the 1950s; and their infiltration into sovereign states from the 1970s, imbuing liberal political institutions with an inherently limited form of political legitimacy that – if I understand correctly – can justify just about anything except those institutions' own existence.

As a result, in a neo-liberal world we find ourselves confronted by the ever-advancing quantification and pricing of everything by means of economic calculation. These processes are backed and advanced by powerful states characterised by at least two sorts of ironies: they have been rendered powerful via a set of theories and critiques built as a critique of all things political; and their powers are bound to an apparently fragile form of authority – even if, so far, that authority appears to have held up in the face of crisis.



*Identifying contingencies, past and present*

Davies' take undoubtedly captures some of the most important features of experience in the neo-liberal era – but to my mind it is incomplete, for a couple of reasons. First, it complicates things by extending neo-liberalism back to the mid-nineteenth century and imposing no particular institutional or geographical boundaries on the phenomenon. I realise that Foucault makes a similar move, but then again Foucault was writing well before neo-liberalism's full onslaught. The result is that the reader gets no sense of how or if neo-liberalism works differently across contexts, or indeed if it is always and everywhere at work; nor does the reader get a sense of neo-liberalism as anything other than a necessary historical force, long in the making and virtually unstoppable. Perhaps this is precisely what the author intends, but I am not inclined to accept such a story of historically linear inevitability.

In addition to identifying the ideas and justifications that make neo-liberalism possible, some contemplation of neo-liberalism's contingencies and historical alternatives seems equally important. Among them are the historical institutions that made it possible – for instance, via economics' development as a US-centric profession that became influential via Keynesianism, politics, and states, and most essentially through processes of capitalist development. One need not accept a Marxian conception of capitalism as a series of staged historical periods in order to acknowledge that neo-liberalism's development has been wrapped up with that of capitalist institutions, and that the quantification and commensuration of everything (except the sovereign state) that Davies views as a core element of neo-liberalism can be viewed as part and parcel of the ever-expanding process of commodification that Marx foresaw well before Foucault came along. Similarly, the 'endgame' of neo-liberalism that Davies identifies – in which normative authority gives way to an empirically-measured world of extreme economic inequalities, and neo-liberalism itself becomes untenable as a governing logic except insofar as it is backed by the threat of force – can also be identified in the combined works of Marx and Weber. A virtue of these viewpoints is that, particularly in Weber, there is a deep sense of historical contingency in the unfolding of modern capitalism and its disenchanting effects. My impression is that this sense of contingency is lost in Davies' conventions-based approach,

This brings me to another issue, having to do with the Keynesians mentioned at the outset of this commentary. If neo-liberalism is the disenchantment of politics via economics and its calculative techniques, then I am left to wonder why we should focus on Hayek (who was not appointed as an economist at Chicago), Schumpeter, and Coase, but not Keynes and the mid-century Keynesians – like Paul Samuelson

– who endowed economics with its powers of mathematical calculation of ‘the economy’ in the first place. In fact, it is not clear at all how Keynesianism as a set of economic theories and techniques themselves played into neo-liberalism’s unfolding. This, also, seems essential to an analysis of neo-liberalism-as-economisation.

All this said, these are meant as devil’s advocate comments on what is otherwise a rich and thought provoking work.

### **Actually existing neo-liberalism: notes on William Davies’ *Limits of Neo-Liberalism***

*Jonathan Derbyshire, Managing Editor, Prospect*

In his masterpiece, *The Great Transformation* (1957 [1944]), Karl Polanyi argues that there was ‘nothing natural’ about nineteenth-century laissez-faire. Free markets didn’t come into being spontaneously. On the contrary, ‘the road to the free market was opened and kept open by an enormous increase in centrally organised and controlled interventionism.’ In Polanyi’s account, the self-regulating market of the mid-nineteenth century was accompanied by a dramatic expansion of the administrative organs of the state, the philosophical rationale for which was supplied by a ‘Benthamite liberalism’ that saw government as the ‘great agency’ of human happiness, and laissez-faire itself as, to all intents and purposes, identical with the general welfare. The administration of the New Poor Laws, for example, or the enclosures of common land, required the construction of an immense bureaucratic apparatus. The ‘paradox’, according to Polanyi, was that these ‘strongholds of governmental interference were erected with a view to the organising of some simple freedom – such as that of land [or] labour...’

Students of recent history are confronted with a similar paradox. Whilst its public rhetoric might have suggested otherwise, neo-liberalism has not shrunk or rolled back the state in order to free the market. Instead, it has used the power of the state to reshape social institutions and to insinuate market relations into spheres where previously they were absent. Neo-liberalism, in short, has delivered not a small state but a *market* state. To adapt a distinction made by Jamie Peck (2010), neo-liberalism, particularly in its Anglo-American variants, has been as much about ‘roll-out’ (the enforcement of ‘competitiveness’ through audit and other forms of bureaucratic oversight, the growth of sprawling ‘parastatal’ mega-firms which exist only because the public sector buys services from them) as it has been about ‘roll-back’ (privatisation, deregulation and the rest).

*State-centric neo-liberalism*

William Davies's important book is an exploration of this paradox. Now, Davies is not alone in noticing the gulf that separates the neo-liberal state as it actually is from the state as Hayekian theory, say, conceptualises it (the procedural *Rechtsstaat* as 'neutral enforcer of competition' and so on). A number of commentators have observed, for example, that it is hard to see how neo-liberal arguments against intervention and planning, such as Hayek's, could possibly apply in the case of something like the banking crisis of September 2008 – that is, in a situation in which all the coercive powers of the state were mobilised to save a dysfunctional financial system from complete collapse. Davies' analysis differs from accounts like this in a number of significant ways, however.

Rather than seeing the exceptional measures taken by states in the autumn of 2008 as incompatible with apparently 'neo-liberal' arguments about the moral hazard that government intervention almost invariably creates (the threat of bankruptcy being necessary for discipline and rational choice in markets), Davies takes them as confirmation of the 'state-centric nature of neo-liberalism as an anti-political mode of politics'. In his updating of Polanyi's 'paradox', 'the economic critique of the state [is] employed so as to legitimate, empower and expand the state.' And just as Polanyi observes that nineteenth-century Benthamite liberalism privileged administrative action over parliamentary legislation, so Davies identifies in neo-liberalism the 'disenchantment' of politics by economics: 'In the tradition of Jeremy Bentham, intrinsic values are to be replaced by extrinsic valuation (i.e. measurement).'

Davies writes of his own approach that it is descriptive and historical rather than explicitly 'critical'. This, it seems to me, is a strength and not a weakness. His book provides a genealogy of 'actually existing neo-liberalism', the key institution of which is, on his account, 'not a market as such, but particular market-based ... forms of economisation, calculation, measurement and valuation.' The theoretical underpinnings of this dispensation are provided not by Hayek, but by the Chicago 'Law and Economics' school. Davies emphasises the extent to which the work of thinkers such as Ronald Coase, Robert Bork and Richard Posner, all of whom acknowledge their debts to Bentham, marks a significant break with the 'legal epistemology of the early neo-liberals', Hayek included. In this tradition, a utilitarian calculus of efficiency and an appeal to 'consumer welfare' replaces the normative authority of law.

One of the first fruits of the Chicago Law and Economics approach was the Antitrust Project launched in the 1950s, in which Bork, Coase and Posner were all involved.

They argued that ‘efficiency’, understood in terms derived from neo-classical economics, ought to be the criterion by which all anti-trust legislation should be judged. One of the consequences of the extraordinary influence that these Chicago arguments had on the American legal profession was a reduction in competition and an increase in industrial concentration and oligopoly. (These were developments about which the Chicago lawyers and economists were entirely sanguine, as criticisms aimed by Coase at his predecessor Henry Simons make clear (Coase, 1993). In his 1934 pamphlet, *A Positive Program for Laissez Faire*, Simons had argued for an ‘outright dismantling of our gigantic corporations’. He believed that legal limits on the size of ‘ownership units’ were essential to the ‘maintenance of freedom of enterprise’. Coase, however, regarded this view as ‘utopian’ and, worse still, as unempirical. Simons’ sin was to have failed to examine what the effects of his proposals would have been on economic ‘efficiency’).

Davies’s insight, which builds on the work of Colin Crouch and others (Crouch, 2011), is to see that the Chicago critique of anti-trust ‘turn[s] the gaze of economic critique away from private industry and towards public agencies and legal institutions’. In other words, that critique prepares the way for the application of the rational actor model of neo-classical economics in other spheres of social and, indeed, individual life (in this latter respect, Gary Becker’s work on human capital is seminal).

Given his emphasis on the expansion of neo-classical economics into politics (and political science), it is perhaps unfortunate that Davies should give scant consideration to Virginia Public Choice theory and the theory of New Public Management (though he does mention them in passing) – especially as these strains of neo-liberal thinking have had a significant influence on the execution of ‘public sector reform’ in the UK over the past two decades. James Buchanan and Gordon Tullock’s *The Calculus of Consent* (1962) is a *locus classicus* here. Their rejection of the idea that there are distinct ‘ethical realms’ governed by different kinds of motivation has clear affinities with Chicago-style ‘economic imperialism’. According to Buchanan and Tullock, rationally self-interested behaviour is all there is. And for that reason they reserve Benthamite scorn for the suggestion that public policy might be governed by social objectives or a consideration of national goods. It is because the behaviour of public servants, like all other economic actors, is rationally self-interested and utility-maximising that markets or, as Davies puts it, ‘market-based techniques of evaluation’ should be injected into the public sphere.

It is ironic that, as Davies himself has acknowledged elsewhere (2009), some of the intellectual resources required for a critique of actually existing neo-liberalism are to

be found in an earlier neo-liberal tradition. German ‘ordo-liberalism’ or social market theory places a much greater emphasis than its American successors on preventing cartels and monopolies, and on the role of the state in promoting economic competition. And, most importantly of all perhaps, the ordo-liberals insisted that there are – or ought to be – areas of human activity in which the writ of the market does not run. As Wilhelm Röpke, one of the doyens of ordo-liberalism, put it: ‘Competition is a means of establishing order and exercising control in the narrow sphere of a market economy based on the division of labour, but no principle on which a whole society can be built’ (Schnyder and Siems, 2013).

### **The limits of neo-liberal legitimacy: reply to Jessop, Mudge and Derbyshire**

*William Davies, Senior Lecturer in Sociology at Goldsmiths, University of London*

Book-writing is a task that both requires and induces anxiety. Just getting it done at all is hard enough. When the book involves social theory, and some unwieldy attempts to combine or develop theories in new ways, another anxiety arises altogether: will anyone understand what the hell I am on about? One of the great pleasures in reading the three careful and intelligent responses to *The Limits of Neo-liberalism* is the discovery that others have not only grasped my essential arguments, but extrapolated and recast them in ways that I had not imagined or managed to articulate so well.

The commentaries contained some generous appreciations of the book, as well as some well-targeted critiques. Rather than set about rebutting the latter, I will start by outlining my own understanding of the book’s salient features, and address some of the respondents’ comments as I go along. I’ll then turn to some substantive issues.

#### *The heart of the book*

A significant characteristic of the book, which distinguishes it from many leftist accounts of ‘neo-liberalism’, is that it does not view this system purely in terms of domination, exploitation, class or anti-democratic power. Inspired largely by the work of the French sociologist Luc Boltanski, I was keen to understand the ways in which a political economic regime could be rendered not just tolerable or functional, but legitimate or attractive. Many will recognise this as the sociological tradition founded by Max Weber; but what Boltanski offers is a way of exploring economic institutions in terms of the critical and moral philosophies that structure them from within.

Hence, my interest in neo-liberalism is not only in its unfairness, but also its appeals to fairness; not only in its numbing bureaucracy, but also its energising account of leadership. Contrary to critical theorists working in the Frankfurt School tradition, I share Boltanski's instinct that human beings cannot live under political arrangements that offer them no hope or freedom whatsoever, so we have to understand what types of hope and freedom *are genuinely on offer*, in order to understand how systems persist. One may ask – as Bob Jessop implicitly does – whether I have thrown the critical baby out with the deterministic bathwater, a point which I'll return to at the end.

My task, then, was not to explore how neo-liberalism destroys political hope altogether, but how it ensnares and draws energy from it. Neo-liberalism is parasitical on existing political institutions and ideals, and like any parasite, must ensure that it does not destroy these 'hosts'. This represents one of the 'limits of neo-liberalism', though one which neo-liberal logic is unable to recognise.

Secondly, the book explores neo-liberalism as a project of incomplete technocracy. What do I mean by this? Neo-liberal intellectuals shared a fear of political discourse, and a pragmatist or positivist trust in numbers as a safer basis on which to form political consensus. These numbers include the prices generated by markets, but also those deliberately constructed by tools of management and audit. Technocrats working in regulators, government departments or consultancies today cannot really be described as 'neo-liberals'; they are not ideologues or intellectuals. Yet they are heirs to a certain style of public discourse, which views calculation as more truthful than, say, the exercise of moral or political judgement. In this, they work in the tradition founded by Jeremy Bentham, as Jonathan Derbyshire notes.

The reason this project is incomplete is that it has no coherent account of its own preconditions. It needs legitimacy, yet has no theory of what that means. As Stephanie Mudge puts it very nicely, my argument is that neo-liberalism imbues 'political institutions with an inherently limited form of political legitimacy that ... can justify just about anything except those institutions' own existence'. This is exactly right. It is why, when neo-liberalism faces a serious challenge to its legitimacy (such as the global financial crisis), it can ultimately only respond by acts of emergency management and force. It has gradually dissolved the very political vocabulary (of 'public interest', of 'justice' etc) that might have allowed it to restore its own legitimacy.

One of the vulnerabilities of a book such as this, which Mudge identifies very acutely, is its precise delineation of the empirical material. Who counts as a neo-lib-

eral? Who are the truly powerful technocrats, and who are mere pen-pushers or PR men? Both Mudge and Derbyshire highlight some significant omissions: respectively, the importance of Keynesian economics to the expansion of the calculative state, and that of the Virginia School of public choice to the development of 'new public management'. These are both valuable suggestions. There is, ultimately, something a little arbitrary about where one draws the line around the historical and empirical focus of a book such as this. But the alternative is to be so deductive or exhaustive as to drown what makes the narrative interesting in the first place.

The historian of economics Philip Mirowski makes great play of the 'neo-liberal thought collective' being a clearly delineated group, even today (2013). I do not make such a strong claim. Instead, the experts who interested me were those involved in extending economic calculation to domains of politics previously considered matters of sovereign power, namely law and executive decision. This is partly why I chose to focus on the Chicago Law and Economics tradition and Michael Porter's application of business strategy to the state, which forms the 'national competitiveness' discourse.

Thirdly, I look at how competition and competitiveness are the organising principles of neo-liberalism, both inside and outside markets, even while the faintly normative aspect of these (the meritocratic sense of 'fairness' or 'equal opportunity') is progressively weakened, not least by the technocratic aspect of government just mentioned. For me personally, this began as a naïve question while working in policy a decade ago, which inspired the PhD on which the book is based: why is it that making things 'more competitive' is automatically assumed to be a good thing? What does this even mean? Who decides? Within the canon of neo-liberal theory, there are some clear answers to these questions (such as Hayek's claim that competition is a quasi-scientific 'discovery process'), which then mutate over time, as they pass through different expert groups and policy institutions.

A key claim of the book is that, thanks to the construction of measures, rankings and indicators, neo-liberalism makes competitiveness a virtue across society, making the 'free market' something of a red herring. Jessop and Derbyshire both read this as a Polanyian claim, that is, the idea that laissez-faire is constantly dependent on a strong and interventionist state. I can certainly see the Polanyian resonance; any economic sociologist interested in the state works partly in the shadow of *The Great Transformation* (Polanyi, 1957 [1944]). Derbyshire also reminds me of something that I'd forgotten, namely that Polanyi also identified Benthamite utilitarianism as an integral part of the paradoxical, small-yet-big liberal state.

The key difference between the liberalism criticised by Polanyi and neo-liberalism, as I see it, is that the latter is more concerned with the *competitive market ethos* than with markets themselves. Monopolies can be legitimate, as long as they are run in an efficient, enterprising fashion; states are legitimate for the identical reason; individuals must also live in this way. Frankly, neo-liberalism can do without the price mechanism much of the time, as those unpaid shelf-stackers, having their 'self-esteem' rebuilt by workfare programs, will tell you. This is something Michel Foucault foresaw quite brilliantly in his 1978-79 lectures on neo-liberalism (Foucault, 2008).

Finally, the bulk of the book consists of a historical and sociological analysis of particular expert communities, based on a combination of textual analysis, interviews and a kind of interpretive approach which seeks to understand economics within its broader political context. As I say early in the book, we need to 'read economics 'as if' it were political theory, inverting the neo-liberal project of measuring political actors 'as if' they were market actors' (p. 32). In that respect, interpretation may not be as uncritical as it first appears, but rather can re-politicise what has been de-politicised.

Does the book tell a complete story of neo-liberalism? Certainly not. As Mudge highlights, few people have ever described themselves as 'neo-liberals', which makes my use of the term methodologically problematic. But by holding to the principle that neo-liberalism is, fundamentally, an attempt to replace political speech (including legal discourse) with economic calculation, specifically so as to make the social world resemble a market contest, I was led to explore what I hope are some interesting territories in the history and application of ideas. If theorists and social scientists are too reticent in applying names to complex matters, then new critical perspectives become very hard to attain.

#### *The benefits of meso-level analysis*

This brings me to what I see as the substantive critical points, put forward by Mudge and Jessop in particular. These ultimately concern the question of how to conduct critical social science, a question that is as much political as it is methodological. In his own work, Jessop has foregrounded the question of what form of 'complexity reduction' we want from our political-economic theories. In some respects, the critiques offered by Mudge and Jessop are inverses of each other. This may be an inherent feature of what Jessop describes as my 'meso-level' analysis. The book seeks to carve a path between a contingent genealogy of economic policy, and a



systematic theory of neo-liberalism; but that necessarily leaves it open to the charge that it achieves neither.

Mudge worries that my attempt to identify certain stable conventions amidst the chaos of neo-liberal modernisation imposes excessive coherence, even inevitability, upon recent history. She feels that I have lost the 'sense of contingency' that, for instance, marks Weber's economic history. More pointedly, she argues:

Nor does the reader get a sense of neo-liberalism as anything other than a necessary historical force, long in the making and virtually unstoppable ... I am not inclined to accept such a story of historically linear inevitability.

This I found more surprising. If anything, I had worried that the book would be criticised for veering into anecdote, or the journalistic style of Adam Curtis! If the effect of the book is as she describes, then that is indeed a significant weakness. But I question whether that kind of Hegelian teleology is actually present. Nevertheless, I can quite see that my sociological search for common themes and ideal types risks over-interpreting or obscuring historical details. The question is whether that risk is worth running, which I hope it is.

On the question of neo-liberalism's coherence, Jessop is more sympathetic to my approach. His concern is really that my theorising of neo-liberalism doesn't go further, to encompass the macro-political entities which (I argue) neo-liberal logic is largely unable to properly account for. These include the forces of domination which enable neo-liberalism to survive, regardless of its justifications or the coherence of its public rhetoric. As Jessop concludes

We should also ask whether the economic logic of neo-liberalism, which has one-sidedly privileged exchange over use-value and financial over industrial capital, has retained its structural power even if it has suffered a crisis of legitimacy. Without further challenges to the macrostructures of domination, piecemeal changes risk absorption or neutralisation.

This points towards the type of state theory, or 'cultural political economy', that Jessop has been one of the leading exponents of for decades. What Jessop's work offers, which my interpretive approach lacks, is a basis for critique that is independent of the subject matter being criticised. By contrast, my own approach to political economy involves using the language of those I am studying, to show how it falls apart, how it fails to adequately account for its context, how its aspirations for legitimacy fall apart. I'm aware that this leaves me without my own critical theory of

the state or of capitalism, separate from how they emerge from the rhetoric and practice of those I am studying. To a Marxist such as Jessop, this is not a good position to be in!

This is not the occasion for a lengthy debate about the purpose of critical sociology. However, I would just like to conclude by pointing to an aspect of *The Limits of Neo-liberalism* which none of the respondents focused on, but which *partly* allays some of Jessop's fears, regarding the apparent acquiescence of my theoretical approach. This is my interpretation of entrepreneurship, as a mode of political agency without any normative justification at all. In fact, this understanding is quite clear in the work of Joseph Schumpeter: Schumpeter's entrepreneur is a figure who ignores the rules, works outside them, reinvents the game altogether, so as to dominate everyone who then plays it in future. The political logic of entrepreneurship is not one of agreements and conventions at all, but one of violence and domination. (Schumpeter's use of military rhetoric to applaud entrepreneurship is very suggestive in this regard).

If we understand neo-liberalism as the conflation of economic and political logic, we can see that entrepreneurs (or, in practice, superstar CEOs) become imbued with a form of political, executive authority to act however they decide. But by the same token, political leaders become viewed like entrepreneurs or 'CEOs' running their national businesses or brands. This is precisely how Michael Porter framed 'national competitiveness' from the early 1980s onwards. Within my analysis, there has always been an important strand of neo-liberal power, which operates outside of rules and conventions according to a logic of exception. This has become even more important since 2008: as I point out, competition law and European State Aid rules were amongst the first things to go out of the window when crisis struck.

Jessop describes my approach as 'largely conventionalist', and suggests that this 'neglects the bigger picture of relations of hegemony and domination and enables those with power ... not to have to learn from their mistakes'. I would counter that by saying that my approach is only *half* conventionalist. Yes, neo-liberalism involves the construction of and adherence to 'rules of the game'. But as has become increasingly clear, it also makes space for certain actors – entrepreneurs, executives, those with the Schmittian capacity to *decide* – to exempt themselves at key moments. This is a crucial part of my account.

By focusing on the types of justifications and legitimations that neo-liberalism can and does offer (thanks to its tools, ideas and history), I believe that I am also able to

specify the areas where it is *unable* to achieve legitimacy in any normative sense. In particular, by highlighting the amoral nature of the strategist-entrepreneur, and the way in which this logic is welded to the executive branch of government in the pursuit of ‘national competitiveness’, I hope to indicate the areas of policy which are driven by little other than brute force. This is in contrast, say, to many Foucauldian approaches, which treat everything as a work of violence.

Under what I term ‘contingent neo-liberalism’ (which arises post-2008), the entire system depends on contingent inequalities in power, because it can no longer depend on notions of justification or fairness. Achieving these distinctions, between areas where norms are at work, and areas where sheer power is at work, performs its own political work in highlighting possible vulnerabilities of the neo-liberal paradigm. As David Graeber has argued (2013), the fact that neo-liberalism now diverts so many political and economic resources towards securing its own preconditions at all costs (through security guards, surveillance etc) is a sign of its failure, not its success.

Does executive political agency operate according to a faintly systemic logic? Even highly nuanced Marxist state theories, such as Jessop’s ‘strategic-relational’ approach, would assume that it does. Or is it a *sui generis* force, as Schmitt or Arendt might see it, that acts unpredictably and disruptively? I assume the latter, and the capacity of neo-liberalism to harness this violent, self-authorising form of power is critical to its ongoing survival. It is also why legitimacy for neo-liberal rule is now impossible. My analysis may lack any theory of domination, and the work it does under neo-liberalism. But I hope it has a different strength altogether, of being able to point to domination, highlight neo-liberalism’s dependence on it, and demonstrate the ways in which it is now naked, and stripped of any legitimacy. This descriptive approach may have its own political advantages, even while it lacks a macro-theory of why things are as they are.

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