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Capitalist State, State Capitalism, and the Current Conjuncture of International Law

Hunter, Rob, Rafael Khachaturian, and Eva Nanopoulos, eds. 2023. *Marxism and the Capitalist State: Towards a New Debate*. Palgrave Macmillan.

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Alami, Ilias, and Adam D. Dixon. 2024. *The Spectre of State Capitalism*. Oxford University Press.

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Abstract: This review essay engages with various conceptualizations of the "capitalist state" and "state capitalism" within four newly published books. It posits that the capitalist state is not a homogeneous category—that the "mature independence of the economic sphere from the political sphere" in liberal capitalism and their "immature independence" in state capitalism render the role of the state in each geography different while producing distinct geopolitical structures within the global economic order. The essay argues that the extraterritorial liberal capitalism of the Anglo-Saxon sphere has historically produced and simultaneously peripheralized state capitalism outside this sphere. State capitalism has, in turn, posed threats to free competition and profitability rates of liberal capitalism, requiring intervention by the hegemonic power arising from liberal capitalism to tackle market distortion. As such, debates around the "return of geopolitics" to international law should be nuanced within the structural tendencies of the two forms of capitalism.

Keywords: capitalist state, liberal capitalism, state capitalism, separation of the economic and the political, Marxist international law

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I. Introduction

Critical political economy literature in international law has historically focused on "law's role in capitalist social relations." The proponents of the commodity form theory have argued that capitalism reproduces itself through the highly juridified "commodity exchange," which abstracts social relations from their historical conditions, imposing formal equality over everyone. The "content camp" has, in turn, advanced that "law" reproduces capitalist social relations not through its form, but through its substance, and by insulating private property regimes from public challenge (Pashukanis [1924] 1980; Miéville 2005; Knox 2016; Marks 2007; Tzouvala 2020; Wilén 2023). Oscillating between the two camps, several critiques of normative regimes such as international economic law, international environmental law, international criminal law, and international human rights law, among others, have since been developed (Baars 2020; Marks 2019; Tzouvala and Gathii 2022; de Castro and Yu 2023; Morris 2020).

While introducing a historical materialist account of law into legal theory, the mere focus on normative regimes has rendered "the state"—an amalgamation of evolving social forces *taking different forms across liberal and state capitalism*—marginal in international legal inquiry, something for international relations and political science scholars to investigate. As such, the relations between law and state (or the social constitution of law) at an abstract historical level, as well as the asymmetric conflicts and agency of liberal and state capitalism in the international legal order, remain underdeveloped.

Outside international law, the Law and Political Economy (LPE) movement within the Anglo-Saxon legal academy has contextualized "law" within the landscape of production relations, shedding light on the nature and function of the capitalist state in contexts as wide as antitrust, the climate crisis, the constitution-capitalism nexus, and the carceral state, among others (Haan and Stevelman 2025; Tomlins 2024; Vaheesan 2020; Epstein 2021). Yet, the geographical location of LPE scholarship has translated into a focus on Anglo-American liberal capitalism, the rule of law as grounded in the mature independence of the political and the economic (or "separation-in-unity"), and the state's role in protecting *the independence of private property relations against public challenge including against the state itself*. This overshadows the different trajectory of "law" in late-transitioning geographies of "state capitalism," grounded in territorial accumulation regimes and nation-building, as they have reacted and continue to react to political and impersonal pressure from liberal capitalism.

This review essay posits that problematizing the "capitalist state" and "varieties of capitalism" in Marxist scholarship in international law opens space for investigation into the social content of the "international" and the link between secular crises of accumulation regimes (including the current conjuncture of neoliberalism) and structural change in the international order. The essay engages various iterations of "capitalist state" and "state capitalism" in four new books: *Marxism and the Capitalist State: Towards a New Debate*, *Research Handbook on Law and Marxism*, *The Spectre of State Capitalism*, and *The Oxford Handbook of State Capitalism and the Firm*. Three of the four books are edited volumes and bring together a variety of perspectives from law and political science / international relations to social theory, political economy, and strategic management to debate state-capital relations and the growing intervention by the state in the economy—the so-called "Post-Washington Consensus." *The Spectre of State Capitalism* is a monograph coauthored by two political economists that builds on the "uneven and combined development" theory to explain the global spiral of neostatism.

Subsequently, the essay advances the argument that the capitalist state is not a homogeneous category—that the mature independence of the "economic" sphere from the "political" spheres within liberal capitalism and their immature independence within state capitalism render state-capital-labor relations across the two geographies different, while shaping their position and agency in the global economic order. More specifically, liberal capitalism produces and simultaneously peripheralizes state capitalism, as the former poses threats to the latter's profitability rates and political legitimacy, requiring intervention by the hegemonic state originating from liberal capitalism to tackle market distortion, without either of the two state/societies shedding their foundational tendencies. The term "liberal" here refers to economic liberalism as underpinned by free competition and the rule of comparative advantage (and not political liberalism), whereas "illiberal or state capitalism" captures the historical condition of the late-transitioning nation-states formed around the political protection of vested interests.[1]

II. The Place of "State" in Marxist International Law

Influenced by classic Marxist social theory, the critique of the form or content of law in Marxist international law is premised on the idea that capitalist social relations are formed on the ground in geography and travel as a universalizing force across precapitalist geographies, transforming social relations around means of production and giving rise to *similar bourgeois societies*. Pashukanis famously argued that modern international law emerged following "the victory of the bourgeoisie *in all the European countries*," necessitating "the establishment of new rules and new institutions of international law that protected the general and basic interests of the bourgeoisie, i.e., bourgeois property" (Pashukanis [1924] 1980, 171–72). For him, international law was agreements between homogeneous capitalist states that directly secured the *primacy of private property relations* on the international plane. As such, the varieties and conflicts among national capitalism(s) in the international order remained outside the ambit of Marxist legal theories. If "capitalism" must move temporally and spatially to reproduce itself, what happens when it meets the preexisting "state system"?

Among contemporary international law scholars, Chimni has sought to offer an account of international law that combines "capital's laws of motion" and "the state system" as "the operative matrix for lawmaking on the international plane" (Chimni 2017, 504). He argues that as capital circumvented the globe from the colonial through the imperial eras, the maturing state system, and the national state as "the operative matrix for lawmaking on the international plane," complicated the process of the adoption, interpretation, adjudication, and implementation of international law, tackling the logic of capital (ibid. at 461). Yet, Chimni's account remains vague on the *prevailing mode of production in contender territories or their relations to the global economic order*. This leads him to argue that formal

[1] Illiberal or state capitalism should be understood in relation to another term, "authoritarian liberalism," prescribed for post-Weimar Germany by Carl Schmitt in his 1932 address to business leaders and Hermann Heller in his well-known 1933 article, "Autoritärer Liberalismus" in *Die Neue Rundschau*. The idea was to reverse the economic crises of the early 1930s caused by the Weimar Republic's economic liberalism, the German parliamentary democracy, and reparation payments, by putting in place a strong state that maintained economic liberalism but centralized economic policy through political authoritarianism. On Schmitt and Heller's arguments, see Bonefeld (2022). In the context of this essay, state capitalism is not necessarily incompatible with political liberalism and liberal democracy. It is a mode of organization of production relations from above and geared toward political protection of vested interests against free competition. In this context, the German trajectory of capitalism across a variety of political systems remains state capitalism, or what the varieties of capitalism literature describes as a "Coordinated Market Economy," wherein firms rely on non-market mechanisms to coordinate their activities and engage in long-term strategic interactions. See Wilkinson (2021) and Hall and Soskice (2001).

sovereign equality in postcolonial international law can potentially tackle the "logic of capital," without regard to the trajectories of "state capitalism" in the new and developing countries (523).

The lack of engagement with varieties of capitalism in Marxist international law connects to the broader treatment of the capitalist state as an ontological given, a black-boxed and monolithic entity devoid of social content. While one can argue that the Marxist theory of law is ultimately a Marxist theory of the state, the mere focus on normative regimes and the lack of engagement with state-market-individual relations across liberal and state capitalism and their geopolitical dynamics have left international law without an account of how the struggles between the two geographies culminate in crises and succession of regimes of accumulation (for example, Taylorism, Fordism, neoliberalism) from a historical and theoretical perspective.[2] It is in this context that Bachand notes, "Critical scholars of international law often subscribe to an understanding of the field that is surprisingly wide and abstract. The analysis of capitalism as a mode of production must also offer *an analysis of its historical and geographic variations*" (Bachand 2021, 357-8, italics added). Haskell and Rasulov had earlier argued, "The turn to political economy that we are witnessing today in international law is not a turn towards some kind of defined theoretical field, discipline, or methodology" (Rasulov and Haskell 2018, 2). More recently, one of the authors of *The Spectre of State Capitalism*, Ilias Alami, has called on critical legal scholars to engage with relations between law and the state (or the social constitution of law) at both abstract and historical levels as crucial for deconstructing the legalities of the new state capitalism (Alami 2025a; Alami 2025b).

Although the new Law and Political Economy (LPE) literature has opened new doors to contextualizing the capitalist state and law in the broader landscape of production relations, the geographical location of LPE has led to the dominance of the self-regulating market and the "invisible hand" in the movement's intellectual imaginary. For one thing, the movement's critique of the "Twentieth-Century Synthesis" and legal reforms around the Chicago school's market efficiency and law's neutrality remains oriented toward liberal capitalism (Purdy et al. 2020; Grewal 2014).[3] For another, LPE's distance from the early (and European) Marxist critiques of law makes the emergence of a conversation between the two on the interplays between Anglo-American liberal capitalism and state capitalism outside this sphere difficult (Tzouvala 2022). Efforts have been made in the European legal academy to apply the LPE research agenda outside the laissez-faire context (Kampourakis 2021; van den Linden 2025). Kampourakis, for example, investigates the adoption of the Freiburg school's ordoliberalism (an alternative to the Chicago school's neoliberalism) by the Maastricht Treaty of 1992 and the creation of the European Monetary Union as a process of economic constitutionalization insulated from mass politics. He argues that the function of the capitalist state in Europe has moved from a degree of welfarism toward ensuring fiscal discipline (Kampourakis 2021, 305–07). Yet, by taking an inward-looking perspective, the piece falls short of explaining Europe's "embedded" neoliberalism as a feature of "backward" capitalism and as an impersonal and political reaction to Anglo-Saxon neoliberalism.

This review essay argues that problematizing the capitalist state, varieties of capitalism, and the geopolitical structures they produce in international law can enrich Marxist international law. The LPE literature can also gain a better understanding of Anglo-Saxon capitalism by tackling its

[2] For a similar critique of international relations, see Rosenberg (2006).
[3] For an exception, see Bruner (2024), which reconstructs the role of national identity in international competition for cross-border financial services, focusing on the case of Bermuda. The piece, however, does not engage with the varieties of capitalism.

"methodological nationalism" and engaging with the international life of liberal capitalism in interaction with state capitalism (Wimmer and Schiller 2003). In that direction, the review essay discusses different iterations of the "capitalist state" in two new volumes: *Research Handbook on Law and Marxism* and *Marxism and the Capitalist State: Towards a New Debate*, before turning to two other books on state capitalism, *The Oxford Handbook of State Capitalism and the Firm* and *The Spectre of State Capitalism*, and their conceptualization of neostatism and the so-called "return of geopolitics."

Subsequently, the essay builds on the "uneven and combined development" scholarship in international relations literature to argue that the history of international law since the end of the Napoleonic Wars—the rise of Pax Britannica and subsequently Pax Americana, into the current crisis of the neoliberal regime and international order—has been a history of struggles between Anglo-Saxon liberal capitalism and state capitalism outside this sphere. Each is underpinned by distinct state-capital-labor relations and they bear asymmetric positions and agencies in the global economic order. These geopolitical structures also explain the current contestation of neoliberal globalization by the US as a quest for tackling the distortion of competition by Chinese state capitalism, as opposed to a retreat from neoliberalism. The essay illustrates these dynamics by using historical examples from the US's failed efforts in establishing American antitrust in Japan and Western Europe in the post-WWII era, as well as the later opposition by the European Union to Anglo-Saxon neoliberalism in the 1990s. Based on these divergences, the essay engages with the debates around Bidenomics laws and Trump 1.0 and 2.0's trade policy and whether they represent(ed) a break from US liberal capitalism, in comparison with European strategic autonomy.

III. Capitalist State: From Securing Accumulation to Facilitating Social Reproduction

The Marxist critique in international law has engaged with the capitalist state in one way or another. The commodity form theory of law—along with its political science counterpart, the state derivation or West German state derivation debate—is premised on the idea that the historical form of the bourgeois state is produced by a certain segment of the capitalist production relations: the commodity exchange (Holloway and Picciotto 1989). Adjacent to the commodity form debate is the Gramscian approach to the capitalist state and law, which seeks to nuance Marx's base/superstructure complex by employing Gramsci's formula in which "civil society" (located in the base of capitalist society and marked by hegemony and consent) + political society (superstructure and marked by coercion through state law) = the "Integral State" (Humphrys 2018, 29). Yet, just as Gramsci never intended to develop a systemic theory of the state, the Gramscian literature in (international) law has mostly focused on the "function of ideology" in rule by consent as opposed to state-capital relations (Cutler 2005; Kennedy 1982; Desautels-Stein and Rasulov 2021).

Within the rest of the content camp in Marxist international law, these relations have been conceptualized on a spectrum between the "relative autonomy" of the "political" from the economic base, on the one hand, and the "political" as mirroring production relations, on the other hand. Tzouvala, for example, appears to side with relative autonomy by emphasizing the "centrality of law as one of the primary mechanisms that ensures the reproduction of capitalist relations of production . . . while doing much more than simply reflecting some already existing economic base" (Tzouvala 2020, 12). Chimni, in turn, is a flag holder of the relative-autonomy stance. While speaking of "bourgeois international law" or "the class content of international law," he rejects functionalist conceptualizations of law, pointing to other systemic logics with "a rich totality of many determinations and relations," such as the logic of territory, nature, law, or culture, as tackling the "logic of capital" (Chimni 1999; 2017, 449). Yet, the lack of engagement with varieties of capitalism and differing independence of the "economic sphere" from the "political" sphere within competitive and noncompetitive capitalism has left the relative-autonomy debate in international law unnuanced. Tomlins criticizes a similar illusory gap between the "juridical sphere" and the "social" in Marxist and poststructuralist Critical Legal Studies, asking, "but relative to what?" (Tomlins 2004; 2007).

Marxism and the Capitalist State is a timely exploration of different iterations of state-capital relations in the age of the systemic challenge to neoliberal wisdom. Departing from "the inadequacy of instrumentalist conceptions of the state," the chapters employ Marx, Engels, Gramsci, Althusser, Poulantzas, and Adorno and Horkheimer to offer a kaleidoscopic view of the capitalist state and its relative but structured autonomy (Hunter et al. 2023, 18). The book is edited by the legal scholar Eva Nanopoulos and two political theorists, Rob Hunter and Rafael Khachaturian, and should be read in conjunction with another volume, *Research Handbook on Law and Marxism*, to which the three editors and many of the chapter authors have also contributed. The *Research Handbook* is, in turn, edited by two legal scholars, Paul O'Connell and Umut Özsu, and its chapters seek to go beyond the early critique of liberal law and its facade of neutrality and autonomy to offer more systematic accounts of "law" as "structured around the drive to produce and accumulate surplus value" (O'Connell and Özsu 2021, 1).

In *Marxism and the Capitalist State*, Nanopoulos revisits Marx and Engels's deliberations on the capitalist state as oscillating between a police state that preserves the capitalists' personhood, property, and rights, on the one hand, and a vessel for emancipatory class struggle, on the other hand (Nanopoulos 2023, 144). Famously, Marx's early positioning of the state within the base/superstructure theory and the apparent contradictions between the political state and civil society were followed by his and Engels's articulation of the bourgeois state's *structural link* to capitalist social relations (Marx [1843] 1970, para. 261; Marx and Engels [1848] 1998, Chapter I). This was essentially a shift from a functionalist view of the state toward one where the state acted within a certain structure without necessarily mirroring capital's interests. Nanopoulos asks whether engaging with the capitalist state is a reasonable strategy, given that the state cannot be "severed from its entanglement with the reproduction of capital" (Nanopoulos 2023, 146). Yet, the recognition of the rigid confines of economic imperatives does not prevent her from finding force in politicizing class struggle, including "the tactical deployment of legal arguments for strategic goals" outside the state apparatus (ibid. at 152). Chorley-Schulz contributes a chapter on the function of the state army in Marx and Engels's work, arguing that soldiers are not "outside capitalism and the political antagonism it generates" (Chorley-Schulz 2023, 134). As the state comes to "assume the character of the national power of capital over labor," the army becomes crucial to the expansion of territory, no longer for the kin-based sovereign but for plunder (ibid. at 134). Thinking through the similar notion of the "totality of the economic and political spheres," Ciocchini and Khoury, in the *Research Handbook on Law and Marxism*, argue that socialist hegemony can be built within the same realm and through "some aspects of law produced 'privately' or beyond formal state channels" toward dismantling "the legally encased capitalist system" (Ciocchini and Khoury 2021, 151).

In the same handbook, the most prolific scholar of the capitalist state, Bob Jessop, takes up Poulantzas's early and late articulation of "state law" as a "terrain of class struggle" and "relational." Poulantzas initially characterized state law as a "distinct region" or "institutional structure" with its own logic that functions within the broader structure of economic imperatives. He saw the capitalist state's relative autonomy as fundamental to capitalist social relations since without it, the state could not "impose *short-term economic sacrifices* on the dominant fraction or class to *secure its long-term political power*" (Jessop 2021, 162, italics added). This is followed by a more sociological characterization of the state as the "form-determined condensation of the changing balance of forces in political and politically relevant struggles." This is different from the "terrain of class struggle" stance, which essentially characterizes the state as the "cement" of social forces (ibid. at 168).

Illustrating the "terrain-of-class-struggle" conceptualization, McCarthy argues that within today's liberal democracies, class struggles materialize in the context of the hegemony of finance capital, which was made possible by the dismantling of the interstate monetary order and the disarmament of the state in the realm of fiscal policy. In the face of the state's accumulated weakness vis-à-vis capital, state personnel have been compelled toward the accumulation and legitimation of production relations, regardless of their destabilizing effects on the social base (McCarthy 2023, 225–29). Similarly, Maher and Aquanno rely on Poulantzas's account of "authoritarian statism" as an eventual phase in capitalism to explain Trump's failed attempt to bring the Federal Reserve back from the insulated position it grew into in the aftermath of the 1980–82 Volcker shock and into the purview of the executive. They argue that the American state remains institutionally autonomous from (global) capital but is structurally confined by the low-inflation monetary regime, over which the executive now has limited control (Maher and Aquanno 2023, 110–18).

Taking distance from the idea of the capitalist state as a tangible social entity, Hunter argues that the capitalist state is "not a state in capitalism but the state of capitalism," or "a specific moment in the totality of capitalist social relations" (Hunter 2023, 254; 2021, 192). More specifically, the state is a "historically specific social form" that evolves from the institutionalized illusion of the separation of economic and political power. The argument is not that the historically specific nature of the capitalist state hinders its theorization, but that any investigation should center the double movement of the state as the political manifestation of a specific capitalist society (or objective and historical) and its exercise of political power in a manner that appears to be "autonomous from the imperatives or exigencies of the economy" (or subjective and logical) (Hunter 2023, 268).

While the contributions so far have focused on securing accumulation, several chapters dwell on the capitalist state's role in ensuring a degree of social reproduction in the face of the persisting need to live a life outside the strictly economic dimension of capitalism. Munro speaks of "life-making activities" that do not directly valorize capital but are fundamental to the reproduction of the conditions that allow its valorization (Munro 2023, 165). Battistoni centers the tripartite relations between the capitalist state, nature, and capital, arguing that the capitalist state *can* theoretically act to preserve both human and nonhuman means of life, even if they are not directly related to production. The state tends to do so under the compulsion of the Polanyian "double movement" or the pushback from the masses against the disruptive effects of capitalism (Battistoni 2023, 40). O'Kane, in turn, employs the Frankfurt school's negative dialectical debate and Horkheimer and Adorno's argument that in capitalist social totality, "everything and everyone depends on everyone and everything . . . the whole is only sustained by the unity of the functions fulfilled by all its members" (O'Kane 2023, 240). The state becomes one of the three "reified social spheres," along with the household and the market, that mediate each other in the process of capitalist reproduction. The household becomes predicated on private property and the state (enabling private property atomization) as "the policy arms of the state reproduce capitalist society through the violence of administration, depoliticization, and the sustenance of the economy and household" (ibid. at 246).

The theories of the capitalist state represented in *Marxism and the Capitalist State* and the *Research Handbook on Law and Marxism* can enrich Marxist international law by offering a systemic account of political institutions and their "relative yet structured autonomy." State theory can be particularly useful for synthesizing relations between international organizations (IOs) and capitalist social relations (Mansouri 2025). Attempts to develop a political economy account of international institutions and global capitalism have yet to culminate in a rigorous account of the relative and structured autonomy of IOs in securing accumulation and ensuring life-making under capitalism. Both Chimni's account of the transnational capitalist class (TCC) eroding the sovereignty of developing countries through IOs and Klabbers's proposal for mapping the distributive effects of IOs fall short of offering a concrete political economy account of IOs and the reproduction of capitalism. Chimni's account ends up "thingifying class," and Klabbers's focus on the "distributive effects" of capitalist social relations shies away from the core question of "power relations" under capitalism (Chimni 2004; Klabbers 2023). A reconstruction of the "relatively autonomous" IOs remains crucial to understanding the intertwined histories of world institutions and industrial change, including the changing landscape of IOs in the face of the neoliberal crisis (Murphy 1994; Cutler 2025).

Having said that, this essay argues that the capitalist state, as either "relatively autonomous," a "political manifestation of capitalist social relations," or "a historically specific social form," takes different forms across liberal and illiberal capitalism. The mature independence of the political and economic spheres in extraterritorial liberal capitalism and their incomplete independence in territorial state capitalism within the broader landscape of uneven and combined development has disrupted free competition within the global economic order in different eras, creating a legitimacy crisis within Anglo-American liberal capitalism and requiring the liberal hegemon to intervene to restore the profitability rate and reboot its supremacy in ruling the international order. Two new books, *The Spectre of State Capitalism* and *The Oxford Handbook on State Capitalism and the Firm*, have centered on the "uneven and combined development" and varieties of capitalism, and as such, offer useful insights on these geopolitical dynamics.

IV. State Capitalism: From Capitalist Industrialization to Crisis Management

The narratives around the end of the neoliberal era and the return of power politics have been present in the discipline of international law since the 2008 financial crisis. In its aftermath, some spoke of "a systemic crisis of neoliberal capitalism," while others made sensational statements such as "the rise of state capitalism in the United States" or "the end of the free market" (Kotz 2009, 305; Hockett and Omarova 2022, 623; Bremmer 2010, 249). Later in the decade, the outcome of the 2016 US election was interpreted by the discipline as the beginning of the end of the US-led liberal international order (Madsen 2018; Krieger 2019). Liberal legal scholars made sense of the post-2000s crises as the expected repercussion of "a certain belief in the superiority of mathematics, game theory and modelling" over "law, political science, psychology, sociology, history," while Marxist international lawyers viewed the cyclical challenge to the liberal international order as part of the secular crises of capitalism (Wood and Lastra 2010, 544). Chimni argued in 2010 that just as capitalism regenerates and reinvents itself, liberal international law will follow, with finance capital within the neoliberal global economic order, for instance, deploying international institutions to "lump together" sovereign states to overcome the geopolitical hurdles to capital's movement (Chimni 2010, 71). Others saw the rise of populism and the backlash against international law as reflecting Polanyi's "counter movement" or pushback by the masses against the dislocating effects of laissez-faire and signaling the need for "holism" or socially re-embedding the market (Kjaer 2020, 5). Some years later, the COVID-19 pandemic and the spiraling state intervention to compensate for the disruption of global supply chains, as well as the rollback of public institutions, were viewed as another challenge to neoliberal wisdom. However, as Khachaturian warns in his contribution to *Marxism and the Capitalist State*, this "neostatism" is different from previous modes of state intervention, such as the New Deal or Keynesian capitalism, in that interventionism materializes within the framework of persisting neoliberal structures, whereby "the capacities and resources of the state are mobilized to stabilize the conditions of social reproduction" without a "comprehensive ideology or political capacity" (Khachaturian 2023, 80).

Despite all these engagements, the lack of systemic investigation into the capitalist state in international law has left the political economy analysis in the discipline unequipped to investigate the nature of state intervention across liberal and state capitalism. In a recent issue of the *German Law Journal* on resurgence of the state as an economic actor, Sacerdoti and Borlini speak of the "politicization of international trade relations," while Orford argues that "capitalism is being decoupled from liberalism" in the advanced economic core (Sacerdoti and Borlini 2023, 17; Orford 2023, 68). The former mistakes the US's contestation of international trade law as "politicization" as opposed to an effort to restore "free competition," and the latter assumes that capitalism has been "liberal" across the advanced capitalist core. This should be understood in a broader context, whereby mainstream and critical international law understand the global economic order as unilaterally formed around "competition and integration" and, as such, are unable to investigate how varieties of capitalism accommodate succeeding regimes of accumulation (for example, Keynesianism, neoliberalism, and post-neoliberalism), nor are they cognizant of the past and present deployment of international treaties and institutions by geographies of state capitalism to insulate territorial accumulation regimes against free competition. The result is that state capitalism is understood as any form of "state intervention" or "a stage in global capitalism" that transcends even what varieties of capitalism scholarship characterize as liberal market economies (LME), which include Britain and its former settler colonies. For example, the new volume *State Capitalism and International Investment Law* begins with the statement that "the [post-1945] liberal world order assumed that the economies of the South and East would transition towards the market economy system. *State capitalism is based on a relatively different economic paradigm*" (Delimatsis et al. 2023, 3, italics added).

Two new books, *The Spectre of State Capitalism* and *The Oxford Handbook on State Capitalism and the Firm*, published in economics and adjacent disciplines, can offer useful insights into the history and dynamics of state capitalism in the international order. *The Spectre of State Capitalism* and two of the chapters in *The Oxford Handbook* particularly investigate past waves of state intervention and shifting regimes of accumulation to understand the current neostatism. The landmark events include the state-led industrialization of Germany in the late nineteenth century, the rise of the state in the Atlantic area in response to the Great Depression in the 1930s, the parallel industrialization of the Soviet Union, the post-WWII reconstruction in Europe, and the rise of state developmentalism in Asia and Africa, among others. While the accumulated bureaucratic power was undermined by neoliberalism from the 1980s onward, the 2008 financial crisis revived state intervention *not for some social objectives, but to facilitate the functioning of the market through new norms*. The role of the state remained constant throughout the 2010s, with new economic powers and sovereign wealth funds emerging in and beyond the Global South. Statism was reinforced with COVID-19 and is currently taking new forms, not only in the advanced capitalist core (Bidenomics in the US and European strategic autonomy) but also in the developing world.

The Spectre of State Capitalism, coauthored by Ilias Alami and Adam D. Dixon, is one of the most comprehensive studies of neostatism from a historical-geographical perspective. A contribution to International Political Economy (IPE) and economic geography, the book marks the 2010s as the starting point for a breakaway from neoliberalism, in reaction to patterns of "uneven and combined development" generated by asymmetric market distortion, financialization, and the internationalization of production. The book rightly points out that there is no "antithesis between a strong state and market freedom," and what makes a capitalist state/society complex "neoliberal" or "statist" is, indeed, the substance of intervention: *to create necessary conditions for free competition, or to subjugate market equilibrium to ultraeconomic objectives* (Alami and Dixon 2024, 58). It also rejects geocategories such as "rogue" state capitalism in Western liberal narratives to characterize Chinese and Russian economies, noting that the old capitalist core has, at different points in its history, employed interventionist methods to "engineer particular social contracts with various segments of the population" (ibid. at 102).

Alami and Dixon's explanation of the new state capitalism combines the crisis theory of the capitalist state (the progressive politicization of accumulation, or "everyone becomes Keynesian in times of crisis") with the uneven and combined development (U&CD) theory, as developed by Russian revolutionary Leon Trotsky, to explain the peculiarities of capitalist development in Tsarist Russia. Trotsky argued that, unlike the "European West," Russia underwent transformation not following the rise of a "bureaucratized privileged class," but as a result of the state forcing capitalist social relations from above and through "Asiatic despotism" (Trotsky [1929] 2008). He defined U&CD as follows:

> *Unevenness*, the most general law of the historic process, reveals itself most sharply and complexly in the destiny of the backward countries. Under the whip of external necessity, their backward culture is compelled to make leaps. From the universal law of unevenness thus derives another law which, for the lack of a better name, we may call the law of *combined development*—by which we mean a drawing together of the different stages of the journey, a combining of the separate steps, an amalgam of archaic with more contemporary forms. (Trotsky [1929] 2008, 5)

Alami and Dixon argue that the laissez-faire at the heart of neoliberal globalization has produced uncertain and destabilizing political and economic developments, requiring the restoration of territorial accumulation aligned with political objectives. In a global economy structured around free competition, the rise of state capitalism in one geography creates unfair competition for the rest, forcing a move toward nationally organized economies. They call this the "immanence of state capitalism" (Alami and Dixon 2024, 17). In parallel, the book identifies fundamental differences between the earlier waves of state capitalism, such as interwar Germany or the Third World's state developmentalism, and the current statist turn, which they call "State Capitalism 3.0." For them, this wave of state capitalism is not geared toward terminating neoliberalism "as a shape-shifting class-political project fundamentally concerned with depoliticizing market rule," but rather is a highly marketized, corporatized, and financialized form of state intervention to gain an upper hand in the international division of labor (ibid. at 31, 327).

Although the book touches on state capitalism as the historical and structural conditions of late-transitioning capitalist states, including states in Western Europe and Northeast Asia, *The Spectre of State Capitalism* ultimately characterizes the phenomenon as a stage in the progression of the capitalist mode of production, as opposed to a historical condition of late-transitioning geographies reacting to ongoing pressure from liberal capitalism and resistant to changes brought by globalization. As such, the book fails to account for the structural divergence between Anglo-Saxon liberal capitalism and East Asian and continental European state capitalism, whereby Anglo-American antitrust and later neoliberalism have been systemically resisted as a matter of national survival. As such, state capitalism 3.0 is conceptualized as a global development transcending state/societies, whereby foundational antitrust norms and institutions (for example, the US Sherman Antitrust Act of 1890 and the Clayton Antitrust Act of 1914) have never been subjected to an industrial policy, and interfirm relations have been and continue to be coordinated by supply and demand. Along these lines, the book views the reemergence of industrial policy in mainland Europe or Japan as a retreat from neoliberalism, as opposed to the foundational tendency of capitalism outside the Anglo-Saxon sphere (Djelic 1998; Warlouzet 2017; O'Haley 2001; van Apeldoorn 2003).

Two chapters in *The Oxford Handbook of State Capitalism and the Firm* take these geopolitical structures more seriously. Robert Boyer, one of the proponents of the regulation theory of capitalism, centers the divergence between Britain and continental Europe, arguing that the rise of merchant capitalism in continental Europe and the social forces that culminated in bourgeois revolutions in the nineteenth century materialized in a context in which British capitalism had already taken hold of global resources and processes (Boyer 2022, 28). Boyer crucially highlights the different positions of liberal and state capitalism in the global economic order by explaining that "[t]he integration into the world economy is basically an *economic issue* in liberal capitalism, whereas it is essentially a *political concern* for state capitalism" (ibid. at 31, italics added). Put differently, while the Anglo-American hegemon rising from liberal capitalism lays the framework for global trade in line with the extraterritorial nature of its accumulation regimes and transnational capitalist class, state capitalism participates by way of its territorial accumulation regimes and in relation to the national substratum that underpins it.

Reinert, in the same handbook, offers an account of state capitalism from medieval and Renaissance Italy of the sixteenth century through the Progressive era of US capitalism (Reinert 2022). In his account, the future Grand Duke Cosimo I de' Medici of Tuscany led the development of specific national industries, as theorists such as Giovanni Botero laid the ideological foundation of state capitalism through well-read theses such as *The Reason of State*. According to Reinert, Italian merchant capitalism set the stage for state capitalism in the rest of the Old World in the nineteenth century before being embraced by the US administrative apparatus in the aftermath of the 1877 Supreme Court decision in *Munn v. Illinois*, which upheld the competence of the US government to regulate the conduct of private business. 94 U.S. 113 (1876). The case paved the way for the revival of Henry Clay's "American System" and a centralized industrial policy in the decades that followed. A series of acts, including the 1887 Interstate Commerce Act, the 1890 Sherman Antitrust Act, the 1914 Clayton Antitrust Act, and the 1914 Federal Trade Commission Act, came to regulate transport, communication, and energy infrastructures, as well as banking and finance.

For one thing, Reinert's account suffers from what Wood called the "commercialization model" or the ahistorical assumptions about "the continuity of trade and markets, from their earliest manifestations in exchange to their maturity in modern industrial capitalism," as opposed to the historical break brought by the rise of the impersonal modern state in charge of securing accumulation in Europe in the seventeenth through nineteenth centuries (Wood 1999, 13). For another, Reinert mistakes the rise of the "regulatory state" in the US and the progressivism of the late nineteenth century—geared toward the transition from family-owned to corporate capitalism—for state capitalism (Novak 2010, 379). Not only does the laying of infrastructure by the post-Reconstruction American state remain within Adam Smith's prescription for the small state to take charge of "public works" (Smith [1776] 1977, ch. I(III)), but more importantly, the Progressive Era laws and the

Sherman Act created a legal framework for a broader transition to extraterritorial corporate capitalism that shifted American foreign policy toward the "corporate-liberal synthesis," from Wilson and Roosevelt to Truman, Eisenhower, and Kennedy (Sklar 2010; van der Pijl 1984). As I will explain in the next section, neither the developments of the late nineteenth and early twentieth centuries nor the New Deal or Bidenomics have been breakaways from the Lockean underpinning of the Anglo-American state/society complex toward a national industrial policy.

V. Lockean Heartland and Hobbesian Periphery: From Liberal Capitalism to State Capitalism

A dynamic understanding of the "relatively autonomous" capitalist state in liberal and state capitalism requires going beyond economic theories such as "laissez-faire versus mercantilism" or trade policies such as "free trade versus protectionism" to explore differing state-labor-capital relations and the political expression of the modes of organization of production relations. The Dutch international relations scholar Kees van der Pijl uses the terms "Lockean" and "Hobbesian" to exemplify the political theory underpinning liberal and state capitalism.[4] The term "Lockean" refers to John Locke's *Two Treatises of Government*, and "Hobbesian" to Thomas Hobbes's *The Matter, Forme and Power of a Commonwealth Ecclesiasticall and Civil* (or *Leviathan*) and *De Cive*, both terms describing theories of liberal statecraft rising from the emerging bourgeois society in Britain in the seventeenth century. The argument here is that the history of the international legal order since the endogenous rise of capitalist social relations in England in the late seventeenth century and its exogenous and statist rise in continental Europe in the eighteenth and nineteenth centuries has been a history of struggles between the extraterritorial liberal capitalism of the Anglo-Saxon sphere on the one hand, and territorial state capitalism outside this sphere, on the other.

While sociopolitical transformations in Britain formerly materialized within the market and society (culminating in a state/society shaped around John Locke's ideas), capitalist transition outside the Anglo-Saxon sphere (that is, Britain and its settled colonies) materialized under the auspices of the state and from above (like the modern sociopolitical order that Thomas Hobbes prescribed). While an antecedent to the free-market theory that emerged in the eighteenth century, *Leviathan* indeed had "bourgeois roots;" it was written in the context of what Macpherson calls "the possessive market society," with most of the population in England having already become wage earners (Macpherson 1962; Ward 2020). Developing a political philosophy for modern capitalist England after the Civil War, Hobbes believed that "a society of individual enterprise, industry, commerce, trade, wage labor, and contracts is the natural order of things *when peace and security prevail*" (Taylor 2010, 424–25).

More specifically, in England, social transformations took force in the late seventeenth century following the rapid expansion of petty commodity production and the emergence from the old aristocracy of a capitalist class, which invested in commercialized lands and domestic production as feudalism declined and the challenge to Cromwell's royal absolutism and its obstruction of

[4] Dale calls van der Pijl's use of the term "Hobbesian" a "misnomer" on the ground that Hobbes' *Leviathan* prescribed the separation of the state from the society, as opposed to the state leading the capitalist expansion (Dale 2004, 26n22). Dale, however, misunderstands van der Pijl's objective in using the term, which is to liken the modern state in backward capitalism to Hobbes's idea of the modern sovereign in the state of nature, rather than framing Hobbes as a historical materialist political philosopher. In other words, Dale ignores the possibility of a historical materialist *reconstruction* of Hobbes's works, considering that he wrote in the context of seventeenth-century Britain as defined by an emerging bourgeoisie society and wage labor. On this point, see Macpherson (1962, 9–46).

accumulation grew. The 1688 Glorious Revolution led to the establishment of a parliament as the permanent power and a modern state in line with John Locke's theory of small government, a self-regulating market, and civil society's entrepreneurship (van der Pijl 1998, 66). The 1688–1714 financial and administrative revolutions that followed facilitated the exponential growth of collateralizable property and salable debt, insulated from public challenge and the state itself through the rule of law (Nedzel and Capaldi 2019; Malloy 2021). The rise of finance capital then positioned the state in charge of securing accumulation at home while shaping its foreign policy in line with the extraterritorial interests of British capital (Temin and Voth 2013).

In the Lockean state/society complex, private property is not "relational" but "objective" and grounded in natural law; it is not the state that constitutes private property, which exists as a natural law enterprise (Henry 1999, 614). As the market socializes masses into labor, the state functions to *protect the independence of private property relations from public challenge at home and abroad.* In a society of self-governing individuals and associations, Parliament encases the rule of the bourgeoisie, to which the executive is then subordinated. The federative power of the Commonwealth positions individuals as a transnational class. They are masters of their own fate, which they are free to pursue at home or abroad by venturing into the world as a place of entrepreneurship (Kirzner 1974, 1).

Although the Lockean sociopolitical order was extended to British settler colonies—Canada, Australia, and New Zealand—in the eighteenth and nineteenth centuries, it initially faced opposition in the independent United States of the late eighteenth century, until the Hamiltonian project of a federalist constitution was defeated by Thomas Jefferson's project of individual freedom and state self-government. In parallel, a transnational circuit of money began to emerge between Britain and the US from the 1840s onward, integrating the two economies into a single sphere of production and exchange before incorporating Canada, Australia, and Argentina from the 1870s onward (van der Pijl 1998, 72). In parallel, the British Empire gave birth to a transnational class, "Protestant, commercial, maritime, and free" (Armitage 2000, 173). Yet, despite its origin within a specific ethnic group ("White Anglo-Saxon Protestants"), Anglo-Saxon liberal capitalism (and its future "liberal-internationalist" consensus) grew into an ethnically indifferent locus of high material capability around finance capital, and a set of ideas and institutions centered on individualism and "a love for liberty!" (van der Pijl 1998, 5; 1984).

Returning to the question of the capitalist state, the full independence of the economic sphere from the political sphere in advanced liberal capitalism renders the "relatively autonomous" state in charge of securing accumulation by protecting the independence of private property relations against public challenge, including from the state itself. In addition to maintaining this "fair field and no favor" policy, the small state also engages in "lifesaving" activities that do not directly valorize capital but are crucial to capitalist reproduction. Yet, considering that capital socializes masses into wage labor, the state's role remains within the parameters of entrepreneurial civil society. The Lockean state is, on no account, less of a sovereign on a planetary scale. The deterritorial entrepreneurism in such a state/society renders the state "very much concerned about the insecurity and instability of international relations," which it comes to prioritize over domestic politics as a matter of political legitimacy vis-à-vis its transnational capitalist class (Williams 1996, 90). For Locke, an ideal world order emerged from independent civil societies, whereby "dynamism is not so much provided by war and peace but more by a key principle of Locke's internal politics, the principle of property ownership" (ibid. at 91). Subsequently, the deterritorializing tendencies of liberal capitalism, as well as its already established grip over resources and procedures, translate into a structural preference for a transnational *lex mercatoria* and a pragmatic illusion around the end of power politics.

Continental Europe experienced capitalist transformation differently. As England moved from feudalism to agrarian and then industrial capitalism in the eighteenth century, France grew into a dominantly agrarian society with disparate and overlapping governance across the territory, evolving into an absolutist regime that ended with the 1789 Revolution (Teschke 2003). The series of bourgeois revolutions in the nineteenth century gave birth to another form of state/civil society, first in France, then in Prussia, and later in Italy, among other places. Unlike English capitalism, whereby property regimes emerged out of the "accumulated surplus value" and "economically," modern property regimes in France and the rest of continental Europe were constituted not endogenously but "politically," and in reaction to geopolitical competition from Britain. In France, the barriers to capitalist transition persisted through various waves of industrialization conducted under the auspices of the First Republic and into the post-1848 era, until the Second Empire under Napoleon III and effectively the Third Republic encased the transition from the 1870s on (Lafrance 2019; Lafrance and Miller 2024). Capitalism in Western Europe, as such, remained grounded in the *contrat social*, and the "economic" and "political" spheres remained intertwined due to ongoing external pressure from liberal capitalism.

Van der Pijl explains the political theory of backward capitalism by using the term "Hobbesian," as, for Hobbes, "the highly visible hand of the sovereign was essential to bringing order to a society of market-driven, masterless men" (Taylor 2010, 425). A proponent of free enterprise, Hobbes opposed state ownership of firms and direct intervention in economic enterprises, but also private monopolies. He favored a "regulated economy," where the sovereign enacted "laws against idleness" and encouraged "all manner of arts . . . and all manner of manufactured goods that required labor" (Levy 1954, 590). He also attached great importance to trade because he saw it as a source of wealth even more advantageous than the "bounties of nature" in the path of state-led accumulation (Sorell 2006; Colella 1982). Yet, Hobbes denied the natural law origin of property, which, in his view, was grounded in the authority of the sovereign (Hobbes [1651] 1998, 69–74). In the Hobbesian state/society complex, relations of production are organized by the bureaucratic vanguard from above and along ethnonational objectives. In such an order, the state socially embeds capitalist reproduction, making meaning out of wage labor and dislocations caused by capitalist expansion. Nation-building becomes crucial to the process. Capturing this divergence, Koskenniemi has recently described British modern statehood (or "sovereignty" and "property") after the 1688 Revolution as "rule by property," while French modern sovereignty after the 1789 Revolution came to evolve from the "ties between property-owning and patriotism" (Koskenniemi 2021, 635, 483). Indeed, the political nature of accumulation in state capitalism generates a tendency to subjugate market equilibrium to political whims at one time or another. In other words, state capitalism—in its diverse varieties from command to coordinated economy—is structurally geopolitical.

The Hobbesian capitalist state secures accumulation and facilitates social reproduction differently from the Lockean state. National capitalists and vested interests crucially shape the state's role in safeguarding the production of surplus value, swaying away from "fair field and no play." As the masses are socialized into wage labor not by capital but by the state, the bureaucratic vanguards take the lead in facilitating social reproduction by "effectively integrating various moments of alienation into an integral world of rules and norms, so that people subject to the dislocating effects of commodification and exploitation are surrounded by functionaries and organizations "taking care of their drives, aspirations, and fears" (van der Pijl 1998, 138). In other words, the Hobbesian state's "empire of norms" helps embed capitalist social relations within the existing social structures, compensating for its backwardness by solidifying territorial accumulation regimes.

Contrary to the Anglo-Saxon hegemon, the international legal imaginary of state capitalism is inward looking, corresponding to Hobbes' realist-utopian argument that states securing peace within their borders are unlikely to wage war abroad: "[I]n a world of well-ordered commonwealths, foreign wars would cease to be necessary or advantageous." In other words, the source of international peace is not "interstate" or "supranational," but the stability of territorial regimes of accumulation (Grewal 2016, 632). The "international" reinforces the grip of the sovereign over its subjects on the ground while recognizing multitudes on the international plane and tackling the deterritorializing tendencies of liberal capitalism in a defensive and nonhegemonic manner. The Hobbesian state is by no means against international trade. Yet, it relates to global production and exchange *by way of its territorial accumulation regimes and the national substratum that underpin them*. As Helleiner has recounted, the history of British and American liberal capitalism and their leadership of a global trading system have paralleled a history of neomercantilism and participation in global trade within the parameters of nationally organized economies (Helleiner 2021). Power politics, as such, is the stuff of state capitalism.

It was in the context of this persisting power politics that British foreign policy toward the European continent throughout Pax Britannica was shaped by a utilitarian management of political conflicts along the lines of the "Vienna balance," "a mild preference for constitutional states," and a civil society emancipated from the state and ready to be integrated into market relations (Chamberlain 1988, 123). Nevertheless, as the Continent came to be shaped around the ideas of the French Revolution and rentier economies, Britain advanced free trade as a guarantor of long-lasting peace, consistently challenging high tariffs and nontariff barriers to trade. The Cobden-Chevalier Treaty with France became a blueprint for a large network of trade and amity treaties concluded by the rising bourgeoisie in postrevolution Europe (Iliasu 1971).

Subsequently, the extraterritorial nature of liberal capitalism, the size and dynamism of Anglo-Saxon finance capital, and their historical grip over resources and processes encased the rise of Pax Britannica in the aftermath of the Napoleonic Wars, succeeded by Pax Americana in the mid-twentieth century, as both were underpinned by a self-enforcing fit between "higher productive and destructive potentials," "technological and organizational capabilities," and ideas and institutions that reinforced the hegemon's material capability (Cox 1986, 218). Put differently, hegemony is born from liberal and not state capitalism. The hegemon becomes the "police state" of the international order, while the policing function helps the hegemon maintain its organizational capability despite consistent challenges (D'Eramo 2022; Arrighi 2005). Mead writes, "As their power has grown, the Anglo-Americans have increasingly been dead wrong about what their growing power and their military victories mean for the world. The Anglo-Saxon powers fight under the banner of liberal capitalism; their enemies oppose it" (Mead 2007, 5). Indeed, the history of the US's failed battle for establishing American antitrust on the ground in occupied Germany and Japan, and indirectly in Western Europe through the Marshall Plan in the post-WWII era, the systemic pushback against Anglo-Saxon neoliberalism, and the current conjuncture of neoliberal crisis all illustrate the historical and axiomatic struggles between liberal and state capitalism.

More specifically, the US-led legal reform in Germany and Japan culminated in cartel bans, while the failure to restrict "abuse of dominant market position" allowed the persistence of vested interests in both economies (O'Haley 2001, 77; see also Kostal 2019; Saunders 2023). The 1952 German bill that prohibited cartels and regulated mergers and combinations fell short of the antitrust objectives established by the Sherman Act or even the German ordoliberal prescriptions. Similarly, the 1958 Law

Against Restraints of Competition did not include merger control and excluded export cartels from the ban (Kronstein 1958, 281).[5] In Japan, the 1945 "Control of Corporate Organization" memo was followed by the abrogation of legislative and administrative measures that restricted new entry and development. Yet, the 1947 Antimonopoly Law merely banned "private monopolization" and "unreasonable restraints of trade" while accommodating natural monopolies, regulated industries, and monopolies aimed at rationalization, connected to recession recovery (O'Haley 2001, 71–72). In the decades that followed, Japan's "Economic Miracle" was made possible not by antitrust, but by direct assistance from Japan's Ministry of International Trade and Industry (MITI) to horizontally integrated conglomerates, *keiretsu*, with around 85 percent of the economy remaining noncompetitive well into the twenty-first century (Drache 1996, 37; Johnson 1982).

In Western Europe, and as soon as US forces withdrew from Germany, de Gaulle's France became the flag holder of a Hobbesian Europe, grounded in territorial accumulation around vested interests and ethnonational objectives. On the eve of the creation of the European Coal and Steel Community (ECSC), France had no competition policy. In the immediate years after the war, a price control order, rather than a competition policy, came into being in 1945 to prevent speculation and hoarding of essential items (Warlouzet 2019).[6] The 1953 Laniel Decree established a technical commission to review agreements and mergers, while cartels continued to enjoy flexibility (Pedersen 1996, 271). While some 70 percent of firms in the US were corporations by the beginning of World War II, most of the French economy was dominated by small-scale and family-run industrial units, some hundred thousand cartel agreements, and new mergers, insulated politically from free competition (Djelic 1998, 45; Buch-Hansen 2008, 82–87). Although the large-scale transfer of American industrial methods and technology under Jean Monnet's Planning Commission drastically changed the landscape of industrial production in France, "the position of French planners with respect to anti-trust legislation was far from radical" (Djelic 1998, 142).

The so-called French *dirigisme* not only insulated the country's invested interests and ongoing nation-building from free competition, but it became an anchor for other mercantilist factions in European politics to navigate their resistance to American political theory, as European state capitalism continued to evolve from territorial accumulation regimes along ethnonational lines and against "universalizing capital" (Buch-Hansen, 92). Milward's account of European integration manifests this "rescue of the nation-state" within its frontiers by expanding the reach of the market for nationally organized economies, casting doubt on other accounts of the end of the classic European state, its territorial accumulation regimes and domestic politics (Milward 1994, 38).

It was in this context that the 1957 Rome Treaty, which created the European Economic Community, committed its six signatories only to "the establishment of a system ensuring that competition shall not be distorted in the Common Market" while maintaining the "Rules on Competition," broad enough to allow national laws to configure competition in line with vested industrial interests. Article 86 prohibited "the abuse of dominant position within the common market," but not within member states. These flexible boundaries subsequently allowed Western European states to provide direct assistance to a set of firms called "National Champions" to enhance their international competitiveness (Buch-Hansen 2008, ch. 5). The resignation of de Gaulle in 1969, the economic recessions that followed the 1973 oil crisis, and the unimpressive performance of "National Champions" paved the way for new competition rules at the community level, which nevertheless

[5] Das Gesetz gegen Wettbewerbsbeschränkungen (GWB), 1.1.1958, BGBI. I, p. 1081.

[6] Ord. n°45-1483 du 30 juin 1945 relative aux prix [Ordinance No. 45-1483 of 30 June 1945 concerning prices].

remained oriented toward serving territorial accumulation regimes as opposed to union-level competition. In van Apeldoorn's words, the call for competition was, in fact, made not by European companies that moved to advance "European champions" and regional protectionism as an alternative, but by globally oriented finance and industrial capital within the Continent (van Apeldoorn 1998). The European Commission's 1973 proposal for a merger control regulation failed in the face of the ongoing support for the national-mercantilist position, as the Anglo-American bloc continued to pressure for a competitive European continent in the buildup to the Uruguay Round. The pressure was subsequently reinforced by the rulings of the European Court of Justice (ECJ) in cases such as the 1973 Europemballage case. Case 6/72, Europemballage Corp. & Continental Can Co. v. Commission [1973] ECR 215.

At the normative level, European industrial capital was defeated by the 1986 Single European Act and subsequently the 1987 Philip Morris case, whereby the ECJ ruled against companies seeking to exercise "legal or de facto control of the commercial conduct" of other companies through agreements or restructuring.[7] The ruling laid the groundwork for the development of a Council Regulation on "the control of concentrations between undertakings." Council Regulation (EEC) No 4064/89, 1989 OJ L 395. Although the regulation gave primacy to competition within the Single Market, the Commission's jurisdiction remained limited to concentrations with a "Community dimension," meaning companies with a high turnover. Another provision allowed the transfer of jurisdiction to national authorities when the concentration is done within a distinct national market, and as such, lacking the Community dimension.[8]

Six years later, the 1992 Maastricht Treaty required the member states and the Community to "act in accordance with the principle of an open market economy with free competition, favoring an efficient allocation of resources." Maastricht Treaty art. 102a, 1992 OJ (C191) 1. Yet, the social provision and inclusion of the 1989 Charter of Basic Social Rights for Workers (in Title IV: Solidarity) took the treaty in a different direction than Thatcherite neoliberalism, becoming the subject of stern opposition from Britain. Even the French Economic and Finance Minister, who directed the Delors Committee for the creation of the European Monetary Union, opposed "wildcat liberalism," arguing that free competition would cause "*une défi moral*" (a moral challenge) (Bitumi 2018, 207).

Although the neoliberal turn shifted the nature of the state from bureaucratic-administrative to corporatist and in charge of ensuring "national competitiveness" against social objectives, *the rifts within the social bases of Western European state apparatuses began pulling the state back in one way or another* (Amable 2017). As early as the 1997 Amsterdam Summit, which culminated in the transfer of certain powers to the European Parliament, the deflationary pressure from the convergence criteria of the euro was challenged in the form of mass politics, soon growing into a concrete challenge by anti-EU factions within the founding member states. Ultimately, both France and Germany maintained the "coordinated" aspects of their social and economic orders, intervening to boost profitability within the confines of territorial accumulation regimes. Van Apeldoorn called this partial embrace of the new political theory "embedded neoliberalism" (van Apeldoorn 2003, 147). Even the EU institutions

[7] 30 OJ Eur. Comm. (No. L. 169) 1 (1987); Joined Cases 142 and 156/84, British-Am. Tobacco Co. v. Comm'n, 1987 ECR 4487, para. 38.

[8] Per Article 1, a concentration has a Community dimension when "(a) the aggregate worldwide turnover of all the undertakings concerned is more than ECU 5 000 million. (b) the aggregate Community-wide turnover of each of at least two of the undertakings concerned is more than ECU 250 million."

themselves began to step in to undermine the market equilibrium required by the monetary union in favor of national objectives (Brook 2022; Caporaso and Tarrow 2009).

The close investigation of historical episodes such as the transatlantic divergence over "free competition" as a political theory of state-market-individual relations helps in understanding that neoliberalism was far from a unilateral force, and that the geopolitical structure that this essay earlier called the "Hobbesian periphery" could not afford to fully embrace the Anglo-Saxon political theory without risking its integration into liberal capitalism. This then contextualizes debates around the "return of geopolitics," considering that state capitalism is geopolitical by nature.

The current conjuncture of the neoliberal crisis and the US–China battles over the terms of global trade remains a struggle between liberal and state capitalism, with neither of the two geographies shedding their foundational tendencies. Just as the "whip of external necessity" culminated in Chinese industrialization, the country's state capitalism has come to undermine neoliberal competition, requiring a rebooting of American global hegemony in ways reminiscent of the Reagan era. This marks the return of the late 1960s–early 1970s profitability crisis, caused by the Japanese and German states' control of production relations, currency devaluations, and wage suppression, which distorted free competition within the Bretton Woods system—as underpinned by what Gilpin called "Keynesian at home, Smithian abroad" (Gilpin 1987, 355). In response to the legitimacy crisis of American capitalism, the US government stepped in to encase the succession of the Fordist accumulation regime by the neoliberal one, "the revenge of the capitalist class" (Volscho 2015, 249), while "resetting global economic and security relations in favor of the United States" (Jones 2025, 3).

More specifically, both the series of laws adopted under the Biden administration (so-called Bidenomics) and Trump's trade policy have been geared toward reinstating a level playing field in the global economic order, as opposed to developing *a national industrial policy around productivism*. These laws seek to restore legitimacy to US capitalism in the age of stagnation in the advanced capitalist core (Benanav 2023). More specifically, the American Rescue Plan Act of 2021, Pub. L. No. 117-2, 135 Stat. 4; the Infrastructure and Jobs Act of 2021, Pub. L. No. 117-58, 135 Stat. 429; the Inflation Reduction Act of 2022, Pub. L. No. 117-169, 136 Stat. 1818; and the CHIPS and Science Act of 2022, Pub. L. No. 117-167, 136 Stat. 1366, pursued the aim of, respectively, tackling social and market uncertainties inherent to neoliberal competition by providing temporary and targeted relief, funding the development of urban and ecological infrastructures, and reindustrializing in a small number of strategic sectors by derisking private investment, all without undermining the reign of comparative advantage (Battistoni and Mann 2023; Sirota and Perez 2021; Bruenig 2022; French 2024; Barker 2024; Kapczynski 2023).[9] While initially interpreted as "1979 in reverse" and a rejection of "the neoliberal wisdom" (Durand 2021), Bidenomics ultimately resembled late nineteenth-century "progressivism" as opposed to the New Deal or Great Society. As Brenner and Riley explained, "The Administration's social ideal is a market economy undistorted by monopolies and managed by an open, meritocratically recruited, and diverse elite" (Riley and Brenner 2022, 14).

If anything, the New Deal itself encompassed the small state's mediating between labor and capital on the eve of the Great Depression, as the latter continued to socialize the former into mass production. Identifying a continuity between Hoover's New Era and Roosevelt's New Deal, Lewis-Beck and

[9] A 2023 bill titled "Limit, Save, Grow," put forth by the Republicans in the House of Representatives, sought to terminate several measures financed by the Inflation Reduction Act. H.R. 2811, 118th Cong. (2023). Although the bill failed to pass in the Senate, some of its spending caps were incorporated into the Fiscal Responsibility Act of 2023.

Squire have argued that the "state, as a functioning political organ, actually emerges as little changed by the New Deal [with] no significant change in antitrust enforcement after the intervention of the New Deal" (Lewis-Beck and Squire 1991, 107, 114). Similarly, the post-WWII American version of Keynesianism had to do with wartime mobilization, lacking a class basis. Finally, Johnson's Great Society built on an episode of economic growth that allowed for managing class antagonism within "the limits of liberalism" and without any attempt to reconceptualize entrepreneurial Americans as "citizens" within territorial accumulation regimes (Woods 2016, 1). As Jessop explains, Keynesian welfarism merely affects "the circuit of capital *via* the sphere of circulation" as opposed to overhauling the nature of the state in liberal capitalism (Jessop 1982, 236).

Across the Atlantic, the dynamics are structurally different. As the United States has been seeking to tackle distortions to free competition from Chinese state capitalism, continental European states have been exploring state support for their firms to enhance their international competitiveness. The European Union's inward-looking reaction to the rise of China, the US's challenge to the global trading system, and the COVID-19 supply chain disruptions initially resulted in an initiative for "an open, sustainable and assertive trade policy." The new trade policy was part of the broader framework of European strategic autonomy (ESA), which sought to enable Europe to "make its own choices" while maintaining a commitment to global free trade.[10] The qualifications "open" and "sustainable" were essentially the continuation of "embedded neoliberalism" or "managed globalization," which defined the EU's alternative to Anglo-Saxon neoliberalism at the end of the 1990s (Gehrke 2022). Yet, strategic autonomy has continued to be a vessel for European states to navigate their national economic interests through the Union's new turns in the age of no growth (Rosamond 2013; Krastev 2017). Three years later, the 2024 Draghi report on "European Competitiveness" argued for direct support to national firms and was followed by the 2025 Competitive Compass roadmap, which has in some ways been a breakaway from the previous discourse of "open and strategic free trade" toward restoring national industrial policy in its full form (Draghi 2024).

VI. Conclusion

This review essay explored different conceptualizations of the capitalist state and state capitalism in four new books, focusing on the ways in which they map state-capital relations in the broad spectrum of the "relative but structured autonomy" of political institutions vis-à-vis the economic base. The essay posited that state theory and varieties of capitalism literature can enrich Marxist scholarship in international law by opening space for analysis of the interplays between universalizing capital and the state system, as well as the historical and axiomatic geopolitical dynamics between liberal and state capitalism. Centering the "capitalist state" and its functions across liberal and state capitalism will also help investigate the nature of state intervention as a persistent force in post-2008 neoliberalism.

Contributing to these debates, the essay argued that the foundational separation between the "political" and "economic" spheres takes different forms across liberal and state capitalism. While the former is shaped by free competition and the small state's role in maintaining a "fair field and no favor" policy, the latter is characterized by territorial accumulation regimes and nation-building, sustaining a tendency to subjugate market equilibrium to political objectives at one time or another. The extraterritorial nature of liberal capitalism and its high-paced finance capital have culminated in

[10] *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Trade Policy Review—An Open, Sustainable and Assertive Trade Policy*, COM (2021) 61 final (Feb. 18, 2021).

two centuries of Anglo-Saxon hegemony that has laid the infrastructure for an international order around the principle of property ownership and the end of power politics, while state capitalism has remained geopolitical and concerned with its domestic base in its approach to international economics.

In the meantime, the new One Big Beautiful Bill Act boosting the US's defense budget and cutting health care and other social security benefits for Americans exhibits the self-enforcing liberal underpinning of US capitalism. It is in the context of the persisting Lockean foundation of the US state/society complex that Moyn writes, "Trump has chosen to walk in lockstep with the dead consensus in domestic and foreign policy of the past half century not merely among conservatives, but among many liberals. *Americans do best when the rich do best of all*" (Moyn 2025, italics added). Closely connected to this is the US's continuous role as the "police state" in the international order, as attested by its recent participation in the Israel–Iran conflict, casting doubts on claims about the rise of a Pax Europa or Pax Sinica with equivalent organizational, ideological, and institutional capabilities to the United States's (Gowan 2005; Arrighi 2005; D'Eramo 2022). Ultimately, the persistence of US hegemony against all odds might tell us something about the importance of investigating varieties of capitalism and the geopolitical structures they produce in both critical political economy scholarship in international law and LPE.

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