

RESEARCH

Theorizing State Power: The Multi-Sites of Power Approach, Race, and New York State's COVID-19 Treatment Guidelines

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Abstract

We might re-examine critical state theory by exploring the state's role in mediating conflicts around racism in the US during the COVID-19 pandemic. Specifically, we argue that the New York State Department of Public Health's guidance for COVID treatments in 2021 is best understood in the context of larger social struggles against racism in policing in the US, demonstrating the relevance of the multi-sites of power approach to state theory. We re-tool aspects Bob Jessop's critical state theory to argue for the salience of this approach in understanding contemporary state attempts to create social order out of societal divisions.

Keywords: state theory, racism, political sociology, COVID, social movements, multi-sites of power

1. Introduction

One salient factor in the study of political sociology is the activity of states – the institutionalization of our legal-rational order and set of social relationships which are designed to manage the conflicts that arise from a society riven by inequality. Critical state theory underwent decades of fierce debate about the nature of the state in a capitalist society. Much of this work maps out tensions theorizing the state as a site

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of capitalist class power while acknowledging that state actors might also act autonomously to secure their own interests in their pursuit of social order, of a certain kind. Similarly, theories of the state have looked at how state power intersects with race (Marable 1983; Omi and Winant 1990; Ignatiev 1995; Stevens 1999; Winant 2000; Feagin 2001; Goldberg 2002; Yanow 2003; Calavita 2005; Cazenave 2011), and feminist theorists have noted how the operations of state power are shaped by patriarchal power and gendered relations of inequality (Mackinnon 1989; Gordon 1994; Orloff 1996; Connell 1999; Abramovitz 2000; Curran and Abrams 2000; Haney 2000; Zylan 2000; Brush 2003). Much of this theoretical literature on the state mapped how the state serves to reproduce larger social relationships that make up capitalism, white supremacy, and patriarchy, thus managing and ordering group conflicts that emerge as a result of relations of inequality.

Beginning, perhaps, in the alterglobalization movement, there was a resurgence in anti-authoritarian theorizing about the state and the nature of state power. Much of this “new anarchism” (Graeber 2002) borrowed heavily from feminism, critical race theory, and left-wing forms of Marxism (particularly autonomism) (Pannekoek 2003; Flank 2007), rather than conceptualize the state as solely an organizing force for those larger social relationships; however, these anti-authoritarian theories insisted that the state as such was a relation of inequality. Importantly, many anti-authoritarians argued for prefigurative forms that attempted to create social movement organizations which refused bureaucratization, refused to be state-like, and perhaps, sowed the seeds for forms of dual power that escaped the logic of the state. These ideas were also an important feature of the “movement of squares” that arose as anti-austerity protests around the world after the global economic crisis of 2008, particularly in Occupy Wall Street in the U.S. (Bray 2013).

Alongside the rise of these theories and movements (and sometimes embedded within them in complex ways), queer theorists insisted that we understand power as diffuse throughout society. Even institutions like the state, in this view, could be understood as instantiating in the context of daily life, including in bodies of knowledge, or discourses, that produced particular kinds of identities, particular kinds of people (Foucault 1978). The state, then, was a complex set of institutions, but also a way of relating.

These ideas added important elements over time to critical state theory, offering conceptual tools to understand, theorize, and trace state power. Following this, the multi-sites of power (MSP) approach to state theory was developed to braid together salient elements from each of these perspectives, attempting a synthesis for understanding state power (Glasberg and Shannon 2015; Glasberg, Willis, and Shannon

2018). This perspective modifies elements of Jessop's (1990) critical state theory, inviting scholars to examine state projects, the balance of political forces, and the selectivity filters that serve to focus the state gaze. Engaging with the important work of early critical state theories, largely developed within Marxist frameworks, the MSP approach argues that the state is best understood, not as a site solely of class struggle. Rather, the state is posited as a complex set of institutions and social relationships that includes activities related to class dominance under capitalism, but also processes that serve to uphold patriarchal power, white supremacy, heteronormativity, and the power of the state itself. Accordingly, these sites of power operate in complex, intersecting ways.

We argue that this approach is a useful lens to understand the unfolding of the COVID-19 pandemic, which began for the United States on January 20, 2020 when the first case of the novel respiratory illness was identified. We theorize that this case can be viewed as an alteration in how the state has attempted to create social order out of conflicts that have arisen due to longstanding racism in the U.S. and lends heft to some of the central arguments in the MSP approach to state theory. Drawing on previous state projects around pandemic policy, the U.S. state saw an uneven and scattered response. Helmed by President Donald Trump, in the early phases of the pandemic it was difficult to see a unifying message from the state, let alone a coherent national response. Filling the gaps in state policy, a number of mutual aid initiatives developed to alleviate the accumulating effects of the pandemic, in many cases mirroring the prefigurative arguments of feminist and anti-authoritarian radicals. The *New York Times* (de Freytas-Tamura 2021), for example, outlines the rise of these mutual aid initiatives across the U.S. to help people access much-needed resources, like food, clothing, and therapy and mental health services. Nevertheless, the state did respond to the emergent pandemic with a spate of policies, including stimulus checks sent to most families, pausing student loan payments, and protecting tenants from eviction. Given the federal nature of state power in the U.S., individual state policies were adopted in this scattershot approach. It is in this context that the New York State Department of Health (NYSDH) released its guidance on the administration of antiviral and monoclonal antibody treatments, which, in a historic moment, included racial and ethnic inequalities as part of its consideration in eligibility.

Given this entrance of state power to address pandemic conditions – now across two Presidential administrations – and the tensions between the state and social movement responses, we argue that it is a good time to revisit the MSP approach to state theory to specifically highlight the role of race and ethnicity in New York State's (NYS) treatment guidance. In this paper, we outline the literature on state theory and its

coalescence into the MSP approach, focusing particularly on the balance of political forces and selectivity filters. We then analyze the state/society relationship and argue that the MSP approach offers crucial tools to understand the development of NYS treatment guidance as a mechanism for creating social cohesion and order in the midst of conflicts over structured inequalities, in particular racism.

2. From Early State Theory to the Multi-Sites of Power Approach

Theorists of the state have explored the question of the relationship between the state and society for decades, producing a lively and protracted but largely unproductive debate among proponents of contrasting models, most of which have focused on *class*-based frames of reference. Business dominance state theorists, for example, have consistently focused on the relationship between the state and economic or class actors that reproduces capitalist class relations through the state's authority to create policy and the huge dominance of capital interests over the state (Hooks 1990; Akard 1992; Burris 1992; Skidmore and Glasberg 1996; Clawson et al. 1998; Prechel 2000). Capitalist state structuralists, in contrast, have emphasized that the state is not simply situated *in* a capitalist society, but is instead a *capitalist* state (Poulantzas 1969; Mandel 1975; Wright 1978; Block 1987; Glasberg 1989).

State-centered structuralist theories diverge by framing the state as the site of bureaucratic political power. Accordingly, the state is neither necessarily capitalist in nature nor subject to capitalists' demands. As an institution, the state has interests separate from the demands of external groups or economic pressures. In sum, the state is impervious to mechanisms of intraclass unity identified by business dominance theory and unaffected by the "capitalist nature" of state structures assumed by capitalist state structuralists (Skocpol and Ikenberry 1983; Amenta and Skocpol 1988; Hooks 1990; Amenta and Parikh 1991; Skocpol 1992; Chorev 2007). It is also, according to this perspective, impervious to pressures from below.

Proponents of the class dialectic perspective disagree with this last assertion. Instead, they complicate the analysis of state policy formation by introducing the role of labor (again, focusing on class relations) in addition to the state and capitalists in the decision-making process. In this model, class struggle processes affect the state and its policy making (Zeitlin, Ewen and Ratcliff 1974; Whitt 1979; Esping-Anderson et al. 1986; Levine 1988; Eckstein 1997). Resistance from below is most effective, according to this perspective, when working-class interests are organized and workers are mobilized into social movements able to create mass disruptions (e.g., labor strikes) (Quadagno and Meyer 1989; Quadagno 1992). More often than not, before working

class organizations can create mass turmoil, the state will seek instead to create order by mediating and cooling off conflicts through legislation designed to co-opt labor interests without seriously eroding capital accumulation interests (Witte 1972; Schmitter 1974; Galbraith 1985; Levine 1988; Swenson 2002).

Taken together, these models illuminate significant structures, processes, and relationships affecting state power and policy making. However, they remained mired in endless debates about which one of them was correct (and implying all others are inutile models). Moreover, there are whole areas of social and political policy-making relative to social disorder and oppression that are not adequately covered by these models because their (only) site of focus is the class relation. How do we explain the dominance of patriarchal, racialized, or heteronormative policy-making with the existing theoretical frameworks these models offer? Particularly for the purposes of this paper, how can models of critical state theory rooted in class explain the ways that contemporary antiracist movements have affected state policy in its pursuit of social order? What is needed is a model of the relationship between the state and society that allows for an analysis of *multiple* oppressions and how they intersect and overlap in policy and everyday life, one that widens our analytical lens beyond simply class.

Several analysts have explored the relationship between gendering and the state (Mackinnon 1989; Gordon 1994; Orloff 1996; Abramovitz 2000; Curran and Abrams 2000; Haney 2000; Zylan 2000; Brush 2003); between racism and the state (Marable 1983; Omi and Winant 1990; Ignatiev 1995; Winant 2000; Feagin 2001; Goldberg 2002; Yanow 2003; Calavita 2005; Cazenave 2011); and between heteronormativity and the state, particularly in the exploration of sexual citizenship (Evans 1993; Ackelsberg 2010). However, we need a conceptual framework that blends these literatures, as well as literatures concerning social movements and resistance to the state, in a broader explanation of the relationship between the state and society. What are the elements that such a framework would need to include? We propose an analytical framework that builds on Jessop's (1990) concepts of state projects, selectivity filters, and balance of class forces, though for the purposes of this paper we will focus on the latter two.

3. Selectivity Filters

Selectivity filters function to mobilize bias: they act as a lens through which actors perceive, understand, and act on issues. Some notions and perspectives are filtered in and others are filtered out of the policy-making process. As such, these filters have a mediating effect that frames and shapes not only perceptions of and discourse

about issues, but also the emergence of policy solutions. Selectivity filters go beyond individual policy initiatives and are integral to the dialectic process. The reflexive interplay between selectivity filters and the relations of political forces reverberates through the implementation of that policy and sets the stage for later policy creation, modification, and implementation.

Several analysts have incorporated the notion of the role of framing in social movements (Gamson 1992; Benford 1997; Oliver and Johnston 2000): how do actors themselves come to define and understand issues, structures, processes, and strategies? What is the role of culture, ideology, and discourse in setting the parameters of analysis and action? This suggests an important question for theories of the state: how does the process of framing affect state-society relationships and policy making? Relatedly, how do social movements act as agents from below, setting the stage for new policy proposals around emergent selectivity filters?

Cultural and ideological frames, as well as prior legislative precedence, act as selectivity filters biasing policy creation and implementation, although these may be challenged by the processes and dynamics of political forces. Past legislative policies and implementations have tended to have the overall effect of acting as selectivity filters biasing the framing of newer policies so as to reproduce previous power relations, but there are historical moments when social movements force the hand of the state, creating new opportunities for policy-making.

Selectivity filters, then, act as significant prisms through which actors perceive, talk about, and act on issues that in turn affect the shaping and implementation of policy. However, the power of selectivity filters is not necessarily inexorable. The degree of salience of these filters is affected by political relationships and processes, or the balance of political forces, giving us a crucial window through which to view the role of social movements in affecting state power and processes.

4. Balance of Political Forces

Where Jessop talks of the balance of *class* forces, the MSP approach expands this concept to the balance of *political* forces. It does this because gendering, heteronormativity, and racial formation forces are similarly at work affecting state projects, just like class forces, and this expansion is of central importance to our analysis here. The notion of *balance* of political forces refers to the processes and dynamics of struggle between sets of interests to redefine the social constructions that inform social and political policy and practice. The conditions and dynamics affecting these

forces, we argue, are similar to those affecting the balance of class forces as conceptualized by Jessop.

Furthermore, the concept of a balance of political forces expands on the class-centric focus of Jessop's (and much of sociological state theory's) conceptual framework to make room for analyses of class formation as well as other power relations such as gendering, sexuality, and racial formation, and the intersections of these. Hence, it becomes important to explore the balance of political forces (of both oppression and resistance) before, during, and after the implementation of policies and projects and the selectivity filters that operated to frame public and political discourse in the state's pursuit of social order. Here, the state becomes an actor and the state project an arena of contested terrain, both of which are subject to resistance from below as well as dominance from above. The state, thus, can become an agent of oppression as well as an agent and object of change.

The balance of political forces is conditioned by the relative level of unity within groups as well as among groups (Weinstein 1968; Peattie and Rein 1983; Levine 1988; Quadagno and Meyer 1989; Fraser and Gordon 1994); the relative level of unity within and among state agencies and branches (Skocpol 1992); the resources accessible to groups (McCarthy and Zald 1987); the ability of groups to mobilize such resources (McCarthy and Wolfson 1996); the ability to apply mobilized resources created by actual opportunities or perceptions of the potential threat to create mass turmoil or disruption (McAdam and Snow 1997); condition or health of the economy; structural positioning of groups and state actors in the political economy; and relative autonomy of state actors. Selectivity filters shaping and framing issues and perceptions of viable solutions are conditioned by prior policy precedents (Skocpol and Ikenberry 1983); party politics; ideology and culture; and the ability of groups and state agencies and branches to mobilize bias. The resolution of the dialectical process between the balance of political forces and selectivity filters moves policy initiatives toward policy creation and, thus, the creation of order.

5. Policy Formation and Implementation

How would these concepts of balance of political forces and selectivity filters help us analyze the state's relationship to society? What would an extension of these concepts to analyses of gendering, heteronormativity, and racial formation look like? We can organize the factors suggested as important by the prevailing theories of the state to identify the significant dimensions of the balance of political and institutional forces and of selectivity filters. In particular, such factors include (1) organization (including the extent to which classes, gendering forces, heteronormative forces,

and racial formation forces are unified and the extent to which they may develop networks and coalitions, as well as these same factors within competing groups); (2) access to and ability to mobilize resources; (3) structural conditions (including the health of the economy, constitutional constraints on policy creation and implementation, existing regulations, and precedence in implementation); (4) opportunity (or perception of potential) for groups to create mass disruption or turmoil; (5) relative autonomy of state actors and agencies; (6) and unity and organization within and among state agencies.

The dialectical process between the balance of political forces and selectivity filters does not end with the passage of a single policy; but rather the dialectical process reverberates through the implementation of that policy and in the subsequent development of social repertoires and cultural practices. These then set the stage for later policy creation, modification, and implementation and cultural practices within the larger state project, which then become part of the selectivity filters that frame subsequent social behaviors and policy initiatives. Individual policy initiatives thus are framed by the larger state project and prior precedents set by existing policies within that project. The introduction of such initiatives triggers a dialectical process between the balance of political forces and selectivity filters.

State projects are animated, then, by the balance of political and institutional forces in the claims process, producing a dialectic process of policy making and implementation, as well as social practices and repertoires over time. Dominant interests may be challenged, resisted, and redirected from below in this process. Taken together, the concepts of the balance of political forces and selectivity filters provide us with useful tools for developing an analytical framework for understanding the relationship between the state, society, and oppression.

We argue that the MSP approach (Glasberg and Shannon 2015; Glasberg, Willis and Shannon 2018) and, in particular the concepts of the balance of political forces and selectivity filters are useful for helping theorize policy and practice related to COVID-19. In this paper, we focus specifically on the NYSDH (New York State Department of Health 2021) guidance sent to healthcare providers in December of 2021 titled, "COVID-19 Antiviral Treatments Authorized and Severe Shortage of Oral Antiviral and Monoclonal Antibody Treatment Products."

6. The Balance of Political Forces and Selectivity Filters: Race, Ethnicity, and New York State Treatment Guidance

First and foremost, it is vital to situate a particular line of importance in the NYSDH treatment guidance referred to above for the purposes of this particular analysis. But this needs to be understood in the context of larger state projects informing public health policy. The Association of American Medical Colleges (2020) defines “crisis standards of care” as those that “guide decision-making designed to achieve the best outcome for a group of patients rather than focusing on an individual patient.” These are standards that are adopted during a crisis to protect both patients and providers, as well as public health. When the NYSDH issued its guidance, the U.S. was being hit with the omicron variant of COVID-19 and NYS was affected acutely. This was exacerbated by limits to access to oral antiviral treatments, as well as monoclonal antibodies, which have been shown to help reduce the symptoms of COVID-19 and lead to better treatment outcomes for those given access. Given the limited supply of treatments and the swiftly-rising demand buttressed by the wave of omicron, the NYSDH issued formal guidance to healthcare providers on how those treatments were to be distributed.

One particular line of guidance emerged that was both politically idiosyncratic and the cause of a small reactionary moral panic: NYSDH (2021) declared to healthcare providers that those patients who are authorized for oral antiviral treatment should meet multiple criteria, including having “a medical condition or other factors that increase their risk for severe illness.” It was the bullet point underneath that set off public debate (NYSDH 2021): “Non-white race or Hispanic/Latino ethnicity should be considered a risk factor, as longstanding systemic health and social inequities have contributed to an increased risk of severe illness and death from COVID-19.”

Right-wing media and politicians went into a disciplined tailspin, attempting to create a moral panic about the guidance. Fox News (Dorman 2022) amplified critics of the policy who argued that it was “illegal and warrants a [Department of Justice] investigation.” Conservative pundit Tomi Lahren argued that it was “lunacy” to consider racial and ethnic health disparities in how treatments might be distributed (Fox News Staff 2022). Even former President Trump elevated the attempt at stirring up social outrage, falsely declaring at a January 22 political rally that, “[i]n New York state, if you’re white, you have to go to the back of the line to get medical help” (Terrerri Ramos 2022).

The policy was idiosyncratic and historically significant, in part, because U.S. policy tends to follow liberal, pluralist patterns that are ostensibly race-blind. It would be

difficult to overstate the importance of this pattern for U.S. policy. As far back as 1896, in his dissent in *Plessy v. Ferguson*, Supreme Court Justice John Marshall Harlan noted that “Our Constitution is color-blind, and neither knows nor tolerates classes among citizens” (*Plessy v. Ferguson*, 163 U.S. 537, 1896). Even in the Supreme Court’s recent decision ending affirmative action in most settings, writing in support of the majority view, Justice Clarence Thomas notes “extensive evidence favoring the color-blind view” of the constitution (as quoted in Jacobson 2023).

Accordingly, one might assume that past policy tendencies and precedents would serve as selectivity filters for guiding current state policy. But states are sites of contestation, capable of bending and altering to accommodate the demands of social movements from below, at times in response to popular desires and, at times, to coopt and capture the energy of oppositional movements. That is, in some historical moments the balance of political forces is upended and redrawn as a result of social movement mobilizations and pressure from below as states attempt to reassert social order.

COVID-19 was first detected in the U.S. in January 2020. As the nation began grappling with the emerging pandemic, just a few months passed before George Floyd was killed by Minneapolis police that May. And what arose in response to the killing was one of the most significant uprisings in recent U.S. history. Protests, under the banner of Black Lives Matter, appeared in Minneapolis and throughout the country. The summer of 2020 became a summer of unrest with mobilizations taking the streets, and in some cases taking spaces, both public and private. In Seattle, movement organizers occupied six city blocks, called alternatively the *Capitol Hill Autonomous Zone* and the *Capitol Hill Occupied Protest*. In response to yet another police killing of a Black man, Rayshard Brooks, at a Wendy’s in Atlanta, activists took the space and used it as a resource center for the movement for twenty-three days.

Across the country, talk of a *racial reckoning* entered the public consciousness and race became a focal point for public discourse and debate. Public schools, universities, nonprofits, state agencies, and corporations began altering their practices to accommodate a public mood that was influenced by the anti-racist messaging of the Black Lives Matter movement. The response – structural, cultural, and ideological – ranged across social institutions alongside a steady reactionary backlash, the most recent instantiation, perhaps, being a concerted attack against anti-racist initiatives in public schools that are often erroneously referred to as *critical race theory*. That is, the balance of political forces was changing as a result of social movement mobilization from below and this was having an effect on the state’s selectivity filters.

State policies are not created in vacuums isolated from the social and institutional contexts in which they are enacted. While past policy, precedent, and prior ideological commitments function as selectivity filters to fix the state gaze on the policies it is able to visibilize, a sudden and immense change in the balance of political forces can likewise focus the state gaze in new directions. The events of the summer of 2020 surrounding the Black Lives Matter mobilizations changed the public conversation in the U.S., centered racial inequality in the popular consciousness, and forced a range of social institutions to account for racial inequality in their practices – the state was no exception and this led to new selectivity filters that influenced a range of state policies. The NYSDH memo for crisis standards of care during the omicron wave is best understood in this larger context of social movement mobilization, cultural and institutional change, and the popular acknowledgement of racial and ethnic disparities diffused throughout daily life, including in our health institutions.

The MSP approach to state theory argues that we re-tool critical state theory in a few important ways. Most importantly, while the primary locus of change in early critical state theory was rooted in class relations, the MSP approach argues that we should give equal weight to struggles around race, gender, sexuality, and a range of oppressions, as well as their intersections. While the Black Lives Matter protests and social dialogue that followed them certainly contained elements of class, gender, sexuality, one of the centerpieces that emerged was a new public consciousness of racism and racial disparities. Using Jessop's (1990) concepts of selectivity filters and the balance of class forces – re-fitted to the balance of *political* forces to account for other forms of inequality and contestation – the MSP approach gives us a theoretical map for understanding the emergence of the NYDh's memo on crisis standards of care during the omicron wave, its accounting for racial and ethnic health disparities, and their inclusion in the statement rather than a reliance on historically-typical *race-blind*, liberal, pluralist models for policy-making.

7. Conclusions and Suggestions for Further Research

The purpose of this paper is to demonstrate the utility of the MSP approach to state theory by showing how social movement mobilization around racial inequality led to a change in the balance of political forces affecting civil rights as well as public health policy. This led to the emergence of new selectivity filters to focus the gaze of the state as state actors enacted policy. We argue that the NYSDH's guidance – specifically recognizing racial and ethnic health disparities – in the distribution of oral anti-viral treatments is best understood in this larger social context. This demonstrates the utility of the MSP approach to state theory both by centering race in the balance of political forces (rather than reducing social struggles to class) and by outlining the

changing nature of that balance and its influence on the selectivity filters that inform state policy.

As a stand-alone analysis, we think this leads to some interesting conclusions about social movement mobilization and its possible effects on state power, widening critical state theory beyond its largely class-centric roots. Likewise, the MSP approach is well-positioned to facilitate intersectional analyses. Future analyses using this perspective and its concomitant theoretical tools might look at intersections of various relations of inequality. What might be said about the mobilizations of queer women of color, for example, and how have they affected state policy (or failed to)? How might state policies be driven by inequalities that exist *within* various intersections? For example, how might the state gaze be focused by the professional-managerial character of state actors, regardless of the intersections of marginalized identities they might emerge from?

Above we have argued that the MSP approach to state theory gives us important theoretical tools for understanding state policy generally, but more specifically the NYSDH's guidance on oral antiviral treatments as relates to racial and ethnic health disparities during crisis standards of care in the omicron wave of COVID-19. We outline how social movement mobilizations, driven in the contemporary period by Black Lives Matter protests against police violence, challenged the prevailing balance of political forces, altering the selectivity filters through which state policy is enacted. This is a beginning toward critical state theories that center non-class-based oppressions (which can include social class, but is not limited to it) and can be expanded toward an intersectional critical theory of the state.

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