Economy and Society Trust

IPE
Institute for Studies in Political Economy

Transborder Laboratory from Below

Seminar proceedings

Economy and Society Trust
and Institute for Studies in Political Economy

Brno | June 2008

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This paper is from the seminar "**Transborder Laboratory from Below**". This seminar has been called laboratory because of its experimental character. Four co-operation partners from different backgrounds invite critical social researchers and grassroots activists (i.e. development cooperation, anti-globalists, Central- and Eastern European political activists) to participate in a joint discussion and learning process. The goals of the seminar are dissemination of knowledge, an exchange between university and activist experience, and discussions on prospects of trans-border co-operations.

The Economy and Society Trust is a Czech independent think tank. The Trust aims to support experts and interested citizens working on economic and social models, concepts and practical solutions promoting democracy, social justice, sustainability and corporate responsibility. The main mission of the Trust is to propose and implement alternatives to current mainstream policy approaches. The activities of the Trust concentrate in its programmes:

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A program focused on finding realistic economic alternatives. Aims to support the so called "social economy" or "ethical enterprise", emphasizing local economic flows. Emphasis on local level economic activity stems from the conviction that such a localized economic activity is sustainable both for the community and for the environment.

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Policy Interventions
This program is a platform for stimulating public debate on various topical socio-economic issues. Its aim is to balance often biased (towards neoliberal and neoclassical view) public debate and media coverage of main issues. This program has been designed to inter-link other programs as well.

The Institute for Studies in Political Economy (IPE) is an independent non-profit research institution. A registered association according to Austrian law, IPE promotes education and research in the field of Political Economy.
IPE aims at a unity of theory and practice in the work of social scientists and political activists. Furthermore IPE organizes, supports, and tries to strengthen the dialogue between social scientists and the public (science communication).
In particular IPE initiates projects in Development Studies, International Economic Relations, Economic and Social Policy, and Urban and Regional Development. It does so in cooperation with local and governmental actors in the field, and non-governmental organizations, respectively. IPE is dedicated to encouragement and support of young researchers.

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Content

Introduction

Transborder cooperation from below. This has been the topic of the seminar that took place in Brno, 14-16 September 2007. The event was organized by the Institute of Studies in Political Economy (IPE) and the Paulo Freire-Zentrum, both based in Vienna, the European Katharsis research network, and by the Economy and Society Trust, based in Brno. Thus transborder cooperation from below was not just the topic of the event, but was practiced as well. The seminar dealt not only with European experiences, but also with Latin American ones. The event was partly inscribed in a joint project of Claes (Centro Latinoamericano de Ecología Social) and Ceuta, based in Montevideo, and IPE, which was funded by the Ford Foundation. Thus, the seminar and the booklet have a transatlantic dimension.

Transborder cooperation from above, and that from below, are dialectally linked to each other. Transborder cooperation from above has been given more and more impulses over the last years. One striking example of transborder cooperation from above are the international trade negotiations. Many agendas have been shifted to international trade negotiations, both at the multilateral and the bilateral level. In these fora, it is not only topics of trade in goods, but trade in services, property rights, government procurement and investment, which are discussed. These negotiations usually take place behind closed doors. Many actors which are directly concerned by these topics are hardly informed, and are kept at the margins of the negotiations, at best. At the governmental level, pronounced asymmetries are the main feature of these negotiations.

In spite of the imbalances of power, countries from the periphery have been able to challenge the industrialised north in the realm of the World Trade Organisation (WTO). In this endeavour, they have been supported by a host of social organisations. Western countries, especially the European Union and the United States, have responded by privileging more and more bilateral negotiations. Such negotiations are even more asymmetrical. Nevertheless, they have not succeeded in pushing through their agenda to the extent they had aspired, too. Groupings like the MERCOSUR in the South America, or states like Nigeria, proved too stubborn in defending their own agenda in these negotiations. To some extent, social movements and NGOs re-focused their interest to bilateral negotiations. At times, they formed transborder alliances, like the Alianza Continental which was formed against the US initiative of free trade agreement covering the whole of the Americas (except Cuba).

These examples show to which extent dominant actors are able to drive both the agenda and the relevant fora. Social movements and NGOs often are the only ones able to react to these initiatives from above.

To a certain extent, this applies to the realm of the European Union as well. However, EU is much more than an international organisation. It is a state in the making. It has typical attributes of a state like own legislation, own jurisdiction, own money (though not for the whole territory). In order to streamline the procedures and to legitimize the present legal order, the European governments decided to launch the project of a Constitutional Treaty. However, they chose not to apply the usual procedures for constitution-making, i.e. electing a constitutional assembly and promoting a broad debate. The draft Constitutional Treaty was rejected by vast majorities in referenda in France and the Netherlands. The criticism focused on the democratic deficit of the Constitutional Treaty and the cementing of a neo-liberal order. The response of the governments and the European Commission was not to open a debate on the process and the contents of the Treaty making, but to change some details and to pass the new treaty without referendum wherever it was possible. The social initatives' reaction to EU (constitutional) treaty making has differed from place to place. Partly, it was rejected outright. Partly, it was accepted with reservations as a minor improvement of the status quo antes. In many cases, resignation prevailed.

The debate on European integration is often confined to the economic sphere. However, it goes far beyond the limits of the economic realm. The seminar discussed an aspect of the new treaty often neglected in the debates: mandatory rearmament, military cooperation and the relationship with NATO. The sensitivity to the relevant clauses to some extent depends on the political culture and traditions of the EU member states. For example, these clauses are viewed particularly critically in member states which are "neutral" and do not belong to NATO.

In the view of the importance of transborder relations, transborder cooperation from below is a necessity. However, social movements are embedded in different national political cultures and the issues on the top of the agenda differ from country to country. Such differences have to be taken consciously into account. Likewise, such cooperation has to deal with differences in material endowment, in a sensitive and constructive way. The seminar demonstrated, how initiatives from below have responded to the wide array of challenges. This publication draws on these contributions and hopes to contribute to a stimulating debate on cooperation from below.

The editors
Brno and Vienna, April 2008

WTO: Conflictive Norm Setting between Multilateral Agreements and Bilateralism - The Case of Services

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■ Introduction

In this paper, we will try to analyze how the process of the commodification of services at the international level interacts with the politics of trade and services liberalization in the European Union. Thus, we will try to highlight the specific role of the GATS and of services negotiations in the framework of the WTO not only in terms of liberalization and marketization of those services, but in particular with a special emphasis on the norm-setting agenda that has in parallel evolved. We will proceed as follows: Firstly, we will outline the basic institutional characteristics and politico-economic rationale of trade policy in the EU. Then the basic provisions of the GATS and the current state of affairs of the Doha-Round negotiations on services will be reported. In the subsequent chapters we shall analyze the particular role of GATS in the (de-)regulation of services in the EU and shall illustrate our arguments by a case study on postal services. Finally, we will draw some policy conclusions on the particular nature of services liberalization under the GATS framework and its implications for the politics of norm setting.

■ EU trade policy – institutional aspects

Trade has always been an important field of European Union politics. Indeed, it can be listed among the earliest fields of competence of the European Communities (Smith 1999). Though not the core of the European integration process itself, from an economic point of view, much of what was materializing in terms of economic integration - in particular the creation of the Single Market – was motivated by the idea that the removal of barriers to trade through the creation of a common market would be beneficial to welfare and growth. This is in essence the conceptual basis upon which external trade politics in general is founded. Not surprisingly then, the Common Commercial Policy of the EU was seen as an outward-oriented complement to the central economic dimension of European integration. With the implementation of the European Single Market, the liberalization of network industries and the evolution of big European corporations with an explicitly international outreach in the 1990s, both the internal structure of economic and political interests and the distribution of competences between the Member States and the European Union, upon which external trade policy rests, have however undergone a profound transformation. As a consequence the economic significance of trade policy has increased, and the political importance attached to trade policy by major political actors has expanded considerably.

The institutional architecture of EU trade policy is characterized by a peculiar and rather complex net of competences and relations between the principal political organizations of the EU (EU Commission, Council, European Parliament), the Member States and business as well as civil society organizations. Trade policy was already established as a competence of the European Communities in the Treaty of Rome in 1957. Together with internal market, competition and agriculture policies, trade policy formed the core of the economic dimension of European integration right from its start. However, it was restricted to include basically trade in goods. Although over the decades there have been efforts to extend the sectoral coverage to agriculture and services, the distribution of competences between the Community and the Member States remained almost unchanged till the 1990s. Only with the Treaty of Amsterdam came along minor changes. To Art 113, which became renumbered as Art 133, a paragraph (5) was amended which allowed for future expansion of exclusive competence to the new issues of services and intellectual property through unanimous vote, preserving Member States the right to veto any shifts in competences.

A new though only partially successful initiative to shift the distribution of competences in favour of the Union happened with the Treaty of Nice. The new issues of services and intellectual property rights became exclusive competences of the Union, except for certain exceptions, where the rule of unanimous decision and a mixed competence continued to apply. These included matters where the adoption of internal rules requires unanimity and the Community has not yet exercised the powers conferred upon it. Similar applies to certain essential services (education, culture, health & social services). The latter in effect secured Member States' parliaments a stake in trade politics, since national ratification of trade treaties was still required. With the Draft Constitutional Treaty of 2004 (in the version adopted by the European Council Conference in November 2004) the field of Foreign Direct Investment was designated to become an element of the Common Commercial Policy, while competences with regard to services and intellectual property rights were further shifted to the Community level. Though as a consequence of pressure in particular from France, limited exemptions for sensitive services sectors were upheld, services (as well as intellectual property rights) generally fall within the exclusive competence of the Union. Any remaining competences of national parliaments in trade politics would thus be eliminated.

Nonetheless, since it is the European Commission that has the right to represent the community in international trade negotiations, the initiative, agenda-setting and execution of EU Trade Policy has increasingly resided with the former for the last two decades. Member States dispose over important decision-making powers via the Council, with the 133-Committee serving as the central institutional forum for day-to-day policy-making. The influence of national parliaments is continually eroding, while the European Parliament has slightly gained in importance. It has, however, not acquired any significant decision powers in trade matters so far.

As a consequence, the Commission has taken a pro-active role in pursuing trade liberalization both in the WTO framework and in bilateral trade policy. Since the late 1990s it has actively followed an agenda of both liberalization and norm-setting in trade negotiations. In the WTO it was the central proponent of negotiating agreements on investment, government procurement and competition policy. The very same issues, which it had to give up at the multilateral level due to developing country resistance, it nevertheless pursued on the bilateral level, notably in the recent trade agreements with Mexico, Chile, and currently with in the negotiations with the Gulf-Cooperation Council, the ACP countries, Mercosur, the Mediterranean countries (Euromed), Korea, India, die Andean Community and Central America.

■ Services in the WTO – – basic provisions and recent developments

The international level obtained a new quality for international norm making at the latest with the GATT Uruguay Round (1986-1994). The agreements concluded during the Uruguay Round have not only propelled liberalization of trade, but have also explicitly aimed at norm setting. That holds also true for the WTO agreement on trade in services (General Agreement on Trade in Services, GATS). The aim of this agreement was to take into account the rapidly rising importance of international trade in services from a regulatory point of view. It came about not least at the instigation of the US service industry. Thus, it is essentially about making the many national specifics of services transparent, thereby making them compatible on an international scale, and hence also more homogeneous. Services, which have traditionally been oriented towards the domestic market, could only be opened up after international standards had been developed with regard to the regulation of services and incorporated into the legal systems of the individual contracting states.

In co-operation with governments, transnational groups of companies (e.g. The US Roundtable of Industrialists, the International Chamber of Commerce) have been extremely committed since the 1980s to turning the WTO from a pure trade organisation into the most important international regulatory body of the entire non-financial economy. In co-operation with other international organisations such as the OECD, the WTO was able to exert a strong, rather disciplinary influence on national economic policies. This is borne out by the additional agreements that were concluded during the Uruguay Round. These include for instance investment protection (TRIMs agreement), and the protection of intellectual property rights (TRIPs agreement). With the new round of negotiations (Doha Round) heralded in November 2001 in Qatar, issues such as competition policy, subsidies, investment and public procurement were also foreseen to become the subject of negotiations within the WTO. The latter for instance is not just about creating greater transparency and comparability of nation state regulations. It has more to do with defining and enforcing multilateral standards that open up national markets for tenders, thereby making it easier to integrate these markets on an international level.

Even if the GATS refers officially only to private sector services, the demarcation between private and publicly rendered services is unclear. Art I.3 GATS exempts "services in the exercise of governmental authority" from the GATS. However, this is taken to mean only such services that are offered neither "on a commercial basis, nor in competition with one or more service suppliers". The GATS explicates this definition only in the Annex on Financial Services. The Annex cites the activities of Central Banks and monetary supervisory bodies, and also statutory systems of social security and public retirement plans as examples for such services. Officially, it is up to each Member State to decide which services are classified as public and private. However, the wording in Art I.3 (c) suggests that it is de facto market logic that determines the demarcation between public and private in the end. If, for example, certain services are offered in a country by the public as well as the private sector, and this is the case in many EU countries e.g. in health services and the education system, there may well be demarcation problems in future. Private foreign providers may feel discriminated against due to the unilateral award of public subsidies to nationals. It can then lead to disputes settled by the WTO dispute settlement mechanism. In the event of a condemnation, the defendant state would have to modify its laws accordingly. Otherwise penal duties could be imposed on its exports.

In the Uruguay Round of 1986-94, public services had still played a subordinated role in the GATS negotiations – it was first of all about opening up commercial service sectors. The argument that the GATS is causally connected with the liberalisation or privatisation of public services cannot therefore be upheld in this form. Most of the privatisations of public services carried out thus far go back to the pressure exerted by the World Bank or the IMF in the case of the Third World and to supranational (European Union) and national initiatives in the case of the industrialised countries. However, it emerged with the Doha Round heralded in November 2001 that one of the main topics of the current GATS negotiations would be the liberalisation of public services. The offensive interests of the EU refer primarily to water supply, telecoms, postal and courier services, transport and energy services, those of the US and other countries above all in the areas of education, health as well as cultural services (above all audiovisual services). In the 1990s, there was already significant autonomous liberalisation in parts in the areas cited. Thus, there is now an interest on the part of the countries affected for each of the other countries to also deregulate these sectors. This should be achieved via the GATS. The complementarities of liberalisation already carried

out between the EU and the US, which is also reflected in the most recent requests therefore imply, a fairly extensive liberalisation round. However, the actual explosive nature of the current GATS negotiations is developing at first against the background of the liberalisation policy operated by the European Commission. To wit, the latest liberalisation plans of the European Commission have encountered vehement resistance in part from regions, local authorities and cities. This goes in particular for local public transport and the water industry. There are therefore grounds for the assumption that via the roundabout way of the GATS negotiations, resistance to the liberalisation of essential areas of public services in Europe should be overcome.

From the viewpoint of the advocates of liberalisation, liberalisation obligations entered into within the framework of the GATS actually have a decisive advantage compared with liberalisation carried out by the nation state: that of the contractual obligation. Unlike nation laws, the opt-out of liberalisation commitments after their formal establishment in the GATS on the basis of Art. XXI GATS is possibly associated with high costs. It is thus de facto irreversible in many cases. Thus GATS provides a legal mechanism for the "lock-in" of liberalization, a policy which is definitely in the interest of the apologists of neoliberalism. From a democratic viewpoint, on the other hand this means a serious deficit, with the political scope of action being severely limited in the future.

■ GATS as an evolving regulatory regime for services and the erosion of existing international regulatory frameworks

Interestingly, most public debates depict GATS as a central vehicle for the breaking up of domestic services markets and a major tool for pushing-through market liberalization in services industry. While this is certainly not off the point, the particular mechanisms which are deployed to establish a more integrated services market internationally are not sufficiently differentiated in most public debates. While market access negotiations receive the thrust of public attention, arguably the so-called "rules negotiations" are – at least in the long run – of the same, if not of a higher importance for the effective liberalization of services. That term describes a wide array of domestic regulatory instruments which include inter alia subsidies, government procurement, safeguard clauses, the former three issues being at the centre of the current negotiations, but extend well into all sorts of qualification requirements, licensing procedures, technical standards etc. The latter are subsumed under the term "domestic regulation" (Art VI GATS), the explicit aim of which is to subjugate these measures to a set of so-called regulatory "disciplines". Negotiations on the latter form an integral element of the GATS rules negotiations in the framework of the Doha Round. These disciplines shall scrutinize if a specific national regulations is "necessary" to achieve a public policy goal. Thus the decisive benchmark is, if there is another, less discriminatory measure which would be as effective but less burdensome on trade. The significance of these negotiations hence lies not only in the fact that they reach beyond the tradition domain of the WTO principle of National Treatment, which by definition only refers to discriminatory treatment between nationals and non-nationals, but that it effectively aims at both eliminating non-discriminatory, but burdensome - i.e. potentially costly for businesses - regulatory measures and constraining the set of regulatory measures available to nation states.

The politico-economic rationale for "disciplining" WTO Member States' norm-setting is straight-forward: As opposed to trade in goods, where tariff-barriers have for a long time be considered the main impediment to trade, in services the existing diversity of the regulatory frameworks for a particular service sector between countries is commonly considered the major barrier to increasing international trade in that sector. For, companies which want to supply a service in another country will have to bear the cost of complying with the rules that govern the provision of those services in the host country. These rules may vary widely between countries, but in addition they might not even be uniform within a particular country, given that many countries have federal systems, which delegate to sub-national political entities (federal states, provinces, Länder, municipalities) certain competences. Thus, foreign suppliers of services may face distinct legal norms pertaining to, say, zoning laws, construction codes, shop-opening hours etc. even within a single country. Of course, these particular legal architectures are the outcome of specific historical and political developments, and enshrine to a certain extent commonly held values and norms of a society. Nevertheless, from the perspective of liberal trade theory and their proponents they are in principle seen as non-tariff trade barriers.

Notwithstanding the existing diversity of legal norms between countries, efforts to standardize regulatory norms on an international scale have long preceded the current debate on globalization. Thus, many regulatory bodies and organizations have been established, partly as international associations of professional bodies, partly as organizations under the auspices of the United Nations, partly as independent international organizations, the aim of which was to develop regulatory frameworks for particular economic activities at international level. In certain sectors these efforts went further than in others, depending upon economic necessities and political will. Nonetheless, in certain sectors, particularly in network services like postal and telecommunication services, well-established organizations have long been engaged in setting up international norms to facilitate the exchange of information or products across borders. However, from the perspective of liberal trade theory, this institutional framework had perhaps two serious shortcomings: firstly, it did not significantly reduce regulatory heterogeneity among countries, since typically the international norms would only establish the interfaces between distinct national regulatory systems; and secondly, these regulatory frameworks and the associated international organizations, respectively, would not dispose of effective means to enforce the implementation of internationally agreed standards.

Thus, very much like in the case of intellectual property rights, the establishment of the GATS agreement for the liberalization of services' trade in the WTO was from its very beginnings an explicit project for the re-regulation of service activities at international level (cf. the seminal study

of Krajewski 2003). In contrast to the prevailing international framework, the GATS does not only define the interfaces between regulatory systems, but aims at least in the long-term at institutional isomorphism, the over-arching template being what was termed "pro-competitive regulation" by critical commentators (Grieshaber-Otto/Sinclair 2004). Thus the GATS does include in its framework agreement provisions on major regulatory issues such as transparency, domestic regulation (qualification requirements, licensing, technical standards), subsidies, government procurement, mutual recognition of professional qualifications etc., the regulatory parameters of which are generally inscribed in liberal trade theory. For instance, all of these are as a matter of principle seen as an impediment to trade, as trade-distorting, as burdens to economic activity etc, which therefore should be subjected to disciplines, the latter abolishing them or securing that they not be more burdensome than necessary. Thus the framework agreement, though not out rightly abolishing most of these measures, defines the normative framework of a long-term working agenda to be executed within the WTO.

Furthermore, in the context of sectoral market access negotiations, the harmonization of rules of the particular sector under scrutiny will be negotiated in parallel. This was the case with financial services, where in addition to sectoral liberalization commitments contained in Member States' lists of specific commitments, annexes and protocols to the GATS negotiated after the conclusion of the Uruguay Round in 1996/97 contain a host of regulatory standards. Perhaps even more evident became this parallelism of market access and rules negotiations in the negotiations on basic telecommunication services, also concluded after the end of the Uruguay Round in 1997. Here again, the common regulatory principles were in detail laid down in an Annex and a so-called Reference Paper on Telecommunication Services. Thus, institutional dynamics with regard to regulation have been gradually shifted to the WTO at the detriment of existing institutional fora, like the International Telecommunication Union.

The introduction of pro-competitive regulation – the case of postal services

In the current GATS 2000 negotiations, regulatory rivalry appeared in other sectors as well. Postal and courier services are a sector of particular export interest to the dominant trading blocs, i.e. the EU and the US. Here as a consequence of the process of liberalizing postal services in the EU, which was started in the second half of the 1990s and is projected to be fully implemented by 2009, big corporations with international outreach have developed, the most important of these being Deutsche Post AG. These companies have been pressing the Commission and the Member States to support their expansion strategies via the GATS negotiations. To this effect the European Commission has followed three avenues: firstly, it has requested comprehensive market access for postal services to its WTO partner in the GATS negotiations since 2000; secondly, it has done so on the basis of a new classification scheme for postal and currier services, which was tailored to the interests of European postal services providers; and thirdly, together with like-minded WTO Members it has developed a new reference paper for postal services (WTO Document TN/S/W/26) in an attempt to establish a common regulatory framework for the sector. The reference paper contains standards for licensing, universal service obligations, independent regulatory authorities, and transparency, which basically mimic the prevailing regulatory framework in the liberalized postal services sector in the EU. By actively promoting a regulatory framework for postal and courier services, the scope and importance of the regulatory work conducted in the Universal Postal Union (UPU) has been significantly reduced (cf. Grieshaber-Otto/Sinclair 2004). UPU, like the ITU, was already founded in the second half of the 19th century (1874). After World War II it became a special agency of the UN. UPU has traditionally been in charge of setting the rules for international mail exchange. In 1999 a report to the UPU Convention written by the Secretary-General highlighted possible conflicts between GATS and a number of UPU regulations, concerning in particular re-mailing, terminal dues, and the issue of postage stamps. Though these issues have not been resolved in detail, it is clear that pressure is increasing to align UPU regulations to binding WTO and GATS principles. Thus, in the EU Reference Paper on Postal and Courier Services, chapter III.D., questions the conformity of the UPU terminals dues system with GATS and notably its Most-Favoured Nation obligation.[1] The paper concludes by calling upon WTO Members to support ongoing efforts within the UPU to establish a more cost-oriented terminal dues system. Thus a process typical for forum-shifting will possibly be reinforced that drawing upon two strategies described by Drahos & Braithwaite (2000:564f.) could be characterized as pursuing the same agenda in more than one organization while threatening the organization less advantageous to one's objectives with abandonment. For, as Grieshaber-Otto/Sinclair (2004) assert, since the 1980s pressure by transnational courier operators and other lobbying groups upon UPU to reform its regulatory system and assist in converting postal services provision into a "competitive, costumer-oriented business"[2] has continually increased. In an effort to maintain its role and position, the organization itself started in the early 1990s already to re-orient its function and agenda by establishing a Postal Development Action Group. The work programme for the period 2004-2008 explicitly stresses the need for "public Posts to transform themselves into viable, active businesses able to compete in the communications market and provide the universal postal services to the entire population throughout the territory".[3] Thus, although reform activities in UPU well pre-date the entry into force of the

1 | Terminal dues are tariffs received by postal operators for the delivery of international mail. However, the UPU terminal dues regulations grant operators from developing countries differential treatment, thus possibly violating the GATS Art II MFN-obligation.

2 | UPU Resolution C 25/1999, cited in Grieshaber-Otto/Sinclair 2004.

3 | UPU Resolution C 7/2004, Universal Postal Union policy and action on postal reform and development for 2005- 2008, www.upu.int/postal_dev_reform/en/pdag/resolution_c7-2004_en.pdf, acessed at 04.06.2005;

GATS, and should thus be seen as related to the emergence of sectoral liberalization/privatization trends that were initiated either at national level or through other international organizations, in particular the World Bank and the IMF, it seems feasible to conclude that the coming into existence of GATS in 1994 and subsequent liberalization work on postal services within GATS were a decisive impetus in dynamizing the institutionalization of "pro-competitive regulation" also in the activities of UPU. By drafting a reference paper and pushing other WTO Members to adopt it in the current round of GATS negotiations, the EU is actively advancing this particular strategy of forum shifting for the sake of its big postal corporations.

Besides the multilateral level and its interplay with domestic EU politics, we have also to consider the interplay with bilateral trade negotiations. Being an explicit goal of the EU that bilaterals should be by definition so-called "WTO-plus" agreements, the EU as a matter of principle in bilateral negotiations intends to extend the level of liberalization commitments beyond that already achieved in the WTO, or in this case, the GATS level of commitments. Liberalization of postal services came into play, in this respect, in all of the bilateral trade negotiations, the EU has initiated over the last 10 years, but particularly the most recent negotiations with Mercosur, the ACP countries, Korea, India, the Andean Community, Central America and the Euromed countries. In these negotiations the EU does not only request full market access and non-discrimination for their service operators, but also urges the trading partners to accept regulatory standards for the sector, which resemble the most central elements of internal EU regulatory frameworks.

■ Concluding Remarks

From the previous discussion, we can draw a number of conclusions with regard to the functionality the WTO/GATS framework plays for the agenda of norm-setting at the international level:

The GATS serves to lock-in liberalization commitments that have been implemented earlier through autonomous liberalization or through policies enforced by international agencies like the IMF or World Bank. The provisions of the framework agreement (in particular Art XXI) make it very costly to withdraw or modify existing commitments. Thus, a liberal economic order is "constitutionalized" (cf Gill 1998), which severely restricts the degrees of freedom for future political action.

Through its built-in mechanism for advancing liberalization through successive rounds of negotiations, the GATS provides a platform for pursuing a strategy of forum-shifting in international trade policy. Pro-liberalization political forces can use GATS-negotiations to increase pressure both on other countries and on anti-liberalization movements within one's own home country to give in to liberalization demands. It should, however, be emphasized that the current round of trade negotiations has shown a certain unwillingness by many countries to engage in liberalization moves that go beyond the current level of autonomous liberalization. Our analysis has shown that countries prefer to use bilateral negotiations to advance liberalization beyond current levels.

The GATS does not only provide a mechanism for the - gradual – abolishment of barriers to market access or discriminatory treatment against foreign providers. It has also evolved into an institutional platform for the international convergence and homogenization of regulatory standards. For, the promotion of international trade in services is intrinsically linked to the establishment of a common international framework for the regulation of services. The blueprint propagated within the GATS for the regulatory homogenization of services is that of pro-competitive regulation. This will have serious repercussions for the future capacity of governments to achieve public policy goals such as regional development, socio-economic cohesion or environmental sustainability via the regulation of the provision of public services.

It must not be forgotten, however, that the economic and political forces that shape the agenda of the WTO, and the GATS in particular, are nation states and corporate lobbying organizations that reside within the former. Thus, the politics of the Member States of the European Union and the European Commission should be equally the focus of critical academic enquiry and of political action.

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How does WTO Circumvent the Human Rights, Healthcare, and Ecological Norms of the United Nations?

Matyas Benyik (ATTAC Hungary)

"Trade is not an end in itself, but should be an instrument for the promotion of human well-being, sustainable communities and economic justice!"

[EEA Campaign]

■ Introduction

In the global arena of international trade, the European Union (EU) and the World Trade Organization (WTO) are the most important actors in norm-making from above. This paper highlights the difficulty of linking United Nations (UN) labour, environmental, and human rights standards to WTO trade issues.

Until the end of the 1990s, WTO's enormous power went almost unnoticed and people thought little about how trade could affect their work, just as those responsible for international trade policy went about their business without reflecting much on human rights, healthcare, and environment issues. Only a few specialists tried to address the impacts of trade liberalization on labour standards, but trade policy professionals ignored both their counterparts and the civil society.

In early 1998, the situation changed completely. A coalition of labour and environmental groups realized that trade negotiators were discussing a multilateral agreement on investment (MAI) at the Organisation for Economic Co-operation and Development (OECD), which would have given priority to the rights of foreign investors (mainly TNCs) over public interest concerns. MAI negotiations were suspended following huge civil society protests that turned public opinion against the proposed agreement. The MAI scare alerted civil society that international trade policy could seriously harm human rights, health, and the environment. It became clear to many people that the international trade policy was essentially developed behind closed doors amongst rich countries, regardless of its impact on developing countries or the public interest. The emergence of the anti-MAI coalition marked the beginning of a broad and visible anti-globalization movement focusing on the WTO as a main assailant on democracy and the public interest. The anti-WTO protests and demonstrations continued worldwide at the end of the 1990s, as well in the first years of the new millennium, because the "people of Seattle" feared that the WTO obligations would threaten standards that protect labour, human rights, and the environment, and they criticized the WTO for not being adequately sensitive to those concerns.

Human rights, health, and the environment are far from mainstreamed in the WTO, because trade policy experts consider WTO to be purely a trade organization and are firmly rejecting opening up the trade regime to non-trade concerns. Unlike many UN organizations, *WTO has strict rules* (e.g., its main principle is non-discrimination, manifested in the Most-Favoured-Nation and the National Treatment obligations), *enforcement mechanisms* (e.g., Dispute Settlement Mechanism), *and powerful bodies, as well* (e.g., Dispute Settlement Body). The idea of incorporating human rights, labour, and environmental standards into the WTO received continued support from many CSOs, but up to now it has been rejected. One of these proposals was to allow WTO members to use trade sanctions to enforce human rights. Another, more aggressive enforcement mechanism would favour multilateral sanctions, draw on an existing formulation of human rights norms, and provide for collaboration with a specialized body that would determine human rights violations. Another proposal required that WTO members should ratify the major human rights treaties or submit human rights reports to WTO, similar to the reports in the framework of the WTO's Trade Policy Review Mechanism. In spite of rejecting proposals to enforce labour, environmental, and human rights standards, the WTO still continues to be saddled with calls for linking these issues to the WTO.

Formally, the WTO appears to be democratic (one country, one vote), with consensual decision-making; however, in reality it is still non-transparent and highly undemocratic (WTO is a negative exception among international organizations by the fact that it has no formal relations with NGOs, so that the arrangements for civil society are ad hoc and could be reversed at any time). Public access to WTO documents has been made easier only recently (some pieces of information are available on WTO's website), but many key documents are still unavailable to the wider public.

■ Human rights and WTO

Human rights are about the fundamental elements of justice and human wellbeing. They cover things like the right to self-determination, non-discrimination, equality before the law, the right to life, freedom from slavery, the right to work and favourable conditions of work, the right to an adequate standard of living including food and housing, the right to the highest attainable standard of health, the right to education, and the right of peaceful assembly.

Economic policy (including trade policy, as well) does have a significant effect on these rights. Human rights are supposed to be universal and de jure have priority over economic agreements and policies, as well as being legally binding. The UN Charter obligations prevail over all other international agreements. Human rights are particularly relevant because most States, including all WTO Members, have ratified at least one of the international human rights instruments, thereby committing themselves to the realization of human rights. In addition, States must cooperate transnationally so as not to infringe on other States' ability to fulfil their human rights obligations. From a trade perspective, human rights are often not considered to be trade-related and therefore not appropriate for enforcement under the WTO.

Three basic policy failures have maligned the trade/human rights relationship:

» *First*, national governments have tended to compartmentalize their legal commitments — on the one hand as WTO Members, and on the other as States parties to human rights treaties. The rhetorical and policy disconnect between these areas has led most States to disregard their binding human rights obligations while pursuing trade negotiations.
» *Second*, States have often ignored the primacy of human rights under international law. These rights are outlined in the UN Charter and given definitive interpretation in the Universal Declaration of Human Rights (UDHR). All UN human rights treaties are relevant to trade negotiations. However, because WTO is capable of more concrete enforcement than the human rights regime, trade law enjoys a *de facto* primacy.
» *Third*, the misuse of human rights rhetoric, which has been resorted to for protectionist purposes, has led to scepticism on the part of the developing countries and generally undermined arguments to bring human rights within the WTO's purview.

Human rights are mostly affected by the following WTO agreements:

a) *Trade Related Intellectual Property Rights* (TRIPS), which pose formidable obstacles to the fulfillement of the right to health, particularly in terms of access to medicines;
b) *Agreement on Agriculture* (AoA), which affects the right to food and foodworkers' rights;
c) *General Agreement on Trade in Services* (GATS), which affects basic, essential (public) services;
d) *Non-Agricultural Market Access* (NAMA), which will affect the global competitiveness of developing-country exports and have an impact on workers' rights.

■ Health and WTO

The right to health is endangered mostly by the TRIPS and the GATS agreements. Before the Doha Declaration, the TRIPS system of 20-year minimum patents had a disastrous effect on developing countries' ability to deal with HIV/AIDS, malaria, and tuberculosis, among other diseases. Yet even after the Doha Ministerial meeting held in 2001, notwithstanding flexibilities such as compulsory licensing and parallel importation in certain circumstances, the pressures and politics of international trade limit the ability of poorer countries to ensure that TRIPS respects human rights.

With the difficulties (and now the foreseeable collapse) of the multilateral negotiations in the framework of the Doha Round, the United States and the EU have pushed the bilateral free trade agreements (FTAs and EPAs) with various developing countries, resulting in extreme TRIPS-plus conditions. These bilateral agreements provide for, inter alia, stricter intellectual protection measures than exist under the current international treaties.

Another persistent injustice is the crisis of neglected diseases; this is where the market-based justification for intellectual property laws shows its limits. As Paul Hunt, the Special Rapporteur on the Right to Health — after he had visited the WTO in 2004 — wrote in his report: "The commercial motivation of intellectual property rights encourages research, first and foremost, towards 'profitable' disease, while diseases that predominantly affect people in poor countries – such as river blindness – remain under-researched."

Without a doubt, the most dangerous WTO agreement is the GATS, which follows the logic of "progressive liberalization". Practically, the GATS has enormous influence, potentially embracing everything from overseas workers, tourism, and financial services, to water, education, and healthcare. As with TRIPS, bilateral and regional trade agreements have also led to GATS-plus regimes of negative-list commitment schedules (assuming complete liberalization as the default rather than liberalizing item by item as under the positive-list approach) that over-accelerate liberalization. And developing countries sometimes make trade-offs, opening up their service sectors in exchange for concessions with respect to goods. Thus, developing countries in the WTO are not free to be elective, either in terms of sector or pace of liberalization.

■ Environment and WTO

One of the key issues in the debate over how best to reconcile the two objectives of environmental protection and trade liberalization revolves around the interrelationship between multilateral environmental agreements (MEAs) and the multilateral trading system (WTO).

More than 200 MEAs exist now, with memberships varying from a relatively small group to over 180 countries. Almost 30 of these agreements incorporate trade measures, regulating or restraining the trade in particular substances or products, either between parties to the treaty and/or between parties and non-parties. These trade measures are often set out in the texts of the MEAs themselves. In some cases, however, they derive from decisions of the parties after the MEAs enter into force and are described explicitly in the agreement. In other cases, aspects of the ways in which trade measures are applied may be affected by decisions of the parties.

The WTO agreements themselves contain certain measures allowing for environmental considerations. The Agreement establishing the WTO recognises that trade should be conducted *"while allowing for the optimal use of the world's resources in accordance with the objective of sustainable development, seeking both to protect and*

preserve the environment and to enhance the means for doing so…" This was reaffirmed in the Doha Declaration in 2001. The Doha negotiating agenda deals explicitly with the topic of MEAs in paragraph 31, which agrees to negotiations on "the relationship between existing WTO rules and specific trade obligations set out in multilateral environmental agreements".

In theory, this could be one of the less difficult problems to resolve. MEAs are, like the WTO agreements, multilateral in scope and therefore tend to avoid the kind of arbitrary and discriminatory behaviour that most WTO agreements are designed to reduce. In practice, however, the debate has been going on since the birth of WTO without reaching a final result.

Internationally recognised policy objectives expressed in MEAs have scope for compatibility with WTO obligations. Clarifying these objectives and the necessity of taking trade measures to fulfil them could further improve the dialogue between trade and sustainable development. In its absence, the uncertainty and unpredictability inherent in dispute settlement will place mutual supportiveness on a precarious footing.

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EU Constitutional Treaty: Towards a Democratic EU or Camouflage for Acquis Communautaire, Maastricht Treaty, and Military Ambitions?

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"We decide about something, float this decision and wait and see, what happens. Unless there is big clamour and revolt, because most don´t comprehend, what has been decided, we continue in the same style – step by step, until we have reached the point of no return."

[J. C. Juncker about policymaking in the EU, Spiegel 52/1999]

■ The process of EU-militarisation

The process of militarisation is not an accidental derailment of the European Union; it is an inseparable element of its development and – according to the opinion of its most relevant political architects – also its final destination. Let´s hear to one of the most influential brain-trusts of the German foreign policy, Centrum für Angewandte Politikforschung (Munich): *"Only in the scenario of the superpower Europe the great Europe fulfils its objective potential of superpower. … The building of Joint Strategic European Military Forces, that avail itself of the nuclear weapons of France and Great Britain under a supreme European command, will change the role of EU." Then "military balance with the USA will be accomplished". And: "The superpower Europe finally says goodbye to the idea of a civil power and uses unrestrictedly the means of international power politics."* (CAP, Europe´s Future, 2003)

The High Representative of the EU Foreign and Security Policy, Javier Solana, slobbered in 2000 that the military development of EU advances "at the speed of light". Let´s have a look at some of these elements of militarisation that have taken place within the last decade, particularly accelerated by the NATO-war against Yugoslavia.

Troops for military aggression:

At the EU-summit of Berlin und Helsinki (1999) the EU heads of government launched the EU-Rapid Reaction Force consisting of 60,000 troops (with a threefold extent including the reserve troops), capable of being deployed in 60 days for one year. Its deployable radius shall range 4,000 km around the EU. That encompasses Africa till the Congo, the Middle East and the whole Caspian and Caucasus region. In 2004, the EU ministers of defence determined to create a new kind of troops, the so-called battle groups, deployable between a few days 6,000 km around the EU (Brussel). Originally 13 such battle groups (1,500 troops) should be established between 2007 and 2012. In the meantime, the number of planned battle groups has risen to 22. These troops can be envisaged as the fast cavalry of modern high-tech wars. The decision on their deployment shall be taken within 10 days, so that the involvement of parliaments is eliminated. Speed kills. Let´s listen to Generallieutenant Hans-Otto Budde, inspector of the German Army, on what type of soldier is needed for this kind of war: *"We need the archaic warrior and that, who is able to conduct the high-tech-war. We have to imagine this type as a colonial-warrior, who runs –far away from his home-country – into the danger, to act according to his own law."* (Die Welt, 29.02.2004). These battle groups are specifically trained to fight under different kind of geographic and climatic conditions – for instance, battle groups are trained for war in jungle, dessert, high mountains, or urban areas.

■ Weapons for expeditionary warfare and mass destruction

It´s revealing to look at the current programs of armament production in the EU member states. Most of the money is spent for the production and development of arms, which enables them to carry on wars, as the USA has demonstrated against Afghanistan or Iraq. For instance:

- Nearly a thousand new combat aircraft (Eurofighter, Rafale),
- Hundreds of Attac helicopters (Tiger, NH 90),
- Around two hundred new military transport planes,
- 4 new aircraft carriers,
- over 50 new frigates for coastal attacks,
- Thousands of new cruise missiles, precisely accurate missiles, and smart bombs,
- Militarisation of space: satellite navigation, surveillance, and reconnaissance (Galileo, GMES, SAR-Lupe, Helios, Skynet,...).

Last but not least, France and Great Britain are massively upgrading their nuclear arsenals. France is developing new long- and middle-range nuclear missiles (M51, ASMP-plus) and a new kind of so-called "mini-nukes" (with the explosive power of a third of the Hiroshima bomb), which might be brought into action against so-called *"rogue states"* and *"when our strategic supply is at risk"* (Chirac, 19.01.2006) In spring 2007, the British parliament adopted the plan to spend up to 30 billion Euros in order to modernize its atomic force.

In the Headline-goal 2010, the EU states have agreed to set up the capability of *"network centric warfare"* following the current US development. The HLG 2010 comprises the following milestones:

2004:

» establishing a military cell within the EUMS (European Union Military Staff), with the capacity to rapidly set up an operation centre for a particular operation;

» the establishment of the Agency in the field of defence capability development, research, acquisition, and armaments (European Defence Agency);

2005:

» EU Strategic lift joint coordination, with a view to achieving by 2010 necessary capacity and full efficiency in strategic lift (air, land, and sea) in support of anticipated operations;

2007:

» complete development of rapidly deployable battle groups, including the identification of appropriate strategic lift, sustainability, and debarkation assets;

2008:

» availability of an aircraft carrier with its associated air wing and escort,

2010:

» performance of all levels of EU operations by developing appropriate compatibility and network linkage of all communications equipment and assets, both terrestrial and space based,

» Full operational capability of a European Airlift command.

To illustrate what kind and dimension of wars are prepared by these steps, some remarks from the European Defence Paper (EDP), written by the EU Institute for Security Studies (ISS, 2004), a military brain-trust found by the EU council in 2001. First the EDP deplores that the *"EU-capacity to wage and win wars in more demanding scenarios is very limited. … Consequently the EU lacks escalation dominance."* Then it promises remedy by enhanced armament and new troops: *"The transformation of European forces from territorial defence to intervention and expeditionary warfare is nonetheless a precondition for an effective European Security Strategy."* Moreover, the EDP tells us what interests should be enforced by *"regional warfare in the defence of strategic European interests": "Future regional wars could affect European interests by directly threatening European prosperity and security, for instance in the form of the interruption of oil supplies and/or massive increases in the cost of energy resources, the disruption of flows in goods and services."* And it enlightens the dimension of warfare: *"Europe cannot build its defence policy on the assumption that there will not be a major military challenge in the Middle East of an order of magnitude at least equal to and possibly greater than that encountered at the time of the 1990-1991 Gulf War."* For remembrance: In this war, 300,000 Iraqis had been killed. Obviously the EU wants to reach the same performance: *"The most demanding task is power projection, consisting of a combination of strike, land-attacks and amphibian operations."* The EDP describes a scenario of future EU wars to *"obtain control over oil installations, pipelines and harbours"*, where the EU intervenes with *"10 brigades (60,000 troops), supported by 360 combat aircraft, support aircraft, and two maritime task forces, totalling 4 carriers, 16 amphibious ships, 12 submarines, 40 surface combatants, 2 command ships, 8 support ships and 20 maritime patrol aircraft."*

■ Strengthening of the Military-Industrial Complex

In 1999, a few months after the "Air campaign" against Yugoslavia, German DASA and French Aerospatiale Matra merged to form EADS (European Aeronautic and Defence Company), the biggest continental European armament manufacturer. This merger was carefully prepared on the political stage. At the EU summit in Berlin in June 1999, the heads of government committed *"to work towards upgrading of effective European military capabilities on the basis of existing national, binational und multinational capabilities… We recognize that emphatic efforts are essential for the strengthening of the industrial and technological defence base…"* The military business of EADS has skyrocketed since then: Between 2002 and 2006, the stock of ordered weapons rose from 22 billion to 53 billion Euros (plus 140 %). The ascent of the EU arms industry can also be realized by the development of EU arms exports. In 2005, the EU countries for the first time won the questionable world championship in arms exports, outstripping the USA and Russia. Unsurprisingly, the profits of the armament manufacturers are climbing higher and higher: EADS armament profits increased from 2005 to 2006 at 73 %, those of BAE-Systems (British) at 54 %. In huge advertisements, the chiefs of the three big armament companies (EADS, BAE-Systems, Thales) have enthusiastically cheered the institution of the "European Armament Agency" (later prudently renamed into "European Defence-Agency"), which has taken up work since 2004 charged with evaluating the EU member states every half-year, as to whether they are fulfilling the armament commitments that they have assumed in the European Capability Action Plan (ECAP).

■ EU-constitution/EU reform treaty – – making militarisation irreversible

The emergence of the EU constitution demonstrates impressively, how policy-making works on the EU level. A carefully selected group of men (and only a few women) called EU Convent was charged to hammer out a draft for an EU constitution. A screening of the members revealed the secret consensus among them: 97 % advocate the militarisation of EU (support of wars against Yugoslavia and Afghanistan, and agreement with the various initiatives for boosting armament and intervention troops in the parliaments or governments). Only 2 out of 66 stood for a consequent policy against armament and warfare. The functioning of the EU constitution was described by J. C. Juncker – surely no EU critic – as "the darkest darkroom I have ever seen." (Spiegel 25/2003). But even two-third of the whole text (chapter III) has been negotiated past the EU constitution directly between the foreign ministries of the big capitals. The result complies with its arrival (see below). But the populations struck back. In the referenda in France and the Netherlands, a solid majority rejected the constitution-treaty. How have the EU elites reacted to these democratic votes? They are fooling the people by dropping

the title and some symbols and putting nearly the same text in another envelope, called EU Reform Treaty. Even the pro-government think-tank "Zentrum für Angewandte Politikforschung" warned, "the new EU primary law might be revealed as a bluff package". The relevant contents haven't changed at all. The EU Constitution/Reform Treaty wants to make the militarisation of the EU irreversible and constitute a political hierarchy that enables the accelerated advance towards the making of a military superpower headed by the elites of the strongest national-states. The direct and forthright implementation of the interests of the military-industrial complex in constitutional law is amazing.

Commitment for progressive armament/establishing an institution for boosting and controlling armament:

"Member States shall undertake progressively to improve their military capabilities. An Agency in the field of defence capabilities development, research, acquisition and armaments (European Defence Agency) shall be established to identify operational requirements, to promote measures to satisfy those requirements, to contribute to identifying and — where appropriate — implementing any measure needed to strengthen the industrial and technological base of the defence sector, to participate in defining a European capabilities and armaments policy, and to assist the Council in evaluating the improvement of military capabilities." (I-41, 3)

The fixing of the commitment to *"improve the military capabilities progressively"* in base law is really unprecedented worldwide. It denounces a policy of disarmament as incompatible with EU memberships – for decades, because EU primary law is hedged at an outside estimate against political pressure from below.

Establishing a core Europe of the most potential military states:

"Those Member States whose military capabilities fulfil higher criteria and which have made more binding commitments to one another in this area with a view to the most demanding missions shall establish permanent structured cooperation within the Union framework." (I-41, 6). The preconditions to participate in this PSC and the rules of its functioning are hammered out very explicitly.

■ Warfare all over the world only – – no commitment to a mandate of UNO

"The tasks referred to in Article I-41(1), in the course of which the Union may use civilian and military means, shall include joint disarmament operations, humanitarian and rescue tasks, military advice and assistance tasks, conflict prevention and peace-keeping tasks, tasks of combat forces in crisis management, including peace-making and post-conflict stabilisation. All these tasks may contribute to the fight against terrorism, including by supporting third countries in combating terrorism in their territories." (III-309, 1)

"Member States shall make civilian and military capabilities available to the Union for the implementation of the common security and defence policy, to contribute to the objectives defined by the Council. Those Member States which together establish multinational forces may also make them available to the common security and defence policy." (I-41, 3)

■ Establishment of an EU military budget

"The Council shall adopt a European decision establishing the specific procedures for guaranteeing rapid access to appropriations in the Union budget for urgent financing of initiatives in the framework of the common foreign and security policy, and in particular for preparatory activities for the tasks referred to in Article I-41(1) and Article III-309." (III-313, 3)

The European Parliament hasn't got competence for co-decision in the field of foreign and security policy (But we should keep in mind that nearly all resolutions of the EP are more supportive to further EU militarisation than the heads of government have managed so far due to their disagreements on leadership).

Especially urged by the German power-elites, the EU Constitution (Reform Treaty) shall change decision-making significantly. Its aim: **more centralisation and hierarchisation**, strengthening the power-elites of the big nation-states:

» **Extension of majority voting combined with the shift of voting weights in favour of the big nation-states**: Germany raises its voting weights at 100 %, France and UK at 45 %. Countries like Greece, Czech Republic, Austria, Portugal, Sweden, Denmark, etc., lose between 35 % and 65 %.

» **Implementation of central functions** as the EU president and the EU foreign minister (now called High Representative of the EU for Foreign Affairs), who is also responsible for coordination of military actions and access to the new military budget.

» **Enlargement of "democracy-free zones"**: Important fields of policymaking are delegated to institutions that are heavily protected against democratic influence, such as the European Defence Agency and the European Central Bank. Hard money and hard weapons shall be out of question.

» **Amplification of the separation of Europe into different segments**, putting the strongest military states at the top of the political pyramid. The "Permanent structured Cooperation" (see above) is constructed in a way that exercises enormous pressure on the (potential) participants to comply with the heavyweight states, because entry and expulsion can be executed by majority voting of the club members.

■ Strategic impulses

Some concise strategic thoughts on how progressive movements can/should act against EU militarisation.

Internationalistic approach

The EU leaders try to add zest to their own militarisation by saying it is necessary to counterbalance the dominance of the USA. In particular, the mainstream social-democratic and green elites adhere to those arguments. Peace and progressive movements must not walk into that trap of Euro-chauvinism. By all means, we have to uphold an internationalistic approach. The peace movement and other progressive movements in the USA are our allies, and our common opponents are the elites both on this side of and beyond the Atlantic - no matter whether they quarrel or walk hand-in-hand. Our main

challenge is to combat the militarisation of the EU power bloc, because nobody else will take over this task if we don't.

Becoming deeper and wider

We have to point out the connection between the big issues like EU militarisation and EU constitution and the everyday worries of people like unemployment, social cuts, expensive rents, and poor educational and health systems. We have to bring together the immediate struggles with progressive alternatives to the existing economical and political power structures. Of course, this inescapably entails the question of how to organize and cooperate.

Encouraging progressive resistance on the national level

The first attempts of the elites to introduce the EU constitution failed because of the successful national resistance in France and the Netherlands. There has been no chance to overthrow the constitution on the EU level, because the European Parliament is dominated by (liberal, conservative, social-democratic, or green) EU chauvinism and because the single national power elites may quarrel about leadership and the kind of hierarchy (and their place therein), but nobody among them combats militarisation itself. I am convinced that the progressive movements should focus on the struggle against the centralisation of power on the EU level. Every hope that the centralisation of power on the EU level will give rise to the chance of more disarmament, welfare state, and public ownership has been and will be disappointed. The EU (as we know from the Single European Market, Maastricht, Amsterdam, Nice, and EU Constitution/Reform Treaty) is not aimed at regaining democratic power that has diminished on the national level. In fact, the EU has been developed to cancel social and democratic achievements, which have been accomplished on the national level. The EU doesn't domesticate the hegemonial aspiration of the national elites of big European states; in fact, it gives them the instrument to enforce their hegemonial interests on a much more striking level, building up a hierarchical Europe inwardly that possesses huge military means for aggression outwardly. The EU enables the elites to shape a military superpower, which each single national state isn't able to perform on its own.

Therefore, I am campaigning for detaching as much political power and as many economic resources as possible from this superpower project. In case of Austria, not only should we reject the EU Reform Treaty, but we should also fight for real neutrality, which means the self-commitment to participate neither in war nor in organisations installed for waging wars. Such a neutrality stipulates the immediate withdrawal from all military institutions and military programs of the EU (Defence Agency, Political and Security Committee, Rapid Reaction Force, Battle Groups,…). In addition, the complete withdrawal from the EU should not remain a taboo within the progressive discussion. We need not be scared to be mingled with the far right-wing discourse. The (clever) far right and neo-Nazi organisation - particularly in Germany and Austria - recommend a military, strong superpower Europe - under German leadership and in antagonism to USA and emerging powers in the east. They are therefore openly cheering the hidden long-term agenda of the elites in Berlin and Vienna.

Borders in new regional spaces: insights from Centrope in Central Europe and ABC Region in Brazil

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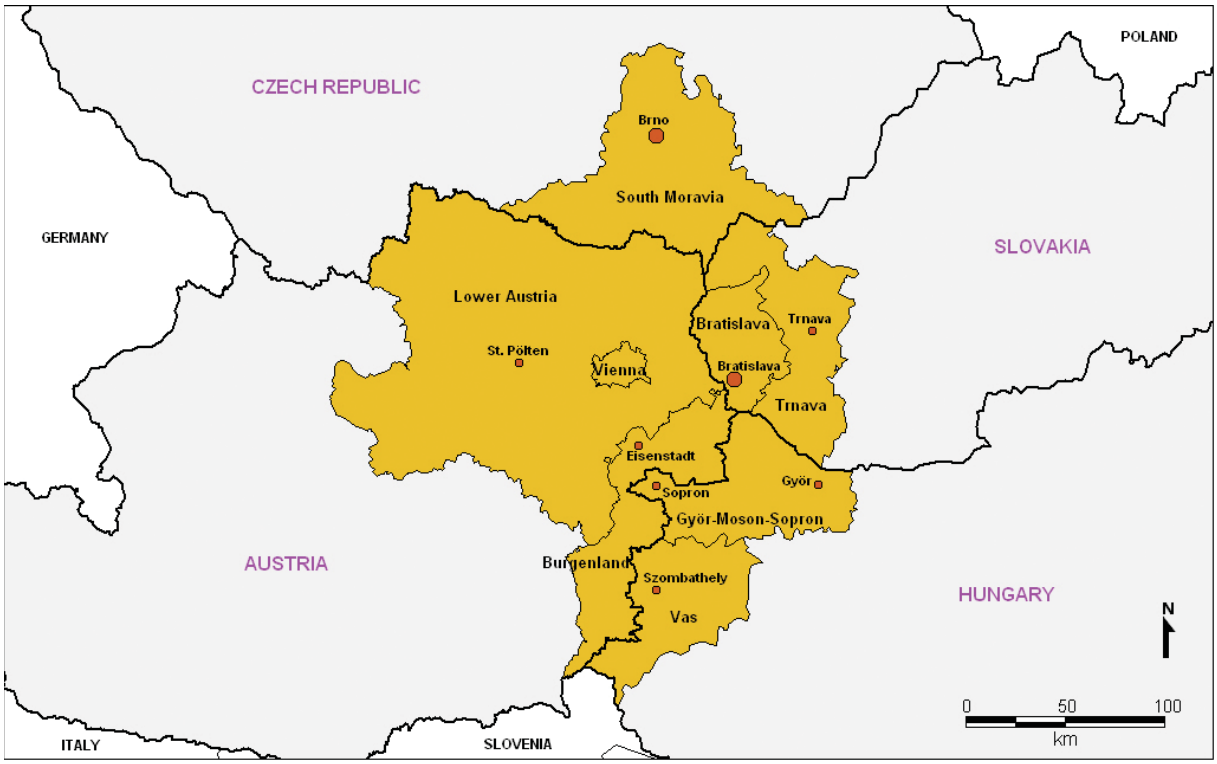
Space is produced (Lefebvre 1991), as demonstrated by the effervescence of emerging territorialities, regions, "new-state spaces" (Brenner 2004), and re-scaling in a context of a "hollowing out" of Nation States and intense policies of the European Union to integrate space by eradicating its internal borders. This could lead to a false understanding of the end of territorial borders. In this sense, the debate, on the one hand, announces the declining importance of borders in the present time of increasing flows of capital, commodities and people across state boundaries. On the other hand, borders remain crucial for political regulation and democratic legitimacy and of high significance as space of identification for the population (not only) at borders regions. This can result in identity politics, xenophobia and racism. This paper aims at discussing the meaning and role of borders by analysing two cases of newly created regions: The Centrope in Central-Eastern Europe and the ABC Region, at the metropolitan area of São Paulo, Brazil. In both regions, which do not coincide with formal political administrative units, local governments have launched projects trying to articulate different actors to face economic challenges through cooperation building. These apparently "bottom up" processes demand closer study to identify whom the regions integrate and which kind openness and closure their borders are now offering.

■ Centrope: re-creating an old trans-national region

The Central European Region - "Centrope" is a region with six-and half million inhabitants covering the border area of Austria, Czech Republic, Slovakia, and Hungary. This geographical unit delimits a political project aiming at cross border regional development through the cooperation of 16 sub-national governments (regional and cities, see map). In fact, it was a political initiative, stimulated by the EU-INTERREG-programme that created Centrope, a name and a delimited territory, which did not exist before. Centrope is an emerging region with changing borders. It marks an intermediary region between Western and Eastern Europe with deep historical

Map 1: The Centrope Region.



roots, which has been a cleavage of wealth for centuries. The region has been under the political-military unity of the Austro-Hungarian Empire. Austria ruled over the Western, Hungary over the Eastern part and their respective nations. After 1918 the region experimented with democratic, authoritarian and fascist regimes and after 1945, the East was disconnected from the West by the Iron Curtain. After 1989, the fall of the Iron Curtain, attempts to cooperate with neighbours changed the geopolitical position of Vienna from the most Eastern part of Western Europe to the historical position linking Eastern and Western Europe (Musil 2005).

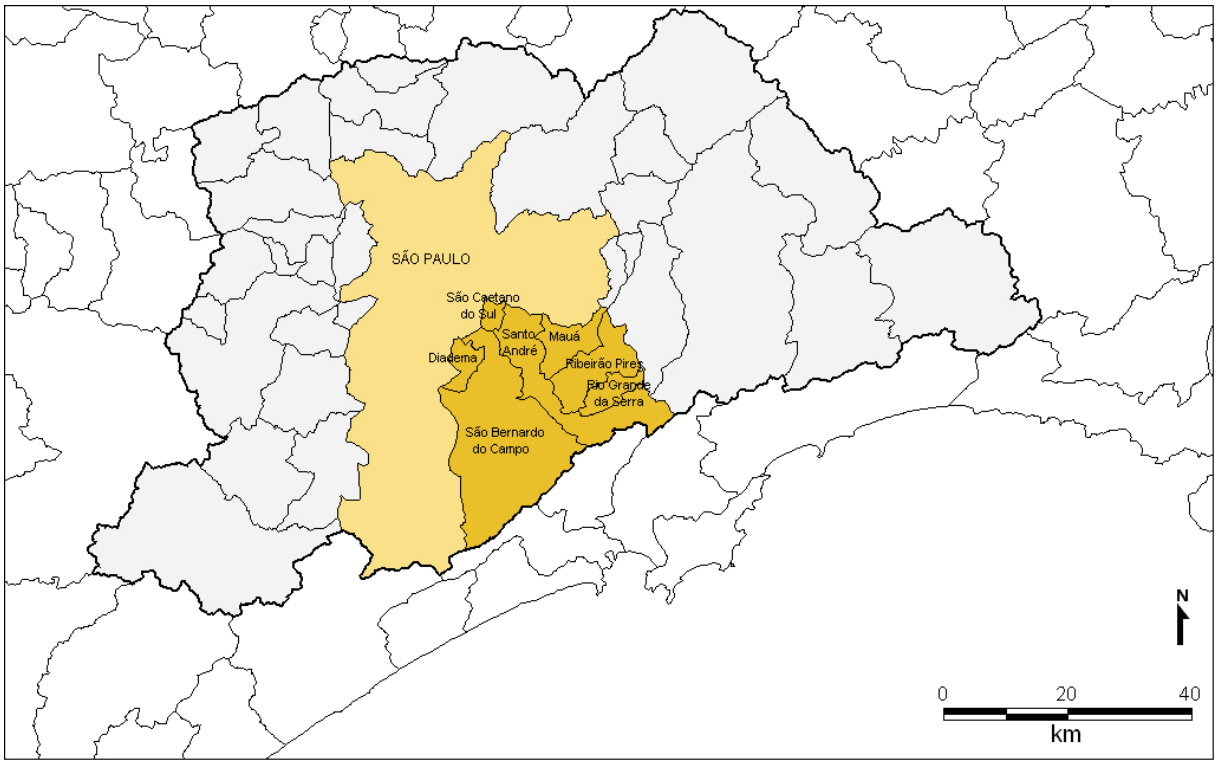
"Centrope is the lead project which develops a multilateral, binding and lasting cooperation framework for the collaboration of regions and municipalities, business enterprises and societal institutions in the Central European Region" (www.centrope.info). Launched at a meeting of local politicians in 2003, it aims at establishing a common region, to create an internationally attractive location and to communicate the future potential of the region to the public at large and to strengthen the social and entrepreneurial commitment to the region. All these efforts should contribute to "success in competition between European regions" (CENTROPE 2006). It is financed by the European Union though the Structural Fund INTERREG III-A (50 %), and by the three Austrian Federal provinces of the region.

Transborder governance

The creation of Centrope reflects efforts made mainly by Vienna to cooperate with neighbours "to maintain but also to extend its grown role as an attractive site for international co-operation and to position itself as a competence centre of European co-operation" (Vienna/Stadtregierung 2004: 2). Centrope is part of a strong strategy of internationalization of the Mayor Michael Häupl. Official discourse asserts that this is "the return to a new normality", as "only the political events of the 20th century that split this socially, economically and culturally integrated region into a space divided by borders" (CENTROPE 2006: 5). Local government in Vienna created an exemplary local welfare state. However, with the strategic plan of 1995 (Stadtregierung 1995) which followed the model of Barcelona, Vienna adhered to the liberal mainstream and glocal policies to foster local competitiveness and started to redefine itself, shifting emphasis to its function of becoming "an international finance and service centre", turning itself into the "Gateway to the East" (Novy et al. 2001: 132). Administrative reforms towards New Public Management, the creation of business agencies and large projects executed by public–private partnerships became the cornerstones of a strategy that aims at giving local government better capacity to respond quickly and flexibly to investors' requests (Novy et al. 2001). It was a shift towards elite networks and business friendly policies. Vienna did not abandon, but adapted its paternalist, top-down approach.

The organisational form of Centrope reflects the Viennese ideological shift towards entrepreneurialism and its commitment to cooperate with its eastern neighbours. Centrope, although a cross-borders project, concentrates power in Austrian side, as the main decision making level is formed only by the three Austrian regional governments, though overall strategies and political guidelines are elaborated by the heads of the sixteen local governments. Furthermore, everyday implementation and coordination of activities are made by an Austrian consortium of outsourced "flexible" governmental business agencies and clearly led by Vienna. Official documents have the characteristics

Map 2: The Metropolitan Area of São Paulo. City of São Paulo and the ABC Region in darker colours



of advertising folders, with different discourses aiming at two groups: the population in general, while the other fosters locational advantages to investors of the business world. Centrope tries to tailor a lasting cooperation framework for governments, business and selected segments of civil society. Yet neither social movements nor trade unions participate. Participation could be achieved in working groups, but those are quite exclusively formed by bureaucrats. As shown, the main actors in Centrope come from government or outsourced public bodies. These are highly educated and cosmopolitan bureaucrats who become key opinion makers and organic intellectuals of regional integration. They form an increasingly internationalized elite network, which incorporates and institutionalizes new, mainly liberal ideas and embeds it in everyday practices and common sense through documents and speeches that contain selected narratives.

ABC Region: revitalising an old industrial area

The "ABC" is the industrial core of Brazilian's metropolis São Paulo. It was the most Fordist region in the country (Novy 2001: 250). In the 1950s, national government's incentives and a corporate pact attracted multinational investors, especially the automotive industry. Ford, Volkswagen and other leading multinationals chose the periphery of São Paulo as production sites, also due to the region's privileged logistical position, connecting the city of São Paulo and the port of Santos. The region composed of the cities of Santo André, São Bernardo and São Caetano became known as the ABC. Today it has approximately 2.5 million inhabitants and congregates seven municipalities: the three above cited and Mauá, Diadema, Ribeirão Pires and Rio Grande da Serra. The cities are in fact subdivisions of the same space, as the region in 1940 was only one municipality (Santo André), in 1950 divided in three, the A, B and C, giving the ABC name. From 1960 to 67 further divisions ended with the present configuration.

The automobile industry gave a special sense of identity to regional actors, who are proud of having a "manufacturing culture" (Cocco 2001). The dynamics of world capitalism permitted that the ABC became the centre of national development in the 1950s and turned the ABC into one of the most prosperous parts of peripheral capitalism in Brazil. However, the fordist crisis had its first local expression in the ABC that was more severely than others affected by de-industrialisation with plant closure, layoffs and wage cuts. The region, although a peripheral and cheap location world-wide, became a victim of increased international competition and the decentralisation of industrial locations within Brazil by the "fiscal war" between regions to attract plants, supported by the federal government. The image of ABC Region was then linked to "high wages, combative labour unions, spatial shortage, elevated and increasing prices of land, and lack of governmental incentives that would have increased the production cost of the regional enterprises" (Jacobi 2000: 3). This resulted, in a regional unemployment rate higher than the metropolitan average, and a reduction of more than 30 % of its work-force (Pamplona 2001; Conceição 2001), income strongly decreases as well governmental revenue. The region had been a vigorous political arena, with highly organised workers. At the end of the 1970s, still during military dictatorship, workers' movement organised three huge strikes for higher salaries, human rights and democracy that became known all over the country and the reference for the creation of a proper party of the workers, the PT (Partido dos Trabalhadores/ Workers' Party), which main leader was the present Brazilian president Luis Inácio Lula da Silva. The region has a strong liberal regional media that had a significant role in the construction of the regional identity and in conflict with the mainly progressive local governments.

Beyond the regional economic specificities, the region also stands out for an environmental peculiarity represented by the watershed protection area that covers 56 % of the total regional territory in six of the seven cities. Such a huge water reservoir demands integrated environmental policies and is the source of common problems such as land restrictions, since the area cannot be used for housing or business. However, the area is illegally occupied by socially excluded groups notably those expulsed from São Paulo's new urbanization projects (Fix 2001).

Local Corporatism

The "ABC Region" is not a proper project, but a set of articulated institutions for regional development built in particular geographical, social, economical and political conditions. The regional repercussion of the crisis of Fordism convinced key regional actors of the necessity to cooperate. The first institution was the Inter-municipal Consortium, an association of the seven local governments, which represents the decision-making level. It is financed by the cities, proportionally to their revenue. Its workforce consists partly of an established bureaucracy hired by the Consortium and partly of collaborators of municipalities. In a moment of paralysis of the Consortium, civil society organized itself, building the "Citizenship Forum" in 1994. Regional media, business associations, labour unions and other civil society organisations were assembled to accomplish a broader legislative representation of the ABC Region at the state and federal level, as they believed that their representation was below their economic importance (Abrucio/Soares 2001). It led to the launching of the Regional Chamber, in 1997, which was a key moment in the regional cooperation between state and civil society, as governments of two levels, business associations, labour unions, NGOs and plenty of regional actors gathered in meetings and working groups. The Chamber decided on the creation of a public-private development agency to implement regional projects, which, although being legally organized as a private organisation, works mainly like a governmental agency, given the low participation of private actors in meetings (and thus in planning), projects and financing (Coimbra de Souza 2003).

Centrope and ABC Region: changing borders to whom?

The two cases are spatial as well as political innovations in their attempt to create at the same time a region and a mode of governance. The main feature is the idea of cooperating to eradicate internal borders of local governments in order to create a territory that can better compete internationally.

This leads us to a twofold analysis of the mode of governance arranged within these new borders based on, first, the identification of actors that built the region and second those who are included and benefit or not in the new demarcated space. Centrope is an attempt of expansion of Viennese regulation borders. It was created by governments, relying heavily on European financial incentives and counts on marginal participation of capitalist entrepreneurs. The ABC, on the other hand, has very limited financial resources to permit regional projects, thus requiring a major effort in involving capital and its financial power that has not been properly achieved, as regional capital is international and not connected to space. This difference between the cases, however, results in the same: the mode of governance built by governments in both regions aim mainly at attracting and satisfying capital. The consequences are to the detriment of social movements and workers.

The changing spaces here studied show the territorial power and importance of governments. It is clear that both governance systems are sustained by governments. This covers expenditure on personnel, the financial resources in general and the construction of a legitimizing discourse. Governments are the main players in building the regional planning and strategies, which nevertheless, do not give emphasis to socio-environmental issues. There is an insistence in following private rules: the (governmental) agencies created to deal with the regional systems are ruled by private law and managed according to the New Public Management style. The intention is to foster entrepreneurs' participation and to bind capital to the regional created space, but the result is that capital insists in its exit options and participates only when short term issues of its interest can be addressed. The main beneficiary of these new regions is large, mobile capital, even when the main players are governments and labour unions (this last is a player only in the case of ABC, and completely excluded in Centrope). The new regions are state-promoted spaces of accumulation, aiming at improving regional locational advantages. But as the regions are mainly built for capital, they fail to build a regional identity and create new forms of democracy and citizenship. The fact that the democratic container still sticks to old borders produces an opposite effect on building identity, as elections, esp. local ones, are limited to old political territorial borders. Electoral campaigns, in this sense, are persuasive regional identity brokers, as they advertise territorial competition and a bounded place-based perspective. This is even clearer in Centrope than in ABC, although the local identity is very rooted in ABC, where prejudices expressed by jokes and seemingly secondary conflicts with neighbours become quickly serious. In this sense, the establishment of new borders creating new socioeconomic spaces poses a challenge to democratic legitimacy and how to overcome the elitist orientation of these new regional spaces. This orientation is facilitated by the fact that social movements are still pressing governments within their respective electoral area of influence, without being aware of fact that boundaries of regulation have been modified. If social movements and trade unions do not grasp the political implications of this production of space and the respective politics of scale, the building of new regional spaces will continue benefiting mainly the interests of capital.

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The Protection of Social Rights

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■ All human rights are universal, indivisible and interdependent

The founding idea of human rights is the equal moral value of each individual. According to the prevailing theory of rights a right exists if „an aspect of x's well-being (his interest) is a sufficient reason for holding some other person(s) to be under a duty".[4] Consequently human rights are derived from the most basic human interests. Human rights are the minimal standards necessary for respecting the inherent dignity of each human being. Human rights protect this dignity by protecting the basic interests of individuals, like life, physical integrity, food etc. There is however a problem with identifying the exact content of human rights. Which interests should transform into human rights?[5] That is why a "legalisation" of human rights, by which I mean their proclamation in legal instruments, is necessary. Human rights have developed especially after Second World War and they are now embodied in dozens of international treaties, declarations, resolutions etc.

An opinion that the "real" human rights are only civil and political rights is a misconception of the essence of humanity and human dignity. Economic and social rights, like the right to an adequate standard of living, right to health or right to work are as important as any other human right.[6] The interests behind these rights are of the same importance as interests behind civil or other rights.[7] The human dignity can be violated by stripping humans of their freedom by imprisoning them but also by tearing down a roof over their head and taking all their clothes and means so they are unable to provide any food for themselves. The human nature is such that we have a strong desire to communicate with others and receive information (freedom of expression) as well as a desire to eat regularly (right to food). Consequently, from the emergence of human rights in international law an emphasis is on the idea that all human rights are universal, indivisible and interdependent and interrelated.[8] Indivisibility means that you cannot be denied a right because it is "less important" or "non-essential." Interdependence means that all human rights are part of a complementary framework. For example, your ability to participate in your government is directly affected by your right to express yourself, to get an education, and even to have access to necessities of life.

Accordingly, the Universal Declaration of Human Rights contains all kinds of rights without any distinction. Unfortunately, since then several international treaties (most famously the two Covenants[9]) contain either only civil and political rights or only economic, social and cultural rights (ESC rights).[10] The reasons for such splitting of rights were manifold. Regarding the covenants, the primary reason was the political situation during the cold war.[11] The issue of indivisibility of human rights became the victim of a political game and prestige. Nevertheless, it is important to note that this decision was not deemed to undermine the notion of indivisibility of human rights. The states advocating two covenants at the same time were stressing that ESC rights are of the same importance as civil and political rights.[12] Since then the principle that all human rights are interrelated and indivisible has been included in many UN General Assembly resolutions.[13] The most famous reiteration of the principle is contained in the final document of the Third World conference on human rights, where delegates of 171 states were present.

Besides the political question there have been two main arguments for making distinctions between ESC rights and civil and political rights. Firstly that social rights are not justifiable and secondly that they can be implemented only progressively. The first argument has been vigorously disputed and probably nobody holds it anymore. It has transformed into a softer version that some aspects of social rights are not justifiable. Nevertheless, even that is controversial and in any way substantial parts of ESC rights are clearly justifiable (see some examples below).[14]

The second argument overlaps with the argument that civil and political rights are negative in nature (require states only to refrain from doing something) but ESC rights are positive (require states to act in a certain way). The practice of human rights however proves that this argument is plainly wrong. All human rights generate all three kinds of obligations: to respect, to protect and to fulfil. Some stress more the negative aspect (e.g. prohibition of torture) some stress more positive

4 | Raz [1984], p. 195.
5 | Cf. Raz, Joseph, "Human Rights without Foundations" (March 2007). Available at SSRN: http://ssrn.com/abpact=999874.
6 | For the argument see e.g.Waldron [1993], chapter 1.
7 | Ibid. , p. 11.
8 | Vienna Declaration and Programme of Action, UN Doc. A/CONF.157/23, 12. July 1993.
9 | The International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, both adopted by the UN General Assembly resolution 2200A (XXI) of 16 December 1966.
10 | It must be stressed though that not at all. For example the African Charter on Human and Peoples' Rights (adopted on 27 June 1981) contains all rights.
11 | Jhabvala [1984], p. 159, Scott [1989], p. 795, or Arambulo [1996], p. 120 nn.
12 | Jhabvala [1984], p. 157.
13 | See Arambulo [1999], p. 110-111.
14 | For the whole argument on justifiability see (Kratochvìl [2007]) (in Czech).

aspect (e.g. right to a fair trial). Consequently, it is obvious that those rights that require substantive state intervention cannot be fulfilled immediately. The division however does not run between ESC rights and civil and political rights. In their positive aspect all human rights are never-ending project. Their full implementation requires continuing action and constant vigilance from a state.

In summary, human rights are based on the protection of basic human interests that respect the equal and inherent dignity of each human being. An effective protection of these interests requires acknowledgment of all kinds of human rights and not just some of them. It is obvious that people have an essential interest not only in not being tortured, being able to express freely their ideas or religion but also not to be hungry, not to suffer from unnecessary pain caused by illness or not to sleep in the rain. It must be stressed though, that it does not follow that all violations of human rights are of the same gravity. As for example torturing someone is clearly more "wrong" than prohibiting him or her to get married. It is important though to realize that the fulfilment of all human rights is necessary for the full respect of inherent human dignity.

This conclusion is indeed readily adopted by liberals. The acknowledgement of social rights is a natural component of liberalism as a political philosophy. The primary idea of liberalism is protection of personal autonomy, that is a right of every individual to choose his or her way of life (within some limits of course[15]). In other words to create one's own project of life. It is impossible to overlook that lack of food or uncured grave illness will prevent the creation or fulfilment of the project in the same way as for example wrongful imprisonment. Both examples are a negation of individual freedom. The mainstream liberal philosophy is thus naturally interested in the protection of social rights.[16] Consequently, it is not possible to talk about anything like liberal human rights and socialist human rights. There is only one category of human rights all of which are indivisible, interdependent and interrelated.

Unfortunately this simple principle is sometimes still questioned outside of the human rights community. A recent example in point is the attack on Amnesty International in the Economist. In article in March 2007 the Economist criticised the Amnesty International for taking into their mandate protection of ESC rights. The article asserted that "access to jobs, housing, health care and food" are not basic rights.[17] This article provoked many reactions and numerous letters were sent to the editors stating and arguing that ESC rights are human rights.[18] The writers of the letters ranged from current and former UN High Commissioners for Human Rights, academics to former justices of constitutional courts and representatives of various NGOs. Similarly one can guess that similar aversion towards ESC rights and misunderstanding is behind an unprecedented move of the president of the Czech Republic Václav Klaus, who for four years refuses to ratify the Additional Protocol to the European Social Charter Providing for a System of Collective Complaints. Both chambers of the Parliament gave consent to the ratification in 2003. Nevertheless since then the president has been refusing to ratify it without publicly giving reasons.

■ Mechanisms for protection of social rights

Despite the importance of all human rights it remains true that legal mechanisms for the protection of ESC rights are much weaker than mechanisms for protection of civil and political rights. There exist numerous possibilities how individuals can directly claim violations of civil and political rights in front of an international judicial or quasi-judicial body. For central Europe the two most important mechanisms are the European Court of Human Rights and the Human Rights Committee. The former adjudicates on violations of the European Convention on Human Rights, the latter on violations of the International Covenant on Civil and Political Rights. There is however no equivalent concerning ESC rights. There is no possibility for an individual to lodge an individual complaint. There are only mechanisms for so called collective complaints. Moreover none of which lead to legally binding judgments.

The most relevant here is the complaint mechanism of the European Social Charter. According to the Additional Protocol to the European Social Charter Providing for a System of Collective Complaints, organizations of employers and trade unions and international non-governmental organisations, which have consultative status with the Council of Europe and have been put on a list established for this purpose by the Governmental Committee, can file a complaint that a state (party to the protocol or party to the Revised European Social Charter making a special declaration[19]) is not fulfilling its obligations under the Charter.[20] The complaint is considered by a committee of experts (European Committee of Social Rights). Then the decision is passed to the Committee of Ministers of the Council of Europe, which may recommend that the state concerned take specific measures to bring the situation into line with the European Social Charter. Up to today the European Committee of Social Rights gave a final decision in about 30 cases in which it usefully clarified the obligations concerning the right to housing,[21] right to just

15 | We will not go into details here but this is of course one of the most controversial issues of liberalism – what are the limits, what is not allowed

16 | Cf. John Rawls, Theory of Justice, Jeremy Waldron (Waldron [1993]) or Ronald Dworkin.

17 | Stand up for your rights, The Economist, print edition, 22 March 2007, http://www.economist.com/opinion/displaystory.cfm?story_id=8888856.

18 | See http://web.amnesty.org/pages/economist-response-index-eng

19 | The Revised charter allows a ratifying state to accept the supervision of its obligations by the procedure provided for in the Protocol.

20 | For details see Harris a Darcy [2001]. Currently such complaints can be lodged against Belgium, Bulgaria, Croatia, Cyprus, Finland, France, Greece, Ireland, Italy, Norway, Portugal, Sweden, and Slovenia.

21 | See e.g. ERRC v Italy (complaint no. 27/2004),

conditions of work,[22] the right to strike[23] etc.

A similar mechanism has developed in the International Labour Organization. The Committee on Freedom of Association was established in 1951 for the purpose of examining complaints about violations of freedom of association, whether or not the country concerned had ratified the relevant conventions. Complaints may be brought against a member state by employers' and workers' organizations. In over 50 years of work, the Committee has examined over 2,500 cases.[24] This has enabled the Committee to build up a substantive body of principles on freedom of association and collective bargaining. Even though the scope of the rights that the Committee can examine is very limited, a clear advantage is that any country (member of the ILO) can be targeted notwithstanding whether it had ratified the relevant treaty.

Nevertheless individual victims of ESC rights violations need not be completely powerless. Often overlooked mechanisms for human rights protection are the so called UN Special Procedures.[25] These are special country or thematic mandates established by the Human Rights Council. A current list of mandates includes: Special Representative of the Secretary General on human rights and transnational corporations and other business enterprises, Independent expert on the effects of economic reform policies and foreign debt on the full enjoyment of human rights, particularly economic, social and cultural rights, Independent Expert on the question of human rights and extreme poverty, Special Rapporteur on the right to food, Special Rapporteur on the right to health, Special Rapporteur on adequate housing, Special Rapporteur on the right to education.[26] The last four of these mandates are able to receive information on specific allegations of human rights violations.[27] They are able to act on the complaints by sending urgent appeals to the governments if appropriate.[28] Alternatively if they have received more complaints or information on a structural problem they usually send a letter of allegations. These mechanisms work on a confidential basis. Nevertheless the communications and replies by the government are summarised in public annual reports of each individual expert. In 2006, more than 1,100 communications were sent to Governments in 143 countries by all the special procedures.[29]

Despite the deficiencies of current legal mechanisms for the protection of ESC rights, there are many examples of their successful litigation. For example the Council of Europe lists many issues within each member state that were improved following a decision of the European Committee of Social Rights and to which the decision reportedly contributed.[30] Yet, even more effective are domestic mechanisms where ESC rights claims often result in binding judgments. It might be useful to give several examples.

In South Africa the Constitutional court in the case of Treatment Action Campaign[31] ordered the government inter alia to „permit and facilitate the use of Nevirapine for the purpose of reducing the risk of mother-to-child transmission of HIV and to make it available for this purpose at hospitals and clinics" and to „make provision if necessary for counsellors based at public hospitals and clinics other than the research and training sites to be trained for the counselling necessary for the use of Nevirapine to reduce the risk of mother-to-child transmission of HIV". The case concerned the policy of government where it allowed the use of Nevirapine, which considerably lowers the risk of mother to child HIV transmission, only in several public hospitals. Another case of Khosa[32] concerned a legislation that excluded permanent resident foreigners and their children from access to social assistance benefits. Here the South African court simply held that the relevant passages of the Social Assistance Act referring to citizens must be read as including permanent residents as well.

A long line of ESC-rights-friendly case-law has been developed by the Supreme Court of India since around

22 | See e.g. Confédération générale du travail (CGT) v. France (complaint no. 22/2003), where the Committee held that the French system of assimilating "périodes d'apeinte" to rest periods constitutes a violation of Article 2§1 of the Revised Charter (the right to just conditions of work). The "périodes d'apeinte" are time during which the employee has not been required to perform work for the employer but during which the employee is obliged to be at the disposal of the employer with a view to carrying out work, if the latter so demands. The Committee noted that „this obligation, even where the possibility of having to carry out work is purely hypothetical, unquestionably prevents the employee from the pursuit of activities of his or her own choosing." Consequently, they cannot be deemed to be rest periods.

23 | E.g. in European Trade Union Confederation (ETUC), Confederation of Independent Trade Unions in Bulgaria (CITUB), Confederation of Labour "Podkrepa" (CL "Podkrepa") v. Bulgaria (complaint no. 32/2005) the Committee held among other that „the general ban of the right to pike in the electricity, healthcare and communications sectors (Section 16 (4) of the Collective Labour Disputes Settlement Act) constitutes a violation of Article 6§4 of the Revised Charter (the right to pike).

24 | Digest of decisions of the Committee on Freedom of Association - Fifth (revised) edition, 2006, p. 3. (http://www.ilo.org/ilolex/english/23e2006.pdf).

25 | See generally Gutter [2007]

26 | See Appendix I to the Annex of the Resolution of the Human Rights Council No. 5/1: Institution-building of the United Nations Human Rights Council (UN Doc. A/HRC/5/21, 7 August 2007, p. 31-32).

27 | http://www.ohchr.org/english/bodies/chr/special/communications %20english.pdf

28 | See http://www.ohchr.org/english/bodies/chr/special/communications.htm.

29 | http://www.ohchr.org/english/bodies/chr/special/index.htm

30 | See http://www.coe.int/T/E/Human_Rights/Esc/5_Survey_by_country/. For example concerning France the lists includes issues like extension of the prohibition on employing children under 15 in family businesses in the agricultural sector, Incorporation of the recommendations of the International Commission for Radiation Protection ICRP) on dose limits for workers exposed to ionizing radiation, Repeal of the provisions of the Criminal and Merchant Marine Disciplinary Codes authorizing penal sanctions for disciplinary offences committed by seafarers where neither the safety of the vessel nor the life and health of those on board were endangered, Right of a female employee who is pregnant or on maternity leave and who is dismissed in contravention of the Labour Code to apply to be reinstated in her former post, etc.

31 | Minister of Health v. Treatment Action Campaign, CCT 8/02, judgment of 5 July 2002. For details of the case see Woods [2003], p. 786 nn.

32 | Khosa and Others v Minister of Social Development, CCT 12/03, judgment of 4 March 2004.

1980.[33] In the case of Samity, [34] a man fell of an overcrowded train but was subsequently refused treatment in seven state hospitals. Consequently he was treated in a private hospital, where he had to pay the full price of the treatment. The Court while finding a violation of the Constitution ordered the state inter alia to ensure that „adequate facilities are available at the Primary Health Centres where the patient can be given immediate primary treatment so as to stabilize his condition; Hospitals at the district level and Sub-Division level are upgraded so that serious case can be treated there". In the case of Consumer Education and Research Centre, [35] concerning a protection of health of workers in an asbestos factory, the Court ruled that: "The State, be it Union or State government or an industry, public or private, is enjoined to take all such action which will promote health, strength and vigour of the workman during the period of employment and leisure and health even after retirement as basic essentials to live the life with health and happiness".[36] To this end the Court ordered several measures including "all the factories whether covered by the Employees State Insurance Act or Workmen's Compensation Act or otherwise are directed to compulsorily insure health coverage to every worker" or that „the Membrane Filter test, to detect asbestos fibre should be adopted by all the factories".[37] In another, still ongoing case of People's Union for Civil Liberties the Court considered the question of the right to food.[38] An NGO People's Union for Civil Liberties approached the courts in the context of catastrophic drought where millions of people were suffering from lack of food.[39] That despite the fact that the government held sufficient quantity of emergency food reserves for cases of famine that they refused to distribute. The Court in several interim measures ordered the state inter alia to distribute adequate food to old, disabled and poor persons who are not able to secure food by their own means.[40]

In the Czech Republic any ESC rights litigation has not been so far very successful. Rights in the Covenant on Economic, Social and Cultural Rights are largely considered by the government as unjustifiable.[41] ESC rights in the Constitution are considered enforceable only to the extent of executing legislation.[42] On the other hand, the Constitutional court stressed that the executing laws must respect the essence and purpose of the rights.[43] Despite that any social rights litigation even that based solely on the executing legislation is very rare.[44] Regarding workers rights the usual problem is unwillingness of people to enforce them as they fear losing the job or being considered as troublemakers and consequently being unable to find a job. To overcome this obstacle, a very useful tool would be some sort of actio popularis when e.g. NGOs could file lawsuits on behalf of anonymous victims. This instrument is however so far lacking in the Czech legal order.

More successes have been achieved in cases of discrimination in access to employment. In several cases courts ordered financial compensations to Roma job applicants that were refused employment because of their ethnic origin.[45] In these cases, in conformity with EU directives, the burden of proof rests on the defendant who must prove that no discrimination is present.

Nevertheless adjudication is not the only way how human rights can contribute to better social protection. Indeed, it might be argued that it is not even the most preferable way. More structural improvement and utilising human rights with larger effects can be realised by human rights mainstreaming. Mainstreaming is a very modern and popular world. In one local Indonesian language human rights mainstreaming is translated as „the great river of human rights keeps flowing". In essence it means that human rights concerns are present in the process of formulating any activity, plans, policies, which could have an impact on human rights.

Human rights are a very useful tool that can be used as a benchmark for evaluation of policies and practices. There are human rights standards in many controversial areas of economic and social life. It is no longer true that ESC rights are less clear than civil and political rights. With many mechanisms for their protection they have been clarified into some detail. These standards might be utilised in a social advocacy. By using a human rights approach advocates of a particular position will be much harder to be refused. After all they will be using worldly or regionally recognized standards that the state has agreed upon.

■ Human Rights Obligations of Non-state actors

International human rights law does not currently place human rights obligations on non-state actors. In other words

33 | For useful background of this approach of the Supreme court see Muralidhar [2006], p. 240.
34 | Paschim Banga Khet Mazdoorsamity v State of West Bengal, 6 May 1996.
35 | Consumer Education & Research Centre v Union of India, 27 January 1995, paragraph 26.
36 | Para. 26.
37 | Para. 33.
38 | People's Union for Civil Liberties v Union of India (Writ Petition [Civil] No. 196 of 2001).
39 | This strategic litigation is part of a broader campaign for the right to food (see www.righttofoodindia.org).
40 | People's Union for Civil Liberties v Union of India, Interim Order of May 2, 2003.
41 | CESCR, Concluding Observations: Czech Republic, 5 June 2002, para. 8. There is not enough space here to contest that claim, which I would definitely do. It is just to illustrate the weak position of social rights and especially their perception in the Czech legal order.
42 | Art. 41 of the Charter of Fundamental Rights and Freedoms (Listina základnìch práv a svobod).
43 | Pl. ÚS 35/93, Decision of 15 February 1994.
44 | An interesting case based directly on constitutional rights is currently pending before the Constitutional Court. A question is whether the current health reform introducing fees for doctor visits is in conformity with article 31 of the Charter that guarantees „free medical care under public insurance scheme".
45 | E.g. in a case against Rossmann, the company was ordered to apologize and pay 50,000 CZK as a just satisfaction (http://romove.radio.cz/cz/clanek/19811). Another case where the private company expressly gave the Roma job applicant in writing a reason for refusal as „being a Roma" ended in a friendly settlement and payment of 200,000 CZK of just satisfaction (http://www.poradna-prava.cz/pripad_kuchyne.htm).

states are the exclusive obligation holders.[46] The situation is similar in many national jurisdictions.[47] This causes some problem as especially ESC rights "violations" are often perpetrated by private persons. Nevertheless, as a matter of international law states are obliged to respect, protect and fulfil human rights. By protecting is meant that they must take adequate steps to protect persons from violations of their human rights by other private persons. This obligation includes first of all enacting appropriate legislation that prohibits human rights violations by private persons and effective enforcement of such legislation. Currently a major debate is going on whether such a situation is adequate. The controversy concerns mainly transnational corporations.

Globalization allows transnational companies (TNC) to grow to such an extent that their turnover is larger than GDP of many states.[48] This gives TNCs considerable power against states in which they operate.[49] This poses a big problem as human rights enforcement relies on a state. In situation when states are less powerful than some TNCs a significant problem arises. Simply the host states are often too weak to regulate the conduct of TNCs. There are three possibilities how to counter this situation.

Firstly, TNCs could self-regulate themselves by adopting corporate code of conducts that include ethical standards of behaviour ruling out human rights violations.[50] This idea is part of a broader issue of corporate social responsibility. In my view, this is however a dubious strategy. Corporations' aim is solely to achieve profit and so if something is not instrumental in this aim, as higher labour standards involving costs; it is naïve to expect big depersonalized TNCs to adopt such measures. It might be said though, that there is some evidence that ethical behaviour has a positive impact on customers, which in turn could raise revenues.[51] Nevertheless such a strategy, to have an impact, requires a considerable concerted effort of millions of customers, which is not easy to achieve. Indeed as McCorquodale observes: "…consumers can be inconsistent in their concerns about human rights issues and the record of TNCs has been patchy at best."[52] Moreover this strategy can arguably work only with TNCs producing final products for consumers. Also with those companies that already subscribed to some conduct based on social corporate responsibility there is growing evidence that the obligations are not observed diligently but only in situations where it is profitable for the company.[53] Therefore what is needed, in my view, is to establish much closer and direct link between human rights violations and loss of profit. This can be done by internalizing the costs of human rights violations by making corporations pay for them.[54] This brings us back to the enforcement of human rights.

Enforcing human rights is also possible in home states. Most of the TNCs have parent companies in developed states like USA, Australia or member states of the EU.[55] These states have far more power and possibilities to hold TNCs accountable. Although, there are currently many problematic issues, especially question of jurisdiction (both proscriptive and enforcement), it is one of the possible solutions that could be effective.[56] Quite well known are several cases from the USA where some claims were successful.[57]

Last option is to place international human rights obligations directly on TNCs. There are many attractive aspects of this solution. It would effectively resolve a part of the problem of 'race to the bottom' because TNCs would be subject to the same human rights regulations all over the world. It would also promote universality of human rights. Nevertheless there is at least one serious problem to this solution. It does not solve the problem of enforcement. Universal system of human rights law does not currently have any effective enforcement mechanism. Therefore even if TNCs would have international human rights obligations, there is currently no mechanism how they could be enforced. Nevertheless it might be the best solution for the future. Martin Scheinin,[58] who is a well-known supporter of an International Court of Human Rights,

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46 | There are some arguable exceptions but this is the rule.

47 | So it is in the Czech Republic or Germany. See the decision of the Czech constitutional court No. I. ÚS 185/04. For Germany see Brinktrine [2001].

48 | Already in 1998 of the 100 largest economies in the world, 51 were global corporations (Amnesty International, AI on Human Rights and Labor Rights', in: Lechner a Boli (eds.) [2000], p. 187.

49 | McCorquodale gives example of an Australian TNC that was able to influence lawmaking in Papua New Guinea to protect it from legal challenges to its activities. (McCorquodale [2002], p. 98).

50 | There exist a few international standards: International Labour Organisation Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy, Organisation for Economic Cooperation and Development Guidelines for Multinational Enterprises and UN Global Compact (for links see http://www.law.monash.edu.au/castancentre/projects/mchr/intl-law-norms.html).

51 | See McCorquodale [2002], pp. 108-113. Shelton notes: "Pressure from international and national groups, as well as perceived long-term interests, have led many companies to take up the issue of human rights. A survey by the Ashridge Centre for Business and Society found that human rights issues caused more than one in three of the 500 largest companies to abandon a proposed investment project and nearly one in five to divest its operations in a country." (Shelton [2002], p. 317).

52 | McCorquodale [2002], p. 112.

53 | see Identified problems with CSR, http://www.responsibility.cz/index.php?id=48.

54 | A strategy well-known to environmentalists that have been for long calling for internalizing negative environmental impact of corporation activities (in economic terms so called negative externalities').

55 | For the possibilities to sue TNCs in the EU under EU law see de Schutter [2002].

56 | For a closer evaluation see McCorquodale [2002], pp. 99-105.

57 | Famously in 2004 Unocal Corporation settled and paid compensation in a landmark human rights lawsuit that accused the energy company of being responsible for forced labour, rapes and a murder allegedly carried out by soldiers along a natural gas pipeline route in Myanmar. (see http://www.ccr-ny.org/v2/reports/report.asp?ObjID=qTibXn0SKu&Content=558). For details of the US lawsuits see Vázquez [2005].

58 | He is currently the United Nations Special Rapporteur on the Protection and Promotion of Human Rights and Fundamental Freedoms while Countering Terrorism.

advocates also the idea that TNCs would be subject to its jurisdiction.[59]

Recently, there have been some activities in this direction. The UN Human Rights Norms for Corporations were drafted by the Sub-Commission on the Promotion and Protection of Human Rights.[60] Unfortunately the Norms triggered an enormous opposition from TNCs. Consequently the work on the Norms has been abandoned due to request of western states who were extensively lobbied by TNCs.[61] Therefore there is not much chance of any progress in near future.

■ Conclusion

As a way of conclusion, I would claim that human rights are particularly well suited for protecting social and economic interests of the vulnerable groups in the society. Human rights are "trumps" over any consequential calculations.[62] They are checks on the means one can employ in pursuing his or her goals, be it economical or any other. Consequently, human rights are aimed exactly at protecting people from certain disadvantaged background – be it poor people, old people, less educated, belonging to ethnic minority etc.

I believe that legal protection of ESC rights is still much uncharted water. In any campaign promoting justice[63] a joint effort is needed. There are many ways how human rights lawyers can be useful. Violations of ESC rights are violations of human rights and thus human rights approach to the problems is a natural option.

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59 | OHCHR Forum on Treaty body reform: http://portal.ohchr.org/tbforum/mvnforum/viewthread?thread=981.

60 | See the work of the Sub-Commission on the Promotion and Protection of Human Rights on Norms on the responsibilities of transnational corporations and other business enterprises with regard to human rights (E/CN.4/Sub.2/2003/12/Rev.2, 26 August 2003). For a detailed evaluation of it see Backer [2006] and Kinley a Chambers [2006].

61 | See Kinley a Chambers [2006].

62 | Dworkin [1984]

63 | Sometimes referred to as "social justice".

Social Movements and contention: an exploration of the implications of diachronic and synchronic change

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The idea of creating a difference, of enabling social change, is crucial to the KATARSIS project. KATARSIS employs the idea of 'social and cultural strategies' counterpoised against the 'dynamics of social exclusion' as a way of expressing how the asymmetry of power identified in the process of capitalist domination can be challenged. The forms of capitalist domination based upon regulation theory and the work of Bob Jessop and David Harvey have been outlined in the paper by Andreas Novy et al, which is the fundament of this seminar. Regulation theory has been criticised for presenting an analysis of capitalism which, while it updates the analysis of Marx, can also appear to demonstrate that capitalism is capable of significant levels of sophisticated adaptation in developing forms of regulation enabling the modes of exploitation and surplus value extraction to continue: it is a bleak analysis. The KATARSIS project can be seen as a step to develop the analysis of regulation theory but also to also give conceptual and theoretical recognition that the trajectory may not be so bleak.

This paper explores the possibility of using some of the terminology developed in social movement theory to help understand and evaluate the emancipatory prospects of social and cultural strategies. In particularly it explores the relationship between the historical dynamics of diachronic and synchronic social change with a view identifying how social and cultural strategies may challenge or be in 'contention' and can perhaps be seen to move from being in 'contained contention' to being in 'transgressive contention' . (Macadam et al 2001) Melucci (1996) writing in the tradition that can be broadly described as new social movement theory, usefully explores the relationship between diachronic and synchronic change, suggesting that the prospects of replacing capitalism historically, diachronically and radically, in a short revolutionary period of time and across a significant number of countries is no longer possible, but that capitalism and the effects of its international market can be contended synchronically meaningfully and in the present time. He stresses codes and the use of language in achieving this change which has limitations, but the presentation of the case in this way is useful to the argument of this paper. For example, David Harvey has recently produced a new work (2007) exploring the roots of neo-liberalism as an idea and providing significant evidence about how it has been developed and employed by capitalist states and parties of the right since the late 1940s. It is an excellent and much needed work, but the alternative is not clear and like much of similar analysis it implies that the market has to end. But is this, as Melucci suggests even possible or even desirable? A difficult thought, which will be returned to at the end of the paper.

The left–right political tradition of the C20 is essentially about who has political, social and economic power to influence the dynamic and trajectory of society. Control over the 'commanding heights of the economy' 'to control for the workers the full products of production, distribution and exchange' require the use of political power to take control of economic assets within a defined but large as possible territory. This is the historic and diachronic project. It is a question of the balance of class forces and politically organising to be able to mobilise as many as possible behind the project to 'generalise the struggle'. How to mobilise for historically different social change is the key debate in parties and organisations of the left and the key differences between the socialist and communist internationals. The works of Lenin and Trotsky are fine examples of what this debate involves. But the issue of mobilisation also affects more day to day practise. Debates within the trade union movement often revolve around the possibility of strikes and generalised action and the narrative of resource mobilisation theory is based upon the assumption that a social movement is going forward when it can generalise the mobilisation and is in abeyance or retreat when this is not possible. The effective repertoire of action is mobilisation to achieve diachronic change.

For the left based on this tradition, synchronic change within capitalism is associated with reformism, compromise or worse, class collaboration. To advocate it is to actually disarm and undermine the prospect of mobilisation and mass action and the disaster of the Second International in 1914 is looked to as an example of how parliamentary reformism fails to challenge the capitalist state when the time is right. Eduard Bernstein is seen as the main theoretician of this debacle. For a revolutionary analysis synchronic change is a defensive manoeuvre something which is resorted to preserve party and other organisations when the balance of forces are not right for mobilisation. It is contained contention and cannot become transgressive, using the Macadam et al (2001) terminology. But is it possible for synchronic change to break out of this political dead end?

For the right who have political and especially economic power and those who wish to defend capitalism and

the market, partial and synchronic change is to their benefit and fits with laissez faire theory, free market action and the laws of comparable advantage. Social movements of the right are fine examples of synchronic or limited change. They are defensive of the status quo and usually of some of privileged position. Recently in the UK there was a mass mobilisation against the proposed laws to make it illegal to hunt with dog packs. The Countryside Alliance led the campaign and quickly started to defend 'our' culture against the 'prejudice' of others who do not understand country ways such as lefties and urban dwellers. 'Our' culture arguments have some pretty far right implications and sure enough fascist organisations such as the BNP (British National Party) started to take up the call. Many involved with the Countryside Alliance are now central to the anti-wind farm case, attacking the intimidation of the green left. So not only is a synchronic repertoire associated with reformism and at worse, defeatism, it can also be close to the same tactics used by defensive organisations of the right. Clause Offe in his seminar work on social movements (*) recognised this tension well twenty years ago but also suggested some ways forward.

Over the last 7 years in WIRC (Wales Institute for Research into Cooperatives) we have consistently researched and been exposed to organisation created by people who have decided that they cannot wait for whole social change or others to sort out their problems for them and have taken forms of direct action. Recently we have researched closely two seemingly diverse situations: a fight against job loss in a coal mine and young peoples' street music. In both these situations working class people took direct action to take back some power over their lives and address the problem facing them (Arthur et al 2006). In the coal mine it was job loss which was defeated by taking ownership of the colliery through a worker controlled cooperative. In the case of street music it was a case of young people developing their own music and creating their own space for performance, again through forms of control which enabled them to retain the power and initiative. Over and again in our research on cooperatives and social enterprise this is the initial pattern, but then once in power and the originating problem is under control more possibilities open up and trajectories that were not thought of become possible. It is at this stage that organisations can enter into a cycle of degeneration or active renewal where the contention can remain contained or become transgressive: it is this process that we suggest needs more theoretical and conceptual attention. A recent paper of ours, 'Where is the social in social enterprise?' (2006), explores these issues in depth and in this paper we would like to take the thinking a little further.

Drawing upon new social movement theory (Melucci 1996; Beuchler 1999; Crossley 2002) the work of radical geographers (Pickerill and Chatterton 2005; Williams 2002; Harvey 2001) and political theorists of direct action (Hahnel 2005, Holloway 2002, Bond 2004; Albert 2006) we would suggest that understanding synchronic change requires the use of concepts that explore emancipation through autonomous social space and boundaries. Autonomous social space requires a boundary that is sufficient to sustain economic, political, social and symbolic capital as power resources (Bourdieu 1977; Mouzelis 1995) to the extent that they can shut out or modify the power of the forces of domination such as capital and the market. In the case of the colliery cited above it the boundary was framed by land ownership and coal contracts; in the case of music it was less defined but framed by involvement and performance; and in the case of a potentially mobilising organisation like a trade union, it can be framed by negotiated agreements and independent trade union organisation. Within the boundary the extent to which the capital and power resources are used for different and alternative values and actions will depend on issues such as power distribution through the structure of social relations and democratic structures; aims, values, objectives and strategies; forms of leadership; ownership and the distribution of the financial resources etc. In fact all the issues that are identified in the analysis of organisations political parties, trade unions and social movements come into play. The key conceptual and theoretical issue here is that as a certain of amount of power resources have been taken over by those who participate in the autonomous space it is not inevitable that the space will degenerate or its contention remain contained just because it continues to survive within a capitalist market economy, the extent the emancipation and autonomy remains depends on the politics and the social relationship of those who 'own' the space. Degeneration is not necessarily a foregone and contingent necessity. The focus of analysis should be on bringing to light the dynamics within the space and not categorising the space as a certain type of organisation. The struggle continues within.

The struggle within is a process and dynamic and we have tried to capture this process and the resultant trajectory of the social space as contained or transgressive contention through two terms: deviant mainstreaming and incremental radicalism. Through deviant mainstreaming we are trying to give recognition to the possibility that emancipated and autonomous organisations that have come into existence synchronically, whilst capitalism and the market remain in existence, can survive and remain in contained or transgressive contention. It is possible to be deviant in the sense of challenging and being in contention, whilst also finding a way of surviving in the mainstream. It clearly requires constant work and attention by those who are members of the organisation and we discuss the relationship between contained and transgressive a little more later, but actually giving a name to the process may help to both identify that it happens and help prevent the potential of synchronic repertoire being obscured by mobilisation dominated discourses over reform or revolution. It is also quite humorous! In our case study organisations the colliery increased employment, had the best pay and conditions in mining, retained a very accountable and democratic process and purposively reached out to the community and others interested in following their example. In the street level music case they kept their overheads low so they would not be dominated by chasing grants and could keep control over their own and collective controlled creative agenda.

We address this issue more widely in relation to social enterprises in the paper 'Where is the social in social enterprise?' (Arthur et al 2006) Although the boundaries involve compromises the organisations consciously and transparently had a contentious trajectory which kept in check aspects of degeneration – they were deviant mainstreaming.

In relation to incremental radicalism we are attempting to capture a process where synchronic change and contained contention can start to move toward being transgressive contention and have features that would be recognised by resource mobilisation theorists. With this concept we are suggesting that if organisations can practise deviant mainstreaming, if their numbers increase, if they network and inspire others, more space becomes emancipated and the social movements start to move toward being in transgressive contention and more widely challenging of the processes of domination. In a sense synchronic change starts to also become diachronic change. Gibson Graham (2006) see emancipation occurring in this way through a diversity of initiatives. Networking is not essential and they have a divers understanding of emancipation and would be critical of the concepts of contained and transgressive contention as requiring a more universal and meta-narrative of capitalism than they are willing to use. Others, such as Bond, Holloway and Albert (op cit), would frame the extent of contention within the context of an analysis of capitalism and focus attention more clearly on the aims, objectives and actions of organisations introducing the concept of 'transitional' demands or actions – in their terminology non reformist reforms - as a condition for recognising that transgressive contention is taking place. Exploring the possibilities of emancipated and autonomous space becoming incrementally radical requires some further consideration of the relationship between these social movement organisations, their values, aims and actions and how they may transgressively contend domination. At this point of the discussion it is clear that it is difficult to separate an evaluation of being incrementally radical and transgressive from an understanding of the dominant and contextual social forms and issues that are being contended. In this context, we return to social and cultural strategies and how, using the concepts explored here, they may be seen to be in transgressive contention of the forms of capitalism outlined in Andreas Novy et al.

The logic of the concept of being 'transgressive' implies an understanding of what is being transgressed. In the case of KATARSIS and the paper by Andreas Novy et al it is being suggested that it is possible to identify and sustain a meta-narrative that is a systematic and integrated criticism of capitalism as a world system. In this context it then becomes possible to evaluate the extent to which social movements can be in contention with this system either in a contained or transgressive way. It is also possible to identify which social movements are supportive of capitalism and which are in contention. This may seem a self evident statement but following the post modern attack on meta-narratives it remains contentious (Callinicos 1989). Gibson Graham (2006) for example, remain critical of the usefulness of such approaches. The concept of a transitional demand or action is particularly helpful in making the connection between the aims, values and actions of synchronic social movements, deviant mainstreaming, incremental radicalism and emancipated spaces being in transgressive contention. A transitional demand or action is one that can attract legitimate support within an existing context but its fulfilment starts to require a systematic change in the process of domination. Public control of an industry under workers control for example would challenge the free market of capital and private property, reduce investment opportunities, help to ensure the surplus is used for social ends and not profit of high salaries, substitute top down bureaucratic management with one based upon bottom up democracy and make a contribution to the redistribution of wealth. There are clearly historical problems with nationalised industries but as an example the point can be made. Within the context of the type of social movements discussed in this paper, movements such as fair and ethical trade can be seen to be modifying the operation of the market; collective action to reduce carbon production say through car cooperatives and cooperative wind generation challenge notions of private ownership and raise question of use value as opposed to exchange value; trade unions help to ensure a return of some of the revenue to labour and put the human being back into the role of being labour or a simple human resource; in our example of the mine cooperative and the street music organisations they are examples of emancipatory values being put into practical operation which reduce the space of the capitalist dominated market. Of course, the criticism is that they are islands of socialism in a sea of capitalism and will ultimately succumb, but this paper is suggesting that this is not inevitable if the actions of these social movements are theorised in a different way.

But can capitalism really be challenged by these movements? Is this another version of reformism and the third way? This is where the argument comes back to the point about the market. From the perspective of a voluntaristic discourse it is clear that people in all countries participate in social and cultural strategies that are forms of direct action aimed at overcoming the problems that capitalism has created for them. This paper is suggesting ways that the process can be recognised in its own right but that it is also possible to give conceptual recognition as to how this direct action and the emancipated space that flows from them can be thought about as moving from contained contention to transgressive contention thereby providing some challenges to capitalism as a system. The answer in part involves the expectations that flow from our own analysis. If the neo-liberal capitalist market and resultant exchange value commodifying process is seen as being a key to understanding domination and exploitation does it also mean that only a diachronic change which involves a substitution of another system is the answer. Or is it possible for us as social scientist to use the analysis of capitalism in such a way that allows for incremental and emancipatory changes to take place, without condemning ourselves as reformists or supporter of the third way? The

experience of the Soviet Union and the debates of the Third International New Economic Plan come to mind! Finally, what the party political implications of such an analysis?

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Flood of FDI in CEE region

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■ Introduction

The new Member States of the EU find themselves in a completely unique situation. Starting in the mid 1990s, they initiated steps towards achieving membership in the European Community. Above all, these steps consisted in harmonising domestic legislation such that it would correspond to European Community standards.

The effort to create a stable business environment completely overlapped with the interests of multinational corporations in locating their production facilities in areas close to important target markets which also offered sufficient infrastructure and a cheap labour force. Thanks to these factors, since the end of the 1990s there has been a massive inflow of foreign investment, primarily by the large multinationals. In a fundamental way, these activities are changing (UNCTAD, 2005):

» the business environment
» the structure of society
» the nature of the physical landscape
» the quality of democratic processes
» Every year around USD 25 billion in Foreign Direct Investment flows into the CEE region.
» The share of foreign affiliates in each host-country is very high in the EU -10 (e.g., in Hungary - more than 50 %, Czech Republic 40 %).
» FDI changes social structures, the physical landscape, and the whole economic climate (there were 1 873 greenfield FDIs during 2002 -2004 in the EU – 10).

■ Corporate takeover of governments

New EU Members States are experiencing Korten's claim that „In the 1980s capitalism triumphed over communism. In the l990s it triumphed over democracy" (Korten, 1999). Every year around $25 billion FDI flows into The CEE region (UNCTAD, 2005). The Czech Republic is economically dependent on large companies: 70 companies create 40 % of GDP (Fragmenty, 2005). Countries pander big investors and don't hesitate to breach law in favour of corporations. There is no public debate on alternative solutions.

■ Culture of passivity

The CEE region is still striving to free itself from its communist legacy. During the totalitarian regime, citizens learned not to be active. To be active in the regime meant either active collaboration with the regime or being actively dissident. With no chance for real participation, people took no interested in public affairs and concentrated on themselves and their immediate families. One well documented result is that citizens expect solutions to come from 'above'. Politicians still believe only they have the mandate to decide. FDI provides an 'easy fix': by inviting foreign investors to employ people, problems are fixed in the short term. In the longterm it does not create a stable solution:

a) By supporting and encouraging a passive citizenry, democracy does not evolve
b) By changing the character of the domestic economy, it becomes increasingly reliant on corporations, with little room left for independent enterprises (in particular SMEs, which provide the bulk of jobs in most economies)
c) Politicians actively cooperate with the private sector in a non transparent manner: in doing so they promote the interests of corporations at the expense of public interest. (The Czech Republic has 'earned' 47th place in the Transparency International Corruption Perception Index.)

Open discussion on general social issues, so typical and necessary for democracy is still considered 'impertinent'.

■ No transparency and genesis of oligarchy

A public sector culture of graft and non-participatory decision making is married to powerful corporate interests. GARDE – EPS has shown how FDI investments, promoted by the state as 'beneficial' to the public, have involved massive misuse of public funds. Political parties do not have any interest in changing this marriage of convenience, and the door to the decision making bedroom remains shut. The public authorities do not protect the public interest according to the laws, but instead work according to political agenda formed in very non-transparent manner. Influential private interests thus gain priority over the public interest, most notably in the area of the environment and human rights. Both administrative and court procedures can as a result be acted out, with the real decision having been made beforehand, and with no possibility for public input. The situation is broadly similar on a regional, national and local level, the result is a culture of continued low participation in public decision making and disregard of the public as a stakeholder in decision making. An ability to monitor lobbying by private concerns is thus an important factor in any discussion on transparency.

Examples:

a) Statutory Town of Most has concluded an agreement with Nemak Europe, s.r.o. on March 26th 2003 on mutual cooperation. Most undertakes to perform everything possible so that Nemak has all standpoints, consents, permits from the state or local authorities issued in time.
b) The purchase agreement concluded on September 14th 2000 between the Town of Hranice and Philips Displays Components Česká republika, s.r.o. contains a binder by Hranice to provide Philips all Essentials cooperation for obtaining all necessary zoning rulings and building permits.
c) There was an Arrangement of understanding signed on February 12th, 2002 between the Town of Kolín and investors Toyota Motor Corporation and Peugeot Citroën

automobiles, S.A., where in art. 4 Contact 16 Person, Schedule, it is defined that the at time the mayor as well as the town councilman of Kolín were appointed as contact persons undertaking to expand all efforts for obtaining, implementation and completion

d) of the common investor endeavour project in the industrial zone and for this purpose they will closely cooperate with the investors and the respective local and state authorities until its completion

e) Investment agreement was concluded on May 18th 2006 between Hyundai Motor Company and Town of Kolín, represented through 5 ministries, CzechInvest agency and Moravia-Silesia Region. The Czech parties in the agreement declare that they will provide the investor with a cooperation and project support and undertake to appoint the key coordinators, so that the realization of the project by the investor can be initiated as soon as possible and the project could properly and promptly continue according to the presumed time schedule and hence the construction of the plant in the industrial zone be successfully completed.

CASE STUDY: NEMAK'S INVESTMENT IN HAVRAŇ

■ Circumstances of the Case Establishing a Conflict of Interest

Government Resolution in favour of Nemak

Through its resolution No. 735 of July 18, 2001, on facilitating investment preparation of the Most - Havraň industrial zone for the planned project of Nemak Europe s.r.o. (hereinafter "Nemak"), the Government of the Czech Republic supported the aforementioned company's investment in an aluminium heads plant for car engines. In the aforementioned resolution the Government recommended to the Minister of the Environment and other officials, in the subsequent statements, proceedings and administrative decisions within their powers "to take into consideration that the site concerned was selected from a number of proposed and examined locations all over the country and best-fitted both the socio-economic criteria forming an object of public interest in restructuring the Czech industrial base, the regional employment issue, rational use of the transportation, technical and civic infrastructure and the requirements of Nemak Europe s.r.o.".

Through the above Government Resolution, the placement and support of the Nemak project was essentially decided beforehand in spite of its not very sensible placement in an area unaffected by brown coal mining and amidst the region's last remaining prime agricultural land, given that an industrial zone on the land of the nearby demolished villages of Komořany, Třebušice and Ervěnice had been selected for similar projects in 1993. A motorway bypass around the town of Most to be connected to the zone was built for this purpose. The constructions in the originally selected industrial zone would have been easy to connect to the existing infrastructure. In Havraň on the other hand, 5 kilometres of infrastructure had to be laid, costing over CZK 60 million, coming from tax payers' pockets. Moreover, in the same year the Czech Government approved extensive public investment in the creation of an industrial zone with an area of 350 hectares near Žatec, situated mere 10 kilometres away, on the site of a former airport, a relatively acceptable location from the environmental point of view. Regardless, a decision was made on placing the Nemak project in Havraň. Apart from the relevant change of the municipality land-use plan, which had not considered any industrial zone until then, agricultural land had to be removed from the Farmland Register. This was "provided for" by the Ministry of the Environment, which agreed the removal without considering placement of the Nemak project in any other location, more suitable from the environmental point of view and from the point of view of farmland protection, in spite of being tasked with doing so by the law. Thus instead of a professional assessment, the Ministry of the Environment in fact complied with the "recommendation" of the Czech Government. Extending through the subsequent proceedings concerning the permitting of construction of the aluminium heads plant for car engines, the said unlawfulness was accompanied by additional unlawful conduct. (For more on this please refer to point C.)

Agreement on Co-operation

On March 26, 2002, the Statutory Municipality of Most concluded an Agreement on Co-operation with Nemak Europe, s.r.o. In the Agreement the Most Municipality declares an intention to "create new jobs in the Most region as well as the best possible grounds for modernisation and development of the municipality's economic base and prosperity." (Clause 3, Preamble).

Pursuant to Art. 1.1, the object of the Agreement is to determine conditions for a joint approach of the Parties in implementing the Nemak Most-Havraň industrial zone project, in particular the creation of conditions for the construction and subsequent operation of a Centre for car component manufacture (i.e. the Nemak aluminium heads plant for car engines), consisting in particular in the provision of suitable land for the placement of the Centre for Car Component Manufacture, furnishing the aforementioned land with infrastructure, removal of the land from the Farmland Register and co-operation of the Most Municipality with Nemak in proceedings concerning the construction of the Centre for Car Component Manufacture and in its operation.

Furthermore the parties to the Agreement agree according to Art. 3.1. to provide each other with "all coordination in obtaining all the required consents and permissions for construction" of the individual stages of the Centre, in particular the relevant zoning and planning permissions and building permits, where the Most municipality "agrees to use its best efforts to ensure that all the necessary statements, consents and permissions of government or self-government bodies are issued for Nemak." For these purposes Nemak shall issue the required powers of attorney for the Most Municipality.

Other obligations of the Most Municipality are stipulated in the following articles of the Agreement: the municipality shall furnish the land with technical infrastructure at its own cost pursuant to Art. 4.1., the municipality shall build a service road at its own cost providing for the connection of the

Nemak plant to road No. 27 pursuant to 4.2., the municipality shall be bound to perform its obligations precisely pursuant to the agreed schedule under the threat of a contractual fine of CZK 100,000 for every day of delay pursuant to Art. 4.3., the municipality agrees to ensure establishment of public transport within 90 days of a request made by Nemak in accordance with the needs of and instructions from Nemak.

We maintain that the above-stated provisions of the Agreement on co-operation in themselves have established prejudice of the Most Municipal Council officers involved in the permission procedures for Nemak. In addition the Most Municipality agrees to inadmissibly intervene in the administrative procedures, i.e. to influence the work of public bodies for the purpose of performing its obligation towards the private company of Nemak, with respect to the issuing of the required permissions and consents and the zoning and planning permissions and building permits.

Sale of land for a preferential price and investment of the Most Municipality in the Joseph Zone

The Most Municipality sold land in its ownership with an area of 305,479 m^2, worth CZK 65,372,481 (according to an expert report) to Nemak for a symbolic price of CZK 1/m^2, i.e. for CZK 305,479. Thus the municipality of Most provided state aid worth about CZK 65 million to Nemak. Had the Most municipality not been directly and considerably interested in implementing the Nemak plan, it would never have acted in this manner.

The construction site of the Nemak plant is directly connected to the infrastructure and a wastewater treatment plant built by the Most Municipality as the developer of the industrial zone for the investor and the Joseph Zone who invested CZK 255,354,000 in the infrastructure, of which CZK 75,987,000 were subsidies from the public budget. Thus the construction of the Nemak plant directly applies to (the use of) the property of the Most Municipality, and property gains or losses of the Most Municipality are given by the construction.

The fact that the Most Municipality has an extraordinary and direct economic, political and social interest in the successful construction of the Nemak plant was also obvious from a number of declarations by Most Municipality representatives, minutes of meetings of the municipal council, the municipal chronicle and the press.

Political Support for the Construction of the Nemak Plant

In addition to the Government, certain local and regional self-government representatives, and primarily the then mayor of Havraň, Mr. Majerčin (of the Communist Party of Bohemia and Moravia), had from the very beginning energetically promoted the construction of the Nemak plant and the industrial zone. Havraň had accumulated a seventeen million debt during the mayor's term in office and the serious financial difficulties culminated in a declaration of bankruptcy over the indebted community. In 2001 the Ministry of Finance provided Havraň with refundable aid of CZK 870 thousand to pay for the municipal office building, which could otherwise be sold. The project was also supported by the then mayor of the Most Municipality (between 1994 and 2001) and present Regional President, Ing. Jiří Šulc, a partner in Coming, spol. s r.o., a company that represented Nemak in the proceedings on the location of the project.

The political pressure that developed to build the zone for Nemak is further confirmed by the letter of the then Minister of Industry and Trade, Mr. Grégr, to the then Government Envoy for North Western Bohemia Mr. Rubeš. "The Prime Minister decided in the negotiations with the representatives of the aforementioned company that as the Government Envoy you will ... appropriately channel co-operation between the region's representatives (President of the Ústí Region, ... the Mayor of the Most Municipality and others) so as to avoid unnecessary delays... I am convinced that you will understand the said task as one of the priorities aiding restoration of the whole region."

Additional political pressures are evidenced for example by the actions of the then Minister of the Environment, Mr Ambrozek, who issued a "Statement on the Draft Land-Use Plan of the Havraň Municipality" on July 15, 2003, in which he essentially agreed with a continuing removal of land from the Farmland Register, giving a justification worthy of a Minister of Labour or Industry rather than the Minister of the Environment: "... A comparative study based on the multi-criteria decision-making method evaluating a set of 21 criteria (of which 4 are in the environmental group) rated the site designated as JOSEPH in the cadastral area of Havraň highest of the 15 sites subject to the assessment. Given the broad range of interests and restraining territorial limits in the region subject to evaluation, the results of the comparative study and the interest in helping to deal with the high rate of unemployment, the presented land-use plan are acceptable."

■ SPECIFIC CIRCUMSTANCES OF INVESTMENT IMPLEMENTATION

Countenanced by the responsible public bodies, Nemak ensured enforcement of its project using the so-called salami method. First it advised the Ministry of the Environment of the intention to build a plant with a capacity of 1.6 million aluminium heads per year and the Ministry of the Environment initiated the environmental impact assessment (EIA) process. However the Most Municipality filed a parallel proposal for issuing a zoning and planning decision for stage I of the plant project, but merely for a capacity of 150 thousand heads per year. No environmental impact assessment is required pursuant to the law for a construction of the latter scope. Nemak enforced this "small" project and the plants was constructed and commenced trial operation in spite of all the serious shortcomings and before the courts had decided on the actions filed by EPS and Mr. Rajter (see below). Proceedings on stage II of the Nemak construction were initiated as late as the turn of 2002 and 2003, which means extension of the plant to the planned capacity of 1.6 million heads. Yet it is obvious that stage I makes no sense without stage II, and in addition the stage I and II constructions will together form a single construction.

From 2001 GARDE-EPS was providing free-of-charge legal assistance to the Rajter farming family adversely affected by the construction of the environmentally controversial plant. Over 260 legal filings were made during the 5 years of the legal assistance, including many appeals and expositions, dozens of suits and cassation complaints, a motion for calling a local referendum, complaint to the Public Defender of Rights and criminal complaints.

For over three years the public bodies and courts addressed by GARDE-EPS with the legal filings hardly paid any attention to such objections and suits and failed to comply with them. The turning point came as late as the mid-2004 as the Supreme Administrative Court agreed with an overwhelming majority of the objections of GARDE-EPS and Mr Rajter and annulled many decisions of the Regional Court in Ústí nad Labem, which subsequently annulled some of the unlawfully issued permissions for Nemak and the Joseph development zone.

It was in particular the Government Envoy for the North Western Bohemia, Mr. Vlastimil Aubrecht, who publicly pointed out in this respect that there was a threat of Nemak initiating arbitration against the Czech Republic for failing to protect its investment should there be any problems with further construction of the Joseph Zone and the Nemak plant. Although such arbitration was out of the question, the reality is that Nemak could initiate proceedings for indemnification pursuant to the Act on Liability for Damage Caused During the Exercise of Public Administration by a Decision or Incorrect Administrative Procedure (No. 82/1998 Coll.) It is also a reality that Nemak participated in the unlawful conduct accompanying permission of its project to a certain degree, because it had concluded the Agreement on Co-operation with the Most Municipality in which both parties agreed on co-operation and coordination in obtaining all the required permissions for the Nemak plant construction and hence in our opinion so-called good faith may not exist in favour of the company: given that the permission was decided on by officers prejudiced by their relation to the Most Municipality – as the EPS lawyers pointed out from the very beginning – they must have counted on the possibility that the decisions could be reviewed or annulled by authorities or courts.

Nevertheless the "threat" that Nemak could begin to claim indemnification for a delay or cessation of the construction or operation of its plant due to unlawful decisions resulted in an effort of the Most Municipality to settle the case amicably. The reason was that should there be no settlement, Nemak would have to cease its operation and the Most Municipality would have to remove certain roads built in the Joseph zone without a building permit, as a result of the suits by GARDE-EPS (in particular those against the so-called integrated permission). Mr Rajter and his family were therefore offered settlement by the Most Municipality, which was finally resolved at the end of 2006 after negotiations lasting about a year.

Following an Arrangement on Settlement, the Rajter family sold about 90 hectares of fields in the immediate vicinity of the Nemak plant. For doing so and for withdrawing together with GARDE-EPS all the suits filed against the decisions in respect of the Nemak plant and the Joseph zone, it received via the Most Municipality funds released by the Government of the Czech Republic for the acquisition of their land, a quarter of a billion crowns. Although a settlement was reached with participation of the Archbishop Kryštof of Prague and the Bohemian Lands between the parties to the disputes – the Rajter family and the Environmental Law Service on the one side and the Most Municipality and the Regional Authority of the Ústí Region on the other – it is obvious that the settlement was made also on behalf of the entity that had never been involved in the negotiation and settlement, namely the multinational company Nemak. It can therefore be concluded that the public administration as well as the self-government once again intervened in favour of a foreign investor and the sum paid to the Rajter family was paid from public budgets. Being aware of this, the GARDE-EPS lawyers accepted the settlement solely and specifically because from the very beginning they had primarily attempted to help Mr Rajter and preserve his farming. When Mr Rajter decided to accept the offered settlement, the Environmental Law Service – although it was no easy decision – could not simply trample on the long-lasting co-operation with his family by disagreeing with the settlement. It therefore accepted its resulting obligations and withdrew the suits both against the permissions for the Joseph Zone construction and those against the Nemak plant construction.

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Experiences and Perspectives of Alliances from Below

Milan Šebo (CEPA - Friends of the Earth Slovakia, Bratislava)

Following remarks are an attempt to give answers to 5 questions:

1) Can grassroots initiatives form such alliances and gain strength in order to counter current elitist hegemony?

The answer is yes, given that:

a) They gain the trust of the community they seek to represent. This means to define the community, use its language and live among the members of the community. They have to allow the community to determine what they view as the main risks. They have to explain why the community should cooperate with activists. There are many examples when the NGO´s had exploited communities, and left them worse off than before. Many marginalised communities view themselves as providers of jobs for NGO's and think that NGO's take jobs that locals could have had, and keeps them vulnerable. To overcome these risks regular cooperation and communication among the community leaders and activists is vital.

b) They cooperate with academics: No need to argue on this, training, research and education is for the grassroots vital in order to pull the attention of public. Research should be developed by them to identify their own issues (or issues of the community they represent).Another important role is the position of intermediaries between communities and academics. Some people without the same experiences or knowledge might be intimidated of academics/experts, some are suspicious of the research and sometimes it is difficult for scientists/media/professionals to understand what is needed at the grassroots level. A perfect example of the cooperation between the community, activists and academics are 14-week programs for students of Mexican University Autónoma Metropolitana (UAM).

Students obtain 16 credits and they focus on the social, political and cultural context within which Mexican social movements struggle and grassroots alternatives to predominant neoliberal models of development.

c) They are successful at gathering funds: Problems with dependence on a donor can be discussed. Friends of the Earth strictly deny contributions from large corporations and Amnesty International does the same with governments.

d) They link with other grassroots groups: Networks play a valuable role in transmitting ideas and practice. They should be supported by donors through conditioning the financial contributions to cross-border cooperation. Yet most grassroots are locally focused.

2) What are the experiences and insights of activist groups?

It is very important that grassroots efforts taking place within the country obtain more visibility in the international community. Alliances of NGOs dealing with labour, political accountability or independent press could use much stronger international bonds. As to environmental issues, human rights and corporate globalisation, the situation is better, and although the protests against the WTO and G-8 are limited, they show at least some level of international coordination.

The NGO community already knows that they make up the so called „ third force". The first force is a nation. 200 nations of the world can tax you, lead a war or determine to live in peace. The second force is a multinational corporation. Unlike a nation, there is no geographical bound and we can see the ability to replicate itself all over the globe. The strongest have more political and financial power than many nations combined. The third force is a l000 times more numerous than the corporations and bound by various identities - ethnic, cultural, geographical etc.

It is obvious that the first two have already figured out how to network, communicate, collaborate across geography, language and ideology. There is no set formula for successful international grassroots collaboration projects. An obvious condition is a similar mission or objective in different countries.

There are too many variables determining if the cooperation is to be a success like:

» differences in political and social contexts (international organizations should make a concerted effort to identify key individuals in each country who they can truly trust and work closely with.),

- potential language and cultural barriers,
- the costs and benefits to each organization.

The NGO experts claim that it is important to acknowledge self- interests: both as organizations and as individuals who have invested time, funds, and resources in the efforts to build an alliance. These disclosures are important in building the foundation for future trust and risks.

By networking we can learn from the people in the global South how they built strong organizations and movements with fewer resources than are often available to us here. On the other side, its clever to anticipate that such a level of organisation and willingness would be present also in here provided we would face their problems. It is easier to mobilise communities when they starve or when their natural environment is being destroyed.

We can identify two risks:

a) Those groups that are truly grassroots and that have no real access to the Internet continue to get marginalized.

The international organisations usually seek partners with access to the Internet.

b) Grassroot being consumed by a big international NGO. There is a push for a consolidation of the community organisations (just like mergers in case of corporations). When negotiating with a large NGOs, the grassroots organizations should identify their unique assets - for example, knowledge and/or relationships within the local community etc. This gives them something concrete to bring to the negotiating table.

3) Are there forms of alliances?

Yes, both on the international and national levels. The "Friends of the Earth" is a loose network of organisations worldwide dealing with social, environmental and economic justice. There are certain conditions for small national grassroots organisations in order to join. After that they can use knowledge, information, press releases, logo and international meetings of the FoE.

Amnesty International or Greenpeace represent a different type of international collaboration. They have their offices worldwide which follow the national events, do lobbying and represent these organisations within the country.

CEE Bankwatch network is a loose regional network of central and east european NGO´s aiming at the control of international finance.

Ecoforum is a very loose network of Slovak environmental NGO´s getting together ad hoc and sending the united message towards media and politicians in the time of crisis.

Ad hoc cross border alliances, united by common projects –just like in the case of Slovak FoE. We work together with austrian Klimabundnis and Czech organisation Todero. We coordinate our work and the project is financed by the European commission.

4) What are their successes, what their failures?

One of the advantages of such alliances is a common message towards the media. The second is a much broader source of expertise and information and the third is the ability to mobilise activists and volunteers at the same time in case it is needed. The level of cooperation is sometimes inadequate, though. Since most of the grassroots are concentrated on the local problems (90 % of their time), they lack the capacity to cooperate properly, mostly on the international level. They have no visible advantages from the international cooperation (apart from Amnesty International and Greenpeace. In this case the small offices are funded by the headquarters) and the issues of international importance do not appeal to them. Cooperation is sometimes hardly achievable also due to personal animosities between the leaders of grassroot organisations (this concerns mostly national level).

5) What are the prospects of future alliances?

It is hard to predict, especially in the environment of the NGO´s. While small organisations will barely survive, and many will die off, big NGO´s will become business-like units. The structure of the NGO´s is colourful from state sponsored organisations with no independence, through corporate front groups to independent community grassroot organisations.

Topics: Its seems that „the sexi-topic-climate-change" will bring together environmentalists, scientists and politicians. For environmental activists, it will be an opportunity to cooperate on much larger scale and attack the externalisation of costs from the industry. For the future of international alliances will be important the relevance of the main topic for locals, therefore the renewable energy resources, transport of garbage, Roma problems, racism and poverty could be the common point for some national grassroots to collaborate.

On the other hand, the corporate globalisation will stay on edge of interest, at least in the EU. It is too complex, hard to grasp and it does not touch upon us. We are the ones, who benefit and therefore the chance we get united on this topic across the borders, is a small one. Apart from this, the European Commission will not provide money for activities that challenge its trade policy.

Forms: One of the most perspective forms of international coordination will be working groups and committees. They will gather keen experts from various countries, who will discuss their national agendas, campaigns, compare them with foreign colleagues and act accordingly. It will be much simpler than to involve the whole organisations with its bureocratic structures. The European and the World Social Forums are important as strong basis for individuals to realise they are not isolated. They can motivate and also foster further cooperation between small grassroots, it is great for media, but more important is a daily work of people responsible in an organisation for international cooperation.

Programme of the seminar

Section 1 | Friday, September 14, 2007: Afternoon Session (15:30 – 18:30)
Elitist Integration and Norm Making from Above

Section 2 | Saturday, September 15, 2007: Morning Session (10:00 – 13:00)
Socioeconomic Development between Competition and Cooperation

Section 3 | Saturday, September 15, 2007: Afternoon Session (15:00 – 18:00)
Borders and Regional Integration. Experiences from Europe and Latin America.

Section 4 | Sunday, September 16, 2007: Morning Session (9:30 – 12:00)
Human Rights and the Promotion of Socioeconomic Citizenship

Section 5 | Sunday, September 16, 2007: Afternoon Session (13:00 – 15:00)
Experiences and Perspectives of Alliances from Below

Recent publications of the Economy and Society Trust

Ivan Lesay: Czech Pension Reform: Will It Go Fundamental?

This text is a major contribution that allows us to understand the pension reform and to identify possible directions that it can follow. Political parties, both Left and Right, propose a transition from the present pension system. This, however, is a measure of an immense importance that deserves to be investigated beyond dominant clichés. Is the pension-system reform really necessary? Why? To what extent? What are the consequences of the proposals that are on the table? This discussion paper offers a roadmap to finding answers to these questions. Discussion paper No. 2. Economy and Society Trust, Brno, April 2007.

Pavla Žížalová: Toyota-Peugeot-Citroën Automobile Plant (TPCA) Case study.

Study assesses the quantitative and qualitative effects on economic development in the Kolín and Středočeský (Central Bohemia) regions of the Czech Republic generated by the Toyota-Peugeot-Citroën Automobile Plant (TPCA). This study compares costs and benefits of the Czech government's investment incentives in order to evaluate the efficiency of state support of TCPA. Economy and Society Trust, Brno, May 2008

Recent publication of the Institute for Studies in Political Economy

Joachim Becker, Rudy Weissenbacher – eds. Dollarization, Euroization and Financial Instability. Central and Eastern European Countries between Stagnation and Financial Crisis?.States of the Central and Eastern European (CEE) that have joined the European Union (EU) in 2004, are on the verge of entering the European Economic and Monetary Union (EMU), and, by doing so, of adopting the Euro as a currency. Slovenia is an exception in many ways, and has already become a member of EMU in 2007. But is this a logical, necessary, or not avoidable next step towards deeper integration for the other new members of 2004 as well? Will the people in the CEE-member states benefit from this development? This book focuses on the Czech Republic, Hungary, Poland, and Slovakia, countries that appear to be caught between the faltering economic effects of the Maastricht Treaty, and the possibilities of a financial crisis: EMU appears as safe haven against currency speculation but with the adoption of the strict rules of the Maastricht Treaty, states and governments abandon and cede measures to intervene into economic policy. Marburg: Metropolis, 2007. 280 pages. € 26,80. ISBN 978-3-89518-630-1.

Economy and Society Trust & Institute for Studies in Political Economy

Transborder Laboratory from Below
Seminar proceedings

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