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Globalization, international democracy and a World Parliament

by *Lucio Levi**

The political dimension of globalization and the decline of the sovereign State

Globalization is the word which is on everyone's lips and is arousing the disquiet that comes from the prospect of deep and inevitable change. It is the word most commonly used to designate the new era that humankind has entered as a consequence of the revolution in production, communication, information and transportation technologies.

Globalization has been studied primarily as an economic process, while its political dimension has been largely neglected. The fact that the market has become global while governments have remained national is a contradiction that highlights the most significant change brought about by globalization. In other words, globalization has produced a shift of the borders between civil society and state. This means that it has opened a new space to civil society, that is that pre-political area of social life which is the ground where individual interests assert themselves and clash, but which does not produce those mediating mechanisms between interests from which the need originates to promote the common weal. Therefore, private centers of power such as multinational corporations, non-governmental organizations, criminal or terrorist organizations have taken on a global size and acquired an increasing freedom of action with regard to the regulating power of states.

Here lies the root of the decline of the sovereign state, that will be overcome only through the establishment of new forms of statehood at world level. This is the condition that will allow the restoration of the pre-eminence of politics toward global civil society.

The response of governments: international organization

The response of governments to globalization has been to pursue international co-operation, not because it is their inclination, but because they have no other choice. The expansion of the phenomenon of international organization shows the way governments are going along to seek a solution to problems they cannot solve alone.

The weakness of international organizations lies in their decision-making procedures, that are based on the principles of unanimity and veto, and in the lack of executive powers. The most widespread definition of this way of managing globalization is the expression *global governance*. This is a formula that justifies the established world order, which is based on the principle of national sovereignty and on the dominance of multinational corporations in the world market and of the United States in world politics.

It is a formula that hides the illusion that a solution to the main international issues can be based on mutual consent among sovereign states. Federalism is the antithesis of the internationalist approach. Its strength lies in the alternative goals of world government and international democracy. However distant and though they can be pursued gradually, these goals are the answer to the need to control globalization and to start the process of establishing peace among nations through law.

The decline of democracy

When sovereign states decline, there is a parallel decline in democracy. The sharpest contradiction of our age lies in the fact that the problems on which the destiny of peoples depends, such as those of security, control of the global economy, international justice or protection of the environment, have assumed international dimensions, where democratic institutions do not exist. Democracy still stops at state borders. In consequence, democratic institutions, having lost control of strategic decisions, confine themselves to govern secondary aspects of political life. The people are excluded from control of the questions which determine their future. In substance, we must face problems of a global dimension, on which our destiny depends, while the world is still divided into independent sovereign states. The feeling widely shared by many citizens is that the most important decisions have migrated from the institutions they can control toward international centers of power, which are not submitted to any form of democratic control.

In conclusion, the decline of democracy has two aspects. On the one hand, national governments

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are unable to submit globalization to democratic control. On the other hand, the democratic deficit prevents international organizations from being something more than the place where sovereign states co-operate to solve global issues. It is a contradiction that can be overcome only through international democracy, i.e. through the extension of democracy to state relations.

The process of democratization in the world

The most revolutionary objective of our age is the democratization of the United Nations, which would allow the government of the world to be removed from the control of the big powers and the other private centers of power, like multinational corporations, and put into the hands of all the peoples of the world. Of course, it is a long-term objective that can only be achieved gradually.

The democratization of the UN no longer appears a distant ultimate goal after the recent extraordinary advance of democracy in Eastern Europe, the ex-Soviet Union, Asia and Latin America. Today, for the first time in history, over half of the countries of the world (120 according to the last Report of Freedom House) have adopted a democratic form of government. Since the fall of fascist and communist regimes it may seem that democracy has defeated all its alternatives.

But the vacuum of power left by the fall of the blocs has opened the way to the revival of nationalism, which has triggered a series of processes of disintegration of international organizations and multinational states and is threatening the new born democracies.

The need for international democracy

Democracy, precisely because it is fragmented among many national states, too small to assure the economic development and torn apart by international conflicts, is not strong enough to prevent the authoritarian degeneration of its institutions. Only democracy can submit international relations, which are still the ground of diplomatic and military clashes among nations, to pop-

ular control. As a matter of fact, democracy and independence can be reconciled only within the framework of federal institutions that must be created both at the regional and world level.

The analysis of the structures of international organizations shows that these are diplomatic machines within which governments pursue co-operation. But recently some of them have been enriched with parliamentary structures, which represent the response of national parliaments to the globalization process and the erosion of their power. In other words, they attempt to shift parliamentary control of governments at international level. Most of them are made up of national parliamentarians, but the European Parliament, which represents the most advanced evolution of this category of international assemblies, is directly elected.

The European Parliament is the laboratory of international democracy. After its direct election it has increased its legislative powers and control powers over the Commission, understood as the potential European government. This means that the democratization of the European Union has been a mighty tool for strengthening European institutions. On the whole, the lesson we can draw from history (and utilize for UN reform) is that both the strengthening and the democratization contributed to promote European unification.

The decline of the political parties

The great revolutionary transformations marking the milestones of mankind's progress in history, have never been promoted by the established powers. These powers try to rule the new course of events with old ideological schemes and with old institutions. Revolutionary change, which creates new institutions and higher forms of political coexistence, has always been the result of the storming into the political scene of new social forces. These forces provide a vehicle for new cultures, new values and new political institutions. While the political parties have lost their attraction and their former capability for mobilization, no longer succeeding in motivating commitment from young people, all over the world a non-governmental citizen's movement has grown. This expresses itself outside traditional channels of

political representation and is a manifestation of a new dimension of political participation. It operates at all levels of political life (but more efficiently in local communities and at international level, where the limits of the established powers are more significant) in the sectors of peace, human rights, international justice, aid to development, environment, cultural goods, education, health and so on.

The decline of political parties is a consequence of the crisis of the sovereign state. Faced with the globalization of social, economic and political life, national power offers an observation-post that obscures reality as it is and prevents the mastering of it. Political parties are prisoners of the national states: like boats in a stormy sea, they find themselves in the trough of the wave, where they cannot see the horizon. Directed by powerless leaders, they depart from the real problems of humankind. Choked inside the tight limits of national states, the political decision-making loses any meaningful relation with real processes. Here lies the main root of the decadence of the moral and intellectual quality of the ruling class. When, in the debate among political parties, the great goals, those which make it possible to think of the future, are gone, politics deteriorates progressively in a mere power game which keeps at a distance the most dynamic and vital energies in society. The political parties represent for this reason politics without a future.

The rise of the global civil society movements

On the other hand, the global civil society movements have tried to strengthen their influence over international politics. Wherever an international summit meeting gathers, a demonstration of the anti-globalization movement is expected. These are citizens who protest against being excluded from representation within international organizations and pretend to have a say in international affairs. They are the most genuine manifestation of the world unification movement and of the necessity, largely felt by young people, to deal with the great dramas of mankind. They are at present a varied mass of small and large groups, linked by a common sit-

uation (globalization). It is a movement dragged by the current leading toward world unification, but lacking the instruments to rule this process. It is not yet aware of its institutional objectives, nor has it worked out a political strategy. It represents the future without politics.

Two different positions can be distinguished. Some NGOs have taken on the role of opposing international organizations and globalization itself, often resorting to violence, and consider the international organizations as irreformable. Other NGOs are integrated in the state system, are recognized by international organizations and behave according to a reformist attitude of mind. They participate in international conferences in an advisory capacity and exert real influence on negotiations.

The limit of these movements lies in that they have a partial and unilateral perspective: each movement deals with one single problem. But to the extent that they interpret new needs and are the protagonists of a process tending to redefine actors and roles of political life, we can formulate the hypothesis that they can become the vanguard of international democracy.

Domestic and international democracy

Is it true that the process of democratization of the domestic order of states must be accomplished before we are able to start an action for the creation of a World Parliament? As was pointed out by Kant in his treatise on *Perpetual Peace*, the first condition for the formation of a World Federation is that the member states have a republican regime. In other words, without domestic democracy, an essential pre-requisite of international democracy is lacking.

But the fact that the process of democratization of state regimes all over the world has not been completed does not represent an obstacle to start the process of democratization of the UN. Although in the logic of causal sequence the democratization of the different states has to precede the democratization of the UN, in history these processes do overlap.

The six Western European countries that have founded the European Community did not wait for the democratization of the institutions of all

the states of Europe before starting the democratization of the European Community. The completion of the European unification and the democratic transformation of its institutions has become possible today, because a small group of states started the process of construction of the European unity fifty years ago.

The European Federation: the leading country of international democracy

There is no concealing the fact that the plan to bring globalization under democratic control is meeting with formidable opposition not only on the part of the authoritarian regimes, but primarily on the part of the government of the United States, which will not let its power be lessened by the international organizations that it belongs to, nor by movement arising in the global civil society. This shows that, to be able to promote international democracy, it is not enough that a government has a democratic regime. This is a necessary but non sufficient condition. The United States has such heavy world strategic commitments that it is unable to promote that design.

To defeat the opposition of the United States, a center of power must emerge with the capability of supporting the plan for a world democratic order. It is reasonable to believe that Europe will play such a role. The significance of European unification lies in the overcoming of the nation-state, a form of political organization that develops strength relations with the other states. Therefore it is fairly safe to assume that the European Union does not have, and in the future the European Federation will not have, hegemonic ambitions. Although the European Union aspires to independence of the United States, its objective will not be the replacement of the United States in the role of stabilizer of world political and economic order. Europe will rather pursue a policy of co-operation with the United States, with the prospect of a joint management of the world order, open to participation of other groupings of states (the merging great regions of the world). On the other hand, Europe will hold sufficient power to relieve the United States of some of its overwhelming

world responsibilities and thus have the authority to persuade it to support the democratic reform of the UN.

However, if it is to speak with a single voice, Europe must complete the process of federal unification. With a Parliament elected by universal suffrage, the European Federation can become the leading country of international democracy. Thus, it will be more inclined than any other political organization to promote this experiment in the other great regions of the world and at world level (democratization of the UN).

Many competing projects

The process of globalization and the rise of the global civil society movements have been accompanied by a flowering of proposals addressing the question of the democratization of the UN through the creation of an assembly which would represent the world citizens. The problem to be solved is whether the traditional tool of a Parliament is appropriate to meet the exigency of popular representation at world level. I will take into consideration the most significant projects.

A virtual World Parliament

A virtual World Parliament has been proposed as an alternative to a concrete World Parliament. Of course, the Internet can help in the exchange of ideas, the dissemination of information, the preparation of meetings and so on. Moreover, it can be used as a mobilization network. It enabled a scattered mob to become the people of Seattle. But, in order to make its voice heard and to exercise a real influence on the political process, that people was obliged to materialize in the streets and squares of a city. In addition, the circulation of the images of the demonstrations organized at Seattle increased the political weight of the movement born in that city.

Likewise, the Internet cannot compensate or replace in any way the citizens' participation in the elections and the face-to-face relations which take place in a political assembly which physically gathers in a hall. The public space where an electoral campaign takes place and the

representatives of the people meet, participate in public debates and take decisions is an irreplaceable aspect of democracy.

The Global Civil Society Forum

The Commission on Global Governance, in the report published in 1995 on the occasion of the 50th anniversary of the UN, proposed the creation of a permanent Global Civil Society Forum. It was conceived as the vehicle to voice the expectations emerging from the international civil society and to transmit them to the UN. More precisely it was proposed that the Forum should gather before the beginning of the annual session of the General Assembly and convey to it its claims.

This proposal reflects the impetuous growth of the global civil society movements and the necessity for building a body representing them at world level. The Millennium Forum, held from 22-26 May 2000 at the UN Building in New York, represented the dress rehearsal of such a Forum. It showed at the same time the potentialities and the limits of such initiative.

It is not an exaggeration to state that it represented the first babble of global democracy. Awaiting the formation of a parliamentary body and political parties at world level (are the NGOs not movements anticipating political parties?), the Forum was an assembly representing as closely as possible the peoples of the world or at least the most active part of them.

However, the limits of such an assembly must be pointed out. In the absence of international elections it is impossible to measure the degree of consent supporting the NGOs. The Forum would be lacking real democratic representation, being the expression of civil society movements and not of the will of the people, which can only come from an election based on a free competition among political parties. It can be compared to the medieval parliaments in which the orders were represented, not yet the people. And as these had the function of limiting the power of absolute sovereigns, likewise the Forum of Civil Society will limit the absolute power of the sovereign states ruling the UN. That is, as the medieval parliaments are distant forerunners of the contemporary ones, likewise the Forum of

Civil Society may be an institution anticipating a World Parliament.

The WTO Parliamentary Assembly

The proposal to create a WTO Parliamentary Assembly has been drawn up by the Canadian WFM member organization and received support within the Canadian and European parliaments. According to this proposal, the Assembly should be composed of members of national parliaments and should have consultative powers.

The relevance of the proposal lies in the fact that it addresses the issue of the WTO's democratic deficit. Its limitation lies in its sectoral approach: it is a partial response to the challenge of international democracy. The approach which inspires this choice would entail the multiplication of one-issue assemblies: one for the IMF, one for the WB, one for the ILO and so on. On the other hand, the process of globalization does not involve only trade flows, but concerns many other aspects of political, economic and social life, like security, international monetary and financial issues, poverty, human rights, environment, health, education and so on.

In fact, the WTO is facing the problem of the regulation of the world market and correction of its distortions through the establishment of social and environmental standards, the creation of an anti-trust authority and so forth. These problems are different aspects of the activity of international economic organizations, but find no appropriate answer, in the absence of the necessary powers and because of the plurality of bodies dealing with these problems. It will therefore be necessary to increase the powers of the new international economic institutions, and also to create a center to co-ordinate functions that are presently scattered in many institutions operating independently from each other (G8, IMF, WB, WTO, ILO, UNEP, etc.).

All this shows, in my opinion, that the problems concerning the strengthening and the democratization of the UN must be addressed together. The UN, as a whole, should be entrusted with new tasks, particularly those related with the international commercial, monetary and financial relations, and a Parliament should be constituted within the fabric of the UN system.

Therefore, if the goal to be pursued is the democratization of the process of globalization, the democratization of the WTO is not enough.

The same conclusion can be reached if we consider the global civil society organizations. If it is true that the people of Seattle began to act during a meeting of the WTO in December 1999, it should be taken into account as well that in the movement born in Seattle converge a great variety of claims (peace, human rights, environment and so on), being each of them a response to the various aspects of globalization. All those concerned about peace, international justice, sustainable development and protection of human rights need a democratic world order through UN reform.

The UN Parliamentary Assembly

At a distance of approximately ten years from the publication of the booklet *The Case for a United Nations Parliamentary Assembly*, written by Dieter Heinrich, it is necessary to reconsider this proposal, which has become one of most well-known and most cited world federalist programs and has received important acknowledgements from various milieux: the latest and most significant was the 2000 Millennium Forum. It is worth recollecting that the proposal was inspired by the example of the European Parliament, which, at the beginning, was an assembly made up of members of national parliaments and endowed with consultative powers. It was conceived as a preliminary step toward creating a real World Parliament directly elected by the world citizens and endowed with legislative powers. Even though the UNPA has not been established yet, we must ask ourselves whether it is still an adequate reply to the impetuous growth of globalization and the parallel increasing influence of the global civil society movements on international politics.

The European federalists started the campaign for the direct election of the European Parliament when the European Customs Union was achieved (1968) and a new goal - the Economic and Monetary Union - was put on the European agenda. This objective demanded an increasing intervention of the Council of Ministers, the ultimate decision-making author-

ity in the Community, which was pursued without corresponding parliamentary scrutiny and approval. Hence the sharpening of the democratic deficit of the Community, which paved the way to the claim for direct election of the European Parliament and the strengthening of its powers.

Now the process of globalization has reached an analogous turning point. With the creation of the WTO the custom tariffs, which in 1946 amounted to 50% of the value of imported goods, have been reduced to less than 3%. If the present degree of world commercial integration is comparable to that of the six member states of the European Community in 1968, today the world has to face the contradiction between the increasing intervention of international organizations in the field of economy, finance, human rights, environment and so on and the democratic deficit of these organizations.

Since globalization wipes out the distinction between domestic and international politics, the extension of democracy - which has asserted itself in the vast majority of states - to international relations has become an inescapable imperative. The UNPA seems insufficient to respond to the increasing need for international democracy, because it confines itself to the mobilization of parliamentarians but does not reach the citizens and is unable to mobilize them. What is more, the growing activism of the global civil society movements proves that there is a popular pressure demanding citizens' participation in global decisions that affect individual daily life.

A World Parliament

A World Parliament elected by universal suffrage by the world citizens is the simple and strong watchword that identifies the sharpest contradiction of our time, the contradiction between globalization and the lack of international democracy, and expresses at the same time the deep reasons that inspire the global civil society movements, the need for an assembly representing the general will of humankind.

But we must be aware that the objective of a World Parliament is not incompatible with the four projects I have taken into consideration. In

spite of the limits I have pointed out, they can be pursued as preliminary steps toward that final goal.

The historical role that the WFM can play is to become the reference point and the leading force of a large coalition of NGOs striving for a UN Parliament. In fact, most of global civil society movements are striving for peace, the protection of the environment, international justice and the defense of human rights, but do not yet have a strategy for achieving these goals. The task of the WFM is to make these movements aware of the means (that is to say the institutions) which mankind needs to attain peace and international democracy and justice.

The role that the civil society movements have acquired on the international scene paves the way for new forms of political action, now termed *new diplomacy*. One of the most significant examples is the alliance between reform-oriented nations and NGOs, which generated enough critical mass to give rise to the ICC.

It is the updated version of an old scheme of action largely experimented by the European federalists. It stems from the experience of the creation of a new power in the area covered by many independent powers. The strategy of state unifications is twofold in nature. It requires the combination of two political subjects: a government-inspired current and a popular-inspired one.

Governments view political unifications in terms of co-operation among sovereign states, while federalists conceive them in terms of the creation of a new power. Governments have the power, but are opposed to use it for objectives that go beyond international co-operation. Spinelli used to say that national governments are at the same time the vehicle and the obstacle on the way towards the European Federation. The vehicle, because they hold power; the obstacle, because they never spontaneously surrender national sovereignty. On the other hand, the federalists do not have the strength, but have an *initiating capacity*, which can be used during moments of crisis in order to move the govern-

ments to transfer their authority to supranational institutions.

The action for the construction of a World Parliament cannot be conceived otherwise. The World Parliament will be the result of the dialectical unity of the two currents mentioned above. According to two American academics, Richard Falk and Andrew Strauss, who published an article in *Foreign Affairs* in 2001 entitled *Toward Global Parliament*, an alliance such as this could give rise to a treaty instituting a World Parliament. It could begin to exist after being ratified by a minimum number of states (20, according to the authors). But, if we consider that the European Union member states are 15 and their number will double in the next future, 20 states seem to be quite few. 50% of the UN members and world population can provide the sufficient basis for the entry into force of the treaty. As Falk and Strauss write, "once the assembly became operational, the task of gaining additional state members would likely become easier. A concrete organization would then exist that citizens could urge their governments to join. As more states joined, pressure would grow on nonmember states to participate".

In concluding, I would like to make two remarks, which would deserve a larger treatment. The first one concerns the role of political parties. The World Parliament will encourage the formation of true world political parties, which shall likely develop positive relations with the civil society movements. Secondly, I would like to emphasize the difference between Falk and Strauss's project and the federalist one. What the two authors fail to state is that, in order to democratize globalization, a global Parliament is not enough. The experience of democratic regimes teaches us that no parliament can govern a country alone. A government is necessary. So the World Parliament must be seen as a crucial milestone on the way toward forming a democratic government endowed with the necessary powers to enforce the laws passed by the World Parliament.

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La société civile internationale : un objet introuvable ?

par Marcel Merle*

“Les guerres prennent naissance dans l’esprit des hommes”, est-il écrit dans la Charte constitutive de l’UNESCO. Mais l’esprit s’exprime par le langage, et le choix des mots n’est jamais innocent. La première phase de toute exploration scientifique consiste donc à définir les mots ou, pour le moins à en éclairer la signification si celle-ci, comme il arrive souvent dans les sciences sociales, est source d’ambiguïté.

Cette exigence vaut naturellement pour tous les concepts fondamentaux, mais elle vaut plus encore dans le cas où certaines expressions s’introduisent presque subrepticement dans le langage commun aux scientifiques et aux non scientifiques. Tel est bien le cas pour la “société civile” qui sert désormais de référence aussi bien au grand public qu’aux spécialistes

Les journalistes et les experts parlent-ils la même langue? Et les seconds sont-ils d’accord entre eux pour désigner le même phénomène sous le même vocable? Il n’est pas inutile de soulever ce débat sémantique si l’on veut assurer la rigueur de la démarche scientifique, mais aussi éclairer les acteurs en quête de références sur le terrain où se déploient leurs choix stratégiques.

L’expression “ société civile” ne date pas d’hier, mais elle a changé de sens au fil du temps.

Dans son *Traité du Gouvernement civil* (1690), John Locke reprend à son compte la théorie hobbesienne du Pacte social, mais il qualifie de société civile celle qui est sortie de l’état de nature :

“partout où il y a un certain nombre de gens unis de telle sorte en société que chacun d’eux ait renoncé à son pouvoir exécutif des lois de la nature et l’ait remis au public là, et seulement là, se trouve une société politique ou civile”.

Les qualificatifs de l’époque peuvent induire en erreur. Par “politique ou civile”, Locke entend désigner ce que nous appelons en termes modernes, une société policée ou encore un état de droit. L’un comme l’autre sont effectivement en opposition radicale avec l’état de nature, ou anarchique, réputé selon Hobbes être antérieur à la conclusion du Pacte social.

Bien que manifestement dépassée aujourd’hui, cette définition ne peut être entièrement écartée car on la retrouve invoquée dans certains cas de figure qui ne sont pas très éloignés, on le verra, du

schéma primitif ; Elle correspond aussi, d’une autre manière, à la vision irénique dans laquelle les plus ardents défenseurs de la société civile projettent l’avenir de l’humanité.

Mais c’est de la querelle entre Hegel et Marx (*Critique de la philosophie politique de Hegel*, 1843) que surgit la version moderne la plus répandue de la “société civile”. Il ne s’agit plus d’opposer celle-ci à l’état de nature, mais à l’Etat, avec son cortège de rites, de personnages et d’institutions. Sous une autre forme, on peut dire que la séparation décisive passe désormais entre la sphère du “public” et celle du “privé”. De Tocqueville à Gramsci, en passant bien entendu par Marx lui-même, la société civile a servi tantôt de contrepoids nécessaire, tantôt de base offensive contre l’autoritarisme et l’arbitraire imputés au pouvoir d’Etat.

Cette distinction va pénétrer dans le vocabulaire au cours du dernier quart du XX^e siècle. Elle apparaît tout d’abord, semble-t-il, dans le traitement des affaires “intérieures”. Ainsi, quand le responsable de la formation d’un nouveau gouvernement nommé à un poste ministériel quelqu’un qui n’appartient ni au personnel politique ni à l’administration, on parle d’ouverture sur la société civile. Du domaine interne on passera, au début des années 1980, aux affaires internationales. Cette évolution semble imputable à la conjonction de plusieurs facteurs, parmi lesquels figurent la montée de la mondialisation et le déclin, corrélatif, de l’autorité traditionnellement attribuée à l’Etat. Elle sera renforcée, à partir des années 1990 par ce qu’il est convenu d’appeler la disparition de l’“ordre westphalien” et par l’obligation où l’on se trouve de concevoir une solution de rechange à l’effacement de ce dernier.

La société civile semble donc bien être la pièce maîtresse d’un nouveau dispositif des relations internationales. La banalisation du terme confirme cette hypothèse. Mais elle s’opère dans la confusion, faute d’une définition communément admise par les auteurs. Pour ne prendre qu’un exemple, l’Index du très sérieux *Annuaire français de relations internationales* (édition 2001) comporte huit entrées correspondant à autant d’articles différents, dont aucun ne se donne la peine de fournir une définition, comme si celle-ci relevait de l’évidence. Or l’examen du vocabulaire

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prouve, à l'inverse, qu'il existe un bon nombre de variations dans l'usage de cette expression.

Un point d'accord (et un seul) ressort de cette enquête : la "société civile" n'existe pas en soi, mais toujours en fonction d'une autre entité ou par rapport à elle. Autrement dit, elle ne se définit que de manière négative, en quelque sorte "en creux" ou de façon résiduelle, plutôt que par son contenu ou sa substance propres. Certains auteurs se contentent de broder leur discours sur cette dichotomie. D'autres, au contraire, vont s'efforcer de donner un contenu positif à tel ou tel aspect de la société civile, au risque d'introduire des discriminations et des exclusives. Les derniers vont tenter d'échapper à ce piège en proposant une classification ternaire qui déplace les problèmes sans faciliter leur solution.

L'approche globale

Celle-ci comporte deux variantes.

La moins répandue mérite tout de même d'être signalée, parce qu'elle reprend à son compte l'inspiration hobbesienne (opposition entre état de nature et état de société) et qu'elle rejoint l'inspiration du langage populaire qui oppose instinctivement le "civil" au "militaire".

L'expression *société civile* a un sens différent dans le Nord et le Sud. Si, dans les pays riches, pacifiques, où l'on dispose de la vie, de la santé, de la démocratie, de la paix etc., la "société civile" est une expression qui s'oppose plutôt à la "société politique", dans le Sud pauvre, contemporain, l'expression s'oppose à "société militaire" ou "militarisée". Plus la guerre sévit dans un pays, plus le terme "société civile" signifie "les partisans de la vie, de la paix et du respect des droits de l'homme" (*Le Débat Stratégique*, Lettre du Centre interdisciplinaire de recherches sur la paix et d'études stratégiques, N° 55, mars 2001).

En d'autres termes, la société civile serait celle des victimes innocentes soumises à la tyrannie des nouveaux barbares. Rien n'autorise à extrapoler cette définition circonstancielle. Mais force est tout de même de reconnaître qu'elle est malheureusement conforme à la situation catastrophique dans laquelle se trouvent certains pays où l'état de guerre a relégué aux oubliettes l'instauration de l'état de droit.

Il valait peut-être de rappeler que le débat sur la société civile se déroule le plus souvent entre les privilégiés qui sont déjà sortis de l'état de nature, ce qui n'est malheureusement pas le cas d'une grande partie du monde au début du XXI^e siècle.

Sous cette réserve, la majorité des définitions penche en faveur de la distinction "société civile/État (ou politique)". Jacques Levy formule cette opinion en forme d'alternative, quand il écrit que :

"la société civile, c'est... la société en tant qu'elle n'est PAS politique" (*Le monde pour Cité*, Hachette, 1996). Il suffit donc, pour obtenir une idée de la société civile, de retrancher de la société globale tout ce qui n'est pas politique - étant admis que l'État se situe lui-même au cœur du politique.

Ceux qui trouveraient cette définition trop sommaire et qui souhaiteraient procéder à un inventaire, au moins approximatif, de la société civile peuvent se reporter utilement à la vision proposée par le Rapport de la Commission sur la gouvernance globale (*Our Global Neighborhood*, Oxford University Press, 1995) :

"Parmi les changements importants du dernier demi-siècle figure l'émergence d'une vigoureuse société civile globale, qui a facilité l'interaction dans le monde. L'expression désigne une multitude d'institutions, d'associations volontaires et de réseaux - groupes féminins, syndicats, Chambres de commerce, coopératives agricoles ou de logement, associations de voisinage et de surveillance, organisations à caractère religieux etc..."

On observera que cette liste, pourtant impressionnante, n'est pas limitative. Dans cette conception des choses, la société civile n'a donc pas d'autres frontières que celles des initiatives privées. Aucune typologie n'introduit non plus la moindre différenciation ni, à plus forte raison, la moindre discrimination, entre les innombrables composantes de la société civile.

Les auteurs du Rapport émettent une appréciation favorable sur les services rendus par la société civile :

"L'un dans l'autre, les mouvements de citoyens et les ONG fournissent maintenant d'importantes contributions dans de nombreux domaines. Elles peuvent offrir le savoir, les compétences, l'enthousiasme, une approche non bureaucratique et des perspectives solides, autant de propriétés qui viennent compléter les ressources des organes officiels".

Cet optimisme n'exclut pas, cependant, les réserves. Celles-ci tiennent tout d'abord au fait que *"le secteur des ONG inclut un grand nombre d'organismes qui ne sont pas tous fondés sur des structures démocratiques ou sur une participation suffisante"*

ensuite au fait que

"certaines ONG défendent des intérêts particuliers, et ce particularisme peut se renforcer quand le domaine d'activité concerné touche de plus près à la politique... la concentration sur des intérêts particuliers qui confère à certaines d'entre elles la puissance et l'expertise peut aussi contribuer à bloquer les perspectives sur des sujets plus vastes".

La société civile n'est donc pas à l'abri des critiques. Mais celles-ci sont formulées de manière générale et abstraite et n'autorisent pas les observateurs et encore moins les autorités publiques à décerner ou à refuser une sorte de label de qualification à telle catégorie précise d'organisations privées. C'est un constat objectif, assorti d'un regret implicite, mais ce n'est pas une invitation à la discrimination ou à l'exclusion.

On pourrait s'en tenir à cette présentation si elle n'était pas en concurrence avec d'autres définitions plus restrictives.

L'approche sélective

Est-ce tout à fait un hasard si certaines définitions récusent implicitement l'approche extensive et globale pour découper, à l'intérieur de cet ensemble, une série de phénomènes particuliers auxquels on prend soin de réserver l'appellation de "société civile" ?

Avant d'en décider, considérons attentivement certaines définitions a priori innocentes :

A. *"Par société civile nous entendons l'ensemble des organisations, associations, organismes et structures qui expriment l'action libre du pouvoir collectif des citoyens et au sein desquels les citoyens militent activement à la poursuite d'objectifs d'intérêt général à caractère économique, social ou civique; la société civile est donc une société participative".*

L'appréciation ne surprend pas quand on sait qu'elle émane de l'ancienne présidente du Conseil économique et social européen (Béatrice Ragoni-Machiavelli, citée dans le numéro spécial de la *Revue politique et parlementaire*, mai-juin 2001). On retrouve en effet ici les caractéristiques propres

à la collaboration qui s'est instaurée, au sein de l'Union européenne, entre les agents politiques et les représentants de ce qu'on a longtemps appelé dans l'ordre interne, de manière malencontreuse et réductrice, les "intérêts".

Les critères servant à préciser ici les contours et le contenu de la société civile sont clairs : d'abord une "action libre", donc spontanée et reposant exclusivement sur l'initiative privée, ensuite une "militance active", qui suppose une coordination avec les organismes publics, enfin la "poursuite d'objectifs d'intérêt général" qui relègue hors du champ les organismes défenseurs d'intérêts "particuliers". Mais l'activité des membres de cette société civile présuppose l'existence et la complicité d'institutions publiques disposées à leur offrir une ou plusieurs modalités de coopération (consultation ou fourniture de prestations). Le modèle de démocratie participative dont on se réclame ici demande donc à être construit et implique, pour les organismes publics concernés, la faculté de désigner leurs interlocuteurs du secteur privé et de moduler le type de contribution offert à ces derniers.

C'est effectivement sur ce modèle que sont établis les rapports (parfois mouvementés) entre l'Union européenne et ses partenaires, mais aussi bien entre les Organisations internationales universelles (ONU et Institutions spécialisées) ou régionales (Conseil de l'Europe). Mais il apparaît du même coup que seraient exclus de la société civile tous les organismes privés qui ne répondent pas aux critères ci-dessus ou qui ne seraient pas (critère subsidiaire) admis au statut consultatif (ou équivalent) par les Organisations de la sphère publique. Or, pour ne citer que les ONG, l'Annuaire de l'UAI en recense actuellement près de 25000, alors que le nombre de bénéficiaires du régime évoqué ci-dessus reste de l'ordre du millier.

Cette première définition sélective est donc plutôt restrictive. Mais il y a plus restrictif encore...

B. Jürgen Habermas propose, pour sa part, la définition suivante :

"Ce qu'on appelle aujourd'hui société civile n'inclut plus l'économie régulée par les marchés du travail, les marchés des capitaux et des biens constitués par le droit privé. Au contraire, son coeur traditionnel est désormais formé par ces groupements et associations non étatiques et non économiques à base

bénvole qui rattachent les structures communicationnelles de l'espace public à la composante "société" du monde vécu. La société civile se compose de ces associations, organisations et mouvements qui, à la fois accueillent, condensent et répercutent en les amplifiant dans l'espace public politique la résonance que les problèmes sociaux trouvent dans les sphères de la vie privée. Le coeur de la société civile est donc constitué par un tissu associatif qui institutionnalise dans le cadre d'espaces publics organisés les discussions qui se se proposent de résoudre les problèmes surgis concernant les sujets d'intérêt général" (Droit et démocratie, Gallimard, 1997, p. 394).

Ce texte appelle deux séries de remarques.

D'abord, il explicite ce qui n'était que suggéré implicitement par la définition précédente. La nécessité d'un lien organique entre l'espace public et le tissu associatif est clairement proclamée, ce qui semble exclure de la société civile les porteurs d'initiatives ponctuelles et isolées. Ensuite, la séparation est prononcée entre le secteur du "Marché" et de ses composantes avec le "coeur traditionnel" de la société civile qui ne saurait être constitué que par des activités bénévoles et non lucratives.

Le monde construit par Habermas est donc un monde feutré, aseptisé en quelque sorte, et préservé de la contamination du "profit" par la loi imposée du désintéressement. L'exigence rejoint de réelles et fréquentes préoccupations du milieu associatif, peu enclin à se voir confondu, dans l'image du public, avec les sociétés en quête de bénéfices. Mais la question se complique quand on aborde le secteur des organisations "professionnelles", qui ne sont très souvent que des groupes d'intérêt camouflés, mais qui souhaitent bénéficier de la couverture du statut associatif pour améliorer leur image de marque et revendiquer les privilèges consentis, par la législation en vigueur, aux représentants du secteur non lucratif. Mais ces derniers, qui sont souvent en quête de ressources (notamment pécuniaires), n'hésitent pas non plus à nouer des alliances de circonstance avec les défenseurs des intérêts corporatifs.

Le problème soulevé par Habermas recoupe ainsi des préoccupations qui sont au coeur du mouvement associatif lui-même. On ne saurait donc, pour ce seul motif, récuser a priori son approche. Mais elle débouche sur une vision étriquée de la société civile, très éloignée de celle qui inspire les auteurs du Manuel anglo-saxon cité plus haut.

En l'absence de toute définition légale ou imposée par un très large consensus, chacun reste libre de définir la société civile comme il l'entend. On peut évidemment se demander si les définitions sélectives et restrictives ne sont pas le résultat d'une volonté d'appropriation et de confiscation du concept par ceux qui entendent s'en réserver l'usage et les bénéfices. Pour en décider, il convient d'élargir le débat en faisant place à d'autres présentations de la société civile.

L'approche "ternaire"

Les deux approches précédentes ont peut-être été "piégées" par la recherche obstinée d'une dichotomie, soit par opposition de la société civile à l'Etat, soit par attribution à la société civile de propriétés exclusives dont seraient dépourvues les autres organismes évoluant dans le champ social.

En se plaçant du point de vue de la société globale, il devient sans doute plus facile de situer la société civile par rapport à son environnement. Cette démarche, qui s'appuie sur un schéma "ternaire", ne va pas, toutefois, sans soulever de nouveaux problèmes qui obligent à serrer de plus près le concept de société civile.

Dans un article récent de la Revue de l'UAI (*Associations transnationales*, 1/2002), Philippe Laurent propose la distinction entre trois pôles : l'Etat, le Marché et la société civile. On retrouve ici la coupure établie par J. Habermas entre les deux secteurs, lucratif et non lucratif, ce dernier ayant seul qualité pour mériter l'appellation de "société civile". Mais cette coupure n'a pas les mêmes inconvénients que précédemment puisque, loin d'être rejeté dans les ténèbres extérieures, le secteur marchand devient l'un des trois pôles de la société globale et, à ce titre, l'un des protagonistes de la confrontation avec le secteur public incarné par l'Etat. On satisfait par là l'exigence morale, sous-jacente aux revendications et aux exclusions du mouvement associatif, sans négliger pour autant, bien au contraire, le rôle que les forces économiques jouent dans la société globale (surtout à l'heure de la mondialisation).

Il reste évidemment à définir les modalités d'une coopération effective et pas seulement formelle entre la sphère publique et la sphère économique. C'est non seulement la tâche de l'ONU, dans certaines de ses activités comme le PNUD, mais aussi

celle de plusieurs institutions spécialisées (FMI, Bird) ou autres organisations mondiales (OMC) ou régionales (OCDE). Mais le problème de l'intégration des activités économiques, régies par l'initiative privée, dans le champ du secteur public international est au moins posé, et il devra être résolu si l'on veut éviter la dérive d'une économie livrée aux seules pulsions du Marché.

Dans cette vision du monde, la société civile n'est plus isolée face à l'Etat, mais elle demeure une entité encore mytérieuse, faute d'une appréhension de son contenu. Un pas supplémentaire va être franchi dans l'analyse par Bertrand Badie qui propose, lui aussi, de retenir une distinction ternaire, mais de désigner autrement les protagonistes (*Revue politique et parlementaire*, numéro spécial précité). Pour lui, les trois pôles en présence seraient l'Etat, les acteurs transnationaux et les acteurs identitaires.

La démarche bouscule les classifications précédentes. Il n'est plus question, au sens strict, de "société civile", mais on peut supposer que celle-ci, toujours fondée sur l'initiative privée, regroupe le second pôle (acteurs transnationaux) et le troisième (acteurs identitaires). Sous le bénéfice de cette observation, l'intérêt de cette présentation est double.

D'abord, elle permet de sortir de l'ombre les éléments perturbateurs de l'ordre établi que sont les "acteurs identitaires". Sous cette rubrique figurent des mouvements ou des organismes à caractère racial, idéologique, ou communautaire, qui ne cherchent en rien à militer en faveur de l'intérêt général, mais qui sont délibérément repliés sur eux-mêmes (introvertis) et qui sont résolus à défendre avec acharnement leurs propres aspirations, au besoin par la force. Ces éléments, généralement considérés comme subversifs, refusent de s'intégrer dans les procédures de concertation et de consultation qui caractérisent le milieu associatif. Ce dernier répugne à les admettre dans ses rangs, et les Organisations internationales ne les tolèrent qu'à la marge de leurs activités (par exemple dans le cadre des Forums internationaux qui se tiennent en marge des grandes Conférences) mais hésitent à leur attribuer le label d'une reconnaissance officielle (notamment par l'octroi du statut consultatif). Ces groupes ou mouvements "in-civils", comme on l'a dit, rentrent difficilement dans les organigrammes et dans la problématique conçus par et pour des acteurs beaucoup plus confor-

mistes; mais ces éléments marginaux existent et, quelles que soient les difficultés qu'il y a pour établir le dialogue avec eux, on ne peut faire l'impasse sur leur existence, au risque d'encourager les tendances les plus extrémistes qui les animent parfois. Pour ne citer qu'un exemple, les manifestations organisées par des groupes anti-mondialistes du type ATTAC lors des grandes réunions des organismes internationaux (OMC, Conseils européens) soulèvent des problèmes qui n'ont pas encore été résolus mais qui devront bien l'être un jour. La société civile n'est pas, comme on aurait parfois tendance à le croire, une société de bienfaisance et de secours mutuel.

Le troisième pôle désigné par Bertrand Badie (les acteurs transnationaux) soulève d'autres problèmes. On notera tout d'abord que le critère retenu pour spécifier l'existence de ce pôle est strictement organique, à l'exclusion de toute référence fonctionnelle ou finaliste, comme l'étaient les critères précédemment utilisés pour qualifier les membres de la société civile. Rentrent indistinctement dans le champ des acteurs transnationaux tous les organismes, mouvements etc.. d'origine privée qui sont implantés simultanément dans plusieurs pays, sans revendiquer d'attache nationale privilégiée.

Comme on a déjà eu l'occasion de le montrer (cf. Marcel Merle : *Le concept de transnationalité*, dans les *Mélanges René-Jean Dupuy*, Pedone, 1991) cette référence est beaucoup trop vague pour servir de support à la qualification d'un type déterminé d'acteur. D'ailleurs, elle recoupe, en partie, celle des acteurs identitaires qui sont souvent, eux aussi, des acteurs transnationaux.

Il s'agit donc, là encore, d'une catégorie résiduelle qui manque de spécificité et qui ne nous apprend pas grand chose sur la nature de la société civile. Somme toute, l'intérêt de l'approche de Bertrand Badie consiste surtout à montrer qu'il y place, dans la sphère des rapports internationaux, pour des revendications qui débordent le cadre de la démocratie représentative et qui s'inscrivent plutôt dans celui de la démocratie directe ou contestataire.

A vrai dire, aucune typologie ne permet de rendre compte de l'extraordinaire complexité de la société civile. Tout le monde s'accorde aujourd'hui à reconnaître l'existence d'une opinion publique internationale. Il s'agit là d'un phénomène difficile à analyser en raison de sa volatilité et de son intensité variable.

dans le temps et dans l'espace. (cf. Marcel Merle, "Le droit international et l'opinion publique", *Recueil des cours de l'Académie de droit international de La Haye*, 1973). Mais cette opinion existe, comme le prouvent, entre autres, les travaux de l'observatoire européen *Eurobaromètre*. La transnationalité de certains flux immatériels, comme les courants d'opinion, n'a pas besoin, pour être établie, d'une manifestation organique ou d'un support institutionnel (du type associatif, par exemple). Mais peut-on dans ce cas parler d' "acteur", puisqu'il n'y a pas d'auteur susceptible d'être identifié ni d'intentionnalité susceptible d'être repérée ? Y renoncer serait pourtant comme si l'on prétendait étudier la climatologie en faisant abstraction du vent et des nuages, sous prétexte qu'on ignore souvent leur origine.

L'exploration qu'on a entreprise dans le maquis du vocabulaire n'avait pas pour objet de décerner un label de qualité ni la palme du vainqueur à telle définition plutôt qu'à telle autre. Il s'agissait seulement, à travers la diversité des approches, de saisir la pluralité du sens de l'expression "société civile".

Au sens premier du terme, la société civile englobe, sans autre limitation que celle des initiatives privées, la totalité des manifestations qui se situent en dehors des activités et des institutions de la sphère publique. Cette conception extensive ne doit pas être écartée. Mais elle a pour inconvénient de masquer la richesse et la diversité du contenu. Les définitions sélectives et restrictives soulignent l'existence de secteurs privilégiés où l'identité de la société civile est ressentie avec plus d'intensité qu'ailleurs. Mais elles risquent d'entraîner l'exclusion d'autres manifestations, non moins légitimes que les leurs, de la dite société civile. Quant aux typologies, elles montrent les multiples aspects d'un phénomène qui ne se laisse pas aisément réduire à telle ou telle de ses composantes.

Que conclure ?

D'abord, que l'usage extensif et banalisé de l'expression prouve que la société civile est bien

devenue une réalité, qui s'inscrit désormais dans le tableau des relations internationales.

Ensuite que ce qualificatif regroupe une masse de phénomènes disparates qui n'a pas donné naissance à un ensemble homogène ni structuré. Les différences entre les multiples composantes de la société civile ont été suffisamment signalées plus haut pour qu'il soit inutile d'y revenir. De cette diversité, fruit de la richesse du phénomène, résulte une absence de structuration qui permettrait d'harmoniser l'action de toutes les composantes. Certes, il existe des exceptions, comme les groupements d'associations qui se sont constitués, soit par pays, soit auprès de certaines organisations intergouvernementales, en vue d'assurer la protection et la promotion des droits du secteur associatif face à ses interlocuteurs. Mais ces coalitions intéressées ne garantissent nullement l'unité d'action de groupes qui défendent jalousement leur autonomie. De ce point de vue, l'incapacité de l'Union des associations internationales (UAI) à fédérer le mouvement associatif mondial, comme il en avait été question à l'origine, est significative.

Quand on se penche sur son contenu, la société civile apparaît constituée par un nombre indéterminé d'éléments hétéroclites qui sont irréductibles les uns aux autres, et dont la vitalité même est rebelle à tout projet de fusion ou même d'action concertée. On objectera qu'il existe un socle de valeurs communes : cela reste à prouver quand on compare des organisations comme Greenpeace et Médecins sans frontières ou encore ATTAC et le Mouvement européen. Mais, même lorsqu'il existe des références communes, comme en matière de droits de l'homme, le partage de ces valeurs apparaît très inégal selon les milieux culturels et les aires géographiques concernés.. Au-delà de l'unité de façade, il existe même, en ce domaine, des éléments de rivalité et de contestation mutuelle.

La société civile n'est pas introuvable. Elle existe bel et bien. Mais elle est dotée, comme Protée, de multiples visages entre lesquels ses interlocuteurs doivent choisir, s'ils tiennent à percer son secret.

Trans-parliamentary associations in global functional agencies

by Steve Charnovitz*

Introduction

Although elected parliamentarians have well-studied official roles in national legislative bodies (and in the European Union), the transnational activities of parliamentarians has received less scholarly attention. Until recently, the main outlet for such parliamentary activity was the Inter-Parliamentary Union (IPU), which undertakes transnational action on the full range of issues.¹ Other notable trans-parliamentary efforts have included issue-specific parliamentary groups, such as Parliamentarians for Global Action and the Global Legislators for a Balanced Environment (GLOBE).² These groups attend intergovernmental conferences in the same way that nongovernmental organizations (NGOs) and private economic actors do.

Over the past decade, however, a new development has occurred. Catalyzed by the IPU and sometimes aided by the European Parliament, parliamentarians from around the world have come together to focus on a particular international organization. Although such parliamentary confabulations are not directly connected to the international organization, they have a political significance beyond typical nongovernmental activism.

The systematic involvement of parliamentarians at intergovernmental organizations has an important potential for helping to improve global governance. Because the national parliamentarians are elected officials, they have personal legitimacy in carrying out oversight functions over an international agency. Even though their role is informal, a broad group of parliamentarians will be taken seriously by national diplomats and international civil servants because of the authoritative role that parliamentarians play in their home countries.

Is it possible that such trans-parliamentary associations could serve as an antidote to the syndrome of democratic deficit in international governmental organizations? Probably not if such activity remains informal and episodic. Yet if parliamentarians show that they have staying power and develop expertise on specific international organizations, then the governments in the organization may decide to formalize the role of the parliamentarians as an advisory or oversight

body. This will require national parliaments to select representatives specifically for the double function (*dédoulement fonctionnel*”).

The earliest example that has come to my attention of agency-specific parliamentary action is the Parliamentary Assembly of the North Atlantic Treaty Organization (NATO).³ The Assembly originated in 1955 as the North Atlantic Assembly and continues to carry out activities on a regular basis. Although it is completely independent of NATO, the Assembly aligns its work closely with that of NATO. For example, in October 2001, the Assembly passed a Declaration on the Fight Against Terrorism. Delegates to the NATO Parliamentary Assembly are nominated by their parliaments according to national procedures, on the basis of party representation in parliament.

One of the newest functional efforts is the Parliamentary Network on the World Bank. Parliamentary conferences focusing on the World Bank began in May 2000. The most recent—the Second Parliamentary Conference on the World Bank was held in January 2001 in London, at the invitation of a select committee of the House of Commons. In 2002, the Network plans to hold events at the International Conference on Financing for Development and at the World Summit on Sustainable Development. Although the World Bank cooperates with these efforts, the Network has no official connection to the Bank.

It was the IPU that recognized the need for more functional parliamentary action. Beginning at the International Conference on Population and Development in Cairo in 1994, the IPU began hosting a “Parliamentarian’s Day” at some of the U.N. global conferences.⁴ Such sessions were also held at: the World Summit for Social Development in Copenhagen in 1995; the Fourth World Conference on Women in Beijing in 1995; and at the World Food Summit in Rome in 1996. In 1998, the IPU held a parliamentary round table at the Second Session of the Conference of the Parties to the U.N. Convention to Combat Desertification, held in Dakar. In February 2000, the IPU held a parliamentary meeting at most recent session of the U.N. Conference on Trade and Development (UNCTAD X) held in Bangkok. The IPU also sponsored (along with the European Parliament)

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1. The IPU was established in 1889. See “What is the IPU?”, at <http://www.ipu.org/english/whatipu.htm>.
2. Parliamentarians for Global Action (PGA) was established in 1979. See <http://www.pgaction.org/About/Index.htm>. GLOBE was established in 1989. See <http://www.globeinternational.org/background.html>.
3. NATO Parliamentary Assembly, at <http://www.naa.be>.
4. “Specialized Meetings”, at <http://www.ipu.org/strct-e/splzconf.htm>.

a Parliamentary Meeting held at the November 2001 at the World Trade Organization (WTO) Ministerial Conference in Doha, Qatar. This new parliamentary interest in the world trading system will be discussed below.

Parliamentary input into the WTO

The inspiration for the idea of a parliamentary meeting alongside the WTO came from the late U.S. Senator Bill Roth, who was chairman of the U.S. Senate Finance Committee and active in inter-parliamentary affairs. Roth led the efforts to organize a meeting of parliamentarians at the WTO Ministerial Conference in Seattle in November 1999. The purpose of that meeting, said Roth, was for elected officials to “play a more significant role” in the WTO and to learn more about it. At the conference, Roth suggested that a parliamentary forum could “reinforce the legitimacy” of the WTO and engender greater openness and transparency.⁵ In Seattle, WTO Director-General Mike Moore addressed the parallel parliamentary gathering which he called “important” and suggested that it become a “permanent part of the process.”⁶

As the WTO worked to recover from the debacle in Seattle, Moore spoke favorably about parliamentary attention to the WTO on several occasions. For example, in a speech to a European Parliament committee in February 2000, Moore declared that “Elected representatives are the main expression of civil society,” and “Elected representatives have a responsibility to become more involved, hold hearings, scrutinise where the taxpayer’s money is going and ensure that the great international institutions created to manage global affairs have the moral authority that comes from the ownership and participation of Member governments.”⁷

In July 2000, at the 69th (biennial) conference of the International Law Association, the Committee on International Trade Law approved a Declaration on the Rule of Law in International Trade.⁸ The Declaration called for enhancing the transparency and legitimacy of WTO law and specifically recommended the creation of a WTO advisory economic and social committee or an advisory parliamentary body to be consulted regularly by WTO organs.

In June 2001, the IPU organized a parliamentary meeting on international trade held in Geneva. The meeting included 182 members of parliament from 71 national parliaments.⁹ WTO Director-General Moore addressed the meeting and complimented the sponsor by calling the IPU “politicians without borders.”¹⁰ His central message was that “Parliamentarians have a vital role to play in bringing international organizations and people closer together and holding us and governments accountable.” He closed his speech with: “Can I suggest that we should assemble more often and that all the multilateral institutions that you have created, that you own, could do with your assistance and scrutiny.”

At the Parliamentary Meeting, the delegates adopted a Final Declaration which contained both substantive and procedural recommendations.¹¹ Among the substantive recommendations was a statement of the “need to ensure that trade rules and practices do not undermine sustainable development goals.” Procedurally, the meeting agreed that at the international level, parliamentarians need to complement national activities “by meeting to obtain and share information, exchange views and experiences, and discuss the structure, working methods and issues facing governments at the WTO.”

At Doha, there was a parliamentary meeting hosted by the IPU jointly with the European Parliament.¹² About 100 parliamentarians attended, the number having been reduced by the difficulty of getting to Doha. The meeting adopted a Final Declaration which stated that “parliamentary participation is necessary to ensure a better representation of citizens” and called for a “parliamentary dimension to the WTO.”¹³ The parliamentarians asked the governments to include in the Doha Ministerial Declaration a statement in favor of “associating Parliaments more closely with the activities of the WTO.” Nevertheless, the government ministers did not do so.

The parliamentary meeting agreed to set up a steering committee to present options for pursuing the next steps. The Declaration notes that there is a disagreement between those who want to establish a standing body of parliamentarians for the WTO and those who want to work

5. “WTO Member Legislators Agree to Form Parliamentary Discussion Forum”, *Inside U.S. Trade*, 3 December 1999.

6. Mike Moore, “Speech Notes to Legislators Assembly”, 2 December 1999, at

http://www.wto.org/english/news_e/spmm_e/spmm18_e.htm.

7. “Moore calls for closer parliamentary involvement in WTO matters”, WTO Press/169, 21 February 2000.

8. Resolution No. 2/2000 on International Trade Law, Annex 3, available at <http://www.ila-hq.org>.

9. “WTO Director General Dialogues with MPs at IPU Meeting on International Trade”, IPU Press Release No. 119, 9 June 2001, at <http://www.ipu.org/press-e/gen119.htm>.

10. Mike Moore, “Promoting openness, fairness and predictability in international trade for the benefit of humanity”, Speech to the Inter-Parliamentary Union meeting on international trade, 8 June 2001, available at http://www.wto.org/english/new_e/spmm64_e.htm.

11. Final Declaration, available at <http://www.ipu.org/splz-e/trade01dclr.htm>.

12. “Parliamentarians for More Transparency and Accountability of World Trade Negotiations”, IPU Press Release No. 124, 12 November 2001, at <http://www.ipu.org/press-e/gen124.htm>.

13. Final Declaration/Conclusions, available at <http://www.ipu.org/splz-e/doha.htm>.

14. Fergus Watt, "Parliamentarians Have a Role to Play in Doha", *Bridges*, October 2001, p. 14, available at <http://www.ictsd.org>.

15. *Ibid.*

16. *Ibid.*

17. Pascal Lamy, "Global Policy without Democracy?", Berlin, 26 November 2001, at http://europa.eu.int/comm/trade/speeches_articles/spla85.en.htm.

18. Robert O. Keohane & Joseph S. Nye, Jr., "The Club Model of Multilateral Cooperation and Problems of Democratic Legitimacy", in *Efficiency, Equity, and Legitimacy: The Multilateral Trading System at the Millennium* (Roger B. Porter, Pierre Sauvé, Arvind Subramanian & Americo Beviglia-Zampetti eds., Harvard University Center for Business and Government and Brookings Institution Press, 2001), pp. 264–65.

For a discussion of the legitimacy chain, see Markus Krajewski, "Democratic Legitimacy and Constitutional Perspectives of WTO Law", *Journal World Trade*, Vol. 35, 2001, pp. 167, 181.

19. Steve Charnovitz, "Economic and Social Actors in the World Trade Organization", *ILSA Journal of International and Comparative Law*, Vol. 7, No. 2, Spring 2001, p. 259.

20. Louise Doswald-Beck, "The influence of national parliaments on global policy-making", Berlin, 26 November 2001. Doswald-Beck is the Secretary-General of the International Commission of Jurists.

21. Marrakesh Agreement Establishing the WTO, Article V:2.

through the IPU. The European Parliament group favors a standing parliamentary body for the WTO which would seek a consultative status.¹⁴ The alternative, more minimalist conception, championed by the IPU and WTO officials, would have the IPU sponsor occasional meetings.¹⁵ Analyzing this controversy, Fergus Watt, the executive director of the World Federalists of Canada, suggested that NGOs advocate the well-structured parliamentary assembly approach over the IPU's weaker parliamentary forum approach.¹⁶

A few weeks after the Doha Conference, European Commission for Trade Pascal Lamy discussed parliamentary involvement in the WTO in the speech to the Conference on the Participation and Interface of Parliamentarians and Civil Societies for Global Policy.¹⁷ Lamy stated that he saw merit in discussing the establishment of a WTO Parliamentary Consultative Assembly, which could "lead to stronger public support for the multilateral trading system, by making sure that societal choices and collective preferences are fed into the WTO process." Lamy also reported that there was resistance by some developing country governments to stronger involvement of parliaments in the WTO.

Increasing parliamentary involvement in the WTO could bring several benefits. The most important is that it could solidify the democratic legitimacy of the trading system. As an international organization with delegated authorities, the WTO has an attenuated relationship with the global and national publics. One way to overcome this lengthy "legitimacy chain" is, as Robert Keohane and Joseph Nye have suggested, to provide for effective politicians who link international organizations to constituencies.¹⁸ Even if the elected parliamentarians alongside the WTO are not accorded an official function at the beginning, their attendance may evolve into a mediating role before too long.

Once a WTO parliamentary body is established, even an informal one, it could begin to hold public hearings on the key issues of the trading system. The parliamentarians could question national trade officials on their actions and inactions, and also invite economic and social actors to present their views about the future direction of the WTO.¹⁹ In doing so, the parliamentarians could foster a cosmopolitan debate along the

perimeters of the WTO in order to remedy the government-centric debate within the WTO.

Just as parliamentarians carry out a "checks and balances" function at the national level, they can do the same at the international level. The advent of the new trade round in 2002 makes it even more important to establish ongoing parliamentary review of the new negotiations. While it is true that national parliaments can carry out this review at home, such reviews are likely to have an economic nationalist focus and to give short shrift to quasi-public goods at the WTO. For example, it would be unusual for a national parliamentary committee to hold a hearing on whether the WTO has enough staff, or enough funds to carry out technical assistance. Yet those are exactly the kinds of issues that a transnational parliamentary committee would want to examine. As Louise Doswald-Beck has observed, "When members of Parliament are able to consider, in relation to any issue, what solution is in the best interests of the international community and of their own States in the medium-to-long term, they are able to contribute more effectively to global policy-making."²⁰

Interaction between parliamentarians and nongovernmental organizations would lift the WTO out of its current quandary in which a few developing countries can block efforts to implement fully the WTO organic law authorizing its General Council to "make appropriate arrangements for consultation and cooperation with non-governmental organizations concerned with matters relating to those of the WTO."²¹ In other words, the parliamentarians could act as a relay between the executive officials that run the WTO and the private individuals and groups that are affected by the WTO's decisions. Many such individuals live outside of those countries that are Members of the WTO.

Initiating trans-parliamentary oversight of the WTO may also help shore up parliamentary efforts at the national level to review national trade policymaking. The participating politicians will gain both substantive knowledge of world trade law and familiarity with WTO officials and the international NGOs that follow trade closely. This may help national parliaments see the trading system through a wider angle lens.

Some wider implications

The WTO is not alone in lacking a parliamentary dimension. No functional international organizations have one at this time. Although the original idea of the functional organization de-emphasized politics in favor of a technocratic model, no one today would seriously contend that global economic institutions, such as the WTO, the International Labour Organization, or the World Bank, operate outside of politics. The idea of functional specialization is compatible with a process for regular parliamentary input.

A parliamentary advisory body would help reduce the distance between international organizations and democratic decisionmaking at the national level. At the very least, the periodic convocation of parliamentarians at inter-governmental conferences would reinforce the point that such meetings are an extension of national government. Over time, such a convocation might aspire to do even more by deepening the

links between the international organization and popular sovereignty. Democracy need not stop at the border.

Looking ahead, one can see possible stepping-stones toward international functional parliaments. One is the establishment of a parliamentary NGO like GLOBE. Another step is an informal meeting like the one that occurred in Doha, organized by a parliament or the IPU. As such meetings become more regular, the national parliaments could be asked to formalize the selection of the delegation to attend the global meeting.

While trans-parliamentary oversight of international organizations is not a panacea to the problems of global governance, this development is certainly a positive step. It is hard to imagine any harm that could come from more oversight by elected officials. If parliamentarians take these efforts seriously and provide space for regular input from social and economic actors, these new initiatives could improve the effectiveness of international organizations.

Talking across difference in an interconnected world of labour

By Peter Waterman*

What may have been the first international encounter of trade unions, NGOs and social movements, concerned with joint action in defence of labour under globalization, provides the opportunity for further reflection on 'international labour's global dialogue'. The event occurred within an international context increasingly marked by the transition to a globalized networked capitalism and the consequent growth of 'anti-globalization', or 'anti-corporate' movements. The Bangkok Roundtable is placed in the context of movement-related literature. From their contributions to the Bangkok Roundtable, it appears that the traditional international union organizations still have an ambiguous or even contradictory attitude towards the new movement. Whilst ready to discuss and even ally with it, international unionism is not yet able to openly come to terms with its own structures, understandings or behaviour, as developed under the national industrial capitalism of the last century. A Roundtable proposal, for a broad international grassroots campaign on labour rights, is spelled out, in an attempt to move the international union relationship with the anti-corporate movement from a discussion to a dialogue, and from an alliance to a partnership. The paper, as much an intervention in as a reflection on the process discussed, is intended to demonstrate that one cannot talk across difference in an interconnected world of labour without breaching imposed silence.¹

Organized labour must begin to assume its role as the leader of civil society in every nation... [The International Confederation of Free Trade Unions] will organize strategic planning workshops with affiliates and major NGOs to map out better a comprehensive approach to co-ordinating work on trade union rights. (ICFTU 2000)

Silence is one of the most effective instruments of power structures... That which is not spoken about can not be contested. The hegemonic interests of those who impose these silences can only be uncovered with difficulty... Breaking the silence... may be a major step in the process of empowering people... (Wieringa 2001:10)

What principles might we be aiming at for the international (internationalist) organization of the economy and society? [...] Learning to talk across difference in an interconnected world might be one step towards imagining an alternative form of globalization. (Massey 2000)

Introduction: Porto Alegre, Davos...Bangkok?

What principles *might* we be aiming at for the international (internationalist) organization of the economy and society? This question evidently confronted Canadian anti-corporate writer, Naomi Klein, as she reflected on the lessons of the World Social Forum (WSF), held in Porto Alegre, Brazil, late-January, 2001. That event - a global Anti-Davos - was held under the slogan, 'Another World is Possible'. It was attended by 10,000, had a first-ever video-link debate with the corporate elite at the Davos World Economic Forum, produced a forceful final statement (Porto Alegre Call 2001, *Appendix 1*), signed by many participating movements and organizations. It even earned itself the grudging respect of a long article, in a major organ of and for global capital, the London *Financial Times* (Lloyd 2001).

Notably absent from the WSF were the major inter/national trade union organizations - some of which were notably present *within* the barriers in Davos (though the President of the New Zealand unions had her arm broken beyond them). Prominent inter/national unions present, and signing, at Porto Alegre, were the Brazilian CUT (Central Única de Trabalhadores), a sponsor of the WSF, and the Organizaci Davos (though the President of the New Zealand unions had her arm broken beyond them). Prominent inter/national unions present, and signing, at Porto Alegre, were the Brazilian CUT (Central Única de Trabalhadores), a sponsor of the WSF, anticipation there, or the differing attitudes of the inter/national trade union organizations towards such events.² It is with those principles I began with - and even with the principles for achieving those principles. Naomi Klein (2001) says of the WSF.

The result of the gathering was...as much chaos as cohesion, as much division as unity. In

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1. This text reports on Focus on the Global South. 2001. 'Bangkok International Roundtable of Unions, Social Movements and NGOs. 11-13 March 2001. Focus on the Global South and Friedrich-Ebert Stiftung'. <http://www.focusweb.org/publications/Roundtable/roundtable.pdf>.

2. Although these matters do appear to be a primary concern of the General Secretary of the International Metalworkers Federation (IMF), Marcello Malentacchi (2001) - another significant indication of movement within the international trade union movement. He is not only concerned that the unions should become leaders in the anti-globalization movement, but also that they should be in events like Porto Alegre rather than those like Davos. He even proposes an international labour movement dialogue about globalisation.

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3. I have to make it clear to the reader that I was a participant in the event I here report, and a speaker at its closing session. Readers also need to know that this paper is being published in breach of an understanding with the International Confederation of Free Trade Unions, previous to the event analysed, and despite its later protest at my breach of this when a draft was submitted to it. I put this paper on hold for several months whilst consulting with others involved, and also with uninvolved friends whose opinions I respect. Two of the latter said that, whatever I was writing, it was unprincipled to break the initial understanding. I beg to differ. And to apologise for any embarrassment this publication may cause to the Roundtable hosts, Focus on the Global South, who twice or thrice reiterated the ICFTU's condition to me. If I have decided to publish and be damned, it is for the following reasons: a) In 'conditions for participation' imposed by a stronger on a weaker party, the weaker party has the practical possibility of either refusing the conditions or later breaching the agreement. Whilst the first position may be ethically superior, the second is likely to be more politically effective. I am opting for the second on argued grounds. The reader can balance off my misdemeanor against the information/argument provided and draw her/his own conclusions about the behaviour of the parties concerned. S/he can also, of course, bin the paper after completing this footnote! b) As suggested above, I presented my draft to the Roundtable hosts so that it could be shown to the

Porto Alegre the coalition of forces that often goes under the banner of antiglobalization began collectively to recast itself as a pro-democracy movement. In the process, the movement was also forced to confront the weaknesses of its own internal democracy and to ask difficult questions about how decisions were being made – at the World Social Forum itself and, more important, in the high-stakes planning for the next round of World Trade Organization negotiations and the Summit of the Americas in Quebec City at the end of April.

Notable here is that contradictions within the WSF, and the anti-globalization movement more generally, are the subject of immediate public reflection by movement supporters themselves (compare Do or Die 2000). This, to paraphrase a Seattle street slogan, is what international civil society construction ought to look like.

I am going to relate this notion to a very small international event that took place in the wake of Seattle-Washington-Prague-Davos-Porto Alegre, but which included many of the social forces, organizations and even individuals there present. I am talking about the International Roundtable of Unions, Social Movements and Non-Governmental Organizations, Bangkok, Thailand, 11-13 March, 2001.³

I want to further discuss this event in relation to 'international labour's millennial dialogue'. By the latter I mean a series of conferences and other exchanges that have taken place around the famous millennium, addressed to the crisis of labour under globalization, and the manner in which international labour can best confront it (Waterman 1999, 2001a, Forthcoming). In such reflections I have dealt, amongst other events, with the international bilingual web conference co-sponsored by the ICFTU and the International Labour Organization (ILO),⁴ a seminar on international unionism held for Mexican unionists in Mexico City, a conference organized in Johannesburg, South Africa, by the informal Southern Initiative on Globalization and Trade Union Rights (SIGTUR),⁵ and even an exchange of open letters, on the web, between myself and Bill Jordan, General Secretary of the ICFTU (Waterman 2000). I have in such writing been critical of the official international union events because of their con-

tinued reproduction of orientations, issues and procedures inherited from the 20th century and the passing era of a national industrial capitalism (NIC). But I have also been critical of the unofficial left union ones for their failure to yet systematically adopt or display those really required by a new internationalism in the era of a globalized networked capitalism (GNC). I have nonetheless given recognition to the different significant ways in which both these types of dialogue have demonstrated or prefigured such necessary new forms, procedures and concerns. I have also argued the necessity for a new kind of labour internationalism to be articulated with the new radical-democratic international social movements. And for the development of precisely such spaces of dialogue as the Roundtable appeared to offer.

Accompanying the wave of exchanges mentioned above has been a wave of innovatory and often assertive behaviour by labour and unions, locally, nationally, regionally, internationally. This wave includes: the development of a 'new unionism' in the South (South Africa, Brazil and South Korea) and the common decision to join the social-reformist ICFTU; the revival, since 1995, of the AFL-CIO (American Federation of Labour-Congress of Industrial Organisations) in the USA, and its (admittedly uneven and uncertain) movement from the right to the left of the ICFTU; the failure of social-democratic unions and parties to defend or re-create a partnership with capital and state in either Europe or elsewhere; the attraction exercised by the international anti-corporate or anti-globalisation movement to youth disinterested in what the old unionism has to offer.⁶

I want to relate the Roundtable, moreover, to the recent work on 'globalization from below' by Jeremy Brecher, Tim Costello and Brendan Smith (2000, henceforth GB&S 2000). What is particular to this book, clearly oriented towards movement activists (which, of course, includes teachers/researchers/publicists), is its attention to relations within, between and surrounding the movement(s) against neo-liberal globalization. They stress:

- the necessity for a multi-level strategy (local, national, regional, global), with a dialectical inter-relation between these; of recognizing the

sponsoring organizations, giving them the possibility of commenting on the content, in whole or part. Given earlier experience, mentioned below, I was optimistic enough to hope that the ICFTU would reconsider its initial insistence that the event be off the record. Unfortunately, it preferred to address itself to the breach of etiquette rather than the quality of the dinner. It chose, in other words, to use the force of power rather than argument. Only one year previously, the ICFTU had chosen for the latter option, and I had given its substantial response equal place and publicity to my original argument (Waterman 2000). This seems to me to be the appropriate kind of response in this day and age, and one to the advantage of both the ICFTU, its present interlocutors and potential partners.

c) In the construction of a meaningfully democratic society, and particularly a radically-democratic civil society, the principle of openness takes precedence, for me, over that of confidentiality, except where openness exposes the party or parties involved to hegemonic powers (in the labour case, corporations, states, their international agencies and intelligence forces) or to demonstrably anti-democratic forces in civil society, such as religious and political fundamentalists (including the International Monetary kind).

d) Bill Jordan, ICFTU General Secretary, in an address to a conference on the history and future of his organization, himself pointed out that its public and recorded decisions do not reveal the previous and unrecorded processes by which accords are finally reached: 'That is why it is

tensions within this 'movement in creation', to be dealt with by dialogue, mutual aid, common norms, joint struggles, cultural accommodation and conflict attenuation;

- the establishment of a common programme, including leveling up rather than down, democratization at all levels, making decisions at the lowest level possible, equalizing global wealth and power, converting the global economy to environmental sustainability, etc;
- the increasing primacy of the network and networking, and its institutional expression, the NGO;
- the necessity - in dealing with allies, the public, the political right, the electoral arena, regionalism, and efforts at reform from above - of a strategy of 'tension without polarization' (93);
- the necessity, in dealing with such bodies as the WTO, of understanding the 'fix it/nix it' opposition as less an either/or option but a dialectical relation allowing maximum flexibility in confronting WTO, related IFIs (international financial institutions) and globalization policies.

They end with this aspiration:

Globalization from below represents not just a single goal but also the process of democracy... Ultimately, the problem is not to 'solve' globalization. The problem is to develop social practices that can address the evolving challenges of life on Earth. We envision globalization from below eventually melding into a more general movement for social change. But right now, globalization from above is at the forefront of what social movements - and humanity - need to address. (122)

BC&S do not address themselves directly to the international union organizations, even if they mention some of their positions in passing. We will, nonetheless I hope, see the relevance of their understanding of the relations necessary to the anti-globalization movement and what either did or did not happen in Bangkok.

I want, finally, to relate the Roundtable to what may be the first major theoretical/methodical study of the 'anti-corporate movement', by Amory Starr (2000). In a highly-structured and innovative analysis of this new phenomenon, she distinguishes three major tendencies: 'Contestation and Reform'; 'Globalization from Below'; 'Delinking, Relocalization, Sovereignty'. Starr welcomes the

rediscovery of the political economy as a central terrain of dispute for these movements, whilst simultaneously urging on the political economists (Marxists) the necessity to theorize and strategize fundamental issues of scale and place (meaning: to recognize the necessity for her third tendency).⁷ Although the international trade union organizations would appear, by their demands and forms of protest, to fit into her *first* category, Starr actually places them in her second one. Whilst, again, recognizing the significance of the Globalization from Below movements,⁸ in so far as they seek the subordination of corporations to the values of democracy, equality and justice, she positions herself squarely within the third category. This

- envisions a world of local, small-scale, self-governing communities,
- rejecting the 'growth, modernization and technology' (224) syndrome,
- in which there would be no place for corporations or large-scale production and long-distance trade.

Although Starr makes room for all three movement tendencies, she does not, I think, really theorize or strategize the relations between them. She rather recognizes the ambiguity of her categories and the political overlaps between such (as she does, at least implicitly, by placing major international union demands and strategies in her Contestation and Reform category whilst placing the unions themselves in the Globalization from Below one!). Whilst I have reservations about her third movement/utopia, it seems to me that Starr usefully suggests a new spectrum within which the international unions could be placed, as well as the partners with whom they are now under some internal and external pressure to dialogue. Let us, however, note from my introductory quotation, that whilst the ICFTU is interested in some kind of negotiation with 'major' NGOs, around the increasingly central issue of labour rights, it assumes that it is the 'leader' of civil society, that this is 'nationally' defined, it conflates labour rights with 'union' rights, and assumes that what is necessary is not so much dialogue as 'coordination'.⁹

Background: From debate to discussion?

With the international union initiative for the Bangkok Roundtable, it seems to me, we have

important for those researching history, where they can, to draw on the memories of those who were part of that history, to get a flavour of the passion of events that minutes cannot capture... Most, if not all, of the important issues... will become even more difficult to analyse and understand for historians examining the records... in 50 or 100 years time' (Jordan 2000). If this is the case for public congresses, even more is it so for the kind of informal consultation I analyse here. I hope to thus convey one of the unrecorded processes, as well as a flavour of the passion involved. And in considerably less than even 50 years. e) However unhappy officers of the ICFTU and allied organisations may be with the publication of this paper, I am confident that they will read it and discuss it amongst themselves. My concern is that such an exchange of information and ideas be not confined to the international union elite – or a new international NGO and social movement one – but that it be accessible to the relevant memberships or followings, as well as amongst a growing public concerned with the creation of a new kind of internationalism. I hope at least those union officers present at the Roundtable will appreciate that that whilst I certainly challenge the ICFTU and associates, I have exercised discretion concerning the behaviour of individuals so as to avoid personalization. f) In so far as the paper itself is evidently a personal/political one, further arguments for going public will be found below. I draw particular attention, however, to the criticism of the ICFTU manner of operation by the International

taken a further step, or at least turned to a new space and mode of exchange. This little event was, after all, structured so as to include not simply unions, or the broader labour movement, but 1) labour-oriented non-governmental organizations (NGOs were considered, until at least the Social Summit of 1995, as less than equal partners by the ICFTU), and 2) social movements beyond those of wage-labour. The event was hosted by Focus on the Global South (FGS), a Bangkok-based NGO concerned with alternative development serving and involving the global poor; and by the Friedrich Ebert Stiftung (FES), a research, action and funding agency linked to the German social-democratic party and unions. The ICFTU, it should be stressed, took the original initiative, selected FGS as the host, and was responsible for the agenda.

There were, to my mind, certain major limitations to the event. The role of Thai unions, social movements and NGOs here was largely that of observers. And whilst major national/regional social movements did participate fully (e.g. landless and indigenous peoples from Latin America!), and expressed themselves with self-confidence, the politics of international labour is hardly a matter about which they are informed. It is therefore necessary to find out what, if anything, they gained from the gathering.

The purpose of the Roundtable was to consider the problems of labour under globalization; past attempts at, and obstacles to, common work between the named parties on labour questions; and the forms and areas of more fruitful collaboration in the future. In order to maximize the freedom of the interchange – between and amongst whom relations are still often tense – the participants were not to be considered representatives and the event was off the record. But, if there was to be no publicity, video, press or photographers, this was hardly a closed-door – far less a secret – event: an informative meeting with Thai NGOs, unions and movements was held before the Roundtable, various Thai visitors attended it, apparently at will, and minutes were kept, to be circulated for approval later.¹⁰

This would seem to represent a significant step forward from the meeting between the ICFTU and the Third World Network (TWN) held at the Singapore Ministerial Meeting of the

World Trade Organization (WTO), 1996. That closed-door event was more of a negotiation than a dialogue, with 10 selected representatives from each side. There the ICFTU 'represented' the world's workers, and the TWN 'represented' Third World peoples. The ICFTU was arguing for advancing human rights by working within the existing interstate structures, the TWN for the transformation of these in the interests of Third World development (for the meeting see O'Brien 2000, for the TWN, Wahl 1998). That particular negotiation was unsuccessful, it seems to me, because of asymmetries between the two parties, as well as the fact that each party's image of both the self and the other were problematic (at least in terms of advancing global solidarity in the face of the WTO). Such asymmetries and ambiguities between parties claiming to represent or contribute to a new global civil society, suggest the need for the following: dialogue rather than confrontation; openness; and a readiness to not only rethink but even to transform oneself as a result of such. We will see whether the Roundtable revealed a movement in this direction.

Behind (or beneath) the Roundtable, and cropping up uninvited, was the 'Social Clause'. This is the common name for the strategy of many inter/national union organizations, and many Northern NGOs to give high priority to the winning of 'Core Labour Rights' through the WTO.¹¹ Given that many other NGOs and social movements accord similar priority to the blocking, shrinking, closing-down or substitution of the WTO, this issue has led to considerable tension internationally, as well as to public controversy – some of it in the new alternative international public sphere provided by the Web. Previously perceived, sometimes also by participating bodies, as a 'Union v. NGO', 'Worker v. Middle Class' or 'North v. South' issue, this is not how it expressed itself at the Roundtable. Major Southern unions endorse or accept the ICFTU/ITS¹² strategy, including one present at the Roundtable. So do major Northern NGOs, again including at least one present. That differences here did not prevent the reaching of a short final agreement (Bangkok Roundtable 2001, *Appendix 3*) may have been due to common recognition of the

Secretary of the ICFTU's Brazilian affiliate, on p.21-2. Kjeld Aagard Jakobsen there takes the ICFTU to task for reproducing the structural model of the Communism it always fought against. He could have also spoken of *processes*, since the secrecy practiced by the ICFTU leadership reproduces that practiced by the Communist-controlled World Federation of Trade Unions when I worked for it, 1966-9. For a related argument, by someone who was in Bangkok and has worked for both traditional and alternative labour internationalisms see Greenfield (1998). For the relationship between power and silence, see the initial quotation from Saskia Wieringa.

g) Having decided to publish, the ICFTU, other participants and supporters, have the option of ignoring my piece or of responding. I hereby assure them that I will publish such response within relevant internet spaces I have access to, and make every effort to do so within any print medium that publishes the present piece.

4. For the somewhat limited nature of an event that never questioned the increasingly problematic status of either the ILO or the ICFTU, one need not depend on my criticism. It is adequately revealed by an otherwise informative report on the conference, written within its parameters, by Jill Murray (2001).

5. For which see an account Lambert (Lambert and Webster 2001)

6. This paragraph was largely suggested to me in e-correspondence by Jeremy Brecher (April 26, 2001), of whom more immediately below.

7. Starr appears unaware

complex and contradictory nature of the Social Clause issue and the alliance supporting it.

New language from old unions: the class, the street, and the new internationalism

Before returning to the programme, I have to say something about the readings prepared by FGS, and other materials brought and distributed by participants. These are the hard data participants carry back to their constituencies, and which provide information not necessarily presented round the table. The pack was diverse but unbalanced, with maybe one-third focused on the Social Clause.¹³ Although these materials included a forceful defence of the ICFTU/ITS strategy by one Roundtable participant, it may have been unfortunate that such a large proportion of the pack concentrated on a controversial issue that was not actually on the agenda! Another group of papers dealt with matters of particular concern to FGS: 1) criticism of the international financial institutions, 2) support for the rising global anti-globalization movement, and from the Global Social Forum which had just taken place in Porto Alegre, Brazil, 3) suggestions of alternative international(ist) strategies and models (Bello and Bullard 2001):

What is deglobalization?

We are not talking about withdrawing from the international economy.

We are speaking about reorienting our economies from production for export to production for the local market[...]

We are talking, moreover, about a strategy that consciously subordinates the logic of the market, the pursuit of cost efficiency to the values of security, equity, and social solidarity. We are speaking...about re-embedding the economy in society, rather than having society driven by the economy.

The last major group of papers seemed to represent the tripartite/developmentalist worldview shared by the ILO and the ICFTU/ITSs but, with exceptions (e.g. UNI Asia and Pacific 2000), these did not address the subject of the Roundtable directly.

Union participants nonetheless brought two striking samples of recent inter/national union materials. The first was a strip book on (well,

really, *against*) globalization produced by the Public Services International (2001). A 'reality strip', based on and quoting real workers, unionists and NGO activists from North and South, this imaginatively drawn and innovative strip book argued for an alternative model of globalization, serving popular needs, brought about by an alliance of unions and NGOs. In the Introduction we find this slogan:

Class-awareness is knowing which side of the barricades you are on: class-consciousness is knowing who is there with you. (General Secretary, Hans Engelberts in PSI 2001).

Toward the end it quotes Giampiero Aldaheff, of Solidar (a social-democratic development and justice NGO), and a Roundtable participant, stating:

Trade unions and NGOs took their fight to the WTO, the World Bank and the IMF. The key was in making new alliances and working together, overcoming old mistrusts and finding the common ground...Despite being gassed, shot at and beaten, we shut down the opening ceremony, prevented Clinton's address to the delegates' gala, won over the press, and disrupted the closing sessions to the point of leaving them without an agenda for the next ministerial conference. But mainly, we established a global people's coalition. (Public Services International 2001:27).

This is heady stuff from bodies better known for their devotion to social partnership with capital and state than class alliance and warfare against such.¹⁴

The second item was a series of press releases from the American AFL-CIO, presenting speeches by John Sweeney, its President. Most striking of all was his address to a panel at the World Economic Forum in Davos – an event, it should be recalled, being denounced and countered by demonstrators in the streets there, and by the Global Social Forum in Porto Alegre. Sweeney said:

[T]he title of this forum, 'Addressing the Backlash Against Globalization' is a dis-service to the discussion.

What we witness is not a backlash, but birth pangs. And it is not against globalization, but for a new internationalism.

This movement for a new internationalism is building from the bottom up, not the top down.

of the political-economic-spatial materialism developed over two or more decades by radical social geographers, such as the above-quoted Doreen Massey. For their contribution to the study of labour internationalism, consider Waterman and Wills (2001).

8. She has evidently not read BC&S 2000 which appeared just before her book, but it would seem to fit fairly into her category.

9. Another major reference point for the following argument could have been a paper published as I was completing mine. Written by the retired General Secretary of the International Union of Food and Allied Workers (IUF), Dan Gallin, this represents the most rigorous and open presentation of an international union position on relations with NGOs. Whilst Gallin (2001) re-asserts the priority of unionism over the NGOs in the campaign for international democracy and justice, he is also sensitive to the limitations of what one might call 'actually-existing unionism'.

10. These minutes were eventually circulated only in November 2001 (Focus on the Global South 2001). They make an essential and enriching, if puzzling, supplement to this paper. Due to the 'off the record', condition, the minutes conceal the names or affiliations of speakers, whilst the positions reported often reveal these. A comparison with the published programme of the event would suggest who most of the anonymous 'presenters' might have been! The porosity of workshop confidentiality was further revealed to me during a public event, Manchester, UK, July

It features democratic protest, not corporate deals. Its forum is the public square, not the boardroom. And its promise is to remake the global economy so that it begins to work for working people all over the world. (AFL-CIO 2001b).

What is being projected here is – to paraphrase the title of a not-unrelated book (Mort 1998) about the transformation of the AFL-CIO since 1995 - Not Your Father's International Union Movement. And whilst radical anti-globalizers will be quick to find signs here of the continued presence of father, they will perhaps also understand why the ICFTU, its associates and affiliates were interested in the Bangkok Roundtable in the first place.

'Workers, landless, indigenous, anti-globalisers, academics and NGOs of the world, unite!'

Although the initial intention was to have only 20-30 participants, interest was apparently so high that this increased to 40-50 (*Appendix 2*). There was a remarkable breadth and quality of participation, with leading inter/national union officials, NGO and social movement leaders, from North and South, and sufficient experienced, leading and vocal women for their under-representation (14 out of 46) to be less than customarily noticeable. Union and NGO leaders were evenly represented, but there were only 6-7 participants who could be characterized as primarily social movement leaders/activists. Three or four participants were academics/researchers, and there was a representative of the ILO. The under-representation of social movement people was, again, less noticeable than it might have been, given the overlap of the categories. I missed only the presence of the (ex-Communist) East and the impact of women's/feminist NGOs working on women's labour.

From the NGOs there were, of course, people from FGS and the FES, from the earlier-mentioned Solidar, and from several local NGOs.

Social movement activists were present from Thailand and elsewhere in the region, but also from two major Latin American movements - of the landless in Brazil, and of indigenous peoples (and allied movements) in Ecuador. Also present

was a Frenchman active in the anti-globalization movement nationally and internationally.

Amongst notable union participants were top officials of the ICFTU and one of the International Trade Secretariats (ITSs), as well as one from the Trade Union Advisory Committee (TUAC) – a consultative office of the Organization of Economic Cooperation and Development). In so far as this trio appeared to speak with one voice, I will refer to them as Traditional Institutionalised Union Internationalisms/ists (TIUI). But this can only be done whilst recognizing that this phenomenon is an increasingly ambiguous – even contradictory - one, and that there were also present ICFTU-affiliated bodies and individuals with differing postures, such as the international officers of the Brazilian, South Korean and US unions, and certain unionists from South/South-East Asia itself.

The programme consisted of four plenary sessions:

- Key challenges confronting trade unions, NGOs and social movements in a globalized world;
- Trade unions, NGOs and social movements: reflections on cooperation and interaction in the last decade;
- Globalizing social justice, democratizing international trade and finance: mechanisms, institutions and alternatives;
- The way forward: how to build a common agenda on workers, development and globalization.

In so far as the minutes of the Roundtable were not available to me at time of completing this paper, I will concentrate on the fourth and final session.

Speakers here included: Barbara Shailor, head of international relations at the AFL-CIO; Christophe Aguiton, the activist from the French and international anti-globalization movement (with a background in the French autonomous shopfloor union movement, SUD), Kjeld Jacobsen of the Brazilian CUT union center; Gerard Greenfield, who has worked both for the Canadian Auto Workers (CAW), which is anti-WTO and for international labour-oriented NGOs; and myself. Barbara Shailor had decided that the best contribution she could make to this session on international(ist) strategy was to talk about the new labour rights campaign being

2001, when a North American Marxist academic informed those present that, being in Bangkok for other reasons at that time, he had simply sat in on a session.

11. 'Core Labour Rights' are themselves problematic. Apparently an assertive union strategy, confronting neo-liberal globalisation, they are better understood as a compromise between labour, capital and state within the framework of an International Labour Organisation (ILO) on the defensive. The rights cover freedom of association, free collective bargaining, elimination of forced labour, abolition of child labour, elimination of discrimination. They do not, notably, include an explicit right to strike nor to take any other form of collective action, national or international – rights which *are* called for by the International Centre for Trade Union Rights (2000). From this source (1-2) it appears that the brave new 'Core Labour Rights' were actually declared either at the foundation of the ILO after World War I, or as the United Nations was founded after World War II. Indeed, the combined historical positions appear somewhat more extensive and radical than what has been so proudly presented to us 50-80 years later! 'Core Labour Rights' must, it seems to me, be therefore seen as a minimal defensive action, and as revealing weakness rather than suggesting strength. For a well informed, if less-critical account, that nonetheless proposes a broadening of the international labour rights campaign, see Diamond (2000). It should, finally, be noted that – unlike other

organized by her national organization. This turned out to be a wise decision, given that the AFL-CIO seems to have finally decided to bring its international labour rights concerns back home, by proposing, amongst other things, that the ILO Charter of Core Labour Rights be posted in every workplace in the USA!¹⁵ Christophe Aguiton proposed a series of areas of possible collaboration between the movements and across the world. These were the following: cancellation of third world debt; opposition to any new round of WTO negotiations; introduction of the Tobin Tax (a tiny percentage of global financial transactions, simultaneously damping down such movements and raising considerable funds for development purposes); rejection of the World Bank and IMF.¹⁶ I added here one more: an international labour rights campaign (see further below), modeled on that of the international women's movement. There was no positive response by TIUI to these proposals.

From discussion to dialogue?

Although there were, of course, three parties present at the Roundtable, this paper is, as already indicated, concerned with international labour's global dialogue. The equally problematic NGOs and social movements must therefore be left out of consideration. These seem to me to have, in any case, been subject to more extensive (self) criticism (Klein 2001, Wahl 1998a, b, 2001, Waterman 2001c). So what I want to do here is to place the Roundtable back into the context and orientation provided by the Introduction. This means considering at least:

- *TIUI orientations*: to what extent is TIUI moving beyond its identification with free trade, growth and 'social partnership' with capital and state;
- *TIUI operational style*: to what extent is TIUI surpassing a power-politicking, diplomatic, lobby-oriented, diplomatic style of behaviour;
- *Implications of the Roundtable for the future of TIUI*.

Changing TIUI orientations

Amory Starr who, as I earlier stated, considers the union movement to be part of the 'globaliza-

tion from below' tendency, nonetheless criticizes it as follows:

For the most part, even the most international new labour movements rarely think beyond the corporate form. They do not aim to reorganize work, but to re-establish the social contract... There are few signs of broader anti-corporatism... Corporations are sites for delivery of social justice; there is nothing inherently wrong with them as institutions. Unions make no critique of industrialization, centralization, standardization, consumption, ecological limits or growth... Unions' vision of economic life is entirely dependent on corporations. Unions are not putting resources into developing alternatives to 'jobs' as a source of economic security. (Starr 2000: 92-3)

There was, in Bangkok little or no indication of a movement beyond such an orientation, even from the most radical unions present. Indeed, informal discussion suggested that TIUI was rather hoping that the two other parties might meet it halfway somewhere. Given, however, that the international anti-corporate movement is one that represents, precisely, a development beyond 20th century social movement understandings of the world and how to change it (the labour/socialist and/or nationalist/populist), it appears, to me, rather to represent either a challenge or an invitation to 19th-20th century TIUI to adopt, or adapt to, the new understandings the anti-corporate movement offers. Let me qualify this: it could be argued that TIUI *is* adapting to, or adopting, some of the understandings of the new social movements (e.g. women's/feminist) and anti-globalization movements. But this is rather by adding these to traditional understandings than by making an explicit break with its century-long practices. The reaching-out is possibly suggested by my initial quotation from the ICFTU. But the document from which it is drawn also implies that union rights violations are a *Southern* problem (10 or more Southern states are named, not one Northern one). This, in turn, suggests the extent to which the TIUI understanding of labour rights is informed by an increasingly self-limiting or even self-defeating 20th century labour paternalism. This could, with little exaggeration, be summarised as follows:

inter/national unions, the ICFTU ignores the existence of the ICTUR.

12. In correspondence Dan Gallin considers that this suggests a homogeneity that does not exist. I recognise the problematic nature of the combination. Yet I consider the problem may be more one for the ITSs than for me. There must be more differences between (certain) ITSs and the ICFTU than the ICFTU/ITS formulation allows for. But they do not strike the eye of this motivated researcher. In so far as ITSs do have distinctly different positions from the ICFTU, or from other ITSs, they could only advance a dialogue if they made this clear and public.

13. These were largely provided by myself, being drafts of items proposed by myself for a guest-edited special issue of a US magazine on 'Labour Rights in the Global Economy' (WorkingUSA 2001).

14. The ICFTU and ITSs are deeply committed to the UN's 'Global Compact', being energetically promoted by UN General Secretary, Kofi Annan. This has been forcefully criticised, by one liberal-democratic specialist, as dramatically furthering the subordination of the UN to the corporations (Judge 2000a, b). 'Social partnership', on the national or European level, has been promoted by ICFTU General Secretary, Bill Jordan, ever since he was a British national union leader (Jordan 1994:xiii-xvii). The explicit understanding of social partnership is that efficient, competitive and profitable business is good for workers, and that company understandings with unions are good for business. The ICFTU/ITSs are now deeply committed to

We, the developed unions from the developed world, need to defend the weak, underdeveloped workers and unions of the non-Western world; particularly their vulnerable women and children; whether they have themselves demanded this or need to be enlightened about the matter by us. In this endeavour we can and will take advantage of the financial aid, political help and trade policies of liberal-democratic states and elites, of reasonable multinationals, and of the international community - as represented by any TNC or inter-state agency accessible to us.

One can find the roots of such contemporary Northern union attitudes in those of German labour 'solidarity with savages' in 1900 (Mergner 1988), or Dutch socialist relations with the colonial world between the two world wars (Tichelman 1988).¹⁷ An explicit TIUI critique of, or breach with, this tradition is yet to be made.

Changing TIUI style of operation

A leading Brazilian union officer, who also participated in the Roundtable, has said of the ICFTU, that its leadership structure paradoxically copies the very Bolshevik model of the regimes which 'free trade unionism' so vehemently opposes. This clandestine industry-based structure, devised by the Russian Social-Democratic Workers' Party at the beginning of last century (1903), consisting of congress delegates, a central committee and a general secretary, is largely reflected in the hierarchy of both the ICFTU and the WFTU [World Federation of Trade Unions]...However, 83 years after the fall of the czar, in a climate of democracy and pluralism, this is an outdated structure for an international trade union organization. It needs to be changed to reflect the composition of the membership and the world in which we live. Hardly any of the national organizations retain such a centralized leadership structure, and even many of the ITSs and at least one regional organization, ORIT, have already modified their structures so as to broaden the leadership and spread the power and responsibilities, at least minimally. (Jakobsen 2001: 369).

Whilst reference here is only to leadership structure, this has predictable implications for

all internal relations, and for external relations, including behaviour at the Roundtable itself. The union people caucused twice, for a couple of hours, once before and once during the event. The intention, apparently, was to act as a united bloc in the face of: 1) the NGOs and/or social movements, 2) certain positions held by other participants about the IFIs, or even, 3) against certain individuals. It must be said, however, that no particular effort was made to conceal such caucusing, which those involved seemed to consider quite normal.¹⁸ The strategem was ineffective, and this for one or both of two reasons. The first is that whilst the major representatives of TIUI might themselves have had one common view or purpose, other unions (or other union people) did not necessarily share these, and some revealed themselves as either having quite separate experiences/proposals, or as critics of traditional ICFTU strategies. The second reason is that such a strategem is not really relevant to a situation in which there was no opposing 'party' or 'position' (contrast Singapore 1996), but a range and variety of such, from people who are not only in a posture of dialogue amongst themselves but concerned to create a relationship of mutual trust. Whilst, therefore, the decision of the ICFTU to create this forum implied *dialogue*, the behaviour assumed *debate*. Perhaps what was here achieved was something between - a *discussion*?

I have, in earlier writings mentioned above, made something of the distinction between debate (the continuation of warfare by verbal means), discussion (in which parties listen to each other), and dialogue (in which parties learn from each other, or in which the initial subject matter/discourse is surpassed). I have also argued for the necessity of the third of these within the international labour movement, as well as for the creation of fora appropriate to such dialogue. The Bangkok Roundtable certainly provided a forum that was both new and appropriate. But if I have elsewhere encouraged the belief that either 1) dialogue alone is a guarantee of progress toward a renewed international labour movement, or that 2) it implies mutual self-transformation, or the reaching of a common synthesis, then Bangkok leads me to other conclusions, or at least propositions.

this global social partnership project, and attempting to further it by international-level agreements negotiated with major MNCs. Either despite, or because of, its Third Way, public relations, language, the interests and intentions of such corporations are quite unambiguous. Says a Vice President of the Norwegian Statoil corporation, about such a pact with the International Chemical, Energy and Mineworkers Federation (ICEM):

The pact with the ICEM “makes good business sense”... Complying with and furthering the Global Compact is “part of securing our ‘license’ to operate internationally”.... “If you are in business in challenging areas of the world, you absolutely want and need to act ethically, sustainably and socially responsibly. It changes the terms of the debate from whether or not you should be in a country to how you should act in that country.” [...] The stakeholder dialogue aspects of the Global Compact — which encourages civil society, labour and business to not just set standards but meet face-to-face to work out solutions to common problems — is particularly valuable to business... “The unions as well as the NGOs are globe spanning knowledge-based organizations”... “They give us early warning of problems we should be aware of, and allow us to take early action to mitigate risks.” (UN News Service, New York, March 23. Compare: www.icem/update/upd2001/upd01-13.html)

The enthusiasm of the ICFTU/ITUs for such global social partnerships can be explained by the

Let us recall here one of the Brecher, Costello and Smith positions:

- the necessity for a multi-level strategy (local, national, regional, global), with a dialectical inter-relation between these; of recognizing the tensions within this ‘movement in creation’, to be dealt with by dialogue, mutual aid, common norms, joint struggles, cultural accommodation and conflict attenuation.

Here five conditions follow ‘dialogue’. ‘Mutual aid’ and ‘joint struggles’ are things to be demonstrated on the street rather than in the conference hall. What of the ‘common norms’ revealed within or declared by the Roundtable? The Joint Report (*Appendix 3*) suggests both new explicit recognitions on the part of TIUI and certain concessions by the anti-globalizers:

- The serious threats and risks posed by *certain WTO rules* to development, social, labour, gender and environmental concerns.
- The importance of promoting, respecting and realizing fundamental worker rights and other human rights by all relevant means including action at the *appropriate international institutions*. (My stress – PW)

I am not sure whether it would not have been better, for both parties, if the declaration had noted the differences rather than papering them over. Better, in other words, if the document had recorded the distance still existing between TIUI and the anti-corporate movement. At issue here is what dialogue implies for social transformation.

Ruth Levitas (2000), reminds us of the necessity of combining visions of a post-capitalist society (place and space) with a dialogical utopianism (process). She also reminds us, however, that an undifferentiated notion of dialogical transformation — one that ignores the increasingly conflictual interests within contemporary capitalist society — is going to obscure these conflicts and thus leave us where we are. Relevantly, for our subject matter, she illustrates her argument with a European Commission document that urges ‘solidarity’ between those who ‘earn income from work and those who earn [sic] their income from investments’ (208-9. Her sic - PW). A meaningful basis for a transformatory dialogue, she suggests, requires a critical analysis of capitalism — aimed not (just) at saying isn’t it awful, but at

identifying potential points of intervention which might lead to transformation, and potential agents of that transformation. (209)

A transformatory dialogue implies a certain content or orientation, and that it is addressed to particular forces. In so far as we recognise the point about both orientation and agents, then, it seems to me, there may be a basis for dialogue between TIUI and the anti-globalisation movement, which does both allow for and even require recognitions and concessions from the latter, not just the former.

Concessions — well, actually, recognitions — can be noted amongst many of the new international social movements in so far as they have understood their particular interests or identities to be undermined or denied by neo-liberal ideology, by corporate globalisation, or even by capitalism more generally.¹⁹ This recognition of the political economy as a — or the — central terrain of dispute has moved them toward taking labour struggles and trade union organisation seriously (which most of them failed to do during the previous 10-20 years). The friendly, welcoming and sometimes even uncritical response of the anti-globalisation movement to the cautious presence of the US or international unions in Seattle, was an indication of this. As also the comparatively new interest of NGOs, such as Focus on the Global South, in the international union organisations.

Implications for TIUI

The question remains of whether the trade union organisations, nationally as well as internationally, are prepared to trade in their primary but subordinate partnership with capital and state for a primary relationship of equality with the increasing number of movements variously involved in the international anti-corporate campaign — whether these be ‘class’ (work-related), ‘democratic’ (anti-authoritarian), environmental or ‘pluralistic identity’ (recognition/respect) ones. This would seem to require the further abandonment by TIUI of such powers and privileges as it might have previously had — or at least believe itself to have. The 155 million members of the ICFTU need, it seems to me, to be seen, and presented, not as an existing resource, but a potential force for an alternative

justification it gives to their mode of existence, and their expertise. This is in international-level lobbying and bargaining – which requires no necessary mobilisation of the workers involved. Just how this chimes with the new language of class, class alliances, street protest and international grassroots solidarity action has yet to be spelled out – or even thought out – by the union institutions involved.

15. This public articulation of the international with the national would seem urgently required by the fact that worker rights in the USA are worse than those of any other industrialised liberal democracy, worse than those of South Africa, and getting even worse since the election – by a miserable 25 percent of the electorate – of President Bush II. See here Human Rights Watch (2000), which also makes the point that the US can hardly campaign for Core Labour Rights in the Third World whilst failing to recognise them itself. Past AFL-CIO failure to match its international concern with rights to a national one has laid it wide open to charges of protectionism. Such charges were repeated in Bangkok. More seriously, I would say, it reproduced and even further spread amongst the US unionists and public a paternalistic notion of international solidarity, as a 20th century populist version of the pre-capitalist aristocratic notion of *noblesse oblige*. More on this below.

16. This last proposal is certainly in contradiction with the long-standing and deep-going – even fundamental – commitment to the TIUI practice of lobbying IFIs. Yet it would seem to be fully

world order, with such potential to be not *marshalled* into often passively-accepting ranks but *released* to both express itself and find itself within what has become the major international social movement or our day (many are already within it: see Moody 1997). In so far as TIUI has discovered the limits of its power to act against a globalized and networked capitalism, the public admission of such weakness would itself be re-empowering. In so far, further, as TIUI recognises and admits the *costs* it has inflicted on both workers and others, by allying itself with the inter/state and trans/national corporations, this would surely only increase its attraction to the anti-globalisation movement. The same goes for the implicit or explicit traditional alliance with imperial states/blocs against the colonised (internal as well as external).

I am here suggesting that the traditional international union organisations are *not yet* committed to the international anti-corporate movement. But we could – alternatively – place them within the spectrum of Amory Starr, which finds them somewhere between her first two categories – ‘Contestation and Reform’ and ‘Globalisation from Below’. On such an understanding, the challenge to labour internationalists, whether within or without the unions, would be to move TIUI from the first to at least the second position. To further push the boat out in such a direction, I will spell out here the proposal for the international labour rights movement I outlined during the ‘future strategies’ session of the Roundtable.²⁰

From an international to an internationalist labour rights campaign

Whilst it seems to me likely that a new international labour movement (i.e. one articulating the union, anti-corporate and other pro-labour social movements) will develop around such issues as were proposed at the Roundtable by Christophe Aguiton, or to be found in the final declaration, it also seems to me that the matter of labour rights has particular salience:

- it begins with an existing and growing inter/national union recognition;
- It articulates this with the needs and demands of non-unionized and even ‘non-unionizable’ labour;

- unlike ‘free trade’, or ‘development’, human rights discourse is one that has been both expanded and deepened over the last 50 years, and been found profoundly empowering and effective by both indigenous and women’s movements;
- human rights discourse has widespread cross-cultural legitimacy – at least amongst those denied such;
- human rights discourse is capable of infinite future expansion.

The proposal below grows out of a critique of the TIUI Social Clause strategy. It comes, more specifically, out of reflection on the evaluation of an ICFTU campaign on the Social Clause, commissioned by the Norwegian trade union confederation (LO-Norway), and authored by Mark Anner (2000, 2001). The LO-N had arranged for the ICFTU to get some \$350,000 of Norwegian state development funding in order to campaign for the Social Clause in the period leading up to the Seattle WTO meet, late-1999. The whole process is replete with contradictions. In so far as the Social Clause was meant to be *in the interests* of the Non-West, rather than the West, why was it campaigned for only amongst unions in the *supposedly interested* world area? In so far – as the LO itself admits – as Norwegian unionists themselves did not ‘fully understand’ the Social Clause (Anner 2000:20) they were supposedly supporting on behalf of Non-Western unions, why was the campaign not also carried out in Norway? One is obliged to conclude that this was a strategy that

- if not protectionist, was at best paternalistic (one way solidarity from above and outside);
- was developed by inter/national union officers, independently of, and above the heads of, rank-and-file workers in the North.

The Anner evaluation, which accepts the parameters of the Social Clause strategy, nonetheless reveals these shortcomings. Anner appears to identify himself, however, with certain Southern union criticisms of the Social Clause campaign (from South Africa and Brazil in particular) and proposes a Southern-based strategy intended to either supplement or surpass such shortcomings. He appears to endorse the demand of these major Southern unions that the Social Clause strategy be articulated with development issues

justified by the position of a Public Services International staffer, whose article on an October 2000 Washington consultation of OLI with the IFIs, is entitled 'World Bank and IMF to Unions: Drop Dead' (Edwards 2000).

17. That this accusation may be considered extreme, does not mean it is irrelevant – or unique. An article by Jo Doezema (2001) reveals curious parallels between this paternalistic internationalism and that of the contemporary Northern-based Coalition Against Trafficking in Women: 1) 'CATW's construction of "third world prostitutes" is part of a wider western feminist impulse to construct a damaged "other" as justification for its own interventionist impulses' (Doezema 2001:17); 2) this campaign mirrors those of 19th century feminists against prostitution in colonial India; 3) The orientation of CATW, in national campaigns and inter-state institutions, is contested by the Human Rights Caucus (a network of NGOs, North, South, East and West), which sees prostitution as legitimate labour, favours sex-worker self-organisation, and links trafficking to the general struggle for women's and labour rights. It appears, in other words, as if tension today between a 'substitution solidarity' and a 'reciprocal' or 'complementary' one may be general to international solidarity movements in the contemporary world. For further possible meanings of international solidarity, see Waterman (2001:236).

18. Here two points: 1) In so far as these assertions are dependent on hearsay, they are open to correction by those who organised the caucuses. They

(c.f. Diamond Forthcoming). This on the grounds expressed by a South African union leader, to the effect that 'We have not succeeded in making the social clause a demand of the South' (Anner 2000:21).

My proposal is an alternative to both. I see the Northern-based strategy as counter-productive in so far as it articulates labour rights with capitalist free-trade discourse, and makes labour rights dependent on the international capitalist institution at the vanguard of their destruction. And whilst I understand the Southern-based reaction, I would consider it an error to articulate labour rights with development/dependency discourses that have themselves *accompanied* the continuing under-development of the South over the last half-century. If, it seems to me, we are seriously concerned about the advance of international labour rights in the era of neo-liberal globalisation, then what we need is a strategy that is neither Northern-based nor Southern-oriented but which is, rather, a locally-informed global social movement strategy intended to meet the needs of both – not to speak of the East.²¹ The alternative strategies are summarised in Table 1 (*Appendix 4*). Let me expand on the third one.

- In so far as the assault on labour rights is global, the response has to be both international and internationalist; in so far as repression is being globalized, Core Labour Rights have to be expanded to include a) the right to strike (excluded from the current ones), b) the right to international solidarity action;
- In so far as an increasing proportion of the global labour force is un-unionized and non-unionizable (houseworkers, homeworkers, petty-commodity sector), the campaign has to focus on *labour* rights generally rather than *union* rights narrowly, to address all labouring people, to involve those representing the non-unionizable;
- The fundamental 'social partnership' with capital and state, of the NIC period, has to be replaced by a fundamental partnership, at all socio-political levels and scales, with the human rights and anti-corporate movements, and with democratic civil society;
- Rather than suggesting that lobbying is sufficient for Northern unions, and that social

movements are unavoidable for Southern ones, it needs to be recognised that in all cases lobbying and negotiation must be subordinated to movement needs, and have to be articulated with other relevant strategies;

- Rather than accepting the inevitability of IFI hegemony, it is necessary to a) shift decision-making on labour back into the ILO, b) demand the ILO receive the powers granted to the IFIs, c) campaign for a new ILO composition (adding pro-labour NGOs) and an increased proportion of labour votes (up from the 25 percent of 1919 to...33 percent?...50 percent?).

It seems to me that such a proposal is compatible with the strategies being argued for or developed by a number of inter/national labour-oriented networks, whether based in the North or the South. Indeed, it is in part inspired by such (John 2000, International Centre for Trade Union Rights 2000, Women Working Worldwide 1996). And, whilst, of course, it is in sharp contrast to the Social Clause strategy, it seems not necessarily incompatible with the ICFTU document from which I initially quoted. Moreover, it is a proposal in the serious sense of the word, because I claim no particular political experience or academic expertise in this area. But even if the proposal can be challenged as being too radical, (or too reformist by radical labourists), it would seem to have high *threat* value (with respect to those globalizers whose institutional/ideological hegemony is still largely unchallenged) and high *provocation* value (with respect to the broad international labour movement, left, right and centre). In any case, the proposal would seem a suitable subject for a more-specialised follow-up to Bangkok – or at least *one* follow up to such.²²

Conclusion: loosening up tied ends

It might be more satisfactory if it were here possible to systematically bring together the reflections above with the ideas initially referred to:

- Massey's talking across difference in an interconnected world;
- Wieringa's insight on the articulation of silence and power, in relation to hegemony within and between social movements;

are, however, consistent with the Bolshevik model criticised by Jakobsen above. I caucused in the same way in the Young Communist League in Britain in the 1950s, at conferences of the Council for Education in World Citizenship – a UN-oriented body for secondary school children; 2) a *compa You* with much experience of the international women's movement, both in the streets and in the lobbies, finds such caucusing normal to social movement involved in international negotiations. I would, however, suggest that whilst it might be appropriate to a newer or weaker party to a *negotiation*, it is inappropriate to an older or stronger one involved in a *dialogue*. More on this below.

19. Thus Starr (2000:33) asserts:

Among women's movements, while much work has been done in the private sphere of the family, the body and interpersonal gender relations, there is a constant emphasis on the economic concerns of women – their double day and low pay. The multiracialization and internationalisation of women's movements have made clear that there is neither common identity among women nor even common liberal values (their relationships to tradition, religion and formalised politics being among the more divisive issues)... What holds their tenuous conversations together is the consistency with which women are exploited materially.

I am not sure to what extent the international women's movement, or internationalist feminist theorists, would agree with this statement, in which the wish may be mother to the thought. It does,

- The ICFTU and Gallin (Footnote 8) on the relationship, under globalisation, of unions to NGOs and civil society;
- The BC&S principles of relations within, between and beyond a movement for 'globalisation from below';
- Starr's model of the global anti-corporate movement.

However, this would require that I spell out my own propositions or model in relationship to, for example, Starr - something which would require a closer read of her than I have yet been able to make. I do not, in any case, feel a need, at this point, to tie up loose ends. What are presented here are, after all, reflections. And I do think that the highest priority now for international labour's global dialogue, is less to come to conclusions than to open up to a new public both the actions and the discourses of international labour and labour internationalism. The latter have been frozen for far longer than the Cold War, and do have genuine labour movement origins (MacShane 1992). And the incomplete thaw affects, as I might have suggested, the inter/national labour/union left as well as the right or centre.

A correspondent, present at the Roundtable, suggests that the event was, from the point of view of TIUI, merely a damage-limitation exercise and therefore a waste of time.²³ Another friend, associated with public anti-corporate

movements in the UK and internationally, asks me how much time one should spend (meaning, again, *waste*) talking to international trade union officials. I am not convinced, as such friends might suggest, that I am here letting optimism of the will dominate scepticism of the intellect. It is more a matter of what we can learn, and what we can communicate to a wider audience, as a result of such a dialogue.

I am, admittedly, fixated by the 155 million, and the possibility of discovering how the potential here locked up could be released, as a democratic and pluralistic force, against the increasing commoditization, despoliation, exploitation, repression and alienation that capitalism continues to promote. TIUI can no longer aspire to *lead* civil society (and leading it only *nationally* would suggest reproduction of an already failed particularism). It could always, however, try to do so and thus anyway become a major *contributor* to the construction of the new global/regional/national/local civil society necessary to underpin and secure labour rights. And if it is unwilling or unable to see the argument above as an invitation, or is unable to respond to the invitation, then it seems to me - considering the range of forces present in Bangkok - not unreasonable to expect that newer social forces, movements and forms to action will discover newer and more effective ways of doing so.²⁴

November 16, 2001

Appendix 1

Porto Alegre Call for Mobilisation

Social forces from around the world have gathered here at the World Social Forum in Porto Alegre. Unions and NGOs, movements and organizations, intellectuals and artists, together we are building a great alliance to create a new society, different from the dominant logic wherein the free-market and money are considered the only measure of worth. Davos represents the concentration of wealth, the globalization of poverty and the destruction of our earth. Porto Alegre represents the hope that a new world is possible, where human beings and nature are the center of our concern.

We are part of a movement which has grown since Seattle. We challenge the elite and their

undemocratic processes, symbolised by the World Economic Forum in Davos. We came to share our experiences, build our solidarity, and demonstrate our total rejection of the neoliberal policies of globalisation.

We are women and men, farmers, workers, unemployed, professionals, students, blacks and indigenous peoples, coming from the South and from the North, committed to struggle for peoples' rights, freedom, security, employment and education. We are fighting against the hegemony of finance, the destruction of our cultures, the monopolization of knowledge, mass media, and communication, the degradation of nature, and

however, identify a direction of movement amongst 'new', 'single-issue', or 'identity' movements internationally. This is suggested by a piece on the feminist movement in Latin America by Maruja Barrig (2001). Here a fascinating analysis reveals how the more holistic and combative women's movement of the 1980s permitted itself to be sidetracked into a concentration on political/legal issues, customarily pursued by increasingly professionalised specialists in national and regional NGOs, lobbying state and inter-state agencies. Whilst making major political and legal gains, the 1990s witnessed a continuing deterioration in the social and economic conditions of women in the sub-continent. Barrig suggests the necessity for bringing back the socio-economic, and restoring the relationship between the feminist movement, poor women, and action in the streets (as in the anti-Fujimori movement in Peru). Whilst the 'NGOisation' of the international women's movement might seem only to confirm some 'iron law of incorporation', it also reveals the capacity for self-criticism, recuperation, and of overlapping anti-globalisation agendas between women and labour. Barrig's article throws other lights on TIUI thinking and practice that international labour specialists could usefully reflect upon. 20. This moves the paper from one of reflection to one of proposition. If, however, we recognise that all social science writing represents an intervention in the given area or situation – also when it is innocent of such intention, and *particularly* when it denies such – one's

the destruction of the quality of life by multinational corporations and anti-democratic policies. Participative democratic experiences — like that of Porto Alegre — show us that a concrete alternative is possible. We reaffirm the supremacy of human, ecological and social rights over the demands of finance and investors.

At the same time that we strengthen our movements, we resist the global elite and work for equity, social justice, democracy and security for everyone, without distinction. Our methodology and alternatives stand in stark contrast to the destructive policies of neo-liberalism.

Globalisation reinforces a sexist and patriarchal system. It increases the feminisation of poverty and exacerbates all forms of violence against women. Equality between women and men is central to our struggle. Without this, another world will never be possible.

Neoliberal globalization increases racism, continuing the veritable genocide of centuries of slavery and colonialism which destroyed the bases of black African civilizations. We call on all movements to be in solidarity with African peoples in the continent and outside, in defense of their rights to land, citizenship, freedom, peace, and equality, through the reparation of historical and social debts. Slave trade and slavery are crimes against humanity.

We express our special recognition and solidarity with indigenous peoples in their historic struggle against genocide and ethnocide and in defense of their rights, natural resources, culture, autonomy, land, and territory.

Neoliberal globalisation destroys the environment, health and people's living environment. Air, water, land and peoples have become commodities. Life and health must be recognized as fundamental rights which must not be subordinated to economic policies.

The external debt of the countries of the South has been repaid several times over. Illegitimate, unjust and fraudulent, it functions as an instrument of domination, depriving people of their fundamental human rights with the sole aim of increasing international usury. We demand its unconditional cancellation and the reparation of historical, social, and ecological debts, as immediate steps toward a definitive resolution of the crisis this Debt provokes.

Financial markets extract resources and wealth from communities and nations, and subject national economies to the whims of speculators. We call for the closure of tax havens and the introduction of taxes on financial transactions.

Privatisation is a mechanism for transferring public wealth and natural resources to the private sector. We oppose all forms of privatisation of natural resources and public services. We call for the protection of access to resources and public goods necessary for a decent life.

Multinational corporations organise global production with massive unemployment, low wages and unqualified labour and by refusing to recognise the fundamental worker's rights as defined by the ILO. We demand the genuine recognition of the right to organise and negotiate for unions, and new rights for workers to face the globalisation strategy. While goods and money are free to cross borders, the restrictions on the movement of people exacerbate exploitation and repression. We demand an end to such restrictions.

We call for a trading system which guarantees full employment, food security, fair terms of trade and local prosperity. Free trade is anything but free. Global trade rules ensure the accelerated accumulation of wealth and power by multinational corporations and the further marginalisation and impoverishment of small farmers, workers and local enterprises. We demand that governments respect their obligations to the international human rights instruments and multilateral environmental agreements. We call on people everywhere to support the mobilisations against the creation of the Free Trade Area in the Americas, an initiative which means the recolonization of Latin America and the destruction of fundamental social, economic, cultural and environmental human rights.

The IMF, the World Bank and regional banks, the WTO, NATO and other military alliances are some of the multilateral agents of neoliberal globalisation. We call for an end to their interference in national policy. These institutions have no legitimacy in the eyes of the people and we will continue to protest against their measures.

Neoliberal globalization has led to the concentration of land ownership and favored corporate agricultural systems which are environmentally and socially destructive. It is based on export oriented

obligation is no more than that of making this explicit to both oneself and the reader. In this particular case, I am continuing an earlier-mentioned dialogue with TIUI, represented by my open letter to Bill Jordan (Waterman 2000). I did not reply to this, fearing that such a response would turn the exchange from a discussion into a debate. An ICFTU officer agreed that the exchange could be better continued in another form or forum. It could be reasonably argued that in so far as this paper breaches the ICFTU 'off the record' condition, I am going back into confrontational mode. In so far, however, as I am seeking neither to destroy nor to dismiss it, I would see what I have been doing above, and continue below, is to *challenge* the ICFTU. And this in two senses: 1) to surpass its diplomatic style of operation, and 2) to move from its primarily lobbying activity to a primarily mobilising one. The mid-2001 call of the ICFTU for internationally-coordinated but locally-initiated protest 'against the negative effects' of globalisation, when the WTO meets in Qatar, November 9, 2001, suggested a move in this direction which bears watching.

21. 'Locally-informed' is becoming more complex day by day. Thus one can find powerfully-argued positions, coming from either India (Banaji 2001) or the US (Pope, Kellman and Bruno 2001), which whilst innovatory, seem inspired by or directed at specific national circumstances or strategies. In neither case are international implications worked out – which will be an increasing requirement in the future. However, such

growth backed by large scale infrastructure development, such as dams, which displces people from their land and destroys their livelihoods. Their loss must be restored. We call for a democratic agrarian reform. Land, water and seeds must be in the hands of the peasants. We promote sustainable agricultural processes. Seeds and genetic stocks are the heritage of humanity. We demand that the use of transgenics and the patenting of life be abolished.

Militarism and corporate globalisation reinforce each other to undermine democracy and peace. We totally refuse war as a way to solve conflicts and we oppose the arms race and the arms trade. We call for an end to the repression and criminalisation of social protest. We condemn foreign military intervention in the internal affairs of our countries. We demand the lifting of embargoes and sanctions used as instruments of aggression, and express our solidarity with those who suffer their consequences. We reject US military intervention in Latin America through the Plan Colombia.

We call for a strenghtening of alliances, and the implementation of common actions, on these principal concerns. We will continue to mobilize on them until the next Forum. We recognize that we are now in a better position to undertake the struggle for a different world, a world without misery, hunger, discrimination and violence, with quality of life, equity, respect and peace.

We commit ourselves to support all the struggles of our common agenda to mobilise opposition to neoliberalism. Among our priorities for the coming months, we will mobilize globally against the: World Economic Forum, Cancun, Mexico, 26 and 27 February

Appendix 2

Participants List, International Roundtable, Bangkok

The following list, taken from Roundtable materials, may not be entirely complete or accurate. I have spelled out acronyms where this seemed both possible and necessary. Peter Waterman.

A.V. Jose, International Institute for Labour Studies, Geneva; Barbara Shailor, AFL-CIO, USA; Bamrung Kayotha, Assembly of the Poor, Thailand; Cecilia Brighi, CISL, Italy;

- Free Trade Area of the Americas, Buenos Aires, Argentina, 6-7 April and Quebec City, Canada, 17-22 April
- Asian Development Bank, Honolulu, May
- G8 Summit, Genova, Italy, 15-22 July
- IMF and World Bank Annual Meeting, Washington DC, USA, 28 September - 4 October
- World Trade Organisation, 5-9 November (Qatar)

On April 17, we will support the international day of struggle against the importation of cheap agricultural products which create economic and social dumping, and the feminist mobilization against globalization in Genova. We support the call for a world day of action against debt, to take place this year on July 20 and the mobilization for the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (Durban, South Africa - 31 August-7 September 2001).

The proposals formulated are part of the alternatives being elaborated by social movements around the world. They are based on the principle that human beings and life are not commodities, and in the commitment to the welfare and human rights of all.

Our involvement in the World Social Forum has enriched understanding of each of our struggles and we have been strengthened. We call on all peoples around the world to join in this struggle to build a better future. The World Social Forum of Porto Alegre is a way to achieve peoples' sovereignty and a just world.

February 19, 2001

Christophe Aguiton, ATTAC, France; Christopher Ng, Union Network International Asia Pacific, Singapore; Eliane de Moura Martins, MST, Brazil; Fred Azcarate, Jobs with Justice, USA; G. Rajasekaran, TUC, Malaysia; Gerard Greenfield, Canadian Auto Workers, Canada; Giampiero Alhadeff, Solidar, Belgium; Gigi Francisco, DAWN, Philippines; Hemasari

assertive and forward-looking national proposals would certainly need to be taken account of in working out the internationalist strategy I outline here.

22. Another one, which might be more fraught, but again possibly not, could be on the meaning or meanings of international labour solidarity in the era of globalisation. IMF General Secretary, Marcello Malentacchi (see Footnote 1 above) proposes a labour movement dialogue on the meaning of globalisation, though whether 'labour movement' here means more than the trade union movement is not clear.

23. It has occurred to me that ICFTU initiative here might have been inspired by the 'Millennial Review' of the organisation, announced by its Congress in early 2000, intended to be completed by the end of 2001 (ICFTU 2000).

This is intended to confront precisely the implications of globalisation, informatization, the changing labour force, etc. If and when the ICFTU finally makes the Review available to the union, labour movement, academic and general public, researchers might be able to investigate the matter.

24. This last footnote may be an odd place for a dedication, but, given what I have just argued, it seems not entirely inappropriate. Just as the ICFTU is having trouble remembering or recovering its social movement aspect, so is my former Institute. At a moment in which all courses on social movements (international or national) appear to have been removed from the syllabus of the Institute of Social Studies, I would therefore like to dedicate this paper to other former staff (permanent or visit-

Dharmabumi, International Union of Foodworkers, Indonesia; J. John, Centre for Education and Communication, India; James Howard, ICFTU, Belgium; Jayati Ghosh, Jawarhalal Nehru University, India; Josua T. Mata, Alliance for Progressive Labour, Philippines; Junya Yimprasert, Thai Labour Campaign, Thailand; Kjeld Jakobsen, CUT, Brasil; Lucy Lazo, Homenet, Philippines; Luis Macas, CONAIE, Ecuador; Margit Koeppen, IG Metall, Germany; Mashuda Khatun Shefali, Nari Uddug Kendra, Bangladesh; Michael Y. Y. Siu, HKCTU, Hong Kong; Mike Waghorne, PSI, Switzerland; Peter Wahl, Weltwirtschaft, Ökologie & Enticlung (WEED), Germany; Peter Waterman, Global Solidarity Dialogue/Dialogo Solidaridad Global, Netherlands; Phil Robertson, Solidarity Centre of the AFL-CIO, Thailand/USA; Rakawin Leechanavanichpan, Homenet, Thailand; Roy

Jones, TUAC, France; Sabur Ghayur, ICFTU/APRO, Singapore; Sandeep Kumar Tatarwal, CUTS, India; Sanjiv Panita, AMRC, Hong Kong; Sebastian Mathew, ICSE, India; Somsak Kosaisuk, State Enterprises Trade Union, Thailand; Sugijatmo, Via Campesina, Indonesia; T. Rajamoorthy, Third World Network, Malaysia; Veronica Ayikewi Kofie, TUC, Ghana; Voravidh Charoenlert, Chulalongkorn University, Thailand; William I. Robinson, University of New Mexico, USA; Yoon Youngmo, KCTU, Korea; Michael Siu, HKCIC, Hong Kong; Oxfam Great Britain, UK; *Friederich-Ebert-Stiftung*: Mareike Woermer, Thailand; Ernst Hillebrand, Germany; Erwin Schweisshelm, Germany; *Focus on the Global South*: Walden Bello, Thailand; Nicola Bullard, Thailand; Aileen Kwa, Geneva.

Appendix 3

Joint Report of Participants in the International Roundtable of Trade Unions, Social Movements and NGOs

Sponsored by the Friedrich-Ebert-Stiftung (FES) and Focus on the Global South

12 and 13 March, 2001, Bangkok, Thailand

On 12-13 March 2001, an unprecedented meeting of a significant number of trade unions, social movements and NGOs took place to discuss the scope for agreement on common actions and approaches. The meeting saw wide agreement on a number of issues including:

- The growing source of global challenges created by the power of TNCs, deregulation and privatization.
- The contribution made by the massive mobilization in Seattle, Washington, D.C., Porto Alegre and elsewhere to the current questioning of the legitimacy of corporate-driven globalization.
- The negative effects associated with globalization on equity (both between and within states), gender discrimination, basic worker rights, and food security.
- The serious threats and risks posed by certain WTO rules to development, social, labour, gender and environmental concerns.

- The need for organizing campaigns to empower workers in informal, "atypical" and other unprotected employment, including migrant workers.
- The negative impact of the weight of foreign debt, IMF/ World Bank structural adjustment programs, and IMF policies promoting unrestricted financial flows, on prospects for development and equity.
- Instituting the Tobin Tax and other mechanisms to control speculative capital flows.
- The importance of promoting, respecting and realizing fundamental worker rights and other human rights by all relevant means including action at the appropriate international institutions.
- The necessity for autonomy of trade unions, social organizations, and NGOs from international organizations.

The meeting agreed that in approaches to some key issues, enough common ground and goodwill existed to provide a basis for a longer-term dialogue on mutually reinforcing actions on a wider number of joint concerns.

Appendix 4

Table 1: Three Possible Strategies for Advancing International Labour Rights

The Northern-based strategy of the ICFTU and major affiliates

1. Development of social clause strategy over last 15-25 years by ICFTU/ITSs and Northern affiliates
2. Sub-regional activities in the South, to galvanise support for the social clause campaign
3. National-level lobbying for government support linking trade to labour rights
4. Union/state lobbying transforms World Trade Organisation (within next 25 years)

A Southern-based supplementary/alternative strategy

1. South takes the lead in establishing social clause strategy, supported by North
2. Alliances with churches and NGOs for broad and systematic Southern campaign in streets and lobbies
3. Shift in public opinion affects government positions, North and South

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4. Union/state lobbying transforms World Trade Organisation (within next 25 years)

An international global social-movement solidarity strategy

1. Global dialogue on international labour rights, at all union levels, with all working people, on all socio-geographic axes, with all other democratic civil society forces
 2. Global alliance and campaign, linking social movements at all levels, on all axes, using streets, dominant and alternative media (real and virtual), North, South and East
 3. Targeted at an International Labour Organisation with greater union and labour movement (pro-labour NGO) participation, and greater powers
 4. Linked to demand that any 'world trade organisation' be subordinated to human rights and needs, under a United Nations, open to civil society, and with greater powers
- [Adapted and extended from Anner 2000]*

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ing) who taught, researched, or wrote on these during the 27 years I worked there. I recall: Ken Post (urban, rural, labour, popular), Archie Mafeje (rural, national), Ernst FederU (rural), Mia Berden (women), Peter GutkindU (urban), Henk van Roosmalen (rural), Sipko de Boer (religious), Joost Kuitenbrouwer (rural), Maria Mies (women), Kumari Jayawardena (women), Gerrit HuizerU (rural, national), Martin Doornbos (national, ethnic), Gerard Kester (labour self-management), Veronika Bennholdt-Thomsen (women), Wim Kok (labour), Jan Aart Scholte (international civil), Henk Thomas (labour self-management), Arvind DasU (labour), Gina Vargas (women), Rudolfo Stavenhagen (indigenous), Geertje Lyclama a Nijeholt (women). I would appreciate corrections or additions to this list.

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Challenging global capitalism: anti-globalisation organisation as a fourth generation people's movement (Part I)

by Dawid Venter* and Ignatius Swart**

A summarised version of this article was presented to a plenary session of the South African Sociological Association's conference on the theme of "Globalisation, Inequality and Identity" at the University of South Africa, Pretoria, 1-4 July 2001. In part I of the article the anti-globalisation movement is described on the basis of empirical research. In part II, (to appear in *Transnational Associations*, 3/2002) various concepts from the theoretical literature are applied in order to come to a more profound conceptualisation and evaluation of the anti-globalisation movement.

Introduction

So much opposition to different aspects of globalisation have emerged worldwide that a global social movement can be said to exist. Typically, opposition - in the form of protests and demonstrations - target international bodies that regulate global trade or global finance, as well as the regulations themselves. Transnational corporations perceived to spearhead or benefit from such arrangements also come under attack. The World Bank and the International Monetary Fund (IMF) in particular have borne the brunt of worldwide opposition for its debt management of Southern countries, as has the World Trade Organisation. The anti-World Trade Organisation (WTO) protest in Seattle (1999) provided a blueprint for other demonstrations in terms of structure, the diverse range of protesters involved, the use of the Internet to mobilise participants, and training in non-violent forms of resistance provided to many would-be protesters.

The movement has emerged in South Africa also, most visibly when protesters disrupted a visit of World Bank officials in 1999 by occupying the venue. The meeting in Durban of the 2001 World Economic Forum Southern Africa Economic Summit (6 to 8 June) provided the most recent example. In this instance at least one attempt was made to mobilise locally opposition to the Economic Summit via the Internet (compare Red Judas 2001). International non-governmental organisations (INGOs) - such as Jubilee 2000 - have established local chapters, as have more locally-focused non-governmental organisations (NGOs) with transnational linkages. South African trade unions have also taken up the anti-globalisation theme, as have those NGOs working alongside them.

The emergence of the anti-globalisation movement in South Africa demonstrates the value of this country as a site for studying the global tension between neo-liberal and alternative ideologies. Such differences are evident in the divergent goals of the government's current Growth, Employment and Redistribution economic policy (1996), compared to those previously embedded in the Reconstruction and Development Programme (1994). In general terms the GEAR strategy inverts the RDP's emphasis on growth through redistribution (ILRIG 1998: 33). GEAR reportedly "upholds the major tenets of the Washington Consensus", and was influenced by the World Bank (Mutume 2001; Allais 1996).

In this article we take development and NGO expert David Korten's concept of a fourth generation development activity and organisational type as a working model. The fourth generation is an ideal-typical concept that anticipates a global people's movement with the sustaining power to decisively challenge and transform contemporary global capitalism. We are interested in the question whether the anti-globalisation phenomenon could be considered as an actualisation of a fourth generation movement. Our point of departure in what follows is to regard the anti-globalisation phenomenon as a movement in the singular.

Our central research question is whether anti-globalisation organisation exhibits so-called Fourth Generation characteristics and activities. Our first aim is to operationalise development expert David Korten's concept of a Fourth Generation (type) of development activities in relation to anti-globalisation organisations. Our hypothesis is that the data obtained might enable Korten's notion to be elaborated. Our second aim is to problematise and deepen Korten's

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Fourth Generation development concept beyond the mere question of operation or strategy. In addition to Korten's description of the various possible roles that Fourth Generation voluntary development activities can play, we introduce Manuel Castells' definition of contemporary social movements. We ask whether the organisations conform to Castells' notion of social movements as "resistance identities" (i.e. reactive) and "project identities" (i.e. proactive).

Through the above aims we intend to discover whether selected groups and organisations in the anti-globalisation movement offer concrete and viable alternatives to economic and cultural globalisation.

Definition of key terms

In order to understand what the movement opposes, we need to define globalisation first. Globalisation has been defined both as the process of economic integration, as well as the outcome of that process (Keet 1999). Roland Robertson defines globalisation as "the overall process by which the entire world becomes increasingly interdependent, so as to yield a 'single place' ... a world society" (Beyer 1994: 27). In one sense globalisation has occurred since antiquity, as Andre Gundar Frank (Frank and Gills 1993) reminds us.

For the purpose of this discussion we will confine ourselves to economic globalisation, or what has variously been referred to as the globalisation of capitalism, global capitalism, and corporate globalisation. By restricting ourselves to one dimension of globalisation we unavoidably neglect the functions of other constitutive processes. Our definition is best captured by Peter Henriot (1999), who characterises globalisation as "the attachment and integration of the economies of the world through trade and financial flows, technology and information exchanges, and the movement of people". For Henriot, globalisation is structured by an "ideology of neo-liberal capitalism", regional blocs and trade agreements, transnational actors, international financial institutions and donor groupings. Globalisation tends to enhance the movement of finances, arms and drugs; and to negatively impact on the environment and local cultures.

Sean Healy (2001) argues that globalisation over the past two decades meant the globalisation of financial flows, of corporate power, and of economic liberalism. These trends are embodied in specific economic and social policies, which have been institutionalised in the IMF, WTO, and World Bank. According to Henriot, neo-liberal policies support economic growth (as measured by macro-economic indicators) in a context of an export-oriented strategy, free trade, and privatisation. Consequently, social programmes are usually curtailed, environmental concerns disregarded, the "regulatory, protective and enhancing roles of the state" restricted, and wealth accumulated "in the hands of a small and undemocratic elite" (Henriot 1999). Susan George (1999) maintains that the success of neo-liberalism is the result of deliberate conscious efforts by individuals such as "the philosopher-economist Friedrich von Hayek and his students like Milton Friedman". They "created a huge international network of foundations, institutes, research centers, publications, scholars, writers and public relations hacks to develop, package and push their ideas and doctrine relentlessly". The success of neo-liberalism can be gauged by the conclusion by Kamal Malhotra (1997) that as a result of economic liberalisation, between 1991 and 1996 governments effected some 569 "changes in regulatory regimes relating to FDI... in the direction of liberalisation".

Against the above background the anti-globalisation movement can be defined as organised, public opposition by groups, aimed at transnational agents that are perceived to facilitate the process of economic globalisation through meetings, events, or agreements. By opposition we primarily mean physical participation by groups in protests that attempt to publicly demonstrate opposition - for example, through disrupting meetings or events. Public opposition can also include public speeches and texts by anti-globalisation organisations that can be accessed by the public to highlight the negative aspects of economic globalisation. Under texts we include websites constructed for this purpose on the Internet, and articles written by individual participants in the anti-globalisation movement. By restricting the scope of research in this fashion

we inevitably exclude other important dimensions of the movement, such as opposition to cultural globalisation.

In this article we further narrow our scope by restricting the transnational agents to the major global international financial institutions (IFIs), a subset of international governmental organisations (IGOs). This allows us to include organised protests against the World Trade Organisation (WTO), the World Bank, and the International Monetary Fund (IMF), in general, and against their policies in particular. Next we identify the actual organisations which participated in such protests in order to move from a tentative definition of the movement to a more grounded description from examining actual anti-globalisation organisations. Finally, we examine the linkages between the organisations.

In our understanding, then, the anti-globalisation movement consists of organisations that participate in protests or that fulfil other functions within the movement - such as providing information - without necessarily participating in protests. In the anti-globalisation movement we include organisations that exist solely to oppose globalisation (e.g. the US-based Center for Economic Justice), as well as those which do so as one among many goals (e.g. labour unions). As befits an exploratory study, we do not pretend to have selected a representative sample of organisations. Instead, for identifying anti-globalisation organisations, we relied on archives of newspapers and journals, as well as websites of organisations on the World-Wide Web.

Obviously neither the term "anti-globalisation" nor "anti-globalisation movement" is used by all organisations that we classify as part of the movement. Alternate self-descriptors include "anti-capitalist resistance movement" (a20 2001; PGA 2000), a struggle "against capitalist globalization" (a20 website) or against "corporate globalization" (Global Trade Watch n.d.).

A brief social history of the anti-globalisation movement

Tributaries to the movement, 1995-1999

Individuals and groups have for some time targeted transnational corporations (TNCs), but a large-scale movement participating in mass pub-

lic demonstrations did not emerge until the mid-1990s. Prior to this, individuals and groups in the US and elsewhere had advocated that the influence of transnational corporations be curtailed. Korten's involvement in this regard follows from his conviction that globalisation is "a pervasive hegemonic force led by borderless TNCs" (Malhotra 1997). Activists have campaigned against the World Bank and IMF policies "for more than fifteen years" (Light 2000a).

Seattle (1999) also did not mark the first major demonstrations against an IFI - for instance, protests were held in Madrid in 1994 on the occasion of the 50th anniversary of the World Bank (Light 2000b). Nor was opposition confined to Europe and North America: similar events unfolded in Latin America, Africa, and Asia. Organisations like Global Trade Watch (founded 1993) appeared, in order to "promote government and corporate accountability in ... the international commercial agreements shaping the current version of globalization" (Global Trade Watch n.d.).

What led to a movement coalescing out of what until recently has been disparate protests scattered worldwide? A diffuse number of tributary events seem to have contributed. Some, appropriately, occurred in the so-called Third World, such as Ongoni protests against Shell in Nigeria. The Canadian Security Intelligence Service (2000) notes "as triggers" "the death of Nigerian activist Ken Saro-Wiwa, and the campaigns against... Shell and Chevron Oil Companies". INGOs also played a role, particularly those with an interest in promoting human rights and quelling violence.

A growing realisation among various interest groups that TNCs and IFIs played a central role in the different issues on which they focused doubtless contributed to the emergence of a movement. For instance, human rights organisations pointed to collusions between TNCs and repressive regimes in an increasing number of reports. A disturbing recent example is the direct and indirect supportive role of oil companies in the conflict in Sudan. Poor or dangerous labour practices by TNCs led to transnational co-operation between trade unions based in different countries.

In the form of protests directed against corporate globalisation, the anti-globalisation movement started attracting attention from about 1995

(Canadian Security Intelligence Service 2000). Organised protests against alleged “exploitive labour and human-rights abuses” emerged in the mid-1990s. Corporations “producing major brand name products, such as Nike sneakers, Gap jeans, and Starbucks coffee, were accused of union-busting, sweatshop working conditions, and child labour practices on a global scale” (Canadian Security Intelligence Service 2000). Among others, the policies and practices of Kathy Lee, Wal-Mart, Mattel, Disney, Nike, McDonalds, Monsanto, and Shell Oil were also indicted. The wide range of allegations signalled the broad spectrum of organisations that would eventually materialise as part of the movement. Protests targeted “low wages, offering minimal health benefits, depleting old-growth and rain forests, using unsafe pesticides, bio-engineering agriculture crops, violating animal rights, and colluding with violent and repressive regimes”. Student protests reportedly continued as recently as 2000 in Eugene, Oregon, against Nike’s Third World labour practices (Canadian Security Intelligence Service 2000). Such protests are not limited to Western individuals: according to Naomi Klein (BBC 2000a) “workers in Nike factories in Indonesia, Vietnam and China have organised wildcat strikes, putting their jobs on the line, in order to get unions into these factories”.

Due to the extent to which TNCs are involved in the world economy, it is not surprising that they should attract opposition. Malhotra (1997) notes that the value of foreign direct investments in 1996 by transnational corporations worldwide “is estimated by UNCTAD to be around US \$ 1.4 trillion”, so that “approximately 70% of global trade is controlled by just 500 TNCs”. In addition, the number of TNCs has grown from 7 000 in 1970 to approximately 44 000 by the beginning of the 1990s with 280 000 foreign affiliates. Yet “these corporations account for less than 5% of global employment”, including subcontractors, of which in 1990 only 15 million employees were in developing countries.

But demonstrations against the transnational corporations that drive globalisation were gradually overtaken by protest action against the WTO, IMF, and the World Bank. The motivation, according to the Canadian Security Intelligence Service (2000), is that these institutions “promote and facilitate corporate power”

to the extent “that elected governments are being overshadowed”. Walden Bello (2000) similarly criticises “the Bretton Woods/WTO system as a monolithic system of universal rules imposed by highly centralized institutions to further the interests of U.S. corporations”.

Just how dramatic the transition in scale of the anti-globalisation movement has been is often overlooked. Annual demonstrations against the IMF and World Bank’s meetings in Washington have been organised for some time now. But in 1998 the demonstration attracted 25 people, as opposed to an estimated 30 000 people a mere two years later. The Washington Post implicitly recognises that tectonic changes in ideology were particularly important, when it states that “Global justice is now fashionable”. But ideologies are constructed by prolonged persuasive activity which becomes widely accepted. Njoroge Njehu, director of the 50 Years Is Enough Network, a self-ascribed “US network for global economic justice”, reportedly attributed the shift to “a decade of grass-roots educating, including the failed campaign against the North American Free Trade Agreement in the early 1990s” (Montgomery and Santana 2000).

Perhaps the activities of the WTO itself spurred coalescence. From this perspective, the conception of the World Trade Organisation (WTO) at the Uruguay Round of the Global Agreement on Trade and Tariffs (GATT) in 1991 could be treated as a formal commitment of world leaders to promote globalisation. WTO texts explicitly refer to the process of reforms and globalisation. In the perception of opponents like Global Trade Watch (GTW), the WTO is “a primary engine of the current globalization model” (Global Trade Watch n.d.).

At a societal level the structural consequences of IMF policies ironically also played a role in converging the diverse NGOs into a worldwide movement. In Brian Kahn’s opinion, the Asian crisis of 1998 also “led to a number of discussions internationally about the need to design a new international monetary architecture”. Bond (2001) quotes John Walton and David Seddon (1994) as proposing “that the shrinkage of the state under conditions of structural adjustment generates a ‘broader trend toward the decline of clientism and, conversely, the growing autonomy of urban low-income groups’.

As states lose their patronage capacity to channel social surpluses to supporters, social movements can cast off influences of corporatism and corruption associated with urban and rural civil society under populist regimes. Such autonomy contributes to more generalised political processes of self-enlightenment, with the potential for transcending spontaneous and unsustainable reactions to economic crisis, such as the IMF Riot.”

Major anti-globalisation events, 1999-2001

As a full coverage of all anti-globalisation protests are beyond the limited scope of this article, we offer a summary of the major events in Europe (Davos, Prague), North America (Seattle, Washington, Quebec), Asia (Bangkok) and Latin America (Porto Alegre). Events in South Africa are discussed further down. Demonstrations already mentioned elsewhere in this article are omitted from this discussion.

On 18 June 1999 the appropriately named 'J18' protests were organised in London to coincide with the G8 Economic Summit in Cologne, Germany (Canadian Security Intelligence Service 2000). Some 2 000 people took to the streets. Cities in North America and Europe were also involved. During J18 “more than 10,000” cyber attacks were launched against at least 20 companies. The Internet was used to originate and organise J18. In November 1999, 100 000 people took part in anti-WTO protests in France (Vidal, Kettle and Webster 1999).

Next came the protests in Seattle against the World Trade Organisation (WTO) Ministerial Conference, held between 29 November and 3 December 1999 (Canadian Security Intelligence Service 2000). Plans for the protest were mooted in August 1999 at the People's Global Action conference in Bangalore. Earlier in the same year the announcement by the WTO of the venue prompted the formation of the Direct Action Network, with the declared goal of blocking the opening ceremony (PGA 2000). The event was “coordinated primarily by cell phones, emails, and the Direct Action Network” (Hawken 2000; similar methods were used at the anti-FTAA protests in Quebec - Klein 2001). Global Trade Watch (GTW) also claims to have been

“the backbone of the organizing, educational programming, and peaceful protests” at Seattle. GTW embarked on a “year-long 1999 ‘Road to Seattle’ campaign” to build “U.S. public awareness about the WTO”, based in part on its “review of the WTO’s five-year record” (Global Trade Watch n.d.).

More than 50 000 people participated in demonstrations throughout the city “and more in other places throughout the country” (Albert n.d.). According to one report “(m)ore than 700 organizations.... took part in the protests”, yet “(n)o charismatic leader led. No religious figure engaged in direct action. No movie stars starred. There was no alpha group.” (Hawken 2000) Some protesters wore distinguishable uniforms: such as the Teamsters (yellow rain ponchos and blue caps), Machinists marshals (blue ponchos and neon orange caps) (AFL-CIO n.d). Anarchists “dressed in black pants, black bandanas, black balaclavas, and jackboots”. Environmentalists carried a huge inflatable turtle, while “a group of 300 children... dressed brightly as turtles in the Sierra Club march” on 29 November. The turtle costumes were to protest the rejection by the WTO of a US attempt “to block imports of shrimp caught in the same nets that capture and drown 150,000 sea turtles each year” (Hawken 2000).

Some of the NGOs opposing globalisation had registered with the World Trade Organisation, and attended as delegates. Representatives of the Global Exchange, one such a group, tried to deliver a consensus document at the opening ceremony of the WTO conference, but were arrested. The opening ceremony could not proceed, as demonstrators had effectively blocked access to venue for all but a hundred delegates (Hawken 2000). As the protest was part of a PGA Global Day of Action simultaneous “demonstrations occurred in over 60 different cities around the world” (PGA 2000).

On 16 and 17 April 1999 a demonstration was organised for Washington DC against the International Monetary Fund/World Bank (IMF/WB) (Canadian Security Intelligence Service 2000). While the events were called A16, the campaign as a whole was known as the Mobilization for Global Justice. The mobilisation coincided with rallies in Washington of reli-

gious groups wanting to cancel Third World debt (April 9) and of unions calling for trade relations with China to be blocked (April 12). Apart from the main demonstration in the streets of Washington, organisers obtained a permit to hold a parallel rally on April 16. Strategically this represented an appeal to the mainstream individuals who wanted “to avoid civil disobedience and arrest”. This rally was endorsed by the AFL-CIO. Training was provided in non-violent resistance by Ruckus Society, replete with role-play scenarios (Montgomery and Santana 2000; Kirn 2000: 29).

While demonstrations in the West drew most media attention, similar events occurred in Asia and, to a far more limited extent, Africa. Some of these were “inspired by events in Washington and Seattle”, according to the Canadian Security Intelligence Service (2000).

On 18 February 2000 “hundreds” of protesters met outside the United Nations Conference on Trade and Development (UNCTAD) in Bangkok, Thailand, to denounce globalisation (BBC 2000b). Participants included “labour activists, land less (sic) farmers, and the unemployed”. Unlike protests in Seattle and Davos, “representatives of trade unions [and].... people who represent NGO’s (sic) all over the world” were allowed to interact during debates with James Wolfensohn (World Bank) and Mike Moore (IMF). According to the conference’s secretary general, Rubens Ricupero, “we have never had that in a meeting of this kind” (BBC 2000b).

In May 2000 “the annual meeting of the Asian Development Bank at Chiang Mai, Thailand, was overwhelmed by 4,000 protesters demanding an end to policies they claimed punished the poor” (Canadian Security Intelligence Service 2000). In July 2000 the G-8 Summit in Okinawa itself was not disrupted, but the previous day saw thousands of protesters participating in events across Japan (Canadian Security Intelligence Service 2000). The Canadian Security Intelligence Service (2000) suggests that the scale of the protests and the publicity that is generated “draws more and more participants.... in the manner of self-generating growth”.

Further protests occurred between 27 May and 4 June 2000 at the Organization of

American States (OAS) Ministerial Meeting in Windsor, Ontario, and between 11 and 15 June 2000 at the World Petroleum Conference (WPC) in Calgary, Alberta (Canadian Security Intelligence Service 2000). The general assembly of the OAS initiated the FTAA process, that intends to extend the North American Free Trade Agreement (NAFTA) to the entire hemisphere “by no later than 2005” (a20 2001).

In September 2000 a meeting of the World Economic Forum, appropriately held at a casino in Melbourne, Australia, was blockaded by protesters. The response of police, labelled heavy-handed by demonstrators, led to a crisis within the ruling Labour Party.

In the same month a Global Day of Action was organised against World Bank meetings in Prague. Opponents declared a victory after the meeting was called to a halt a day early (a20 2001). The call for action was submitted via the PGA by “Czech organisations which had participated in previous GDAs” (PGA 2000). The Prague demonstrations were mirrored in 110 cities around the world. As a result of a blockade on the opening day of the summit, delegates had great difficulty in leaving and had to be evacuated. On the second day, delegates voted to cancel the third day. A PGA bulletin describes the event as “the fall of the Berlin wall for the anti-capitalist movement”, as activists from Eastern Europe joined the demonstrations (PGA 2000).

As an alternative to the World Economic Forum in Davos, a World Social Forum (WSF) was convened in January 2001 in Porto Alegre, Brazil. The WSF attracted “upwards of ten thousand activists in attendance, from a thousand organizations, from all over the world” (Albert n.d.; Gibb 2001). The purpose of the forum was to find “ways of fighting the trend towards free trade and globalisation in the world”. In addition, the WSF wanted to lobby “those with power in the world economy with proposals such as: the cancellation of Third World debt; taxing international flows of capital; including labour and social conditions in trade pacts” (Gibb 2001).

The North American opposition to globalisation next emerged in Quebec in April 2001, at a Summit for a Free Trade Area of the Americas (FTAA). A network known as La Convergence des Luttes Anti-Capitalistes (CLAC) organised a

Carnival against Capitalism that included events in Quebec City and Montreal during April. The Carnival culminated with a “Day of Action on April 20” - “A20”. Activities consisted of “conferences, teach-ins, concerts, cabarets, workshops, street theatre, protests and direct action”. As befits an “International Day of Action”, supporting actions were claimed for 65 cities (a20 2001).

Objectives of the anti-globalisation movement

The Canadian Security Intelligence Service (2000) defines the movement as “a broad spectrum of groups, lobbyists, and overlapping networks”, whose “anti-globalization activism is directed, first, against ‘big business’ - multinational corporate power - and, second, against ‘big money’ - global agreements on economic growth”. Despite its diversity, the movement is cemented by opposition to “the powers of the corporations, name-brands, globalization, and the interests of capital, in opposition to the welfare of workers, exploitation of the ecology” (Canadian Security Intelligence Service 2000).

Some activists call for “restructuring corporations to reflect accountability and transparency”, while others champion “the total demise of global structures” (Canadian Security Intelligence Service 2000). Certain protests are directed at the so-called neo-liberal ideology that underpins the activities of the IGOs and TNCs. The more radical elements of the movement are reportedly intended on inflicting physical damage on TNC property. They reject the efficacy of the demonstrations and protests (Canadian Security Intelligence Service 2000). According to commentator Julia Light, the tensions between members of the global opposition are due to “the magnitude and multiplicity of problems created by the World Bank and IMF”. For her these tensions emerge between “the direct action protesters and policy-oriented groups that lobby Bank officials and their own governments to gain incremental change. This friction has resulted in two parallel sets of public conferences.” (Light 2000a)

In Seattle, Washington, and Montreal protesters aimed at preventing meetings from taking place by physically preventing movement by occupying venues and streets.

According to Michael Albert (n.d.) the anti-globalisation movement is not opposed to global interconnectedness or trade, but to “global relations that increasingly empower huge corporations and weaken whole nations and populations”. These are viewed as “the roots of centrally important economic and social problems” (Albert n.d.). Similarly, Hawken (2000) claims that the demonstrators and activists in Seattle were “not against trade”. Instead, they “demand proof that shows when and how trade - as the WTO constructs it - benefits workers and producers abroad, as well as workers in developing nations. And that proof is simply non-existent.” Hawken (2000) expands: “Those who marched and protested opposed globalization but they did not necessarily oppose internationalization of trade. Economist Herman Daly has long made the distinction between the two. Internationalization means trade between nations. Globalization refers to a system where there are uniform rules for the entire world, a world in which capital and goods move at will without the rule of individual nations.”

Albert (n.d.) concludes that the movement has lost momentum somewhat, “instead of much greater labor involvement and much wider involvement of different cultural communities and greatly increased involvement of different age groups”. A lack of alternate “long-term goals for the economy and polity, and for other sides of life” is a prominent reason why this is so (Albert n.d.). Other related factors include a lack of unity about shared short-term programmes. A final perceived failure is attracting greater number of people of diverse backgrounds. The current trends of mobilising people over vast distances weaken activists’ ties to local spaces (neighbourhoods, workplaces), where potential participants can be found. In other words, the movement “is outstripping its base” (Albert n.d.). Albert suggests that “people who attend without breaking laws”, like those who do not even attend but “who are becoming more open to our views are of equal or even greater importance” to “the number who civilly disobey”. He pleads for increased attention to growing the numbers of those who are involved so that the social costs to pro-globalisation TNCs and INGOs can be increased. The centrepiece of the

movement should shift from public demonstrations to persuading uninvolved people “to become involved at diverse and welcoming levels of participation” (Albert n.d.).

Primary features of the anti-globalisation movement

Anti-globalisation organisations and their constituents

While many of the participants in the anti-globalisation movement can be described as to the left of the political spectrum, some right-wing groups also identify with the goal of the movement, albeit interpreted more parochially. Anti-globalisation protests and demonstrations “are often described” as “multi-generational, multi-class, and multi-issue” (Canadian Security Intelligence Service 2000; Kirn 2000: 27). Some participants primarily target globalisation, while others regard anti-globalisation as “a shared goal, with the demonstrations simply a means to an end” (Canadian Security Intelligence Service 2000). The scale of participation and the nature of the participants depends to a large degree “upon the subject of the targeted meeting or conference”, as well as the location (Canadian Security Intelligence Service 2000). Labour organisations were more concerned with the WTO meeting in Seattle than the World Bank/IMF protests in Washington (Canadian Security Intelligence Service 2000).

According to the Canadian Security Intelligence Service (2000) “(m)any groups are merely splinters, have few members, are formed briefly for the need of the moment, change their names frequently, or are located in a specific region”. One way of categorising anti-globalisation organisations is in terms of the causes they espouse, for example the American Federation of Labor-Congress of Industrial Organizations (AFL-CIO) (labour interests) and People for Ethical Treatment of Animals (animal-rights). Environmentalist participants include Rainforest Action Network, Earth First!, and the Sierra Club. Human-rights anti-globalisation demonstrators include Global Exchange, Direct Action Network, Nader’s Group, Radical Roots, and Global Trade Watch. Two important supportive

organisations “are the California-based Ruckus Society, and the Calgary-based Co-Motion Action” that “specialize in training protesters and organizing and managing demonstrations” (Canadian Security Intelligence Service 2000).

While co-operation is reportedly quite high between like-minded organisations, some specialisation has emerged in the North American movement. Certain organisations did take responsibility for mobilisation, funding, training, logistics support, and participating more or less non-violently in demonstrations.

Global Action is an example of a group that assumed responsibility for mobilisation ahead of the Washington IMF/WB demonstration. Described as “a San Francisco-based human-rights group”, Global Action provided a “nine-person protest team” which “conducted a 20-city tour” to conduct “meetings, teach-ins, rallies and promotional activities” (Canadian Security Intelligence Service 2000).

Funding organisations include the Direct Action Network and the Alliance for Global Justice. The Direct Action Network is reportedly “a decentralized, directly democratic organization working to create a movement to overcome corporate globalization and all forms of oppression with a commitment to take direct action to realize radical change” (Spencer 2000).

According to the Canadian Security Intelligence Service, financial support is “partly self-generated and partly raised by contributions from interested parties”. Communication costs are kept down through use of the Internet, and transport costs are usually self-generated. Facilities and capabilities are shared between like-minded groups. Organised labour unions have on occasion “provided funds, transportation, meals, and lodging” (Canadian Security Intelligence Service 2000). Additional funds are raised by means of solicitation, sales of paraphernalia (badges, T-shirts) and training. But “much of what is undertaken is improvised and ad hoc, and does not result from the efforts of large self-interested lobbies or conspiracies. The closest approximation to organized support is that represented by labour’s activism, which has included publicity and the provision of buses to transport participants” (Canadian Security Intelligence Service 2000).

The Ruckus Society (Berkeley, California) was established in 1995 to train protesters to conduct more effective demonstrations through for example the use of technology and specific tactics (Canadian Security Intelligence Service 2000). Would-be protesters receive training in how to erect barriers, place banners and individuals in critical locations, overcome obstacles, and evade security controls. Ruckus prepared demonstrators for the Seattle and Washington demonstrations, as well as the Organization of American States Ministerial Meeting (Windsor, Ontario). According to Spencer (2000), Ruckus "is funded by private donors, including cable mogul Ted Turner, and was founded by veteran ruckus-raiser and Greenpeace activist Mike Roselle". A Canadian offshoot, Co-Motion Action, provided non-violent training for protesters against the World Petroleum Congress in Calgary in June 2000. The organisers of the training camp in Banff included Co-motion, Radical Roots and Ruckus Society (Co-Motion 2000a, b; Canadian Security Intelligence Service 2000). During the run-up to protests in Prague, "an activist coalition called the Initiative Against Economic Globalization (INPEG)" provided training in civil disobedience.

Groups that the Canadian Security Intelligence Service labels as "more militant and violent", include environmentalists, animal-rights and anti-abortion activists, and anarchists. The Canadian Security Intelligence Service (2000) notes that some anarchists do embody non-violence, yet "many defend the use of violence as the only means to achieve the classic anarchist society based on small independent communities that function without elected leaders". The differences between anarchists in relation to violence crystallised clearly in Seattle with regards to the so-called "peace-police" (non-violent activists attempting to prevent violence and damage to property). On the one hand the Denver-based United Anarchist Front (UAF) labelled them "agents of repression", "friends of the WTO", and "enemies of the revolution" who "should and will be attacked indiscriminately along with the police" (UAF 2000). On the other hand a Black Bloc communique, while similarly dismissive of the "peace-police", claimed that "we certainly had no interest in

fighting with other anti-WTO activists" (Black Bloc Collective 1999).

The more prominent anarchist organisations include the Black Bloc, the Anarchist News Service, the Black Army Faction, and Anarchist Action Collective (Canadian Security Intelligence Service 2000). The Canadian Security Intelligence Service identifies the Third Position as "a European phenomenon that is spreading rapidly to the USA". Its members combine "a curious mixture of extreme Left and Right political motivations which include the use of violent means of protest" (Canadian Security Intelligence Service 2000).

The Black Bloc is described as "a loosely organized cluster of anarchist affinity groups" in North America that consists of no more than a few hundred individuals "who come together to participate in protests and demonstrations" (Canadian Security Intelligence Service 2000; Black Bloc Collective 1999). The Canadian Security Intelligence Service labels the Black Bloc "a militant anarchist faction" of the anti-globalisation movement. The Bloc is often blamed by the media for the violence that erupts during anti-globalisation protests. A Black Bloc communique admits that on 30 November "several groups of individuals in black bloc [sic] attacked various corporate targets in downtown Seattle". These included various financial organisations, such as Bank of America, clothing retailers such as the GAP, NikeTown, Levi's, McDonald's, Starbucks, Warner Bros., and Planet Hollywood. Actions included "breaking of storefront windows and doors and defacing of facades" with "(s)lingshots, newspaper boxes, sledge hammers, mallets, crow-bars and nail-pullers", as well as "(e)ggs filled with glass etching solution, paint-balls and spray-paint". A Starbucks shop and Niketown "were looted" (Black Bloc Collective 1999).

While we have focused on the USA here for reasons of space, the discussion could be extended to include organisations and networks in the Third World. Bond cites mass democratic movements "which apparently worked well with other local and global anti-neoliberal initiatives". Examples include "Mexico's Zapatistas.... Brazil's Movement of the Landless, India's National Alliance of People's Movements, Thailand's Forum of the Poor, the Korean Confederation of

Trade Unions, and Burkina Faso's National Federation of Peasant Organisations. At a regional scale, an interesting example is the Sao Paulo Forum of Latin American leftists" (Bond 1999, also footnote 38).

The anti-globalisation movement in South Africa

Kahn (2000) suggests that until recently there has been relatively little protest against the IMF and World Bank in South Africa, due to the relative lack of interaction between these IFIs and the state. What little protest there has been focused on repudiation of apartheid debt, or the influence on domestic policy formulation, or reform. Calls for the total rejection of the Bretton Woods institutions by so-called 'abolitionists' are even more rare.

Until 1967 the apartheid regime received several loans from the World Bank for the construction of railways, harbours and Eskom. In addition, the apartheid government borrowed more than \$2 billion from the IMF from 1976 to the mid-1980s (Turp 1997: 143). The AIDC estimates that apartheid-caused debt "is well in excess of R100 billion" (AIDC 1998). The transitional government borrowed \$850 million in 1993 "to support the balance of payments in the face of the prolonged drought" (Turp 1997: 144; 2000), which was repaid. Recently the government approached the Bank for a loan of \$200 million to repair hospitals (Stoppard 2000).

The World Bank's resident representative in South Africa, Judith Edstrom, reportedly indicated that the Bank had in the post-apartheid period "awarded small grants for early childhood development programmes, increasing Aids awareness among youth, school health education, public procurement reform to encourage small contractors, and telecommunications advisory support. Regional initiatives include support for the Lesotho Highlands Water Project, Maputo corridor, a regional power pool and a regional payments system." (M&G 1997)

Calls for structural change within the IMF emanated from the South African government itself, most notably from the Minister of Finance, Trevor Manuel. Manuel and Director General of Finance, Maria Ramos, rejected the dismantling

of the IMF, which they describe as a possible source of capital for developing countries (Kahn 2000; Stoppard 2000). Manuel was chair of the IMF and World Bank Board of Governors in 2000 (Stoppard 2000). By contrast to government, the South African Communist Party (SACP) has come out in opposition to IMF and World Bank policies. A SACP communique (2000) suggests that these institutions are "behind the introduction of VAT, the imposition of Gear and the privatisation of local government".

Several groups have sprung up in opposition to privatisation, most prominently the Anti-Privatisation Forum (APF), to which the SA Municipal Workers' Union (SAMWU), the SA Communist Party, SA Students' Congress, and Jubilee 2000 are affiliated. A prominent target of the anti-privatisation movement is the Egoli 2002 plan of the Johannesburg local government. The proposed selling of water service delivery to the French concessionaire Suez Lyonnaise des Eaux in particular has raised the ire of unions like SAMWU (Mutume 2001). In 2000 the visit of the managing director of the International Monetary Fund, Horst Kohler, was also criticised by the South African Communist Party. Kohler's African five-nation tour to Africa drew protests everywhere, the largest in Nigeria.

Among the groups campaigning for the repudiation of Third World debt, Jubilee 2000 has been the most prominent, and in 1998 launched its South Africa Campaign (SACP 1998). Organisations that supported the Campaign included the SACP and SAMWU (SAMWU 1998). In 2000 Jubilee South Africa initiated a week of protest actions against the World Bank and the IMF, ending with a march in Johannesburg on September 26 to coincide with the Prague protests (Stoppard 2000). On 7 June 2001 SA Communist Party "supporters of the Jubilee campaign ... gathered outside the Reserve Bank building in Cape Town" and demanded South Africa's withdrawal from the WEF. Jubilee planned similar protests for the WEF summit in Durban on 8 June (SABC 2001a). An anti-WEF committee planned protests for Johannesburg, Cape Town and Durban. Groups serving on the committee included the Campaign Against Neo-Liberalism (Cansa), the Anti-Privatisation

Forum, Jubilee South Africa, Keep Left and the SA Communist Party (SABC 2001b).

The government's Growth, Employment and Redistribution (GEAR) blueprint provided an important, unintentional impetus to the coalescence of a local anti-globalisation movement when it appeared in June 1996. The National Institute of Economic Policy (NIEP), Labour, the SACP, and the Campaign Against Neo-Liberalism (Cansa) would all criticise GEAR on the basis of perceived similarities with the Structural Adjustment Programmes (SAPS) of the IMF. The NIEP pointed to "budget cuts, liberalisation, deregulation, privatisation and tight monetary policy" (Kahn 2000). Kahn maintains that "although the IMF had no direct input into the formulation of the GEAR strategy, there were two World Bank staff members in the team".

Organisations like the Alternative Information and Development Centre strive to educate ordinary people about the meaning and consequences of economic globalisation. Jubilee 2000 South Africa have expressed similar sentiments (Stoppard 2000).

A "number of trade unions, church groups, community-based organisations, development NGOs and political organisations" formed the Campaign Against Neo-Liberalism (Cansa) network in 1996. The groups had first opposed the visit in October that year of International Monetary Fund (IMF) Managing Director Michel Camdessus. Cansa reportedly was formed as part of "a wide-spread reaction against the process of economic globalisation which was seen as the cause of untold economic suffering" (De Lange n.d.). In February 1997 Cansa organised a meeting addressed by Michel Chossudowski, professor of economics at the University of Ottawa and author of *The Globalisation of Poverty*. Despite being severely critical of the IFIs, Chossudowski argues that the World Bank and IMF are themselves governed by the world financial system (Ansell 1997). During the visit between 12 and 14 February 1997 of then World Bank president, James Wolfensohn, to South Africa, Cansa issued a memorandum asking him "to keep out" (Mutume 1997).

Some years later Cansa held a conference entitled "South Africa Confronts Globalisation: Building Civil Society Alliances" in March.

Participating organisations included the South African New Economics Foundation (SANE), which describes itself as "a loose affiliation of individuals and organisations". SANE's objectives include "dialogue on alternative economic theories and practices which are more purposefully designed to promote social equity and justice, community self-reliance and ecological sustainability" (SANE n.d.).

According to Kahn (2000) the trade unions "have consistently been critical of the IMF and the functioning of the international financial system", particularly the "lack of transparency and democratic participation". South African trade unions like the Congress of South African Trade Unions (Cosatu) and the South African Municipal Workers Union (SAMWU) have also taken up the anti-globalisation theme. So have the NGOs working alongside them, such as the International Labour Resource and Information Group (ILRIG) and the Trade Union Research Project (TURP).

The South African movement is linked to one another and to the global movement through individuals who supports more than one group, and through cross-cutting group affiliation. Patrick Bond, for example, serves as researcher for the AIDC, as a member of the South Council of 50 Years is Enough, and is involved in Cansa. He participated in the Washington protest, along with Trevor Ngwane. Ngwane in turn served as general-secretary of the APF, is linked to the AIDC, and has been described as "a leader of the Mobilization for Global Justice" (<http://www.wits.ac.za/urban-futures/uf/singlecr.htm>). Cansa is also affiliated with the APF as well as with the Mobilisation for Global Justice. Other groups on Mobilisation's network list includes the AIDC, Eastern Cape Fishermen's Association, Jubilee 2000 Afrika Campaign (South Africa), Cansa, and NEHAWU. And the World Social Forum was attended by Dot Keet, "researcher for the Alternative Information and Development Centre"; Georgine Djeutane from Jubilee South (South Africa); and Joyce Pekane, "second vice-president" of COSATU (<http://www.forumsocialmundial.org.br/forumen.php3/lang=en>). During the ant-WEF protests this year, Cansa screened video-footage of global demonstrations against World Trade Organisation summits (Smith 2001).

The structure of anti-globalisation organisation

From the above it is clear that in terms of organisation the anti-globalisation movement is true to its nature as a social movement. Naomi Klein (2001) points out that the movement “doesn’t have a leader, a center, or even an agreed-upon name”. Public demonstrations actually comprise a convergence of hundreds of smaller protests, occurring at the same time and place, against a common enemy, but for many different reasons, which all may not be able to articulate equally well. The same flat, diffuse structure runs through protests, where some groups may take responsibility for co-ordination. Participating groups may in themselves be more or less organised. Well-organised groups may include unions and anarchists, with predetermined routes, placards, dress codes, radio links, and specific actions. Towards the less-organised side of the spectrum are individuals who may join an event on the spur of the moment without being linked to any particular anti-globalisation group.

Klein (2001) implicitly supplies the motivation for this structure, in her comments that this is “a new era of political protest, one adapted to our post-modern times”. She also believes that participants were rejecting an “impoverished and passive vision of democracy” in favour of “a taste of direct political participation”. Klein suggests that protesters will become more organised in response to what she - using events at Quebec as a guide - terms as “crude, cowardly and indiscriminate” actions by police. At Quebec the effect was to radicalise protesters enough to sometimes voice support for Black Bloc actions.

Protests against the IFIs have revealed similar patterns in organisational form, of which the most prominent is the creation of organisational “platforms”. These serve to call for, and commit groups to, particular actions. Similar forms of organising emerged prior to events such as those at Seattle (Direction Action Network), Washington (Mobilization for Global Justice), and Prague (Inpeg). Another feature is the creation of parallel information sites that usually are named after the day on which the protest occurs, such as S11 (Melbourne WEF protest), S26 (Prague), and A20 (Quebec). Through these sites listservs can be accessed, such as that

moderated by CLAC for the Quebec events.

Peoples’ Global Action (PGA) was created in Geneva by an alliance of over 300 representatives from movements “in 71 countries and all continents” in February 1998. Their goal was to form “a worldwide coordination network of resistance to the global market”. A central principle is “an organisational philosophy based on decentralisation and autonomy”. PGA objectives include mobilisation, co-ordination, support, and publicity for non-violent, people-centred actions “against corporate rule and the capitalist development paradigm... economic liberalisation and global capitalism”. PGA’s organisational principles state explicitly that it is “not an organisation”, that it “has no membership” or “juridical personality”. PGA is not “legalised or registered in any country”, and is not represented by any organisation or person, nor “does the PGA represent any organisation or person” (PGA 2000).

PGA claims to have contributed the concept of Global Days of Action (GDA) to the protest “tradition” of counter-summits. Global Days of Action involve local actions during the meetings of IFIs, “so that the local and daily resistance of grass-roots movements be recognised as a common and radical refusal of the existing economic order and as the real force capable of changing the course of history and proposing local alternatives”. The success of these calls for local mobilisations can be gauged by demonstrations held in an estimated 110 cities during the Global Day of Action on 26 September 2000 to coincide with the IMF/WB meeting in Prague. The larger, centralised protests against IFI meetings are co-ordinated by autonomous groups connected to the PGA network, such as Reclaim the Streets (London, June 1999), Direct Action Network (Seattle, November 1999) and Solidarite-INPEG (Prague, September 2000) (PGA 2000).

The structure of PGA conferences embodies its organisational philosophy. A committee of convenors is “formed by organisations and movements from all continents and representing different social sectors”. This committee determines the agenda of the conference, takes decisions regarding participation at the conference and the use of economic resources, decides whether publications may be printed in the name of the PGA, and checks the contents of

the PGA's information tools (web page and other publications"). The committee cannot speak in the name of PGA. Each PGA conference elects the convenors of the next conference. Three such conferences have been held: Geneva (1998), Bangalore (1999), and Cochabamba, Bolivia (September 2001). The third conference will consider how to promote "global mobilisation: against the annual meeting of the IMF/World Bank (Washington, 2-4 October 2001), against the 4th Ministerial Conference of the WTO (Nov. 2001)" (PGA 2000).

The Direct Action Network (DAN) exhibits a similar organisational structure to the PGA, whose principles DAN adopted. DAN was established in 1999 just after the Seattle demonstrations. An anarchist orientation emerges in DAN's rejection of hierarchy. Continental Direct Action Network (CDAN), the US branch of the Direct Action Network, is "committed to overcoming corporate globalization and all forms of oppression" (Direct Action Network n.d.). CDAN has a representative Continental Spokes Council, comprising elected representatives from different local groups, and in some instances, from regional clusters of local groups. The Council does not make decisions, which are taken by each local group. Proposals from the Council are relayed to the groups and decisions from the groups to the Council. "Hence decisions are always made through and never by the spokes council". The Council communicates via "a listserv, monthly conference calls, and at the annual meeting". CDAN also has five working groups that focus on communications, finances and fundraising, anti-oppression (which offers training), annual meetings and orientation. At the annual meeting strategy for the year is planned. While every local group is autonomous, and has the right not to participate in any particular action, the Council can expel groups that do not adhere to "Principles of Unity" or obstructs CDAN processes (Direct Action Network n.d.).

Anti-globalisation organisation and alternatives to global capitalism

Noami Klein suggests the need to move beyond pro- and anti-globalisation polarisations

which do not spell out what kind of globalisation is referred to. She does not reject either the connectedness implied in the phrase. Neither does Klein reject free trade as such: her concern is for "the preconditions... attached to that trade", and countries "being told... to.... privatise and liberalise their services" (BBC 2000a).

The Alternatives for the Americas (AfA) is a Latin American initiative that spells out an alternative to the free market approach (Alternatives for the Americas n.d.). The document rejects an "externally-imposed form of globalization", but also a return to closed, protectionist economies "or isolationist trade policies". Guiding Principles outline AfA's conviction that an alternate form of economic globalisation must include (a) increased democracy and public participation in economic decision-making; (b) the preservation of national sovereignty alongside a social welfare; (c) the reduction of inequalities within and among nations; and (d) the sustainability of natural and social environments (compare the Globalization Challenge Initiative n.d. for similar ideas).

The "Dakar 2000: From Resistance to Alternatives" Conference initiated a substantial alternate African agenda similar to the Latin American attempt, apart from its call for debt relief. The Dakar Manifesto desires "the participation of the people of the continent in an alternative globalization to the neo-liberal globalization... a globalization based on a solidarity among people of the North and the South and giving priority to meeting basic human needs" (<http://www.50years.org/update/dakar1.html#MANIFESTO>). (A similar notion of struggling towards alternate globalisations is expressed in Candido Grzybowski 1995.)

By contrast to the general consensus about opposing global capitalism and its supporting institutions and ideologies, there are considerable differences about focus, strategies, and alternatives. These arise from a number of sources. For example, differences of opinion exist about whether the state or transnational corporations are more prominent in supporting global capitalism. Another distinction emerges between groups who believe that supportive institutions like the IFIs could be altered, and those who argue that they should be "destroyed".

The Washington-based Global Trade Watch (GTW) represents some of the alternate strategies and outcomes advanced by those within the movement that attempt to engage institutions from within the system. As part of the Ralph Nader stable of organisations, GTW's strategies are based on the conviction that people who are "empowered with information and tools to affect change", will become "public citizens" that embrace activism as part of daily life. With such strategies GTW hopes to undermine the political viability of economic ideas that disempower governments and citizens. GTW proposes a "WTO: Fix It or Nix It" campaign, due to their apparent increasing frustration by "the futility of trying to influence" such institutions. Their demand is "for specific fundamental changes to the WTO within a set time. If these demands are not met, campaigns will be launched to de-fund or withdraw from the WTO." (Global Trade Watch n.d.)

GTW demonstrates how groups within the movement overlap and diverge. Its pro-state position would be rejected in toto by those towards the anarchist spectrum. The implicit state-versus-TNC-or-IFI opposition by GTW would be questioned by others. Some, like David Korten (1995), would point to a collusion between states and corporations. Others again would indicate that states have membership on the World Bank, IMF, and WTO. GTW's current pro-reform attitude towards institutions such as the WTO would be unacceptable to networks that reject the notion of reform out of hand, as Cansa does in relation to the IMF.

Patrick Bond (2001) outlines some other initiatives taken in Africa "to transcend the development orthodoxy of the Washington Consensus and the slightly reformed Post-Washington Consensus". In May 2000, for instance, The 'Lusaka Declaration' was signed by African organisations repudiating Third World debt, and a process was launched for drafting an 'Africa People's Consensus', culminating in a major statement that condemned the current debt reduction strategy. And in August 2000 the Southern African Peoples Solidarity Network met in Windhoek to pronounce "in

favour of inward-oriented, basic-needs development strategies that promote regional integration" (Bond 2001).

In South Africa SANE's co-ordinator Aart de Lange - commenting on the Cansa conference against globalisation - noted that "(a)lthough the need to find alternatives to the current trends was raised repeatedly at the conference, there was more rhetoric exposing the evils of capitalism than a deep search for other approaches" (De Lange n.d.).

There seems to be a fair amount of common ground between local proponents and those elsewhere on the basis of an alternative development strategy to that imposed by the IFIs. For example, Zwelinzima Vavi, General Secretary of COSATU, in his opening address to the ICFTU 17th World Congress in Durban (April 2000) called for the development of: (a) a new trade and financial world order; (b) democratising institutions such as the IMF; (c) building a global social movement to articulate a new development path; (d) advancing the alternative strategy in all international platforms (Kahn 2000).

The question of the extent to which the anti-globalisation movement has affected the IFIs remains open. Certainly it seems to have brought about a change in rhetoric: the former head of the IMF, Michel Camdessus, spoke of "the humanisation of economic policy making" in his address to the UNCTAD meeting in Bangkok. Reportedly, Camdessus also said that human development is more important than just economic growth (BBC 2000b). Whether this demonstrates the development of a new development paradigm remains to be seen.

Anarchists in the Black Bloc reject private property and capitalism as "intrinsically [sic] violent and repressive" and so "cannot be reformed or mitigated". They reject both notions of free trade and fair trade. For these anarchists free trade would result in "a network of a few industry monopolists with ultimate control over the lives of the [sic] everyone else". On the other hand, fair trade would result in the mitigation of capitalism and private property "by government regulations meant to superficially impose basic humanitarian standards" (Black Bloc Collective 1999).

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Toward an international criminal tribunal to adjudicate upon corporate wrongs

by François Rigaux*

Some new features of positive international law since the end of World War Two

Criminal justice and compulsory respect for law and human decency have traditionally been an exclusive competence of States (of the polis in Ancient Greece). According to the Western tradition, international law was originally a purely interstate legal order. Still, as has been decided in the Permanent Peoples' Tribunal award on the Conquest of America and International Law (Padova, Venice, 1992), after having been used to rationalizing and legitimating the colonial conquest and, during centuries, the colonial domination and exploitation, international law has remained a stronghold of State's prepotency, and under the guise of the principle of territorial sovereignty, it has favoured the inequality between peoples, the tying down of individuals to their own State, furthermore it has justified through its partiality to « vested rights » the permanence and even the intensification of the gap between the haves and the have-nots, nationally and internationally, locally as universally.

After World War Two some new features did appear. What has been called the Nuremberg law established a new branch of international law dealing with international crimes committed by individuals, even men acting as head of State or as governing authorities but also lesser officials who could not any more be insulated from criminal responsibility through the alledged obedience to an order given by a superior. Among those new crimes were the launching of a war of aggression but also war crimes, crimes against humanity and, even if the word was not uttered at Nuremberg, genocide. War crimes were already branded under international humanitarian law but that branch of international law according to its traditional nature did only impose obligations upon States which were under a duty, against other belligerent States, to prevent and eventually to punish war crimes. That international military tribunals were set up — at Tokyo and Nuremberg — did imply that the international community¹ was henceforth empowered to provide for the chastisement of the delinquents. Individuals were brought under the hand of international justice.

Another feature which emerged after World War Two was the sealing of the protection of human rights and individual freedoms through international law. Dating back to the Magna Carta, the Glorious Revolution of 1688, the American Declaration of Independence and the French Declaration of 1789, human rights were conquered by subjects revolting against a monarch or trying to pull off some liberties from him. The bringing of individual rights and freedoms into the international arena was not without link with the setting up of the Nuremberg trial: the Nazi dictatorship was at the root of both evils, aggression of neighbouring States on the one hand, on the other the destruction of all civil liberties and the perpetration of awful crimes against all peoples having fallen within the Third Reich's grip and from the very beginning against large areas of the German people itself².

The Universal Declaration of Human Rights and Individual Freedoms of 10 December 1948 whose binding character remained for a long time put to doubt³ was followed by international conventions, the American Convention of Human Rights (San José, Costa Rica, 22 November 1949), the European Convention on the Protection of Human Rights and Individual Freedoms (Rome, 4 November 1950), the Pacts of the United Nations on civil and political rights and on economical, cultural and social rights (New York, 16 December 1966). The European and the American Conventions have set up international law institutions before which any person submitted to the jurisdiction of a contracting State is empowered to bring a claim against the State accused of any violation of a right or liberty guaranteed by the Convention. There is some parallelism between the new standing of individuals before an international tribunal, either as a defendant prosecuted for an international law crime or as a claimant acting against its State. In neither case does municipal law provide a ground of defence: an international law crime is punishable even if condoned or authorized by State authorities, the State cannot rely on its own legislation to be free of the violation of guaranteed human rights through one of its organs' action or omission.

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1. It can be disregarded in the present context that both military tribunals were not so international as was implied by their official denomination. On the territory of both defeated powers the sovereignty was provisionally exercised by the victors, who could adjudicate upon the new international law crimes. An important principle was laid down, which could be applied in the future, even if, for instance at the time of the Vietnam War, it was not taken into account neither by the Government of the United States of America nor by the international community at large. See below, III and the note 51.

2. Jean Jacques Rousseau has emphasized the link between despotism inward and conquests outward: *Jugement sur le projet de paix perpétuelle de l'abbé de Saint-Pierre* (1761), *Oeuvres complètes* (Bibl. de la Pléiade), t. III, 1964, p. 593. Comp. the first post-second-war Resolution of the International Law Institute: « Les droits fondamentaux de l'homme, base d'une restauration du Droit International », *Annuaire*, vol. 41 (session de Lausanne, 1947, p. 258). The Institute did not publish an English version of the text.

3. See the quotation of the judgement of 24 May 1980, below note 14.

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Human rights and peoples' rights at the bar of the International Court of Justice

According to the international law doctrine prior to World War Two, there existed an insuperable separation between international and municipal law. The former's subject-matter was confined to interstate relationships, the latter dealt exclusively with State power and individuals, that category including corporations.

In accordance with that traditional scheme, the International Court of Justice's judicial jurisdiction is restricted to States while advisory opinions can be requested from the Court by twenty-two United Nations organs and agencies⁴, including among other the General Assembly, the Security Council, the Economic and Social Council⁵.

Human rights and peoples' rights are not as such a specific topic on the agenda of the ICJ but as far as their protection is actually deemed to appertain to the overall body of international law not only did the Court rule on general questions in that field but some cases have usefully brought human rights and peoples' rights within the ambit of international law⁶. Suffice it to give a few samples of that sector of the Court's case law.

Genocide

Delivered to the request of the General Assembly, the second advisory opinion of the Court concerned the consequences of reservations made by a State when acceding to or ratifying the Convention of 9 December 1948 on the Prevention and Punishment of the Crime of Genocide. The motivation of the judgment stresses very strongly the nature of genocide as an international law crime:

The first consequence arising from this conception is that the principles underlying the Convention are principles which are recognized by civilized nations as binding on States, even without any conventional obligations. A second consequence is the universal character both of the condemnation of genocide and of the co-operation required "in order to liberate mankind from such an odious scourge" (Preamble of the Convention). The Genocide Convention was therefore intended

by the General Assembly and by the contracting parties to be definitely universal in scope.⁷

The right of peoples to self-determination

The General Assembly Resolution 1514 (XV) of 14 December 1960 on the Granting of Independence to Colonial Countries and Peoples has been recognized by two advisory opinions of the Court as embodying principles of international customary law. The first one concerned the legal consequences of the continued presence of South Africa in Namibia, notwithstanding Security Council Resolution 276 (1970). For interpreting the terms of "sacred trust" in Article 22 of the Covenant of the League of Nations, the Court adhered to an evolutionary approach:

Furthermore, the subsequent development of international law in regard to non-self-governing territories, as enshrined in the Charter of the United Nations, made the principles of self-determination applicable to all of them⁸.

[...]

That is why, viewing the institutions of 1919, the Court must take into consideration the changes which have occurred in the supervening half-century, and its interpretation cannot remain unaffected by the subsequent developments of law, through the Charter of the United Nations and by way of customary law. Moreover, an international instrument has to be interpreted and applied within the framework of the entire legal system prevailing at the time of its interpretation.

In the domain to which the present proceedings relate, the last fifty years, as indicated above, have brought important developments. These developments leave little doubt that the ultimate objective of the sacred trust was the self-determination and independence of the peoples concerned.

In this domain as elsewhere, the *corpus iuris gentium* has been considerably enriched, and this the Court, if it is faithfully to discharge its functions, may not ignore⁹.

Furthermore the Court contemplates the illegality of the regime of apartheid which is imposed on the population of Namibia and after having stated the facts, the Court concludes:

Under the Charter of the United Nations, the former Mandatory Power pledged itself to

4. *ICJ's Handbook*, 1994-1995, p. 74-82.

5. At this date, the Court has delivered twenty-three advisory opinions to various organs of the United Nations.

6. Two judges have written on that subject: Stephen M. Schwebel, « Human Rights in the World Court » in *International Law in Transition*, Essays in Memory of Judge Nagendra Singh, ed. by R.S. Pathak and R.P. Dhokalia (1992), p. 267-290; 24 *Vanderbilt Journal of Transnational Law* (1991), 945-970; « The Treatment of Human Rights and Aliens in the International Court of Justice » in *Fifty Years of the International Court of Justice*, ed. by Vaughan Lowe and Malgonia Fitzmaurice (1996), p. 327-351; Rosalyn Higgins, « The International Court of Justice and Human Rights » in *International Law in Theory and Practice*, Essays in Honor of Eric Suy, ed. by Karel Wellens (1998), p. 691-705.

7. *Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide*, ICJ Reports 1951, p. 15, at p. 23.

8. *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) Notwithstanding Security Council Resolution 276 (1970)*, ICJ Reports 1971, p. 15, at p. 31, § 52. See: Antonio Cassese, « The International Court of Justice and the Right of Peoples to Self-Determination » in *Fifty Years...* (above, note 5), p. 353.

9. *Ibid.*, p. 19-20, § 53.

observe and respect, in a territory having an international status, human rights and fundamental freedoms for all without distinction as to race. To establish instead, and to enforce, distinctions, exclusions, restrictions and limitations exclusively based on grounds of race, colour, descent or national or ethnic origin which constitute a denial of fundamental human rights is a flagrant violation of the purposes and principles of the Charter¹⁰.

A few years later in its advisory opinion on Western Sahara, the Court strongly emphasized the right to self-determination of colonial peoples. Before extended quotations of its Advisory Opinion on South-West Africa, the Court states:

The principle of self-determination as a right of peoples, and its application for the purposes of bringing all colonial situations to a speedy end, were enunciated in the Declaration on the Granting of Independence to Colonial Countries and Peoples, General Assembly Resolution 1514 (XV). In this resolution the General Assembly proclaims “the necessity of bringing to a speedy and unconditional end colonialism in all its forms and manifestations”. To this end the resolution provides *inter alia*:

[...]

The above provisions, in particular paragraph 2, thus confirm and emphasize that the application of the right of self-determination requires a free and genuine expression of the will of the peoples concerned¹¹.

Not only does in both advisory opinions the “principle of self-determination as a right of peoples” concern exclusively colonial peoples but the breach of international law imputable to South-Africa for the maintenance of a regime of *apartheid* is dependent of its being a Mandatory Power on a territory upon which that country cannot claim full sovereignty.

The duty to respect fundamental human rights as an obligation erga omnes.

In most contentious cases where human rights are called forth in the motivation of the judgment it is often in *obiter dicta*, not indispensable for the ruling of the Court. For instance in the *Corfu Channel Case*, the condemnation of Albania for having tolerated the presence of sweeping

mines in its territorial waters, without notifying it to maritime powers is basically justified through a state’s liability for its omission of securing the safety of aliens on its territory, but the Court added:

Such obligations are based [...] on certain general and well-recognized principles, namely: elementary considerations of humanity, even more exacting in peace than in war; the principle of the freedom of maritime communications; and every state’s obligation not to allow knowingly its territory to be used for acts contrary to the rights of other States.¹²

Still more unnecessary to the judgement of the case at hand is the famous and often quoted *dictum* in the *Barcelona Traction Case*:

In particular, an essential distinction should be drawn between the obligations of a State towards the international community as a whole, and those rising vis-à-vis another State in the field of diplomatic protection. By their very nature the former are the concern of all States. In view of the importance of the rights involved, all States can be held to have a legal interest in their protection; they are obligations *erga omnes*.

Such obligations derive, for example in contemporary international law, from the outlawing of acts of aggression, and of genocide, as also from the principles and rules concerning the basic rights of the human person, including protection from slavery and racial discrimination. Some of the corresponding rights of protection have entered into the body of general international law (*Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide*), Advisory Opinion, I.C.J. Reports 1951, p. 23); others are conferred by international instruments of a universal or quasi-universal character¹³.

In another *obiter dictum*, this time of its Judgment of 24 May 1980, on a case between the United States and the Islamic Republic of Iran, the Court recognized the binding character of the Universal Declaration of Human Rights:

Wrongfully to deprive human beings of their freedom and to subject them to physical constraint in condition of hardship is in itself incompatible with the principles of the Charter of the United Nations, as well as with the fundamental principles enunciated in the Universal Declaration of Human Rights¹⁴.

10. *Ibid.*, p. 57, § 131.

11. *Western Sahara, Advisory Opinion*, ICJ Reports 1975, p. 12, at p. 31-32, § 55. The omitted text of that part of the advisory opinion contained paragraphs 2, 5 and 6 of the Resolution 1514 (XV).

12. *Corfu Channel Case*, ICJ Reports 1949, p. 4, at p. 22.

13. *Barcelona Traction, Light and Power Company, Limited, Judgment*, ICJ Reports 1970, p. 3, at p. 32, §§ 33-34. The *obiter* nature of that part of *Barcelona Traction* was recalled in the dissenting opinion of Judge Weeramantry under the *East Timor Judgment*, ICJ Reports 1995, p. 90, at p. 139, p. 215.

14. *United States Diplomatic and Consular Staff in Tehran, Judgment*, ICJ Reports 1980, p. 3, at p. 42, § 91.

In the very long judgment on the merits of the *Nicaragua case*, a sentence can be quoted, which implies the duty of any State to respect human rights irrespective of its adhesion to any relevant international instrument to the same end.

The Court also notes that Nicaragua is accused by the 1985 finding of the United States Congress of violating human rights. This particular point requires to be studied independent of the question of the existence of a “legal commitment” by Nicaragua towards the Organization of American States to respect these rights; the *absence of such a commitment would not mean that Nicaragua could with impunity violate human rights*¹⁵.

Such statement is all the more obiter for two reasons: one is that the protection of human rights allegedly violated in Nicaragua has not been deemed the justification put forward by the Government of the United States (which did not appear before the Court during the phase on the merits), the other being the context in which the question of human rights has been dealt with in the same judgment.

Indeed, according to the Court,

The respondent State has always confined itself to the classic argument of self-defence, and has not attempted to introduce a legal argument derived from a supposed rule of “ideological intervention”, which would have been a striking innovation¹⁶.

Should this have been the case, the Court would have dismissed the argument:

In any event, while the United States might form its own appraisal of the situation as to respect for human rights in Nicaragua, the use of force could not be the appropriate method to monitor or ensure such respect. With regard to the steps actually taken, the protection of human rights, a strictly humanitarian objective, cannot be compatible with the mining of ports, the destruction of oil installations, or again with the training, arming, and equipping of the *contras*¹⁷.

Obligations erga omnes in the daily administration of international law

However, one should not entertain too optimistic a view of the Court’s credentials in the field of human rights. Not only did the strongest

declarations in favour of the universal character of human rights generally belong to obiter dicta, under the exception of the principle of self-determination of colonial peoples, but in some cases, contentious or not, where the Court could have vindicated the violation of fundamental human rights, it did refrain from doing so through a restrictive determination of its own jurisdiction.

The first striking example of the Court’s timidity is the rejection of the claims filed separately by Ethiopia and Liberia against South-Africa to bring to an end the apartheid policy practiced by the latter State on its own territory¹⁸. Given the identity of interest of both claimant States, their cases were joined¹⁹, but at the end of the second phase of the proceedings the Court, by a very narrow majority (7-7, untied through the preponderant voice of the president), denied both States any interest to act on behalf of the people of South Africa. Not only is that judgment universally discredited and implicitly overruled by the advisory opinion of 1971 and already by the obiter dictum of the *Barcelona Traction* judgment, whose main purpose probably was that repudiation, but the “majority” opinion is heavily counterbalanced by the strong dissenting opinions of seven judges²⁰.

On the question of “interest” which was denied to both claimant States, Judge Tanaka writes:

There is no reason why an immaterial, intangible interest, particularly one inspired by the lofty humanitarian idea of a “sacred interest of civilization”, cannot be called “interest” [...]. The historical development of law demonstrates the continual process of the cultural enrichment of the legal order by taking into consideration values or interests which had previously been excluded from the sphere of law [...]. Each Member of a human society — whether domestic or international — is interested in the realization of social justice and humanitarian ideas. The State which belongs as a member to an international organization incorporating such ideas must necessarily be interested. So far as the interest in this case affects the rights and obligations of a State, it may be called a “legal interest”²¹.

The opinion of the Japanese Judge is specially relevant for the links it establishes between human rights and international law and for the appeal made on natural law.

15. *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America)*, Merits Judgment, ICJ Reports 1986, p. 14, at p. 134, § 267 (emphasis added).

16. *Ibid.*, p. 134, § 266.

17. *Ibid.*, p. 134-135, § 269.

18. It is what distinguishes that case from the Namibia case.

19. *South West Africa*, Order of 20 May 1961, ICJ Reports 1961, p. 13.

20. *South-West Africa Cases, Ethiopia v. South-Africa, Liberia v. South-Africa, Judgment on Second Phase*, July 18, 1966, ICJ Reports 1966, p. 5. The dissenting opinions were filed by Judges Wellington Koo (p. 216), Karetzky (p. 239), Tanaka (p. 250), Jessup (p. 325), Padilla Nervo (p. 443), Forster (p. 474) and Sir Louis Mbampopo (p. 484).

21. *Ibidem*, p. 252-253.

In this context we have to consider the relationship between a norm of a human rights nature and international law. Originally, general principles are considered to be certain private law principles found by the comparative law method and applicable by way of analogy to matter of an international character. These principles are of a nature common to all nations, that is of the character of *jus gentium*. These principles, which originally belong to private law and have the character of *jus gentium*, can be incorporated in international law so as to be applied to matters of an international nature by way of analogy, as we see in the case of the application of some rules of contract law to the interpretation of treaties. In the case of the international protection of human rights, on the contrary, what is involved is not the application by analogy of a principle or a norm of private law to a matter of international character, but the recognition of the juridical validity of a similar legal fact without any distinction as between the municipal and the international legal sphere.

In short, human rights which require protection are the same; they are not the product of a particular juridical system in the hierarchy of the legal order, but the same human rights must be recognized, respected and protected everywhere man goes. The uniformity of national laws on the protection of human rights is not derived, as in the cases of the law of contracts and commercial and maritime transactions, from considerations of expediency by the legislative organs or from the creative power of the custom of a community, but it already exists in spite of its more-or-less vague form. This is of nature *jus naturale in roman law*.

The unified national laws of the character of *jus gentium* and of the law of human rights, which is of the character of *jus naturale* in roman law, both constituting a part of the law of the world community which may be designated as World Law, Common Law of Mankind (Jenks), Transnational Law (Jessup), etc., at the same time constitute a part of international law through the medium of Article 38, paragraph 1 (c). But there is a difference between these two cases. In the former, the general principles are presented as common elements among diverse national laws; in the latter, only one and the same law exists and this is valid through all

kinds of human societies in relationships of hierarchy and co-ordination²².

[...]

The question here is not of an “international”, that is to say, inter-State nature, but it is concerned with the question of the international validity of human rights, that is to say, the question whether a State is obliged to protect human rights in the international sphere as it is obliged in the domestic sphere.

The principle of the protection of human rights is derived from the concept of man as a person and his relationship with society which cannot be separated from universal human nature. The existence of human rights does not depend on the will of a State; neither internally on its law or any other legislative measure, nor internationally on treaty or custom, in which the express or tacit will of a State constitutes the essential element.

A State or States are not capable of creating human rights by law or by convention; they can only confirm their existence and give them protection. The role of the State is no more than declaratory. It is exactly the same as the International Court of Justice ruling concerning the *Reservations to the Genocide Convention case (ICJ Reports 1951, p. 23)*.

[...]

Human rights have always existed with the human being. They existed independently of, and before, the State. Alien and even stateless persons must not be deprived of them. Belonging to diverse kinds of communities and societies ranging from family, club, corporation, to State and international community, the human rights of man must be protected everywhere in this social hierarchy, just as copyright is protected domestically and internationally. Who can believe, as a reasonable man, that the existence of human rights depends upon the internal or international legislative measures, etc., of the State and that accordingly they can be validly abolished or modified by the will of the State?

If a law exists independently of the will of the State and, accordingly, cannot be abolished or modified even by its constitution, because it is deeply rooted in the conscience of mankind and of any reasonable man, it may be called “natural law” in contrast to “positive law”.

22. *Ibid.*, p. 295-296.

Provisions of the constitutions of some countries characterize fundamental human rights and freedoms as “inalienable”, “sacred”, “eternal”, “inviolable”, etc. Therefore, the guarantee of fundamental human rights and freedoms possesses a super-constitutional significance.²³

The East-Timor case

The judgment rendered on 30 June 1995 in the case of East Timor is an unfortunate example of the timidity of the Court for implementing its own dicta on the international obligations of States erga omnes.

The case concerned an application of Portugal against Australia. The defendant had concluded with Indonesia a treaty creating a “zone of cooperation” in an area between “the Indonesian Province of East Timor and Northern Australia”. Portugal acted in its capacity as the administering power of its former colony up to the moment when the latter’s decolonization would be brought to an end. The Australian-Indonesian Treaty amounted to a de facto recognition of the Indonesian annexation of East Timor in violation of the repeated resolutions of the General Assembly and of the Security Council of the United Nations.

The procedural question which induced the Court to refrain from adjudicating on the merits was that it would have involved Indonesia which was not a Party to the proceedings and which the Claimant could not have brought to Court since she had not accepted its compulsory jurisdiction. The Court denies that it can “decide a dispute between States without the consent of those States to its jurisdiction”²⁴ and further on, it meets with the affirmation of Portugal without contradicting its content but the inference alleged by the Applicant:

In the Court’s view, Portugal’s assertion that the right of peoples to self-determination, as it evolved from the Charter and from United Nations practice, has an *erga omnes* character, is irreproachable. The principle of self-determination of peoples has been recognized by the United Nations Charter and in the jurisprudence of the Court (...). However, the Court considers that the *erga omnes* character of a norm and the rule of consent to jurisdiction are two different things.

Whatever the nature of the obligations involved, the Court could not rule on the lawfulness of the conduct of a State when its judgment would imply an evaluation of the lawfulness of the conduct of another State which is not a party to the case. Where this is so the Court cannot act, even if the right in question is a right *erga omnes*²⁵

Well, the affirmation that “the *erga omnes* character of a norm and the rule of consent to jurisdiction are two different things” is itself “irreproachable”. But the question was whether it was really impossible to adjudicate upon the violation of an international obligation “*erga omnes*”, alleged against a State party to a treaty without reaching the other Party to the same treaty which was indeed obviously beyond the Court’s jurisdiction. The ground of the claim was not that Indonesia had violated its obligation by annexing and occupying the territory of East Timor and violating the fundamental rights of the East Timorese people, but only whether by entering into an international treaty which brutally took down the right to self-determination of the Timorese people Australia had facially contravened a long series of United Nations resolutions. It was one offence to have illegally occupied the territory of East Timor, it was another one to enter into a treaty defrauding the fundamental rights of the Timorese people. Both breaches of international law, the former not being brought before the Court, the latter it was regularly seized of, were severable and the Court could have adjudicated upon the Australian breach of international law through a judgment which could not have been opposed to Indonesia, by virtue of the limited effect of *res judicata*. Moreover, would Indonesia have wanted to intervene into the proceedings, it could have done so according to Articles 62 and 63 of the Statute and Article 81 to 86 of the Rules of the Court. Even if the Court decided in the Case of the Monetary Gold that the faculty for Albania to intervene into the dispute did not preclude the Court from refusing to adjudicate in absence of that State²⁶, it is not sure whether that ruling still makes sound law almost half a century later and in an entirely different setting²⁷.

In the last paragraph of its motivation, the Court makes the following admonishment:

The Court recalls in any event that it has taken note in the present judgment (paragraph 31)

23. *Ibid.*, p. 297-298. The quotation of the Advisory Opinion on the Genocide Convention has been omitted since it is already reproduced above.

24. *East Timor (Portugal v. Australia)*, ICJ Reports 1995, p. 90, at p. 101, § 26.

25. *Ibid.*, p. 102, § 29. Two advisory opinions are quoted within the parentheses, the Namibia one and the Western Sahara opinion.

The origin of the *erga omnes* doctrine (*Barcelona Traction*) is not hinted at.

26. *Case of the Monetary Gold Removed from Rome in 1943 (Preliminary Question)*, ICJ Reports 1954, p. 19, at p. 32. See:

Charles De Visscher, *Aspects récents du droit procédural de la Cour internationale de Justice* (Paris, Pedone, 1966), p. 66-68; J. Verhoeven, *Droit international* (Bruxelles, Larcier, 2000), p. 770-774.

27. *The Monetary Gold Case* is the first of the precedents the Court relies upon in the *East Timor Case* (§ 26). In his declaration joined to the judgment, Judge Oda dismisses the relevance of the *Monetary Gold Case*, *ibid.*, p. 113, § 8. See also the separate opinion of Judge Ranjeva, *ibid.*, p. 129-130.

28. *ICJ Recueil* 1995, p. 105-106, § 37.

29. Declaration of Judge Oda, *ibid.*, p. 118, § 20.

30. *Ibid.*, p. 135, p. 138.

31. Judge Weeramantry, *dissenting*, *CIJ Reports* 1995, p. 139, at p. 153.

32. *Ibid.*, p. 154. At the end of his dissenting opinion Judge Weeramantry relies on Roberto Ago's report, as special rapporteur of the International Law Commission (p. 171).

33. Since NATO could not be brought before the ICJ, Yugoslavia applied against ten States having taken part in the war. In two instances the Court ordered that the case be removed from the list: *Case Concerning Legality of Use of Force (Yugoslavia v. Spain)* and *(Yugoslavia v. United States of America)*, *Request for the Indication of Provisional Measures*, Orders of 2 June 1999. In the eight other cases the Court has reserved the subsequent procedure for further decision but it denied the Applicant the provisional measures sought for because in the absence of consent by the defendant State the Court could not exercise jurisdiction, even *prima facie*. Those eight cases concern Belgium, Canada, France, Germany, Italy, the Netherlands, Portugal and the United Kingdom.

34. *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia)*, *Provisional Measures, Order of 13 September 1993*, *ICJ Reports* 1993, p. 325.

35. *ICJ Reports* 1996, p. 595.

36. *Counterclaims*, Order of 17 December 1997, *ICJ Reports* 1997, p. 243.

37. See in this sense the dissenting opinion of Vice-President Weeramantry, *Ibid.*, p. 287, at p. 289-296.

that, for the two Parties, the Territory of East Timor remains a non-self-governing territory and its people has the right to self-determination²⁸.

A very broad majority of the members of the Court did agree with the safe and timid dismissal of the case for jurisdictional reasons. Judge Oda would have it dismissed because of the lack of standing of Portugal as an Applicant State²⁹. According to the separate opinion of Judge Vereshchetin:

I conclude that the absence of Indonesia's consent is but one of the reasons leading to the inability of the Court to decide the dispute. The other, in my view, no less important, reason is the lack of any evidence as to the views of the people of East Timor, on whose behalf the Application has been filed³⁰.

The dissenting opinion of Judge Weeramantry (the actual vice-president of the Court) is entirely to the point on the procedural question as on the merits.

Australia is party to a treaty which deals, *inter alia*, with resources acknowledgedly belonging to the East Timorese people, who are acknowledgedly a non-self-governing people. So long as they continue to be a non-self-governing people, those resources will continue to belong to them by incontrovertible principles of the law of nations. At such time as they achieve self-determination, they may deal with these resources in such manner as they freely choose. Until such time, the international legal systems protects their rights for them, and must take serious note of any event by which their rights are disposed of, or otherwise dealt with, without their consent. Indeed, the deepest significance of the right of a non-self-governing people to permanent sovereignty over natural resources lies in the fact that the international community is under an obligation to protect these assets for them³¹.

Further on the dissenting judge concludes on the procedural question:

That is the dominant issue before the Court. It centres on the actions of the Respondent and not of the third State³².

The cases related to ex-Yugoslavia

Other cases can be quoted where the International Court of Justice took refuge behind procedural niceties to refrain from adju-

dicating on grave violations of human rights, for instance in the eight cases of Yugoslavia against NATO countries for the Kosovo war, where it refused to order provisional measures on the ground it lacked *prima facie* jurisdiction³³.

In the case of Bosnia and Herzegovina against Yugoslavia, the Court granted to the Applicant provisional measures³⁴ which went utterly unheeded, it rejected the exceptions of Yugoslavia³⁵ but it declared the counterclaims of Yugoslavia admissible³⁶, which means that the examination of Applicant's claim will be unduly delayed. Counterclaims may be joined to the original claim when they are directly connected with the subject-matter of the claim of the other party (Rules of Court, Art. 80, 1), the alleged link justifying them to be adjudicated together. Such is, for instance, the case for the respective obligations of the parties to a contract or when the tort alleged against a party can be considered as finding its cause in the wrongful action of the other. But even if it could be assumed that armed forces for which Bosnia and Herzegovina could be held responsible did commit acts of genocide on the territory of Yugoslavia, that could be no justification whatever for the acts of genocide alleged against the latter country. Genocide is such heinous a crime that it cannot be "compensated" by similar facts of which the victims would have been persons within the jurisdiction of the defendant State³⁷.

The Legality of the threaten or use of nuclear weapons

Although the contribution of the International Court of Justice to the insertion of human rights and peoples' rights into the realm of international law is not negligible, most often than not it takes the form of obiter dicta which the Court does not succeed in bringing to effectiveness. In some cases procedural obstacles, some of which could have been overcome, prevented the Court from entering into the merits of the case. The very restrictive ways of access to the Court — which forbids peoples, even colonial ones — to be heard are reinforced through a restrictive interpretation of the Court's own jurisdiction. One dares not suggest that, too cautious to deal with divisive matters, the Court aptfully seizes procedural devices to get rid of the question. Is

also occurs that the splitting of the Court is explicitly stated in the decision itself. Such was the case in the Advisory Opinion of 8 July 1996 on the Legality of the Threat or Use of Nuclear Weapons. The Court had been requested by the General Assembly of the United Nations³⁸ a legal question phrased as follows:

Is the threat or use of nuclear weapons in any circumstance permitted under international law?

The subdivisions of international law under which the Court deemed appropriate to answer the question are:

the Charter law on the use of force and the law applicable in armed conflicts, in particular humanitarian law³⁹...

Although nuclear weapons as such are not explicitly contemplated by the international conventions of humanitarian law, the Court considered that the “Martens Clause” which was first included in the Hague Convention II with Respect to the Laws and Customs of War or Law of 1899 has remained good law. According to the Court:

A modern version of that clause is to be founded in Article 1, paragraph 2, of Additional Protocol I of 1977, which reads as follows:

“In cases not covered by this Protocol or by other international agreements, civilians and combatants remain under the protection and authority of the principles of international law derived from established customs, from the principles of humanity and from the dictates of public conscience”⁴⁰

And further on:

It is undoubtedly because a great many rules of humanitarian law applicable in armed conflicts are so fundamental to the respect of the human person and “elementary considerations of humanity” as the Court put it in its judgment of 2 April 1949 in the *Corfu Channel* case (*ICJ Reports 1949*, p. 22), that the Hague and Geneva Conventions have enjoyed a broad accession. Further these fundamental rules are to be observed by all States whether or not they have ratified the conventions that contain them, because they constitute intransgressible principles of international customary law⁴¹.

[...]

Finally the Court points to the Martens Clause, whose continuing existence and applicability is not to be doubted, as an affirmation

that the principles and rules of humanitarian law apply to nuclear weapons⁴².

As undoubtful as the principle is, the difficulty remains to apply it to nuclear weapons. Up to the end of its motivation the advisory opinion is maintaining the suspense:

Accordingly, in view of the present state of international law viewed as a whole, as examined above by the Court, and of the elements of fact at its disposal, the Court is led to observe that it cannot reach a definitive conclusion as to the legality or illegality of the use of nuclear weapons by a State in an extreme circumstance of self-defence, in which its very survival would be at stake⁴³.

By a large majority (11-3), the Court decided

There is in neither customary nor conventional international law any comprehensive and universal prohibition of the threat or use of nuclear weapons as such⁴⁴.

By a close majority (7-7, by the President’s casting vote), the Court affirmed two joint propositions:

It follows from the above-mentioned requirements that the threat or use of nuclear weapons would generally be contrary to the rules of international law applicable in armed conflict, and in particular the principles and rules of humanitarian law;

However, in view of the current state of international law, and of the elements of fact at its disposal, the Court cannot conclude definitively whether the threat or use of nuclear weapons would be lawful or unlawful in an extreme circumstance of self-defence, in which the very survival of a State would be at stake⁴⁵.

The seven judges who voted against that complex twofold statement formed a composite group. Three among them voted also against the heading B (Judges Shahabuddeen, Weeramantry and Koroma). It means they would have adhered to the first sentence of E (but for the adverb generally) but strongly opposed the second sentence. Three other members of the dissenting group (Vice-president Schwebel, Judges Guillaume and Higgins) could perhaps have accepted the second sentence but not the first one. Judge Oda is a category by himself since he was alone to suggest that the Court should not have complied with the request for advisory opinion.

38. Two organs of the United Nations had addressed the Court a request on almost the same legal question. But the request of the World Health Organization has been rejected because the question did not arise « within the scope » of the activities of that Organization: *Legality of the Use by a State of Nuclear Weapons in Armed Conflicts, Advisory Opinion, ICJ Reports 1996*, p. 66. That opinion was delivered the same day as the opinion on the request of the General Assembly (see note 39).

39. *Legality of the Threat or Use of Nuclear Weapon, Advisory Opinion, ICJ Reports 1996*, p. 244, § 36.

40. *Ibid.*, p. 257, § 78.

41. *Ibid.*, p. 257, § 79.

42. *Ibid.*, p. 260, § 87.

43. *Ibid.*, p. 263, § 97.

44. *Ibid.*, p. 266, point B of the enacting terms of the opinions.

45. *Ibid.*, p. 266, point E of the enacting terms.

46. This is clearly repeated in enactment C, which is unanimous but also does not add anything to agreed upon international law. Enactment E, alinea 2, also hints at the self-defence justification.

47. In the opinion itself see paragraph 41 to 43 (p. 245). In paragraph 41, the Court makes a reference to the *Nicaragua case*, *ICJ Reports 1986*, p. 94, § 84. 48. *The Case of S.S. « Lotus »*, judgment n° 9, 1927, C.P.J.I., Series A, n° 10, p. 4. Specially old-fashioned does seem the following passage of the *Lotus* decision: « International law governs relations between independent States. The rules of law binding upon States therefore emanate from their own free will as expressed in conventions or by usages generally accepted as expressing principles of law and established in order to regulate the relations between these co-existing independent communities or with a view to the achievement of common aims. Restrictions upon the independence of States cannot therefore be presumed ».

49. Individual opinion, *ICJ Reports 1996*, p. 291, § 10. 50. According to the individual opinion of President Bedjaoui the ICJ in 1996 is much more circumspect than the Permanent Court in 1927 (*Ibid.* p. 270-271, § 12-15). The dissenting opinion of Judge Weeramantry is still more distanced (and with a good reason) from the precedent value of the *Lotus* judgment in the context of humanitarian law of war (*Ibid.*, p. 494-496).

The Court's opinion can be considered as a plurality one: seven judges were in favour of the neither... nor position of enactment E, three in favour of a radical outlawing of nuclear arms, three (perhaps four) against too restrictive limitations of the threat or use of nuclear arms within the ambit of traditional humanitarian law. When trying to explain the enactments through the motivation the relevance of which is stressed in paragraph 104 of the opinion one meets with two affirmations which do not deliver any answer to the question asked by the General Assembly. One is that the use or threaten of force is prohibited except as a self-defence: that it is unlawful with an aggressive purpose is common to all types of armed forces, it does not imply anything as to the specially devastating effects of nuclear weapons⁴⁶. Even in a clear situation of self-defence the State has to adapt its use or threaten of nuclear weapons to what is necessary to reach a lawful purpose: while the principle of proportionality, which, according to the motivation, determines the conditions and limits of self-defence is solidly established in international customary law⁴⁷, it says nothing specific on the use of nuclear weapons for self-defence, and the requirement of proportionality does not even appear in any proposition of the enactment itself.

Among affirmations which are self-evident and do not tackle the specific nature of nuclear weapons, the two enactments reached through a narrow majority do not meet the question sent to the Court by the General Assembly. It does not decide whether "the threat or use of nuclear weapons [is] in any circumstance permitted under international law". The answer clearly is that it is "permitted" in some circumstances, which is not saying anything about the devastating and indiscriminate nature of such weapons, since the answer does not sufficiently distinguish nuclear weapons from all other kinds of arms. The crux of the matter is however the place of state's sovereignty in the international community. In its advisory opinion on the legality of the threaten or use of nuclear weapons the International Court of Justice implicitly but undoubtedly adhered to the traditional view according to which a State may do anything which is not prohibited by international law.

States do not need any positive permission or empowerment to do anything; their sovereignty is only limited through a prohibition of international law. The formulation of the question would have been better had the General Assembly asked whether the threaten or use of nuclear weapons were prohibited in all circumstances. At any even the answer of the Court is that it is neither permitted nor prohibited in all circumstances which is no answer at all since it assimilates nuclear weapons to whatever other weapons and does not deal with what was the point of the question: how far are such weapons different from all other ones? Nuclear weapons have not to be specifically "permitted" since they are "permissible" as far as they are not prohibited.

Such a traditional conception of international law of which the cornerstone is state's sovereignty dates back to an old judgment of the Permanent Court of International Justice in the *Lotus* case where also through a narrow majority the Permanent Court decided that international law only contains prohibitive norms, since States do not need any permission to do anything that is not prohibited: they are empowered by their own sovereignty⁴⁸.

In its opinion on nuclear weapons the International Court did not dare to rely on the *Lotus* doctrine, but Judge Guillaume (the actual president of the Court) did.⁴⁹ However the unconditional adhesion of Judge Guillaume to *Lotus* as a precedent is not followed by other members of the Court⁵⁰.

There is, evidently, a tremendous difference between the narrow issue of the *Lotus case* and the threaten and use of nuclear weapons: almost seventy years have gone by, the sovereignty principle has been fundamentally overthrown by the human rights doctrine. States are not any more over-powerful, they have duties towards their peoples but also towards the whole of mankind and the threaten or use of nuclear weapons are the biggest challenge today which the evolutionary nature of international law should have been able to deal with. It would be too optimistic a view to think that the advisory opinion of 8 July 1996 is a step in the good direction. On the contrary, with its neither... nor solution, it locks up in the stronghold of state's sovereignty the decision to use or not nuclear weapons within

51. Quadrangle Books, Chicago, 1970. See also: Richard Falk, *The Vietnam War and International Law* (1968); Richard H. Minear, *Victor's Justice: The Tokyo War Crimes Trial* (Princeton Univ. Press, NJ, 1971), p. 177-180; Robert Cover, *Narrative, Violence and the Law* (The Univ. of Michigan Press, Ann Arbor, 1992), p. 195-201.

52. The Russell Tribunal delivered two judgements, one in Stockholm on 10 May 1967, the second in Roskilde on 1 December 1967. The documents have been published by Serge Bricianer and translated into French (Gallimard, 1967) 53. The judgement was read in Lisbon on 21 June 1981. See the French text in: *Un tribunal pour les peuples* (Paris, Berger-Levrault, 1983), p. 227.

54. See: *Controlling Immigration*, A Global Perspective, ed. by Wayne A. Cornelius, Philips L. Martin and James Hollifield (Stanford Univ. Press, 1994); *Free Movement*, Ethical Issues in the Transnational Migration of People and Money, ed. by Brian Barry and Robert E. Goodin (The Pennsylvania State Univ. Press, 1992); Richard Plender, *International Migration Laws* (rev. 2d ed., Martinus Nijhoff, 1988); Ronald Takaki, *Strangers from a Different Shore: A History of Asian Americans* (Little, Brown, and Co., 1989).

55. 30 August 1924, *The Mavromatis Palestine Concessions*, PCIJ, Series A, n° 2; 25 May 1926, *Case Concerning Certain German Interests in Polish Upper Silesia (The Merits)*, Series A, n° 7; 28 February 1939, *The Panevezys-Saldutiskis Railway Case*, Series A/B, n° 76.

56. See: Jorge Castañeda, « The underdeveloped nations and the development of international law », *15 International*

the same conditions applicable to all kinds of weapons, i.e. self-defence limited by the principle of proportionality.

From international law to peoples' rights

Although the International Court of Justice did pay lip service to "peoples' rights" (in the context of decolonization) and to the duty of States to respect human rights and individual freedoms, it remained entrenched within the solid walls of State sovereignty. The advisory opinion on the Threaten or Use of Nuclear Weapons is the most relevant on that point. However the incorporation of fundamental human rights into international law contradicts the very concept of States' sovereignty. The idea that States are entitled to do anything that is not forbidden by a prohibitive rule of international law cannot be reconciled with their obligation in the field of human rights whose erga omnes nature is verified on two levels: it limits the State's so-called sovereignty within its own internal legal order, vis-à-vis its own subjects, traditionally the intangible domain of the State (*domaine réservé*), and the violation of their obligations, as an offence to humankind, can be objected by any other State.

Not only is the access to the International Court of Justice very narrow, but its own reliance on procedural devices to dismiss the merits of a case, itself motivated by an excessive respect for state's sovereignty, has had a chilling effect on the "progress" of international law. At the time of the Vietnam War, the gap between the basic rules of international law and their judicial enforcement did blatantly appear: the United States administration which had heralded the Nuremberg principles and which started its new mission as the protector of human freedoms everywhere was violating gravely the fundamental rights and freedoms of the Vietnamese people. General Taylor, one of the members of the American team at Nuremberg, who succeeded Justice Jackson as Chief Prosecutor, did not fail to see the contradiction. In 1970 he published a courageous book, *Nuremberg and Vietnam: an American Tragedy*.⁵¹

The International Tribunal on the War Crimes, later on called Russell Tribunal did deal

with the American crimes during the Vietnam War⁵²: as a "tribunal of opinion" it purported to fill the discrepancy between the substantive rules of international law and the impossibility to get them implemented through the "official" channels.

The Russell II Tribunal on Latin America and the Permanent Peoples' Tribunal went forward with the tradition of a "tribunal of opinion" before which a people could apply to assert for its rights. For instance, the case of East Timor was dealt with by the permanent Peoples' Tribunal at a time when few non governmental organizations were interested in the case of the Timorese people⁵³.

What about (transnational) corporations?

The role of transnational corporations in the world economy

Corporations and individuals endowed with solid proprietary interests were the winners of the traditional system of protection of aliens' rights: although during the nineteenth century the greatest number by far of men and women living in a foreign country were poor and often destitute migrant workers there is no indication that their national State ever used the diplomatic channel for the betterment of their situation⁵⁴. The States did only put forward against another State claims of their nationals when they involved serious economic interests. The Permanent Court of International Justice brought to its peak the duty of a State to respect aliens' fundamental rights⁵⁵. After World War Two the traditional doctrine of the international protection of aliens rights was discredited as a relic of the inequality between States, the cases opposing industrialized countries to underdeveloped ones⁵⁶. In a few cases posterior to the Second World War, the nationalization of oil concessions were the main target of international or transnational arbitrations⁵⁷ and oil-rich countries had to pay huge compensation to the foreign-based oil companies. During the same period the United States Supreme Court did systematically abstain from applying protective legislation to the employees of American corporations abroad⁵⁸.

Organisations (1961), 38-48; S.N. Guha Roy, « Is the law of responsibility of states for injury to aliens a part of universal international law? », 55 *The Am. J. of Int. L.* (1961), 863-891; É. Jimenez de Arechaga, « State Responsibility for the Nationalization of Foreign-Owned Property » 11 *New York J. of Int. L. and Politics* (1978), 79.

57. See: François Rigaux, *Droit public et droit privé dans les relations internationales* (Paris, Pedone, 1977), p. 374-390; « Des dieux et des héros. Réflexions sur une sentence arbitrale » LXVII *Rev. crit. dr. intern. privé* (1978), 435-459.

58. The interpretative rule according to which Congress is empowered to legislate on situations localized abroad but only if there is a « clear » intention to that end, has been applied in such a manner that American employees abroad are not protected by the federal legislation: *Vermilya-Brown Co. v. Connel*, 335 US 377 (1948); *Foley Bros, Inc. v. Filardo*, 336 US 281 (1949); *Equal Employment Opportunity Commission v. Arabian American Oil Co and Aramco Services Co*, 499 US 244 (1991). Conversely, foreign seamen serving on foreign ships are not protected by federal legislation during their presence within American territorial waters: *Lauritzen v. Larsen*, 345 US 571 (1953); *Benz v. Compania Naviera Hidalgo*, 353 US 138 (1957). The last in date of those judgments, *Equal Employment...*, has been criticized by Larry Kramer, « Vestiges of Beale: Extraterritorial Application of American Law », 1991 *The Supreme Court Review* (Univ. of Chicago Press, 1992), 177-224; Jonathan Turley, « Dualistic Values in the Age of International Legisprudence », 44 *Hastings LJ* (1993), 185-

At the time when Third-World and non-aligned countries did claim a new international economic order, transnational corporations were, rightly or not, accused of some wrongs which deprived poor peoples of their basic rights. It seems beyond dispute that the standard international economic order (not the « new » one which never materialized) was biased in favour of the rich, the big companies, but also rich individuals everywhere in the world (even and, perhaps, more so in poor countries). The accusations of malpractice, of environmental destructions, of workers rights' abuse, of activities putting at risk the life and the health of large populations were often substantiated and the Permanent Peoples Tribunal sat in judgement on some of such cases. The sessions on Brazilian Amazonia and on the Bhopal catastrophe were the most significant cases, but the role of transnational corporations in the disruption of democratic regimes as it occurred in Chile in 1972 has also been emphasized. For better or worse big corporations are powerful actors in the international arena, mastering financial means, know-how and innovation power largely superior to those of most of the States. For a long period of time, advocates of fundamental rights of underdeveloped countries were strongly opposed to any kind of international recognition of transnational companies because it was perceived as a tool for enhancing their power and their status. Such fear has to be deemed obsolete since the institutionalisation of international criminal courts for individuals accused of crimes which are of serious concern for the international community. Military men, or public officials accused of a war crime or of a crime against humanity are not enhanced for having to defend themselves before an international tribunal. Transnational corporations which have the means to endanger the life, the health and the well-being of entire populations are not accountable before any courts for their wrongs. The scheme is similar to what prevailed before the jurisdiction conferred to the International Military Tribunal sitting at Nuremberg. As reluctantly as State courts will pass judgment on their own military they refrain from accusing the local corporations for wrongdoing committed abroad. As for the victim countries they are

subjugated and could not afford the processing of foreign corporations and the individual victims are too poor and not sufficiently organized to launch such an action.

The gap within the international legal order is all the more blatant since the institution of a permanent criminal court which has no jurisdiction at all on wrongdoings alleged against corporations.

The false dichotomy public-private

Before entering into some conclusive reflexions on the possibility of setting up an international court having jurisdiction on (transnational) corporations it is necessary to meet theoretical objections, basically the affirmation of a dichotomy between what is public and what private and the characterization of corporations and commercial or industrial companies as « private » actors.

As much as the theoretical false assumption of an unbridgeable abyss between international and municipal law did prevent for a long time the accountability of States' public officials before international courts did the division between public and private entities, situations, regulations oppose a seemingly unsurpassable obstacle to an adequate treatment of transnational corporations. Well, the principle of the antithesis public-private is apparently obvious. Public law is about organisation of the state machinery, it deals with relationships of state organs between themselves and of those organs with ordinary citizens. Private law concerns the relationships between individuals who do not share the attributes of public authority. All they expect from the State is the maintenance of peace and order and that they be let alone for the development of their own (« private ») affairs. Freely entered into contracts are the main institutions or private law. Summarily expressed, state power is public, property and liberty are private. According to Locke who is a good precursor of Blackstone and of the American Constitution, men entered into civil society to obtain the guarantee of their property and their liberty⁵⁹. There is no liberty without property — which makes the situation of unpropertied men and women, i.e. the majority of mankind, unbearable.

272, 220-224.

59. A solid witness of the political thought preceding the American and the French Revolution but on which the leading actors of both movements were nurtured is an English decision of 1765, *Entick v. Carrington* (1765) 2 Wils. KB 275, 95 ER 807, quoted by Justice Brennan in *Warden v. Hayden*, 387 US 294, 303 (1967): « The common law of search and seizure after *Entick v. Carrington* [...] reflected Lord Camden's view, derived no doubt from the political thought of his time, that 'the great end, for which men entered into society, was to secure their property' ». That view, however, was not shared by all revolutionaries. See for instance Thomas Paine, *First Principles of Government*, in *Complete Writings* (New York 1945), t. II, p. 581: « Property remains a right of man, but not of the most essential kind. The protection of a man's person is more sacred than the protection of property ».

60. Henry Paul Monaghan, « Of 'Liberty' and 'Property' », 62 *Cornell LR* (1977), 405-444, 434.

Comp. Laurence H. Tribe, « The Puzzling Persistence of Process-Based Constitutional Theories », 89 *The Yale LJ* (1980), 1063-1080, 1065-1067.

61. Justice McKenna, dissenting in *Black v. Hirsch*, 256 US 135, 165 (1921).

62. See the speech of Sieyès on 20-21 July 1789 commenting the draft of a new constitution in *Orateurs de la Révolution française*, t. I, *Les Constituants* (Bibl. de la Pléiade, 1989), p. 1014, and the speech of Barnave on 11 August 1791, *ibid.*, p. 44-45. Both orators justified the limited access to electoral rights by the necessary link between property and suffrage.

The condition of property in the constitutional sphere is similar to its protected status according to international law. In a federal State like the United States, the rules on property are made by state legislature but a federal content is added to the rights created by the states.

One need not be a disciple of Charles Beard to recognize the Framers' enchantment with the « rights of property »⁶⁰.

Members of the Supreme Court are no less adamant in their evaluation of the centrality of property rights:

Protection to it [property] has been regarded as a vital principle for republican institutions⁶¹.

The first interpreters of the *French Déclaration des droits de l'homme et du citoyen* of 1789 stood in agreement that the first aim of the new political regime was the defence of property⁶².

Although the European Convention on Human Rights did not include property within the guaranteed rights, this was achieved through the First Protocol dated 20 March 1952. The scheme is similar to the constitutional one: national States are competent to define property rights within the limits laid down by Article 1 of the Protocol.

On the seemingly clear-cut distinction public-private, a concatenation of akin binary classifications has developed: public authority v. private egalitarian accommodation of interests, power v. right, power v. autonomy. The opposition is ideologically-loaded: what is private is peaceful, innocuous, even benevolent, what is public is threatening, dangerous and when animated by the best intentions it is ineffective as the new wave of liberalism tries to persuade us. Now the question is whether such a simple, even simplistic distinction has any basis in reality or whether it is totally superseded by the actual power accumulated by the holders of « private » property.

Since a long time already many scholars have observed that property empowers those who are invested with it, either individuals or corporations. A series of relationships which are based on the contractual, egalitarian pattern do embody a power structure. Not only are the relations between a owner and his tenants, between money-lenders and their debtors, between employers and employees imbued with the superiority afforded

to the former by the stability of his position and the leverage it gives him on the party who has to satisfy immediate needs but it occurs even that the law itself defines the link as one of subordination. The difference between the contract of employment and similar contractual figures, such as partnership, agency and so on, is the authority exercised upon the worker or the employee by the manager of the enterprise.

According to the fantastical concept of the social contract, property is prior to society, it is a natural right, what not only means that the Creator has endorsed the men (not always the women) with natural and innate rights, but, what is more perverse, that the inegalitarian endowments of property proceed from a law of nature. It follows that one has not to check the entitlements of the actual holders of property: they obey to natural law as much as the market is a natural organisation of economic relationships.

An ancient judgement of the United States Supreme Court which struck down a State regulation preventing employers from denying engagement of unionized workers (and which is overruled on that point) still presents an adequate expression of contemporary economic law.

And since it is self-evident that, unless all things are held in common, some persons must have more property than others, it is from the nature of things impossible to uphold freedom of contract and the right of property without at the same time recognizing as legitimate those inequalities of fortune that are the necessary result of the exercise of those rights⁶³.

The unverified assertions of that text are upheld through the verbal emphasis: *self-evident, must have, it is from the nature of things impossible, the necessary result*. « Freedom of contract and the right of property » are the basic tenets of the social fabric and all other elements have to be adjusted to it. A contemporary illustration of the scheme is offered by the debt crisis: what is paramount and cannot be disputed is the duty to pay the money back. All arrangements are conceived in order to maintain the creditors' prepotency: the policies of the World Bank and of the IMF are biased in favour of the rich. What has been called « structural adjustment » is a policy which does not take into account the impact of the imposed measures on the well-being, the health,

the education of the population which has to pay the price for the debts incurred by its rulers.

Since property and liberty are narrowly associated, it is worthwhile to see more clearly how they are related one another. The inquiry can be specially relevant concerning the relationship between property and the freedom of speech or the freedom of religion which are put together in the First Amendment to the American Constitution.

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press, ...

Not only does the property entrusted to a person extend his or her freedom of action but it gives also an amount of power on others. Let us see a variety of real cases.

A first occurrence, which is exceptional, is realized when the property right of one person enhances the liberty of others. This was the case in an American decision which is generally held to be one of the constitutional sources of the right to privacy. The Supreme Court of the United States ruled that an Oregon statute which submitted children to school attendance in a state institution invaded the freedom of religion combined with the respect due to paternal authority. Two cases were started by a school, one being a catholic institution, the other a Military Academy. By preventing children to attend such schools, the implementation of the statute would have invaded a property interest of the school. The Court's motivation met the defence made by the State governor that the constitutional issue of infringement of liberty could not be raised by the claimant:

Appellees are corporations, and therefore, it is said, they cannot claim for themselves the liberty which the Fourteenth Amendment guarantees. Accepted in the proper sense, this is true [...]. But they have business and property for which they claim protection. They are threatened with destruction through the unwarranted compulsion which appellants are exercising over present and prospective patrons of the schools⁶⁴.

Such support given by the holder of a property right to the protection of the fundamental freedom of another person appears also in a case where a city ordinance prevented the occupancy

of a lot by a coloured person in a block where a majority of the residences were occupied by white persons. The buyer who was a coloured person refused to perform the contract because the ordinance would deprive him of his right of residing in the property. The seller claimed that the ordinance infringed the equal protection clause of the Fourteenth Amendment and that argument reached the conviction of the Court⁶⁵. But it was laid down in terms of property law:

The case presented does not deal with an attempt to prohibit the amalgamation of the races. The right which the ordinance annulled was the civil right of a white man to dispose of his property if he saw fit to do so to a person of color and of a coloured person to make such disposition to a white person⁶⁶.

The paradox is that the white contractor ensures against the will of the coloured one and by virtue of his property right, the constitutional prohibition of racial discrimination.

For a long period of time the protection against « unreasonable searches and seizures » of the Fourth Amendment was justified by the sacredness of the involved property interests⁶⁷.

After American state legislatures started to regulate more closely property interests and contractual relationships such provisions were accused of contravening a freedom guaranteed by the application of the Fourteenth Amendment. The first cases tried to put up with a dogmatic distinction between what is public and what is private. For instance, in a case where a state regulation did place the right to run a coal extraction industry under the condition that it did not infringe the property right of the surface, the United States Supreme Court did deny the state the power to jeopardize a private interest for the sake of another private interest. According to the Court's opinion written by Justice Wendell Oliver Holmes, the damage the legislator intended to prevent is « not a public nuisance » and so it cannot rely on « the public interest » to rule on « ordinary private affairs »⁶⁸.

In that case, the legislator had had to balance two property interests. It was an instance of the necessity to determine the limits between two antagonistic property interests.

The first case where the United States supreme Court did recognize « the economic power of

63. *Coppage v. Kansas*, 236 US, 1, 17 (1915).

64. *Pierce v. Society of the Sisters of the Holy Names of Jesus and Mary* and *Pierce v. Hill Military Academy*, 268 US 510, 535 (1925).

65. *Buchanan v. Warley*, 38 S Ct 16 (1917).

66. 38 S Ct 20. *Comp. Reitman v. Mulkey*, 387 US 369 (1967), deciding that an amendment to the Constitution of California brought through a popular referendum was contrary to the Federal Constitution by guaranteeing against any legislative enactment the right of owners of real estate to sell or hire them to the person of their choice. But the decision was reached at a narrow majority (5-4).

67. See the opinion of the Supreme Court by Justice Brennan in *Warden v. Hayden*, 387 US 294, 303-307 (1967).

68. *Pennsylvania Coal Co v. Mahon*, 260 US, 393, 413-414 (1922). Justice Brandeis dissented and that decision has recently been submitted to a thorough discussion in 86 *The Georgetown LJ* (1998), 813-943.

69. John R. Commons, *Legal Foundations of Capitalism* (1924, repr. Augustus M. Kelley, Publ. 1974), p. 34.

70. *Munn v. Illinois*, 94 US 113, 126 (1876).

71. Justice Field, *dissenting*, 94 US 138.

72. *Lochner v. United States*, 198 US 45 (1905).

73. Among the recent cases see: *Dolan v. City of Tigard*, 129 L Ed 2d 304 (1994); *Lucas v. South Carolina Coastal Council*, 120 L Ed 2d 798 (1992); *Yee v. City of Escondido*, 503 US 519 (1992); *Hodel v. Irving*, 481 US 704 (1987). For a scholarly approach: James L. Kainen, « The Historical Framework for Reviving Constitutional Protection for Property and Contract Rights », 79 *Cornell LR* (1993), 87-142. *Lucas* gave rise to a symposium published in 45 *Stanford LR* (1993), 1369-1453.

74. *Marsh v. Alabama*, 320 US 501 (1946).

75. *Amalgamated Food Employees Union Local 510 v. Logan Valley Plaza*, 391 US 308 (1968).

76. *Lloyd Corporation, Ltd. v. Tanner*, 407 US 551 (1972).

77. *Board of Airport Commissioners of the City of Los Angeles v. Jews for Jesus, Inc.*, 482 US 569 (1987).

78. *International Krishna Society for Krishna Consciousness, Inc. v. Lee*, 112 S Ct 2701 (1992) and *Lee v. IKSKC*, 112 S Ct 2709 (1992). « The cacophony of opinions » in *Lee*, according to Lilian R. Bevier, « Rehabilitating Public Forum Doctrine: in Defense of Categories », 1992 *The Supreme Court Review* (Univ. of Chicago Press, 1993), p. 79-122, p. 101.

79. *Lechmere, Inc. v. NLRB*, 117 L Ed 2d 79 (1992). See the critical comment of Cynthia L. Estlund, « Labor, Property and

property »⁶⁹ concerned an Illinois statute having determined the charge of storage and handling of grain in Chicago's warehouses. Against the allegation that the property right of the owner of the accommodations did empower him to determine without state interference the price of the provided service, the Court answers the following:

Property does become involved with a public interest when used in a manner to make it of public consequence, and affect the community at large⁷⁰.

As sound as the decision may have been, the motivation relies on a scholastic distinction between public and private as is clearly emphasized by the dissenting opinion of Justice Field:

There is no magic in the language, though used by a constitutional convention, which can change a private business into a public one, or alter the character of the building in which the business is transacted. [...] One might as well attempt to change the nature of colours, by giving them a new designation⁷¹.

The idea that the legislature has the authority — and the duty — to limit the « power » of property through a legislation on economic policy is not any more disputed and the time of *Lochner*⁷² to the progeny of which *Coppage v. Kansas* still belonged is long behind. There is no constitutional obstacle any more for the legislature acting in the public interest as far as the burden imposed on property has not to be characterized as a « taking » for which compensation has to be paid⁷³.

But the most interesting cases arise when a property « power » enters into conflict with a liberty interest of other citizens. The impossible separation between private and public is substantiated when a so-called « private » space is given free access to anyone, i.e. to the « public ». What about a town belonging to a private enterprise which contends to restrict the freedom of speech on its premises⁷⁴? What about the picketing of employees within a commercial mall⁷⁵? What about the distribution of pamphlets in a shopping centre⁷⁶ or in an airport terminal⁷⁷ and (or) the solicitation on similar premises⁷⁸? What about the injunction from meeting on the parking lot of an enterprise, addressed to the employees active in an adjacent building⁷⁹?

The appropriation and the concentration of mass media are the most striking instance of a so-

called « private » power threatening the free flow of information and the flourishing of a robust debate on questions of general concern. Not only is the state involved in the airwaves media by allocating the frequencies and delivering the licences, but the support brought to the owner of any media by the state guarantee of their property contradicts the view that the existing distribution of speaking power [is] natural or political. It is equally a mistake to see government « restrictions » on speech as interventions disturbing a natural order. Speaking power, like any other distribution of wealth or entitlements, is itself a product of law, not nature. The law of property, torts, and contracts stands behind the ability of any speaker to command the airwaves or be relegated to the soapbox on the commons⁸⁰.

A false conclusion would be to characterize the power afforded by the property system a « private economic » one because that expression still vehiculates the binary distinction between what is public and what private. Such power is a power tout court and brings to the repudiation of the dichotomy public-private. As has been said of the big mass communication media CBS:

CBS is neither a state actor nor a private citizen but something of both [...] CBS is thus a composite of the public and private. The same is true of the print media, as it is of all corporations, unions, universities, and political organizations. Today the social world is largely constituted by entities that partake of both the public and private⁸¹.

Conclusive reflections

After reading the verdict of the Warwick session, one is brought to the following verdict: the actual impunity of corporate wrongs and specially when a long distance separates the decision-makers from the victims, that geographical element being combined with the difference of territorial jurisdiction and the impotence of most States to curb corporate power. Even if the setting up of an international tribunal to adjudicate upon corporate wrongs would not be a panacea, it is worthwhile to go more deeply into it.

The final proposal would be to convene a group of specialists, lawyers from different branches of law, economists, sociologists, to discuss a draft of the «tribunal» to be set up. The basic idea is not to accuse transnationals of

Sovereignty after Lechmere », 46 *Stanford LR* (1994), 305-359.

80. Kathleen M. Sullivan, « The Justices of Rules and Standards » 106 *Harvard LR* (1992), 22-123, 105.

81. Owen M. Fiss, « Free speech and social Structure », 31 *Iowa LR* (1986), 1405-1425, 1414.

82. The possibility of pronouncing a penalty against a State has been contemplated by the International Law Commission. See François Rigaux, « Le crime d'Etat. Réflexion sur l'article 19 du projet d'articles sur la responsabilité des Etats » in *International Law at the Time of its Codification, Essays in Honor of Roberto Ago* (Milano, Giuffrè, 1987), t. III, p. 301-325. American case-law did not refrain from condemning corporations to fines for the perpetration of a crime. It was not declared unconstitutional by the Supreme Court: *New York Central and Hudson River Railroad Co v. United States*, 212 US 481 (1909). See for instance a condemnation for manslaughter in *People v. Rochester*, 195 NY 102, 88 NE 22 (1909), quoting *New York Central* and in *State v. Leligh Valley R. Co.*, 90 NJL 372, 103 A 685 (1917); for larceny in *People v. Canadian Fur Trappers Corp.*, 248 NY 159, 161 NE 455 (1928). A similar solution is admitted in England since *R. v. ICR Haulage, Ltd* [1944] KB 551 and the cases quoted by Philippe Kenel, *La responsabilité pénale des personnes morales en droit anglais*. Un modèle pour la Suisse (Libr. Droz, Genève, 1991).

83. *United States v. Dotterweich*, 320 US 277 (1943); *United States v. Wise*, 370 US 405 (1962). For the evolution of American Law since *New York Central* (note 82), see 370 US 408-409.

imaginary or newly-forged wrongs but to rely on rules of law already in force. The gap does not concern substantive law but legal remedies.

- 1° A first choice to be made would be to determine the nature of the tribunal: civil or penal? The possibility of pronouncing penal condemnations on a legal entity has for a long time been resisted, but some precedents can be found in State law⁸². Some American federal statutes contain a formal definition of the « persons » to whom the (penal) provisions are directed. In two cases where the jury did absolve the corporation but condemned a corporate officer for a criminal offence, it was contented that only the corporation itself could be condemned, but that defence was rebuked by the Supreme Court⁸³.
- 2° The American example suggests also that the liability of the officers of a company would not be exclusive of the corporation's own responsibility. One can also rely on the analogy with the law of war: a State is responsible for its violation of humanitarian law but the individuals who masterminded the crimes or who performed them can also be personally prosecuted.

- 3° What are the facts upon which the Tribunal would have jurisdiction? All wrongdoings according to the positive law locally applicable. But wrongful omissions are punishable and the actor has not to be physically present on the place where the damage occurred. The duty to respect the life and the physical integrity of the workers and of the persons living in the vicinity of the plant, the duty to respect the environment, the prohibition of corruption or of bribery, of money-laundering, are among the most obvious facts which should be punished.
- 4° Be it civil or penal the tribunal should be empowered to allocate indemnity to the victims of the wrongdoings.
- 5° This brings to another question: how can the victims be involved in the proceedings? Even if the institution of a public prosecutor would be useful, the victims should have the opportunity, individually or through a class action to start the proceedings and to appear in court. Would a limited group of persons agree upon the constitution of a working committee, it could be easy to select more precisely the main topics which should be dealt with.

May 30, 2000

Document

Pour la création d'un college international éthique, politique et scientifique

1er février 2002, Forum économique mondial, Porto Alegre,
Forum social mondial

Depuis près de deux ans, des hommes d'Etat et des intellectuels, réunis à l'invitation du président de la République de Slovénie, réfléchissent aux conséquences des mutations qui affectent notre monde et aux voies d'une transformation profonde des rapports entre les sociétés humaines à l'échelle de la planète. Les attentats terroristes du 11 septembre 2001, en servant de révélateur, les ont confortés dans leur conviction qu'il y a urgence à répondre aux désordres du monde. En révélant les interdépendances négatives à l'œuvre dans nos sociétés, cette tragédie souligne aussi la nécessité de renforcer les interdépendances positives et d'en construire de nouvelles. La solution ne saurait venir de la seule riposte militaire. Car les trois grands défis - environnementaux, économiques et éthiques - qu'affronte aujourd'hui l'humanité imposent un changement radical dans la conduite du monde. Dans cette perspective, la création d'un College international, éthique, politique et scientifique apparaît comme un atout majeur.

Au-delà de l'émotion légitime, de la solidarité avec le peuple américain et de la condamnation que suscitent les attentats de New York et Washington, il est essentiel de considérer le terrain sur lequel a pu se développer un terrorisme à la fois meurtrier et suicidaire. Car celui-ci s'est en partie nourri des formes les plus contestables d'interdépendance que l'Occident a lui-même mises en œuvre ou autorisées :

- la remise en cause de toutes les formes de régulation et de contrôle dans le cadre de la mondialisation des échanges économiques ;
- une conception profondément inégalitaire du développement mondial, génératrice de misère et d'humiliation ;
- la priorité donnée en permanence aux logiques économiques et financières sur les impératifs écologiques, sociaux et humains.

Trois défis fondamentaux

Le caractère mondial de ces problèmes exige la mise en place d'une responsabilité elle-même mondialisée. Il nous faut à la fois préserver les

aspects positifs d'une interdépendance accrue entre les sociétés et chercher à en limiter les aspects les plus négatifs, à commencer par les menaces qui peuvent conduire l'humanité à créer les conditions de sa propre autodestruction, physique et morale. Trois grands défis - écologiques, économiques et éthiques - apparaissent ainsi liés aux dérèglements que connaît actuellement notre humanité.

Les menaces écologiques

Nous commençons à comprendre que notre Biosphère est fragile, que la planète - Terre peut devenir inhabitable à nous-mêmes, à nos enfants et aux générations à venir, si nous n'en prenons pas soin. Nous ne pouvons pas nous désintéresser du réchauffement du climat, du manque d'eau potable dont souffrent deux milliards d'êtres humains (et des menaces de pénurie qui pèsent sur cette ressource), de l'empoisonnement de nos sols, du pillage de la nature et du gaspillage des sources d'énergie... Nous ne pouvons ignorer les effets désastreux des catastrophes technologiques sur notre environnement. L'expansion de pandémies mortelles comme le sida doit aussi être prise en compte de toute urgence.

Tous ces défis écologiques appellent des régulations et la construction d'un pacte mondial pour la préservation de notre environnement.

Les dérèglements économiques et financiers

Réglée par des lois démocratiques et des institutions civiques, la liberté économique peut contribuer à la prospérité et à la sécurité des peuples. Mais la sécurité ne peut exister durablement dans un monde dérégulé ou, selon les chiffres officiels des Nations unies, la fortune cumulée de moins de trois cents personnes physiques est égale au revenu de deux milliards et demi d'humains. Un monde qui tolère les paradis fiscaux, l'anonymat des sociétés offshore et le blanchiment de l'argent 'hors-les-lois' dont se nourrissent le terrorisme ou d'autres formes de criminalité n'est pas un monde sûr. Un monde où les impé-

ratifs de la valorisation financière guident l'avancée de la recherche, notamment dans les biotechnologies, n'est pas un monde sûr. La mondialisation sauvage que nous connaissons doit être remplacée par une mondialisation 'à visage humain' et un projet de civilisation à l'échelle planétaire.

La crise du sens et de la pensée

L'humanité a rendez-vous avec elle-même parce qu'elle a acquis la capacité de s'autodétruire et qu'elle sait que sa Biosphère est fragile. Les formidables avancées techniques et scientifiques que nous devons à son intelligence doivent être mises au service d'une qualité d'humanité renouvelée. Il s'agit d'opposer à la fascination de la violence et de l'intolérance ou à l'obsession matérialiste et à sa propre violence, une démocratie mondiale vivante, porteuse de justice, de sens et de responsabilité, et ouverte aux grandes traditions éthiques et spirituelles.

Le terrorisme qu'il faut combattre est un condensé de haine et de sens fermé. Seules des valeurs à l'intersection du sens ouvert, de la justice et de la démocratie sont de taille à affronter cette formidable énergie noire. Ce combat peut s'appuyer sur les acquis les plus positifs des interdépendances mondiales - telle l'émergence d'un droit international - mais aussi sur les apports des différentes approches spirituelles : leur point commun, des lors qu'elles ne sont pas défigurées par la haine, l'intégrisme ou le matérialisme, a toujours été de considérer que la barbarie qui menace l'humanité n'est pas extérieure mais intérieure.

Une transformation personnelle de nos comportements, éduqués à l'autonomie et à la complexité, doit donc accompagner la transformation sociale.

Une réponse civique et éthique

Pour apporter une réponse civique et éthique à ces défis, il nous semble nécessaire d'oeuvrer aujourd'hui dans deux directions :

- la première est celle de l'émergence d'une citoyenneté et, à terme, d'une démocratie mondiale, seules à même de donner aux régulations écologiques, sanitaires, sociales et économiques devenues indispensables, un socle de légitimité démocratique ;

- la seconde est de fournir une qualité éthique dont ce projet démocratique manque aujourd'hui cruellement. La démocratie ne se réduit ni au principe électif ni même au pouvoir des peuples de s'autogouverner : les élections peuvent être utilisées par des dictateurs ; les peuples, livrés à leurs peurs ou leurs passions identitaires, peuvent basculer dans la guerre ou l'oppression contre d'autres êtres humains.

La démocratie mondiale doit donc être construite sur un ethos mondial reposant sur des valeurs partagées, parmi lesquelles :

- l'inviolabilité de la vie humaine ;
- le respect de la dignité humaine ;
- la règle d'or de la réciprocité envers nos contemporains ('Ne fais pas aux autres ce que tu ne voudrais pas qu'ils te fassent') et de la responsabilité envers les générations futures.

La construction d'une civilité mondiale a besoin, pour replacer la science, l'économie, la technologie au rang de moyens et non de fin, d'une exigence non soumise aux contraintes des intérêts, à l'obsession médiatique, à la pression du court terme. C'est pourquoi il paraît nécessaire aux signataires de ce texte, qui ont bénéficié pour leurs premiers travaux de l'accueil exceptionnel de la Slovaquie et de la participation effective de son président de la République, de proposer la constitution d'un Collège éthique international en charge d'une triple fonction :

- de veille et d'alerte sur les principaux risques que court l'humanité ;
- de discernement, en particulier éthique, quant à la nature de ces risques et la qualité des moyens nécessaires pour y faire face sans que ceux-ci deviennent eux-mêmes contre-productifs ;
- de conseil auprès des gouvernements et des institutions internationales (en tout premier lieu des Nations unies) afin d'éclairer leur processus de décision.

Un tel Collège réunira dans une commune recherche en humanité des acteurs publics, des chercheurs et des créateurs, à l'écoute de la société civile (en particulier des ONG et des associations de citoyens actifs) et acceptant la rencontre difficile de la quête de vérité, de beauté ou de justice avec les exigences de toute responsabilité incarnée.

Premiers signataires

Abmedou Ould Abdallah, président de la Coalition mondiale pour l'Afrique, ancien ministre des Affaires étrangères de Mauritanie

Henri Atlan, biophysicien et philosophe, France

Benjamin Barber, politologue, U.S.A.

Fernando Enrique Cardoso, président du Brésil

Mireille Delmas-Marty, juriste, France

Bronislaw Geremek, ancien ministre des Affaires étrangères de Pologne

Antonio Guterres, ancien premier ministre du Portugal

Sasha Goldman, secrétaire general de collègue, France

Jürgen Habermas, philosophe, Allemagne

Morton Halperin, Council on Foreign Relations, directeur du Centre pour la démocratie, U.S.A.

Vaclav Havel, président de la République tchèque

William vanden Heuvel, ambassadeur, co-président de l'Institut Eleanor et

Franklin-Roosevelt, U.S.A.

Stéphane Hessel, ambassadeur de France

Alpha Omar Konare, président du Mali

Milan Kucan, président de la Slovénie

Lenart Meri, ancien président d'Estonie

Stjepan Mesic, président de la Croatie

Edgar Morin, écrivain et philosophe, France

Sadako Ogata, ancienne haut commissaire du H.C.R., Japon

Fidel Ramos, ancien président des Philippines

Jacques Robin, philosophe, fondateur de Transversale

Mary Robinson, ancienne présidente d'Irlande et haut commissaire des droits de l'homme, Nations unies

Michel Rocard, ancien premier ministre de la France, président de la Commission des Affaires culturelles du Parlement européen

Anna Eleanor Roosevelt, co-présidente de l'Institut Eleanor et Franklin-Roosevelt, U.S.A.

Wolfgang Sachs, économiste, président de Greenpeace, Allemagne

Oscar Arias Sanchez, Prix Nobel de la Paix, ancien président du Costa-Rica

Amartya Sen, Prix Nobel, économiste, Inde

Paul Virilio, philosophe, France

Patrick Viveret, économiste et philosophe, France

Book Reviews

Bibliographie

The Federal Future of Europe: from the European Community to the European Union, by Dusan Sidjanski, University of Michigan Press, ISBN: 0-472-11075-6, 2000.

The *Federal Future of Europe* has the ambition of sketching a neo-federalist project for Europe, adapted to the socio-technological transformation of the contemporary world, which “lies in the microchip, programmed into the proliferation of horizontal networks, transforming the notion and use of power, and reversing the traditional pyramid.” (p. 3)

A translation of an originally French work (*L'avenir fédéraliste de l'Europe*, Presses Universitaires de France, 1992), this book is supplemented with three new chapters in order to take into account the recent development of the European Union from the Maastricht Treaty of 1992 to the preparation of the Nice inter-governmental conference in December 2000.

The book is constituted of three parts. Part I is an overview of the history of the European integration from its beginnings during WWII to the Single European Act of 1986, taking particular account of the wide-ranging cultural and intellectual roots of this process. Apart from highlighting particular episodes of this historical process, this part is especially concerned with the cultural and intellectual background, which nurtured the integrative effort; especially the federalism of Denis de Rougemont.

Part II examines the inter-action between the evolution of the decision-making process and changes in the socio-economic setting in which the former was taking place. On the one hand, the author analyses specific aspects of the institutional setting. On the other hand, he assesses reactions and attitudes of public opinion, businesses, and political parties to the ongoing process of integration as well as the evolution of the Community institutions.

Part III looks at the future of the political dimension of the European Union, taking into account the most recent historical dynamics in Europe. The greatest danger for Europe, according to Sidjanski, is the outburst of nationalist paroxysm after the end of Cold War, which resulted in the break-up of the Soviet Union and Yugoslavia. According to the author, the solution to the revival of these micro-nationalisms,

claiming for political fragmentation, is federalism with its key principles of organizing “unity through diversity” and safeguarding of cultural specificities. The influence upon the author’s views of both intellectual heritage of Denis de Rougemont and experience of Swiss federalism is very strong.

According to its structure, *The Federal Future of Europe* is both an evaluation of the past and current state of the European integration process as well as an advocacy of its possible outcomes. On the one hand, it tries to make an account, theoretically informed, of the evolution of European integration, as an instance of federalism beyond a nation-state. On the other hand, it advocates for a federalist outcome of this dialectics, building on existing realities.

The frame proposed to analyse this historical record combines several intellectual traditions and a number of influential academic works, which contributed to the study of European integration since the 1950s: federalism, neo-functionalism, transactionalism, systemic theory. The federalist perspective, however, is pre-eminent and forms the overall framework of the book with gaps being filled by other contributions. The bridge built by the author between neo-functionalism and federalism is interesting, showing the dialectic dialogue performed by the two in advancing European integration (Cfr. Introductory Note by Jacques Delors).

The ultimate success of the federalist route in the European integration process, according to the author, depends on its capacity to reconcile two trends of globalization, which grew against each other. At the macro-level, economic and functional interdependence is strengthening. At the micro-level, cultural solidarity is consolidated in claims of communitarian identity. The possible convergence of these two poles in a federalist arrangement, which functions according to the logic of “union in diversity”, is likely to be permitted by technological transformation of socio-political relations, which are functioning more and more under the form of networks and web relations.

*A Swiss citizen born in Yugoslavia, Dusan Sidjanski founded the Department of Political Science at the University of Geneva in 1969; he is now Professor Emeritus there and at the European University Institute in Florence.

Ultimately, the book is a comprehensive piece of work, which provides a historical account, an empirical analysis, and a philosophical evaluation of the evolution of the European Union from a federal perspective. Federalism forms the underlying basis of the book, which keeps together the different elements of the analysis. Noteworthy is the choice to present the ideas of this tradition together with the personal background of individuals who embodied and personified them in the history of European integration, like Denis de Rougemont and Altiero Spinelli.

The comprehensive nature of this work is, however, also its weakness due to the difficulties to articulate in an equilibrated way a variety of different intellectual and methodological approaches. Intellectual history is given central focus in Part I, whereas the analysis of the decision-making is dealt with in Part II and historical description constitutes the main bulk of Part III. Moreover, sometimes the reader is overwhelmed by the amount of information and detail presented in some parts of this extensively researched piece of work, while losing sight of the main thrust of the argument. In addition to

that, the dwelling in Yugoslavian crisis and history, if justified by the line of reasoning adopted and by the biography of the author, is at times cumbersome.

The great merit of the book is to propose a thoroughly federalist reflection on the future of the EU at a time when it has been significantly underplayed in the political debate in the Anglo-Saxon world (Cfr. Foreword by Harold K. Jacobson). This contribution is a serious attempt to design a thoughtful and elaborate blueprint for a possible federal architecture of the European Union, arguing for a qualitative leap from the pragmatic and incremental muddling through of the European integration history so far. The reflection upon this outcome is clearly inspired by the continental thinking on federalism and by the personal commitment of the author to such a perspective. At the same time, this overall commitment makes the book dismissive of a possible intergovernmental backlash of the European integration project, which is presented as a purely negative outcome.

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Alexander C.G. Stubb and Brent F. Nelsen (eds.), *The European Union: Readings on the Theory and Practice of European Union*, Boulder, Lynne Rienner Publishers, 1994

Een beschrijving en analyse van de ACP-EG-Partnerschapsovereenkomst. Samenwerking in wederzijds belang en onderlinge afhankelijkheid (A Description and Analysis of the articles and procedures of the ACP-EC-Partnership agreement. Co-operation on the basis of mutual interest and in the spirit of interdependence) by Joyce van Genderen-Naar, 165 pages, Dutch edition ISBN 90-74705-07-3, Brussels, 2002. An English translation is in preparation.

With this title I want to stress what I believe is the most important starting-point for the co-operation between ACP and EC: “*The objectives of development finance cooperation shall be, through the provision of adequate financial resources and appropriate technical assistance, to support and promote the efforts of the ACP States to achieve the objectives set out in this Agreement on the basis of mutual interest and in a spirit of interdependence*” (article 55 of the Agreement).

The objective of my book is to describe and analyse the ACP-EC-Partnership Agreement (Cotonou-Agreement) as something new in international law as well as a result of a very long relationship between Europe, Africa, the Caribbean and the Pacific.

The information given is meant for everyone who is interested and involved in the ACP-EC-Cooperation, especially civil society organisations, which for the first time have become partners and actors of cooperation. I explain the competence of civil society and the other non-state actors, their complementary role in the process and the lack of important rights due to the differences that the Agreement makes between parties, partners and actors. I believe that in order to exercise their rights, non-state actors have to study the Agreement thoroughly and have to know all about the procedures and conditions for the implementation.

The book can be used as capacity building. It also fits into the context of article 5 of the Agreement: *Cooperation will support operation to provide more information and create greater awareness of the basic features of ACP-EU Partnership.*

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Chapter III: ACP-EC-history.

Chapter IV: the structure of negotiations, ratification and entry into force.

Chapter V: **transitional measures.** I find it important to stress that the Agreement has not entered in force yet due to the ratification-procedure of article 93. Therefore the ACP-EC Council of Ministers has adopted transitional measures to cover the period until the entrance into force of the ACP-EC-Agreement. The EC-Member States, meeting within the Council, have decided on the provisional application of provisions of the Internal Agreement relating to the 9th European Development Fund and the Internal Agreement on measures to be taken and procedures to be followed for the implementation of the ACP-EC Partnership Agreement. I describe in my book these transitional measures because it is important to know which rules can be and cannot be applied now until the formal entrance of the Agreement.

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Chapter XI: Development Finance Cooperation, the starting points, the financial cooperation, technical cooperation, institutional support by CDE and CTA.

Chapter XII: Implementation and Management Procedures, the competence of the Chief

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World Civil Society Forum

The World Civil Society Forum is getting ready to welcome participants in Geneva in July 2002.

Most United Nations specialised agencies have confirmed their participation at the Forum, which takes place on 14-19 July 2002 at Geneva, and more than a thousand organisations have registered.

The World Civil Society Forum will provide an occasion to bridge the gap between civil society organisations and the whole UN system.

Confirmations have also been received from several Directors and Secretary-generals of UN agencies, as well as from the former UN Secretary General and

actual Secretary general of the Francophonie, Mr Boutros Boutros Ghali.

At the time of publishing this story, the number of interested delegates stood at 1927, from over 1050 organisations in 110 countries. According to Sophie Dubouchet in charge of the Forum Secretariat, the Forum receives between 30 to 50 registrations per day, with a bulk coming from developing countries, and especially from Africa.

In the interim, registrations for the Youth Forum are steadily coming in. As for now, the Youth Forum has 317 registered delegates. The Youth Forum will be

held alongside the WCSF on 10 to 13 July 2002. It will be open to youth organisations and individual participants from ages 12 to 25 and will discuss the role of youth and youth organisations in the international cooperation, especially for Human Rights, Peace Promotion and Sustainable Development.

Among the activities scheduled to take place during the Forum, organised visits to several international organisations, including WHO (World Health Organisations) and ILO (International Labour Organisation. (*Communication Team of WCSF; E-mail: forumeditor@hotmail.com*)

55th DPI/NGO Annual Conference, 9-11 September 2002

Rebuilding societies emerging from conflict: a shared responsibility

The NGO Section of the Department of Public Information is pleased to announce the 55th Annual Conference for Non-Governmental Organizations (NGOs) associated with the United Nations Department of Public Information (DPI). The NGO Section of DPI organizes the Conference in cooperation with the Executive Committee of Non-Governmental Organizations associated with DPI. The Conference is open to representatives of NGOs associated with the United Nations Department of

Public Information (DPI), those in consultative status with the United Nations through the Economic and Social Council, and those working with UN agencies and programmes and with UN Information Centres and Services. The Conference will be held at United Nations Headquarters in New York from Monday to Wednesday, 9-11 September 2002.

This year's Conference title *Rebuilding Societies Emerging from Conflict: A Shared Responsibility*, will explore the role of the international community in supporting societies emerging from conflicts, focusing on those contemporary examples that have been the subject of concerted United

Nations involvement. It will examine the common experiences of these efforts, their shortcomings and successes, highlighting best practices that people have developed to live together peacefully. The Conference will feature speakers including United Nations and Government officials and NGO representatives who have first-hand field experience, and citizens who have lived through the violence or are in the forefront of civil society efforts of recovery and re-establishment of the rule of law.

It will also draw on the experiences of cultural leaders, journalists, academics and medical professionals whose work has focused on understanding the process of

recovery and reconciliation and the painstaking efforts at peace building in societies emerging from conflict. Among the possible examples that will be the focus of discussion are the post-conflict situations in Bosnia and Herzegovina, Kosovo, Afghanistan, East Timor, Sierra Leone, Rwanda, Democratic Republic of the Congo and South Africa. The conference will also review efforts underway to address potential post-conflict conditions in countries like Angola and Sudan. And it will necessarily look at long-standing examples such as the conflicts in the Middle East, Colombia and Sri Lanka.

The Conference will feature five morning and afternoon panels, as well as thirty Midday NGO Workshops. Speakers will include eminent personalities, high-level government and UN officials, and representatives of civil society from all regions of the world. These will include representatives of NGOs, academia, the private

sector and the media who have first-hand field experience, as well as citizens who have lived through the violent conflict or are in the forefront of civil society efforts of recovery and the re-establishment of the rule of law.

Last year, more than 2,000 people from 90 countries, representing more than 600 NGOs registered for the Conference, which has become the premier NGO event at the United Nations Headquarters. Unfortunately, after the opening day, which concluded with a reception for over 700 participants, the next two days of the Conference were disrupted by the tragic events of 11 September. The Conference, however, held a special session on 13 September 2001 that demonstrated that the spirit of volunteerism and the valuable work performed by the United Nations and non-governmental organizations would continue even under the most difficult circumstances.

The Conference is intended for NGOs that are associated with the Department of Public Information (DPI) or in consultative status with ECOSOC. We extend this invitation to members and staff of these organizations, especially those involved in the production of their organizations public information materials. Non-affiliated NGOs may be invited to attend the conference, at the discretion of DPI. Interested NGOs with relevant experience in the thematic area of the Conference may contact the United Nations Information Centres/Services in their country/region and inform them of their interest in attending the Conference.

From: DPI/NGO Resource Centre, Room L-1B-31, United Nations, New York, NY 10017 USA. Fax: (212) 963-2819. Tel.: (212) 963-7233/7234/7078, or e-mail: dpingo@un.org

Enhancing the capacity of NGOs to achieve development aims, through the use of telecommunication

The Question

Increasingly, development efforts in less and least developed countries are being led by national and international NGOs, recognised by governments, the UN system and others as key actors. Some are directly involved in media (e.g. community radio and television, development video, telecentres); others use telecommunication to achieve their aims

(e.g. aid agencies, training and educational initiatives, local economic initiatives etc.); while others still are generally aware of the important role of telecommunication but have yet to come to grips with the issues and possibilities.

There is a danger that many opportunities to enhance development using telecommunication are being lost, because of lack of awareness of potential especially of new technologies, lack of coordi-

nation between NGOs, national authorities and private sector, (often unintended) obstacles in national and international broadcasting policy and telecommunication regulation, and even poorly designed international standards that impede appropriate technologies.

The formal question addressed by the Focus Group was Study Group 2, Question 10g/2: "What is the actual and potential impact of cur-

rent telecommunication trends on the activities of development NGOs (non-government organisations), and what policies and actions can enhance their capacity to utilise telecommunication more effectively to achieve development aims?”

NGO strategic use of Telecommunications

In its deliberations, and based on written submissions received, the Focus Group concludes, not surprisingly, that NGOs are making strategic use of telecommunications in order to:

- improve their efficiency and sustainability;
- enhance the impact of their development actions;
- empower target sectors by increasing their ability to
- participate in the public sphere (e.g. by facilitating access to telecommunications tools).

Difficulties and barriers

In submissions to the Focus Group, NGOs identified a number of immediate barriers and strategic longer term concerns. Some of these affect NGOs’ ability to optimise their use of telecommunications, while others may have long-reaching impact on the media environment and the potential for NGOs to contribute to development efforts in the less and least developed countries.

These barriers and concerns include, among others:

- the high cost of access to the internet, especially in the less and least developed countries and especially in remote and rural areas;
- the absence of local and relevant content and content in local languages;

- specific obstacles to telecommunication use encountered by women, despite the fact that they are more and more recognised as the critical factor in development;
- delays and obstacles for issuing licenses and permissions to use radio frequencies, even in moments of humanitarian crisis;
- the difficulties faced by NGOs seeking access to radio and television broadcast frequencies and to international satellite spectrum;
- the increased concentration of media ownership and the growing influence of a commercial imperative on the internet;
- procedures for adopting new telecommunication standards that do not take the needs of community and NGO media into account;
- the continued presence of telecommunications monopolies and the lack of an appropriate policy and regulatory framework in many countries;
- universal service policies that are motivated by limited objectives, that do not take into account questions of quality or affordability of service, and that do not provide adequate service for health care, education and other social purposes;
- the difficulties faced by NGOs attempting to manoeuvre in the increasingly important but unfamiliar and complex waters of international regulation, frequency allocation and technical standard setting;
- the general lack of dialogue between NGOs and the ITU.

Recommendations

The report’s recommendations are variously addressed to NGOs, ITU members, and to the ITU Development Sector.

NGOs

The Focus Group recognises that NGOs at all levels could benefit from more consideration of the implications of telecommunication and information technologies. However, the wide chasm between the strategic level of knowledge internationally on telecommunication, and the realities faced by NGOs on the ground, lead us to conclude that it is international NGOs and NGO networks that must take the initiative. They are the filters, upwards and downwards, between the global and local levels.

The report calls on NGOs to urgently embark on an initiative to build the sector’s capacity regarding international telecommunication and media issues. Such an initiative, could gather, analyse and disseminate information on emerging technologies and issues related to the telecommunications, information technology, and media, translating into forms that relate to the realities and capacities of NGOs.

The report recognises that NGOs have limited ‘discretionary’ funding for this kind of activity and concludes that it will be necessary, in the short-term, to seek donor support. However, it also observes that the changes associated with convergence are so far-reaching that the NGO sector must begin to view the costs of participating in telecommunication projects, debates and governance bodies - for themselves and their client groups - as essential rather than discretionary.

ITU government members

The Focus Group recognises that many ITU government members are currently reviewing their

policy framework and regulatory structures as a result of ongoing liberalisation of telecommunications and of the rapid technological change being experienced by the sector. The Focus Group recommends that this review be undertaken by all governments in order to establish a policy framework for the incorporation of development NGO needs.

This policy framework should give particular attention to encouraging community and NGO media as an essential component of a pluralist media environment. It should also recognise that appropriate levels of access are defined by a constantly shifting set of goalposts that must take into account, among other things, how telecommunications are used by NGOs to achieve development ends. Most importantly, this policy framework must be undertaken in a transparent and cooperative environment that seeks to actively involve NGOs and their development agendas.

ITU private sector Members

The main recommendation of the Focus Group for the private sector members is that they be open to actively engage in a dialogue. There is a tremendous potential for cooperation and for joint initiatives. NGOs are increasingly responsible for deliv-

ering public services such as health and education that have traditionally been provided by governments. This means that NGOs are becoming more important as clients, but because they do not work in the same way as government, the private sector will have to adapt to new ways of working.

ITU development sector

This report is the conclusion of a phase in ITU/NGO relations initiated by NGOs five years ago. It has been important in that we have learned that both the ITU and NGOs are willing to work together in a positive way. We believe that it is now time for the ITU to take the initiative and we propose that the ITU Development Sector establish a Task Force on ITU/NGO Cooperation. Based on our findings, we believe that its mandate should be to examine the following proposals:

- a. Special membership category in ITU-D for development oriented NGOs.
- b. A single liaison point within ITU for NGOs to receive and send information, and establish contact.
- c. NGOs to be afforded recognition in meetings, on registration forms, protocols etc.
- d. Consultation with NGOs on the proposed World Summit on

the Information Society, and how NGOs can relate to this process.

e. A section of the ITU Journal devoted to NGOs.

f. NGO representation on advisory and consultative groups within ITU, including the Telecommunication Development Advisory Group (TDAG).

g. Determination of the main issues of relevance to NGOs within the context of ITU-R and ITU-T, and particularly with regard to areas in which ITU recommendations apply.

These might include:

- Spectrum planning issues for development and community needs;
- Impact of new radio and telecommunications standards on NGOs;
- Mechanisms for consultation with NGOs on standards and spectrum planning as well as on issues such as universal access definitions;
- Measures to assist NGOs to adapt to new developments in telecommunications.

This Task Force could be set up under the ITU Development Sector, reporting to the TDAG. It should comprise NGOs, Member States and Sector members. It must be appropriately resourced, in terms of technical assistance and other requirements.

(From: Executive Summary, ITU-D Study Group 2 Question 10g/2)

Sommet mondial sur la société de l'information (SMSI)

Genève, 10 - 12 décembre 2003
(Une seconde phase aura lieu à
Tunis en 2005)

La communauté internationale a décidé d'organiser un Sommet mondial sur la société de l'information qui se tiendra en deux phases : à Genève en décembre 2003 et à Tunis deux ans plus tard.

La mise en place de la société de l'information est au cœur des enjeux politiques, économiques, culturels et sociaux auxquels nous sommes confrontés en ce début de XXI^{ème} siècle. Le sujet du Sommet n'est pas la technique mais l'avènement de la société mondialisée dans laquelle l'émancipation de l'être humain est en partie liée aux possibilités de communiquer et d'échanger des informations. Etre interconnectés ne suffit pas à résoudre les problèmes fondamentaux du monde actuel.

Sur quelles valeurs s'appuyer pour faire des nouvelles possibilités de communication des vecteurs de démocratie, de justice, d'équité, de respect des droits des individus et des peuples ? Comment la société de l'information peut-elle favoriser le développement social, l'épanouissement individuel et la prospérité collective?

Quelle est la place de la communication dans le projet de société que nous formulons aujourd'hui? Comment valoriser

les différences entre les peuples tout en construisant une société mondiale solidaire? Comment donner à chaque culture l'espace et la visibilité nécessaires pour participer à la dynamique collective du changement?

Voici un certain nombre de questions auxquelles la communauté internationale devrait apporter des réponses. Chaque individu est concerné par ce Sommet. Chacun a la possibilité de s'exprimer sur les thèmes qui devraient être abordés lors de ce Sommet.

Objectifs

Le Sommet vise l'adoption de deux documents cadre :

1. une Déclaration posera les grands principes éthiques et les règles de conduite que les différents acteurs entendent se donner pour mettre en place la société de l'information ;

2. un Plan d'Action formulera les priorités opérationnelles et les mesures concrètes qui devront être prises, tant dans les pays du Sud que dans les pays du Nord, pour que tous puissent bénéficier de manière équitable des nouvelles opportunités liées à la société de l'information.

Le Sommet réunira des chefs d'Etat et de gouvernements, des représentants des parlements et des pouvoirs locaux, des représentants

de la société civile, des dirigeants du secteur privé et les organisations internationales concernées.

Un sommet « gouvernemental PLUS »

La société de l'information ne peut se mettre en place sans l'active contribution de la société civile, des pouvoirs locaux et du secteur privé. Cela suppose une nouvelle forme de dialogue entre les Etats et les autres partenaires concernés, notamment:

- Réseaux communautaires et citoyens
- Associations de professionnels
- Associations de développement et de solidarité
- Coalitions multi-acteurs
- Milieux académiques
- Syndicats
- Media

Les modalités de cette ouverture - qui préfigure la nouvelle gouvernance dans la société de l'information - seront l'un des enjeux de ce premier Sommet du XXI^{ème} siècle.

Un processus est mis en place pour permettre la plus large participation possible, du niveau local jusqu'au niveau global, afin que chacun se sente partie prenante des engagements qui seront pris à Genève en décembre 2003.

<http://www.geneva2003.org/homeliindex02.htm>

Global governance 2002

*Conference to take place
October 13 -16, 2002
Montreal, Quebec
Canada*

Please take note of our upcoming conference Global Governance 2002 - Civil Society and the Democratization of Global Governance (G02) to be

held October 13 to 16, 2002 in Montreal, Québec, Canada.

An initiative of the Montreal International Forum (FIM), this non-profit event will bring together civil society representatives, high level officials from UN and multilateral agencies, parliamentarians, national and local government representatives, academics, human rights advocates,

trade unionists and indigenous people to debate current trends in globalization and civil society and help define the role that global civil society can and should play.

Contact: Geoff Bush, tel: 514-992-9214, fax: 514-484-0051, e-mail: geoffbush@videotron.ca

(From: acuns-io@lists.yale.edu)

Full details available at www.fim-civilsociety.org

UNCTAD Report 2002 questions benefits of globalisation

In a report released in March, UNCTAD has questioned traditional views that export growth and foreign direct investment (FDI) automatically generate commensurate income gains. One of the key issues addressed in the report is why developing countries have not benefited more from globalisation. The report suggests that the free trade

system has served to increase competition among developing countries as they seek to export similar products to the same markets.

It suggests that countries should move into higher-value exports by upgrading technology and improving productivity.

The Report is available online at: <http://www.unctad.org>.

For further information on the report, contact Alessandra Vellucci, Information Officer, UNCTAD; tel.: (+41-22) 907-4641/1646, fax: 907-0043; email: press@unctad.org (from: Tradewatch, May 8, 2002, provided by CARIBBEAN EXPORT to inform recipients on trade and economic issues and business opportunities. Editor: editor@carib-export.com)

Le Conseil de l'Europe et les Roms

Sur la base d'un rapport de Csaba Tabajdi (Hongrie, SOC), établi à l'initiative de la Commission des questions juridiques et des droits de

l'homme, l'Assemblée a demandé instamment à tous les gouvernements européens d'assurer aux Roms la protection juridique que confère le statut de minorité eth-

nique ou nationale et appelé à une plus large participation des Roms à tous niveaux.

<http://assembly.coe.int/>.

Les ONG en Géorgie

Une polémique semble naître entre le Président Edouard Chevardnadze et son ministre des finances Zurab Nogaideli sur l'ampleur du contrôle que le ministère doit faire peser sur les ONG. Alors que le Président souhaite que les

fonds reçus par les ONG de son pays subissent un contrôle, voire une taxe de la part du Ministère, le Ministre souhaite limiter le contrôle aux sommes données aux ONG par l'Etat géorgien. Les ONG craignent que sous couvert

d'un contrôle financier l'Etat puisse s'immiscer dans le contenu des programmes faisant l'objet d'une aide étrangère.

<http://www.reliefweb.int/w/rwb.nsf/UNID/F3DF86E41B23923EC1256BAC0054DE0A>

Cour pénale internationale

Le traité de Rome de juillet 1998 prévoyait l'instauration de la Cour Pénale Internationale après signature de 60 pays. 66 pays ayant ratifié ce traité, le CPI ouvrira ses travaux à La Haye début 2003.

La Cour pénale internationale à son siège de La Haye.

La Cour pénale internationale, première grande institution à voir le jour en ce nouveau millénaire, constituera un élément essentiel dans la lutte contre l'impunité des auteurs de génocides, de crimes contre l'humanité et de crimes de guerre, qui constituent des crimes graves auxquels l'ensemble de la communauté internationale est sensible.

Observation européen des élections

La Fondation Robert Schuman lance l'Observatoire européen des élections.

Aidés des meilleurs experts, nous vous communiquerons régulièrement des informations sur les différentes élections organisées sur notre continent. Pour chaque scrutin dans un pays, vous recevrez, un mois avant, un rappel des résultats du dernier scrutin, une analyse des forces en présence et des enjeux. Dans la semaine qui précède, un bilan de la campagne électorale, une synthèse des études d'opinion et un commentaire libre.

Au lendemain du scrutin, les résultats assortis d'un commentaire et d'analyses détaillées du vote.

Fondation Robert Schuman
<http://www.robert-schuman.org/oeel/calendrierelections>

Arab Anti-Contraband Forum

The Forum seeks to create a fair trade environment in the Gulf by focusing on contraband issues which distort local markets. The Forum will comprise senior figures from the Governments and the private sector in the Gulf. A study of the extent of contraband activity in the six gulf Cooperation Council countries will commence in Spring 2002. The Forum will hold its inaugural conference in Muscat, Oman in October. The group exists to facilitate Gulf countries in their move towards full membership of the World Trade Organisation. The Forum will act as a regional sounding board in discussions with international bodies and with other groups concerned with controlling contraband. The study will provide an annual benchmark against which improvement can be measured.

Forum participants will be key decision-makers in both the public and private sector in the Gulf. They will include: Gulf business leaders; Gulf chambers of commerce; World Trade Organisation; Gulf Cooperation Council; Anti-contraband groups; European

Commission; Ambassadors to the Gulf; World Customs Union; UN Commission on Organised Crime.

The Forum will seek to engage as sponsors companies and trade organisations which are directly affected by contraband. These include: Brand name manufacturers; Video film manufacturers and distributors; Music manufacturers and distributors; Software manufacturers and distributors; Banks and insurance companies; Tobacco manufacturers and distributors. In return for a sponsorship fee such companies and organisations will have an opportunity to contribute to the debate at the launch and to sit on the executive council as one of the founders of the Forum.

Contact: Ian Walker, Charles Reiser or Cecile Berlemont at MEC on queries@meconsult.co.uk. Tel (0207) 591 4816. Fax (0207) 591 4801 or write to MEC, Granville House, 132-135 Sloane Street, London SW1X 9AX.

Recherche européenne

Le "Forum Stratégique Européen sur les Infrastructures de Recherche", mis en place par les Etats Membres de l'Union européenne sur l'initiative de la Commission, a pour mission d'analyser en permanence les besoins exprimés par la communauté scientifique.

http://europa.eu.int/rapid/start/cgi/guestfr.ksh?p_action.gettxt=gt&doc=IP

The Union of International Associations

Founded 1910

Has decided,
in order to stress the importance of the associative phenomenon
in what is rapidly becoming a worldwide society, to award a

PRIZE

(of 6,000 EURO)
for a

DOCTORAL THESIS

Prepared on a subject concerning the life, operations or work of nongovernmental organisations seen as central components of the international civil society. The competition is open to students of all nationalities.

Whatever his or her specialty, the candidate must meet the conditions laid down by his or her own University for acceptance as a thesis candidate. Subjects suggested by candidates must be approved by a local course director and accompanied by a short note setting out the broad lines of the intended research. Candidatures have to be received by UIA before the 30th November 2002. The UIA Council reserves its right to accept only the more interesting or the more original subjects for competition. It will inform the candidate of its decision in due time.

The thesis has to be upheld in 2001 or, at the latest, before the 30th November 2002. Manuscripts must be written in English or French and sent to the UIA secretariat in triplicate before 1 January 2003. The UIA Council will proceed to set up a jury of qualified persons who will have full discretion in awarding, or if necessary, dividing the prize (or withholding any award)

The official award of the prize will take place during the UIA General Assembly 2003.

All additional information may be obtained from :
The Secretariat of UIA, 40, rue Washington, B-1050 Brussels (Belgium)
Tel (32 2)640 18 08 – Fax (32 2)643 61 99 – E-mail uia@uia.be – Website <http://www.uia.org/>

The UIA is the publisher of the *Yearbook of International Organizations* and the Journal *Transnational Associations*

L'Union des Associations Internationales

Fondée en 1910

a décidé,
pour souligner l'importance du phénomène associatif dans une société
en voie de mondialisation rapide, d'attribuer un

PRIX

(d'un montant de 6.000 EURO)
à une

THÈSE DE DOCTORAT

rédigée sur un sujet touchant à l'histoire, à la vie, au fonctionnement ou à l'action des organisations internationales non gouvernementales conçues comme composantes essentielles de la société civile internationale. Le concours est ouvert aux étudiants de toutes nationalités.

Quelle que soit sa spécialité, le candidat devra remplir les conditions requises par son Université d'origine pour être admis à préparer une thèse. Les candidatures devront parvenir à l'UAI avant le 30 novembre 2002. Les sujets proposés par les candidats devront être approuvés par un directeur de thèse local et accompagnés d'une courte notice destinée à faire ressortir les principaux axes de la recherche. Le Conseil de l'UAI se réserve de ne retenir, en vue du concours, que les sujets les plus intéressants ou les plus originaux. Il en informera les candidats en temps utile.

La thèse devra avoir été soutenue en 2001 ou, au plus tard, avant le 30 novembre 2002. Elle devra être rédigée en anglais ou en français et remise en 3 exemplaires au Secrétariat de l'UAI avant le 1er janvier 2003. Le Conseil de l'UAI aura la charge de constituer un Jury de personnalités hautement qualifiées, qui aura toute latitude pour décerner ou pour partager éventuellement le prix (ou pour n'en décerner aucun).

La remise du prix décerné par l'UAI aura lieu en 2003 à l'occasion de son Assemblée générale.

Pour tous renseignements complémentaires, prière de s'adresser au :
Secrétariat de l'UAI, 40, rue Washington, B-1050 Bruxelles (Belgique)
Tel (32 2)640 18 08 – Fax (32 2)643 61 99
E-Mail uia@uia.be – Website <http://www.uia.org/>

L'U.A.I. est l'éditeur du *Yearbook of International Organizations* et de la revue *Associations transnationales/Transnational Associations*

Transnational Associations
Associations transnationales

53rd year
53^e année

Some items in recent issues:

Parmi les thèmes traités récemment :

Transnational actors in the international system
Les acteurs transnationaux dans le système international

**Issue number:
*Numéros :***

2/1999, 6/1999,
2/2000, 3/2001.

The recognition of the legal personality of INGOs
La reconnaissance de la personnalité juridique des OING

3/1986, 3/1990,
5/1990, 3/1995.

Cooperation between INGOs and IGOs
La coopération entre les OING et les OIG

1/1997, 2/1999,
6/1999, 6/2000.

Social movements, trade unions and cooperatives
Mouvements sociaux, syndicats et coopératives

6/1996, 3/1997
5/1999, 1/2001

Social and economic development
Développement économique et social

1/1996, 4/1996,
4/1998, 5/1999.

Environmental problems
Les problèmes écologiques

4/1995, 2/1996,
3/2000, 2/2001.

Humanitarian aid and humanitarian law
L'aide et le droit humanitaires

2/1994, 2/1996,
2/1999, 2/2001.

Language, communication, education and gender
Langage, communication, éducation et égalité des sexes

2/1998, 1/1999,
6/1999, 2/2000.

Civil Society and the State
La société civile et l'Etat

4/1998, 1/1999,
4/2000, 2/2001.

Internationalism in Science
Science et transnationalité

6/1997.

Latin American and North-American Associations
Les associations latino-américaines et nord-américaines

6/1989, 3/1990,
1/1993, 4/1996.

African Associations
Associations africaines

4/1995, 1/1996,
2/1996, 1/1999.

European Associations
Les associations européennes

6/1999, 2/2000,
3/2000, 6/2000.

Arab Associations
Associations arabes

1/1998, 6/1999
2/2001

Asian Associations
Associations asiatiques

2/1997, 6/1999

Some authors / ont publié dans nos colonnes :

Sami A. Aldeeb, Chadwick Alger, Benjamin R. Barber, Chérif Bassiouni, Mohammed Bedjaoui, Jan Berting, Maurice Bertrand, Elise Boulding, Boutros Boutros-Ghali, Cynthia Cockburn, Jacques Delors, Adama Dieng, Johan Galtung, Susan George, André Gorz, Group of Lisbon, Robin Guthrie, Robert Harris, Jürgen Höffner, Bill Jordan, Alexandre Kiss, Alain Labrousse, Ronnie D. Lipschutz, Marc Luyckx, Federico Mayor, Elikia M'Bokolo, Marcel Merle, Morton Mitchnik, Edgar Morin, Basarab Nicolescu, Ignacio Ramonet, François Rigaux, Nigel Rodley, John G. Ruggie, Wolfgang Sachs, Pierre de Senarclens, Jan Aart Scholte, Vaudana Shiva, Rodolfo Stavenhagen, Rajesh Tandon, Charles Taylor, Fernand Vincent, Peter Waterman.

