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State of Power

An annual anthology on
global power and resistance

2015

State of Power 2015

An annual anthology on global power and resistance

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Introduction *Fiona Dove*

The Transnational Institute is very pleased to present the fourth edition of our popular annual *State of Power* report. We publish it in January each year to coincide with the annual international meeting in Switzerland of what Susan George calls “the Davos class”. This series seeks to examine different dimensions of power, unmask the key holders of power in our globalised world, and identify sources of transformative counter-power.

This time, we experimented with ‘crowd-sourcing’ by putting out an open call for contributions. We were keen to engage activist-scholars outside our immediate circles and curious as to how this would shape the content of the report. The compiled essays cover an impressive breadth of themes, from corporate law to the dominance of the financial sector, from big mining to food speculation. They also bring to the fore social struggles to challenge power dynamics, from Mexico to Mozambique, from Canada to Italy and Greece.

Juan Hernández Zubizarreta unpacks how transnational corporations have secured ‘legal certainty’ through the multitude of norms, treaties and agreements making up a new body of global corporate law that goes against the interests of the world’s people – with the Transatlantic Trade & Investment Partnership (TTIP) just one of the new bricks in the wall.

This would not have been possible without what **Judith Marshall** calls the ‘promiscuously intimate’ relationship between governments and companies. Using the mining sector as her prism, she gives an illuminating account of how this relationship developed, and asks how the metamorphosis from corporate predator to ‘development partner’ happened. Marshall points to the ‘International Articulation of People Affected by Vale’ as a model for building counter-power.

The extent to which the financial industry has captured government policy too is well analysed by **Manolis Kalaitzake**. He highlights the financial sector’s political victories since the crash, including the successful watering down of the EU Financial Transaction Tax. He offers some directions for what is needed to chasten this power and stimulate socially useful, sustainable economic recovery. **Sasha Breger Bush** also looks at the potent influence of the financial industry – from the global economic level down to that of households. She focuses on the role of financial speculation in fuelling hunger, land dispossession and climate change, and how the financial sector not only gets away with it but innovates false financial ‘solutions’ to the very problems it creates. She suggests a counter-strategy combining de-legitimation, stronger financial regulation and de-linking from global markets, particularly for food.

Michael Perelman offers another angle on how corporate power is bolstered. He looks to how neo liberal economics has constructed a powerful ideological system to justify the exercise of abusive economic power and to counter every reasonable demand for environmental protections or better working condi-

tions. Economists do this primarily, he argues, by obscuring or ignoring power. The author challenges misleading 'economics as science' claims by putting power back into the economic equation.

Against the background of the concerted neoliberal attack on the power of labour that Perelman refers to, **Lorenzo Zamponi** and **Markos Vogiatzoglou** describe the radical innovations in 'organising the unorganised' taking place under contemporary austerity in Italy and Greece. They argue that these experiments can only be sustained through new union structures and practices, as well as closer cooperation across labour-related movements in organising all parts of the population into the worker counter-power of tomorrow.

Two arenas of power, often blind spots in analyses of the global economy, are covered in the *State of Power 2015*. One is the Internet and the other is organised crime. Both point to disturbing governance scenarios that signal the urgency of acting to build serious transformative counter-power.

Few doubt the significance of the current information revolution, but most, **Richard Hill** warns, don't grasp the power implications. US policy-makers do, however, and use their unilateral power over the ad hoc 'multi-stakeholder' governance of the Internet for political and economic ends (e.g. mass surveillance, quasi-monopoly profits for Google). The US and its professional coterie of commercial representatives work hard to keep it that way. I would refer readers back to *State of Power 2014* and David Sogge's essay on the Global Redesign Initiative of the World Economic Forum, which advocates this kind of ad hoc multi-stakeholder governance as the undemocratic model for global governance in the future.

In light of the recent disappearances in Mexico, **Sebastian Scholl** paints a grim and complex picture of how organised crime and corruption thrive in conditions of institutional or democratic weakness, shaped to a large extent by distinctive transnational relations (importantly, in this case, with the US). He offers a glimmer of hope for Mexico in analysing how the Movement for Peace with Justice and Dignity has been accumulating 'social power' among people affected by the 'war on drugs', extending this into 'associative power' (new alliances) for and beginning to translate that into political power.

We hope these essays prove useful food for thought and contribute to the broad movement working to tip the balance of power in favour of democratic forces concerned with peace, justice, equity, solidarity and sustainability.

Fiona Dove has been Executive Director of TNI since 1995.



PS We received a number of other good papers, which did not make the report, but which we have published on our site as working papers. See <http://www.tni.org/category/series/recommended-reading-state-power>

The new global corporate law

Juan Hernández Zubizarreta

The global economic crisis that unfolded in 2009 was significant not just for the questions it raised over the power of big finance, but also for the attention it drew to other crises facing our planet – notably food, ecology and care work. What has been given less attention is the national and international legal systems that underpin these crises and the way legislation has been skewed in favour of capital and transnational corporations.

The reinterpretation of legislation in favour of capital and transnational corporations and the regulatory asymmetry this causes vis-à-vis the rights of the unprotected majorities are undermining the rule of law, the separation of powers and the very essence of democracy. Now more than ever in history, law is being used to benefit political and economic elites. At the international level, this allows corporations to operate free from regulatory controls and with a high level of impunity.

A recent example is the case of transnational oil corporation Chevron, which conditioned signing the investment agreement with YPF on Argentina's Vaca Muerta oil field upon the adoption of reforms to federal and provincial laws. Chevron's proposals were set out in a series of "strictly confidential" documents, which focused on the maximum amount of taxes the provinces could charge the company, the duration and characteristics of the concessions, and tax stability for the oil company and its subsidiaries. The proposals favouring the oil corporation were written into the new law on hydrocarbons, which the Argentine Congress approved on 30 October 2013 in order to "promote investments in exploration".¹

This is a very clear example of how corporations intervene in regulations designed to control them, which is leading to a profound crisis of democratic institutions and popular sovereignty, the violation of the separation of powers and the rule of law, and the contractualisation of legal norms and economic relations. Finally, it also places the rights of corporations above the rights of people through the privatisation of legal norms and institutions. Transnational corporations approve legal norms “de facto”, and states (in this case, the Argentine state) dedicate themselves to upholding the logic of the market and guaranteeing unlimited profits for corporations.

From the rule of law to a new global corporate law: legal certainty

The evolution of global capitalism from the mid-nineteenth century to the present has served to consolidate and strengthen the pivotal role of transnational corporations in the global economy, as well as their increasing dominance over multiple areas of life. Today, transnational corporations have greater economic power than many states: the annual revenues of Walmart, Shell and Exxon Mobil, for example, are larger than the gross domestic product of countries such as Austria, South Africa and Venezuela.² Major corporations also have tremendous political power, not only in relation to nation-states – as can be seen in their obvious influence in advancing economic counter-reforms and the suppression of social rights – but also at the international level, in multilateral institutions such as the UN “through various models of multi-actor initiatives”.³

On a legal level, the contracts and investments of transnational corporations are protected by a multitude of norms, treaties and agreements that make up a new global corporate law, the so-called *lex mercatoria*. There are, however, no adequate counterweights or real mechanisms to control the social, labour, cultural and environmental impacts of their operations.⁴ The rights of transnational corporations are shielded by a global legal framework based on trade and investment rules that are imperative, coercive and executive in nature, while their obligations are remitted to a fragile international human rights law system and to national legal systems weakened by neoliberalism. In this context, ‘corporate social responsibility’ and voluntary codes of conduct that cannot be legally enforced have emerged as a form of soft law.⁵

Legal certainty for whom?

In spring 2006, the headlines of Spanish newspapers blared, “Evo Morales decrees the nationalisation of Bolivia’s oil and gas” and “Repsol YPF says it will defend its rights”.⁶ Since then, every time attempts are made in Latin America to reclaim state sovereignty over natural resources, energy and key sectors of the economy, transnational corporations defend their investments by resorting to a concept that has become key: legal certainty.

In early 2010, Spain’s Senate Committee on Ibero-American Affairs approved a report on the role of Spanish corporations in Latin America.⁷ In the report, countries in the region were classified based on their “level of legal certainty”: Mexico, Peru and Colombia were among the safest, whereas Cuba, Venezuela, Ecuador and Bolivia were listed among the least secure. The report also regrouped countries

according to the business opportunities and incentives for foreign direct investment they offer, assuming that the countries that provide the most legal certainty are precisely the ones with the best prospects for the operations of transnational corporations.

It is clear that this use of the concept of legal certainty only refers to the new global corporate law. Thus, it would appear that the idea of legal certainty is only understood in the framework of the *lex mercatoria*, as its sole purpose is to protect the contracts and defend the business interests of transnational corporations.

However, the fact that this interpretation of legal certainty is used repeatedly does not make it any less questionable. It does not make much sense to argue, on the one hand, that the judicial concepts and international practices and principles – including equity, unjust enrichment and good faith – can be used only to regulate relations between states and not with private enterprises, when, on the other hand, international arbitration tribunals – like the World Bank’s International Centre for Settlement of Investment Disputes – that were created to resolve conflicts between states are, in fact, used to rule on disputes between states and transnational corporations.

Furthermore, the *pacta sunt servanda* principle (“what is agreed obliges”) is conveniently interpreted to serve as a basis to guarantee contracts signed with transnational corporations in the past. By way of example, and citing the case of Bolivia again, *El Mundo*’s editorial from May 2006 reads: “Morales, with his hasty, populist and counterproductive measure, has violated an international agreement without taking the consequences into consideration.”⁸

At the same time, *rebus sic stantibus* clauses (“as things stand”, meaning nations agree to abide by treaties as long as the circumstances remain unchanged) are ignored, as the defendants of corporate positions insist that agreements signed by previous governments must be respected in the name of legal certainty. *El Mundo* even went so far as to state that the decree on the nationalisation of hydrocarbons in Bolivia “detonates economic freedom”, which raises the question: “What certainty will foreign companies have to invest Bolivia from now on, knowing that their business can evaporate in only a few hours?”⁹ This completely ignores the fact that Evo Morales’ electoral triumph was linked to a programme that included nationalisations, not to mention existing protection via the considerable international human rights treaties this country has ratified. Once again, the new government’s attempt to modify neoliberal rules brought to light the ironclad judicial armour that protects the rules and interests of transnational corporations.

In any event, it is worth insisting here that legal certainty is an international principle that is not linked solely to economic arguments: true legal certainty would situate international human rights law above the new global corporate law. In other words, in theory it puts the interests of the majority of the population above those of the minorities that control economic power.

The Bolivian case (Venezuela and Ecuador have also taken similar measures) illustrates that the state has the legitimate power to modify laws and contracts with transnational corporations if these agreements violate national sovereignty and the fundamental rights of the majority of the population. Bolivia’s new

constitution, in accordance with article 53 of the Vienna Convention, establishes that human and environmental rights prevail over trade and investment norms. One must also not forget that all states have the obligation to defend the public interest and national sovereignty.

Therefore, it seems inappropriate to hide repeatedly behind the concept of legal certainty to justify putting commercial interests before the effective fulfilment of human rights obligations. It is disquieting that Spain's Senate Committee on Ibero-American Affairs considers as models of legal certainty countries such as Colombia, the most dangerous country in the world for unionists, Mexico, where generalised impunity reigns according to the Permanent People's Tribunal,¹⁰ and Peru, where indigenous organisations face severe government repression. And, along the same lines, diplomatic stances following the coup d'état in Honduras in 2009 bear the question: Did the European Union withhold all manner of diplomatic protest to the crimes committed because the signing of the free trade agreement with Central America was at stake?

To give greater visibility to the asymmetry between the protections for transnational corporations' operations and the lack of monitoring on their socio-environmental impacts, the Permanent People's Tribunal has been analysing cases involving more than 50 transnational corporations present in Latin America.¹¹ During its hearings, numerous women and men representing affected communities and hundreds of European and Latin American social organisations demanded that the protection of the genuine principle of legal certainty be made effective, based on defending the interests of the whole of society.

To transform the current economic system, we must urgently limit the power of transnational corporations and invert the international normative pyramid so that the rights of social majorities are put at the top. The current legal framework for transnational corporations brings to light the diversity, heterogeneity, fragmentation and contradictions in the international norms in place. There is a need to establish better coherence among these norms, which must be based on putting human rights at the top of the normative pyramid.

In addition to this central idea, other proposals can be formulated: peoples' sovereignty and the right to self-determination should dominate the normative framework on international relations; the right to food and health must be excluded from business transactions; the right to property must be limited and subordinated to public interest; and investment and trade norms must be made subordinate to international human rights law in a binding and effective way. All of these proposals are to ensure that the people take back "in a democratic and participatory society, the power to define their own destinies".¹²

Transatlantic Trade and Investment Partnership: A paradigmatic example

The Transatlantic Trade and Investment Partnership between the European Union and the United States (TTIP) aims to open market access and eliminate as many tariff and regulatory barriers (e.g. basic social and environmental protection measures) between both partners that limit the accumulation of wealth in the hands of large corporations. Under negotiation since 2011, the agreement contains both form and substance aspects.

The substance elements include proposals on eliminating labour rights and European environmental regulations, deregulating the financial sector, opening up public services (water, electricity, education, health, transportation, welfare) to the private sector, patent protections for pharmaceuticals, the consumption of genetically modified products, and public procurement, among others. The TTIP's form and legal principles will be part of the judicial armour that limits the exercise of democracy and peoples' sovereignty, as was attempted in Bolivia as we described earlier.

The TTIP is not just a trade agreement; it is a new founding treaty at the service of transnational corporations. The legal approach used for the TTIP is not neutral: inequality and asymmetry are the agreement's building blocks. The chain of normative control it will build can be broken down into the various links that make up global corporate law. Greater public awareness of the agreement's opacity, lack of transparency and reinterpretation of the formal elements of the rule of law is needed in order to dismantle it to protect people.

The TTIP's lack of democratic legitimacy

Secrecy and lack of transparency are also basic elements of the TTIP. Trade and investment rules are being elaborated beyond the reach of parliaments and citizens. Citizens do not know who the negotiators are, what criteria are being used, or what decisions are being made. The entire process is shrouded in secrecy based on an alleged technical complexity that "requires trust" and "discretion among negotiators", as the texts under discussion are kept even from public representatives.

Practices related to the treaty's elaboration go against the EU's own communitarian norms, which establish that the European Parliament will be kept adequately informed about international treaties using full transparency at each stage of the negotiations. Instead, economic lobbies representing transnational corporations and the interests of the dominant classes play a central role. Advisors, meetings, proposals and the linkages between political power and transnational corporations are part of the "legislative power" from which the TTIP emanates.

Its origin dates back to the Atlantic Council meeting of 1967, the Transatlantic Business Dialogue of 1995 and the biannual US-EU summits that followed. The proposed agreement was drafted years later by the United States-European High Level Working Group on Jobs and Growth set up in 2011. Between January 2012 and April 2013, 92 per cent of the meetings conducted by Brussels on the treaty were between the Commission and private lobbies – that is, in 520 of the 560 meetings held the EU sat at the table with corporations, while only 40 meetings were with groups representing the public interest. This trend was maintained between July 2013 and February 2014, when at least 113 of the meetings were conducted with private companies, which represents 74 per cent of the total.

The TTIP process

The whole negotiation process for the TTIP violates the basic principles of the rule of law – that is, democracy's procedural guarantees (transparency, the separation of powers, parliamentary debates, etc.). The agreement will establish legal certainty through binding mechanisms that protect corporate investors; this is the complete opposite of human rights norms, whose negotiating processes are open to proposals and debate and whose outcomes provide very little legal certainty.

The TTIP negotiation process also illustrates how laws and economic relations are contractualised: legislative procedures are eliminated and replaced by asymmetrical contract-based or accession-based systems, which infringe on the separation of powers and the sovereignty of peoples and nations. With the TTIP, secret meetings between technocrats and representatives of transnational corporations replace the European Parliament's legislative procedures. Proposals on legislation are substituted by documents drafted by private actors, and parliamentary debates, by bills that are only submitted for ratification.

Among the other trends that the TTIP exemplifies and that violate the rights of the people are 'regulatory inflation' leading to the hyper-specialisation and technical complexity of norms due to transnationals' pressure on governments,¹³ vague and obscure clauses, and the incorporation of annexes containing substantial elements that water down rights and obligations.¹⁴

Re-regulating in capital's favour

The interconnections between trade and investment norms, and between transnational corporations and institutions, have allowed TNCs to obtain what they could not win at the World Trade Organisation or through bilateral or regional trade or investment treaties and agreements. In this dense network, every agreement or treaty serves as the basis for the next, which generates a model of never-ending negotiations that continuously shift the balance towards corporate interests. In the case of the TTIP, the Comprehensive Economic and Trade Agreement between the European Union and Canada (CETA) and the Trade in Services Agreement (TISA) are part of such a perpetual process of negotiation. This highly asymmetrical war ensures that if one treaty is abandoned, another has already been prepared to replace it. That is why the entire trade and investment model imposed by capital and transnational corporations must be rejected, not just specific agreements.

The TTIP deregulates transnational corporations' obligations in terms of human rights and environmental protection at the same time as it re-regulates or seeks to protect their rights to operate freely and to make profit. Its aim is to eliminate all barriers – tariff or non-tariff – that hinder the development of free trade and investment.

The TTIP includes four normative transformations that have devastating effects on the rights of the people: downwards harmonisation, regulatory convergence, arbitration tribunals and the agreement's normative principles.¹⁵

Downwards harmonisation is a practice by which controls and standards that limit capital are systematically downgraded: if controls on the financial sector are stricter in the US, European regulations will be taken as the basis; if EU labour laws offer more protection to workers, US norms that deregulate workers' rights will be adopted (the US has not ratified 70 of the International Labour Organisation's conventions on collective bargaining, freedom of association, forced labour, strikes or child labour). Harmonisation is achieved by deregulating the rights of people in all areas that are susceptible of "being bought or sold", since by the logic of capitalism, barriers that exempt collective goods such as water, health or food from market profit must be abolished. Furthermore, responsible public procurement policies that take into

account the labour rights of employees and subcontractors, the promotion of fair trade, the elimination of the gender gap and environmental protections clash with the idea of repealing all regulations that may act as an obstacle to opening public markets up to trade and investment.

Regulatory convergence means that corporate lobbies acquire an unexpected level of participation in the drafting of legislation – a well-known phenomenon in the elaboration of standard norms. The proposed Regulatory Cooperation Council for the TTIP will bring together the heads of the most important regulatory agencies in the US and Europe and will serve as a regulatory filter of all EU norms believed to be in conflict with the agreement.¹⁶ It will operate independently from member states and institutions, as a supranational legislative power that is beyond any democratic control.

Private tribunals for investor-state dispute settlement constitute another system operating in parallel to national and international legal systems to favour the interests of transnational corporations. It is *justice for the rich* as only corporations can file complaints against states and there are no formal provisions to allow host states to file cases against foreign investors. Transnational corporations can choose jurisdictions and have no obligation to exhaust all national remedies first. There are further obstacles to making these hearings open to the public. What is more, corporations can even resort to these tribunals to appeal the decisions of ordinary courts, yet the rulings of such private arbitration courts cannot be appealed.

The TTIP's *normative principles* – such as just and equal treatment, national treatment, most-favoured nation or the 'umbrella clause'¹⁷ – are open to creative and expansive interpretation by law firms and arbitrators in favour of corporate power, and are very efficient in the defence of the interests of transnational corporations by building a fortress around their rights. Moreover, existing legal principles such as the abuse of law, unjust enrichment, good faith or equity will be subordinated to principles regulated by the TTIP, due to their mandatory nature. The principles of 'most favoured nation' and 'just and equal treatment' oblige countries to extend any advantage granted to national investors to foreigners. This means that national investors cannot receive any aid from the state, as it would mean violating the national treatment principle. Public support for national solidarity economy enterprises or short supply chains that ensure food sovereignty will have to be extended to transnational corporations from the agribusiness sector. Furthermore, with the 'national treatment' principle, it becomes very difficult to reverse the privatisation of a public service due to the high costs it would imply if transnationals decided to sue the state in international arbitration courts for financial compensation.

In sum, the TTIP is to be part of a legal-political framework of domination, which marks a profound rupture in the hierarchy and the normative pyramid of the human rights protection system. What is more, there is clearly a democratic deficit in global economic institutions, including the arbitration tribunals that remain beyond national judicial powers' reach.

Controlling transnational corporations: the Ruggie framework

Voluntary multilateral instruments adopted in recent decades clearly reflect this rupture in the normative hierarchy of the human rights protection system. In 2005, ignoring the draft *Norms on the Responsibility*

of Transnational Corporations and other Business Enterprises adopted by the UN Sub-Commission for the Promotion and Protection of Human Rights two years earlier, the UN Secretary General appointed a special representative on the issue of human rights and transnational corporations. He gave in to pressure from the International Chamber of Commerce and the International Organisation of Employers – institutions that represent major corporations from around the world – that had asserted that the Sub-Commission's draft norms undermined the rights and legitimate interests of private enterprises. They also argued that human rights obligations were to be met by the states and not by private actors.

The special representative position was assumed by John Ruggie who concluded his mandate in 2011 by publishing a report advocating for the implementation of the “protect, respect and remedy” framework via *Guiding Principles on Business and Human Rights*, precursor of the *Global Compact*. The same year, the Human Rights Council approved his framework, even though the *Report of the Secretary General on the Work of the Organisation* for 2012 affirmed that these principles do not create any “new legal obligations”.

The 11th guiding principles of the Ruggie framework states that: “*Business enterprises should respect human rights. This means that they should avoid infringing on the human rights of others and should address adverse human rights impacts with which they are involved.*” The core principle is that the responsibility to respect is additional to that of complying with laws and national human rights protection norms. Being voluntary, the basis of the Ruggie framework is similar to that of corporate social responsibility, by which corporations voluntarily accept to adopt unbinding, internal ethical codes of conduct – many say as a public relations exercise to hide damaging activities.

However, one of the biggest obstacles to eradicating human rights violations committed by transnational corporations is precisely the fact that efforts are not invested in creating new obligations under international law. While some institutions and NGOs believe that the Ruggie framework represents some progress, the truth is that it simply reproduces the same logic used in the past few decades: they are merely guidelines that are not binding in nature – for neither states nor corporations – and therefore, are unenforceable. Moreover, to continue betting on voluntary measures implies that human rights violations by corporations only exist when state responsibility arises; in other words, in some cases transnational corporations – unlike all private individuals – can infringe the law without suffering any sanctions.

How, then, can we possibly neutralise global corporate power with such fragile judicial instruments? The volunteer and non-binding nature of the obligations of transnational corporations gathered in the Ruggie Principles contrasts with the legal fortress protecting the rights of transnational corporations, which is made up of imperative, executive and coercive norms, such as those being regulated in the TTIP. The normative asymmetry is undeniable, and being normatively superior, global corporate law imposes itself at the top of the human rights protection system.

The International Peoples Treaty

The proposal to elaborate an *International Peoples Treaty on the Control of Transnational Corporations* is being developed within the framework of the global campaign to “Dismantle Corporate Power and Stop Impunity”.¹⁸ Campaign members believe that, along with strengthening resistance to transnational corporations, it is essential to promote effective mechanisms for social redistribution and control on large corporations in order to advance in the medium term towards a change in the socioeconomic paradigm. As we move forward with the construction of alternative models for society and the economy – ones that do not have what Polanyi called the “profit motive”¹⁹ as a pillar – it is key to ensure that the rights of individuals and the peoples prevail over *legal certainty* for major corporations.

Therefore, in order to create instruments that exert real control over corporations’ operations, various social movements, indigenous peoples, trade unionists, jurists, activists and communities affected by the practices of transnational corporations have jointly elaborated the *International Peoples Treaty*: “The Peoples Treaty is a radical alternative proposal. Its objectives are, on one hand, to propose control mechanisms to halt human rights violations committed by transnational corporations and, on the other, offer a framework for exchanges and the building of alliances between communities and social movements in order to reclaim public space currently occupied by corporate power”.

The idea is that the collective work that has led to the treaty’s creation brings together the experience accumulated over the past decade by various struggles against transnational corporations, and against the States and financial institutions that support them. As the proposal for the *Peoples Treaty* states, the aim is to “build and analyse international law ‘from below’, from the point of view of social movements and of resistance struggles of men and women – and not from the economic and political elite’s state-centred vision”.

The different proposals and alternatives that hundreds of social organisations have put forward in this treaty will be made available to the United Nations’ recently created intergovernmental working group on transnational corporations and human rights.²⁰ We feel that a legally binding international framework that regulates the activities of transnational corporations must address a number of key issues.

First, new general premises related to the responsibility of transnational corporations must be established. National and international legal norms must be considered binding for natural and legal persons. Transnational corporations are legal entities and as such, they are both subjects and objects of the law. Therefore, their civil and criminal liability and double indictment must be regulated: the legal entity (the corporation), on the one hand, and the individuals who made the incriminating decision, on the other, can be indicted. Furthermore, transnational corporations’ shared liability for the activities of their subsidiaries (de jure or de facto) and their chain of suppliers, licensees and subcontractors that violate human rights, must also be regulated.

Second, specific regulations for transnational corporations must be adopted, such as prohibitions on the patenting of forms of life, the obligation to pay fair and reasonable prices to suppliers and subcontractors, controls on the activities of security personnel working for multinationals, and the obligation to respect all norms that prohibit discrimination.

Third, the protections that the TTIP provides for the rights of transnational corporations must be neutralised through international human rights law (including international labour and environmental law), which is hierarchically superior to national and international trade and investment norms. This means that compliance with international human rights law is mandatory for the entire international community. This would in effect nullify free trade and investment treaties and agreements that give priority to the privileges and profits of investors and transnational corporations over peoples' rights and international human rights law.

The legal principles linked to free trade and investment norms – national treatment, most favourable nation, most favourable treatment, retroactive application of the treaty or umbrella clauses, etc. – would also be made subordinate to the host state's national norms and to international human rights norms.

Submitting an investor–state dispute to an arbitration body must not be allowed under any circumstances, as it undermines the protection of state sovereignty and the rights of individuals and peoples that are already guaranteed under international human rights law.

Fourth, we propose that bodies like a public centre for the control of major corporations and a world court on transnational corporations and human rights be created. The world court would be responsible for judging transnational corporations and those who run them for violations of the rights of people and nature.

Fifth, states cannot be the only axis upon which international law is built. Therefore, social movements and peoples in resistance must be given due recognition and assume their rightful place as protagonists. As Saguier²¹ says, “the nature of existing agreements, as well as the directions in which they may evolve in the future, can be explained based on the conflicts between subaltern and dominant forces over the construction of different institutional frameworks”. Peoples of the world must unite in recognition that international human rights law is the result of the struggles of millions of men and women and thousands of organisations all around the world. It is precisely within this framework that “a treaty of the present and the future, based on the responsibility and ethics of present and future generations, in the obligation to protect the Earth and its peoples” is rooted.



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Political capture by the financial industry

Manolis Kalaitzake

Since the 2007 outbreak of the financial crisis the visible political dominance of the financial industry has become an issue of major concern for civil society. This essay unpacks the precise sources and diverse mechanisms of financial political power within the contemporary global economy. It illustrates this power over the policy-making process with specific reference to the case of the European Financial Transaction Tax, a policy which has been pursued by European authorities since 2009. This initiative is currently poised for defeat by the financial industry however, because of extensive watering down of the original proposal. The failure of this policy initiative is not an isolated event but indicative of a broader trend of successive political victories for the industry since the crisis.

The paper proceeds first with a brief overview of the political protection of the financial industry since the global economic crash, specifically in the policy-making domain of financial regulation. Second, I provide a brief theoretical overview of the distinct sources of financial political power within the global economy: 'instrumental' power involving conscious political mobilisation and direct lobbying; 'ideological' power involving a broadly neoliberal policy consensus among elite political groups; and 'structural' power involving the threat of capital flight and disinvestment, exacerbated in the context of contemporary 'financialisation'. Third, I illustrate the concrete manifestation of this power, highlighting the case of the European Financial Transaction Tax. I conclude by suggesting that efforts to overcome the economic dominance of the financial sector necessarily depend upon simultaneously curtailing the political influence of financial actors and markets over the policy-making process, and offer some brief suggestions for how this may be achieved.

The political protection of finance and regulatory failure

More than six years after the largest financial crash since the Great Depression, the global economy remains stagnant. Impeding recovery are extensive austerity programmes in developed nations and fiscal retrenchment designed to retain the confidence of, and ensure continued access to, international financial markets. With the burden of post-crisis adjustment falling squarely on the shoulders of states and ordinary citizens, the contrasting fortunes of the financial industry could hardly be starker.

Stubbornly high debt levels of governments and households continue to undermine domestic economic growth while offering ever-increasing monetary transfers to financial creditors. Most egregiously, financial institutions have benefited directly from large bailout and recapitalisation programmes with total guarantees for the G20 financial system accounting for roughly 11 per cent of combined gross domestic product (GDP). Globally, the number of people living in extreme poverty has risen by 80 million as a direct result of the economic crash, while unemployment ballooned from 178 to 205 million people during 2007-2009.¹

By contrast, global financial markets have been momentarily disturbed by the crisis rather than fundamentally transformed. At the end of 2010 the value of global financial stock actually surpassed its 2007 peak before the onset of the crisis, to reach \$212 trillion.² Banking profitability also returned with a vengeance with major firms continuing to reap the benefit of implicit guarantees from national governments due to their size, complexity and systemic interconnectedness. Similarly, shadow banking (unregulated elements of the global financial system, e.g. hedge funds or private equity funds) has expanded from \$62 trillion in 2007 to \$67 trillion in 2011, with its share of total financial intermediation remaining relatively stable at 25 per cent.³

Unconventional monetary policy by major central banks – such as the European Central Bank, the US Federal Reserve, the Bank of Japan and the Bank of England – has also been highly favourable to the financial industry post-crisis. Policy initiatives such as prolonged low interest rates, extensive liquidity provision and asset-purchase intervention all contributed to propping up asset prices, buttressing stock market earnings and providing cheap cash for speculation.⁴ The distributional consequences have been clear as the profitability of major internationally active banks was boosted significantly throughout the 2008-2010 period as a result of extensive monetary easing.⁵

Perhaps the most confounding development in the aftermath of the financial crash has been the failure of policy-makers to follow through on commitments regarding financial regulation. Despite promises of a complete overhaul, reforms have been piecemeal, incremental and restricted.⁶ This watering down of regulatory proposals has occurred at the global, regional and national levels. Globally, Basel III requirements – international agreements on prudent banking capital and liquidity standards – have been significantly weakened while the banking industry has been given until 2019 in order to prepare for the introduction of more stringent standards. In the case of shadow banking reform, the International Monetary Fund admits that “a firm consensus has yet to emerge on what, if any, regulatory action is needed”, despite reform proposals put forward by the G20 in late 2008.⁷ Other globally driven measures such as

the regulation of over-the-counter derivatives (risky trades that are conducted without supervision) has been subject to continuous delays and fragmentation in implementation across different jurisdictions. Similarly, issues such as accounting convergence standards and the creation of a cross-border resolution regime for failing banks have proven too difficult for regulatory authorities to coordinate in any meaningful manner.⁸

Lacklustre developments have also occurred at the regional level where the efforts of the European Union stand out as particularly underwhelming. Important money market reforms (that would protect short-term access to credit) have been abandoned while others have been watered down, such as hedge fund and private equity regulation, credit-rating agency reforms, fund manager bonus caps and the Financial Transaction Tax initiative. Similarly, there has been widespread reluctance to tackle the persistent “too big to fail” issue whereby the future collapse of a large banking institution within an EU member state would threaten the entire economy and force officials to cover bailout with taxpayer funds. As it currently stands, large EU banking firms have either consolidated or increased their domestic market position. It is little wonder, then, that in June 2013 the European Parliament overwhelmingly approved a resolution condemning the slow pace and uncertainty surrounding regulatory initiatives, while rebuking the European Council and European Commission (executive bodies of the EU) for their lack of commitment to the financial reform process.⁹ Despite this, the most recent attempts at European regulatory reform have resulted in the failure to implement long-awaited structural banking reforms (so-called Liikanen reforms) which aim to separate risky trading from more traditional lending practices at big European banks.¹⁰

Several explanations have been advanced for the lack of strong political action against the financial industry in the post-crisis era. One explanation identifies the lack of institutional capacity for coordination and collaboration on effective regulatory policy-making at the global level. A similar institutional ‘gridlock’ is replicated within the EU architecture. A second related explanation focuses on the role of diverse national interests among states in dealing with different sectors of the financial system. For instance, German, French and British reform preferences frequently diverge depending on the specificities of their internal economic structure and the prerogatives of their domestic financial actors. A third explanation maintains that the conservative and technocratic nature of regulatory bodies has led to the adoption of an overly cautious approach towards financial reform.

Each of these views is partly valid depending on the reform in question. However, particular attention must be paid to the exercise of financial political influence over the policy-making process. The political power of the financial industry has contributed significantly to weak regulatory outcomes and has been a major factor in the unequal burden-sharing of the post-financial crisis era.

Three dimensions of financial political power

In order to clarify the precise sources and mechanisms of financial sector influence over the policy-making process, it is necessary to make an analytical distinction between three basic types of power: instrumental, ideological and structural. A combination of these dimensions allows the financial sector to secure formidable leverage over political outcomes.

Instrumental

Instrumental power refers to conscious and formal political activity by financial actors, their institutions and associations. Needless to say, the material resources at the disposal of business groups are vast and generally dwarf those available to opposing interests. At the EU supranational level, 75 per cent of all active interest associations represent business in general.¹¹ Specifically in terms of finance, lobbyists outspend other interests at a ratio of 30 to 1, targeting a wide array of policy-making pressure points including: European Commission officials, European Council members (comprising heads of state), parliamentary MEPs, the Committee on Economic Affairs, advisory groups in official regulatory agencies, etc. The financial industry reports official figures of €120 million per year on EU lobbying expenses – most likely an underestimate – employing more than 1,700 lobbyists across 700 organisations.¹² Similar dynamics are evident at the national level.¹³

While such spending power can oftentimes ‘buy’ privileged access to policy-makers, it is by no means the only mechanism through which financial actors consciously mobilise to affect policy outcomes. Indeed, since the crisis, public representatives do not want to be portrayed as ‘in the pocket’ of large financial interests and thus, the industry frequently relies on a more subtle form of political leverage. This involves using their technical know-how and expertise to embed themselves within key policy networks in an effort to affect results directly. Given that financial sector regulation is highly complex and requires in-depth knowledge, it is particularly prone to the phenomena of elite ‘revolving doors’ and so-called ‘regulatory capture’.¹⁴

Financial regulatory authorities in the EU, the International Monetary Fund and the Basel Committee on Banking Supervision, among others, value the technical skills that private sector actors possess and actively seek to incorporate this knowledge into their institutional functioning. On a consistent basis, private financial sector associations (such as the Institute of International Finance or the International Swaps and Derivatives Association) offer their services to key regulatory authorities on vital policy initiatives. Once access is secured, financial representatives work from the inside to water-down threatening parts of particular proposals while conveying a public image of pro-active participation in responsible global governance. Additionally, it is noteworthy that throughout their careers some key policy-makers go back and forth between the public and private sectors, tacitly reproducing dominant norms of conservative financial sector regulation.

Ideological

Ideological power refers to the overarching neoliberal policy consensus that exists among senior elements of the corporate and political worlds (including elements of the mass media). Such policies closely align with the prerogatives of major financial institutions and investors who benefit immensely from the opening up of new market opportunities through privatisation, an anti-inflationary fiscal policy and the implementation of austerity that shifts the burden of post-crisis adjustment upon the population. Although the crash of 2007/2008 did much to de-legitimise the liberalising, monetarist and especially deregulatory agenda that characterises neoliberal governance, it is clear that key policy-makers remain broadly wedded to this policy paradigm. For some policy-makers, neoliberal reforms are the only plausible response to the challenges of contemporary globalisation, while for others they reflect true-believer preferences premised upon supposed efficiency gains derived from an open-market economic programme.

Policy-makers in the EU largely embrace this approach. While small divisions persist over the precise handling of the European crisis, virtually all mainstream EU political parties and officials accept the inevitability of fiscal restraint and the necessity of implementing structural reforms (i.e. labour market flexibility) to increase competitiveness. In complementary fashion, the European Central Bank maintains hawkish control over monetary policy while the European Commission tightens its budgetary surveillance of member states. Thus, influenced prominently by German policy prerogatives, the EU remains committed to free-market globalisation, albeit tweaked by new forms of (macro-prudential) regulatory governance.

As is happening across other major economies, inflation rates remain historically low despite a loose monetary policy, while meaningful fiscal expansion is kept firmly off the agenda. Such ideological leanings are premised upon the financial industry acting as the driving force of the contemporary global economy, geared as they are towards financial market preferences: cheap credit, maintenance of asset values (e.g. property prices), state retrenchment, inflation targeting, etc.

However, none of this is to say that the neoliberal consensus goes entirely unchallenged – rather, it simply remains pre-eminent. Indeed, the crisis has opened up considerable opportunity for popular forces to advocate against these policies and push for reform initiatives that have the potential to rein in the political dominance of the financial sector.

Structural

Structural power refers to the persistent threat of capital flight and capital relocation that hangs over public representatives when making delicate choices about the conduct of economic policy. Simply put, if governments do not adhere to policies favourable to financial sector interests, they will be punished ‘automatically’ through capital disinvestment. As such, this dimension of power refers to the unconscious and impersonal influence of global financial markets determined by an aggregation of market-driven investor sentiment; there is no *intentional* pursuit of political influence on the part of financial actors. As one of the leading scholars of international political economy, Benjamin Cohen, puts it:

“Few knowledgeable observers of the decentralized decision processes of the marketplace would argue that the pressures now exerted on governments are somehow designed with conscious political intent. An informal kind of veto over state behaviour has emerged. But it is a power that is exercised incidentally, through market processes, rather than directly in pursuit of a formal policy agenda.”¹⁵

In the context of contemporary globalisation, there are two specific features of the world economy that exacerbate the influence of financial structural power over the policy-making process. First, the progressive ‘financialisation’ of advanced market economies, and second, the stagnant recovery conditions of the post-crisis era.

The relatively recent phenomenon of financialisation denotes the growing prominence of financial motives in all aspects of economic life. More specifically, financialisation refers to several pronounced trends that characterise the functioning of advanced economies such as the EU, the US, Japan and increasingly, a number of emerging nations. These processes involve: the rise of shareholder value (prioritising

short-term maximisation of corporate profits over other stakeholders); a general shift from banking-led finance to capital market-led finance (further integrating state, household and corporate borrowing with international capital flows); the increasing financial market participation of non-financial corporations (tightening the interests of productive firms with financial firms); and the explosion of speculative activity within the financial sector itself (promoting the creation of complex financial instruments that are difficult to regulate).

Many of the dominant accumulation, investment and consumption patterns within advanced economies have become fundamentally intertwined with these processes of financialisation. Thus, any effort to limit the salient role of financial activity and credit flows runs a very real risk of undermining the growth and employment prospects of individual economies.

Relatedly, stagnant recovery conditions in the post-crisis era puts additional pressure on leading policy-makers to avoid a clamp-down on financial sector activity. The logical fear is that aggressive action may worsen credit provision and thus impede the funding of productive firms – in particular small and medium size enterprises that generate the bulk of internal domestic employment. Furthermore, the growth of a thriving and high-income earning financial industry within most advanced economies means that policy-makers are loathe to damage the competitiveness of this dynamic sector of their domestic economy (e.g. the US and UK's jealous protection of Wall Street and City of London interests). Hence, the prolonged weakness of post-crisis recovery buttresses the political position of financial actors, strengthening their claims that cautious and piecemeal regulation is a more prudent course of action and propagating the view that national states are 'structurally dependent' on the vitality of a liberalised financial system.

Financial political power and the EU Financial Transaction Tax

The Financial Transaction Tax (FTT) policy was brought onto the political agenda by a range of high profile figures such as former UK Prime Minister Gordon Brown, former French President Nicolas Sarkozy and former German Minister of Finance Peer Steinbrück at the G20 Pittsburgh meeting in 2009. In the wake of the financial crisis, it was deemed appropriate that the financial sector should contribute towards the costs of the crisis. Given the high mobility of financial capital, the global level was seen as optimal for implementation. Nevertheless, Tim Geithner, then US Treasury Secretary, dismissed this idea out of hand, responding to the loud concerns of Wall Street firms at the possibility of a new global taxation charge.

Undeterred, the EU pushed ahead in the hope that it could design a FTT that would demonstrate the effectiveness of such a policy to the broader international community. However, the policy initially failed at the EU level as the new UK government led by the Conservative Party (and flanked by finance-dependent economies such as Luxemburg, Ireland, Cyprus, etc.) vetoed the idea in late 2011. Nevertheless, in 2012 a group of 11 member states including Germany, France, Italy and Spain (EU11), opted to go it alone under conditions of 'enhanced cooperation' – a legal device allowing nine member states or more to pursue legislative policy without the approval of other members.

Persistence with the FTT policy by leading member states and other European authorities is a testament to the partial decline in ideological support for finance in the post-crisis era. The European Commission, despite its initial reluctance towards the idea, has been a particularly vigorous supporter. Such willingness to support a FTT policy emerged primarily from the commissioners' role as 'political managers' who were forced to deal with a severe fiscal crisis affecting Europe. Such a predicament led them to re-evaluate their previous unwavering commitment to financial sector interests. Furthermore, in their search for credibility in the eyes of the European population they sought to demonstrate a willingness to combat the worst excesses of financial misbehaviour. As a part of this shift, the Commission has frequently attempted to insulate itself from the barrage of lobbying conducted by financial sector groups in the post-crisis era.¹⁶

The reputational damage to finance also allowed a wide range of civil society groups across the EU to maintain political pressure for the taxation initiative because it garnered huge public support: majorities in 24 out of 27 member states polled in favour of the proposal.¹⁷ Popular support emboldened the Commission to take an aggressive stance with regards to the details of the FTT policy. Proposing a charge of 0.1 per cent on shares and bonds and 0.01 per cent on derivative transactions, the Commission estimated the FTT would yield €34 billion in annual revenue across the EU11.

More importantly, the charge was designed to incorporate the widest possible scope of financial activity in an attempt to prevent tax avoidance and capital relocation (termed the 'AAA approach' encompassing all actors, all instruments and all markets). Furthermore, legal measures were incorporated to ensure that EU11 firms could not escape the charge simply by moving out of the EU11 jurisdiction.¹⁸ Instead, what matters is 'who' is trading, rather than 'where'. Such anti-avoidance measures mean that the only way for financial firms to escape the charge would be to avoid commercial interaction with EU11 countries entirely; a highly unprofitable – and hence, unlikely – global trading strategy.¹⁹

This carefully crafted FTT proposal was initially set to be implemented in January 2014, yet eventually faced postponement and extensive watering down. The explanation for this outcome lies in the complex interaction of *instrumental* and *structural* financial political power. Across the EU, a plethora of transnational financial sector trade associations began to mobilise vigorously against the charge. The dominant tactic was to push for various exemptions across different sub-sectors of the financial industry in order to narrow the scope of the tax.

Well-funded organisations such as the Association for Financial Markets in Europe and the Swaps and Derivatives Associations lobbied MEPs and European Council members relentlessly, citing highly technical industry assessments and highlighting the negative impact the charge would have upon the competitiveness of the EU financial sector, employment, lending flows and the vitality of the EU economy more broadly. Given the determination of the Commission to see the charge implemented, financial actors concentrated their lobbying attention towards specific heads of state represented within the Council.

The strategy thus involved widespread instrumental mobilisation combined with the persuasion of several structural power arguments. Furthermore, the overlapping membership of financial firms across different trade associations allowed the industry to present a coherent and relatively unified front in their

messaging to key policy-makers. British financial trade associations even convinced the UK government to take a legal case to the European Court of Justice citing the illegality of the Commission's aggressive policy proposal. Although the case failed, the legal action exacerbated the sense of political fatigue with the proposal at the European Council due to the level of diplomatic friction created between participating and non-participating member states throughout discussions.²⁰

Central banks were a major site of intensive tactical lobbying by financial sector trade bodies. In mid-2013 financial associations began a concerted effort to convince prominent bankers that the FTT charge would hurt central bank monetary policy transmission as well as the competitiveness of European financial markets. Prompted by a flood of public letters and appeals, senior central bankers across Europe immediately began to speak out publicly against the charge. This included Jens Weidman of the Bundesbank (Germany), Mervyn King of the Bank of England, Christian Noyer of the Banque de France, Luis Maria Linde of the Bank of Spain and eventually, European Central Bank chief Mario Draghi who offered assistance to policy-makers for crafting a better policy proposal.²¹ Unlike the Commission, the European Central Bank has not tempered its support for the financial sector since the economic collapse – from its controversial advocacy of large financial sector bailouts by member-states, to its refusal to accept private sector losses for bondholders, to its highly accommodating monetary policy.

Perhaps most importantly for the fate of the FTT, non-financial corporations also lobbied vigorously on behalf of the financial industry. Firms claimed that the FTT charge would hurt them in two ways. First, they claimed that the tax would increase their cost of raising funds on capital markets. Second, productive firms argued that their internal treasury operations (financial market transactions conducted during the normal course of business activity) would be hit significantly, raising their costs of operation. Such arguments bring up the important question of how 'financialised' large non-financial corporations have become in the contemporary world and puts into question the distinction that is often made between the interests of 'real' and 'financial' sectors of the economy. By the end of 2013, all large productive firms across Europe – including influential trade associations such as the European Roundtable of Industrialists and the major employers' associations within Germany and France – had united against the charge, prompting further anxiety among European Council members regarding the policy's wisdom.

Due to a failure of all EU11 member states to agree at the Council level on the precise scope of the FTT, the policy missed its intended January 2014 implementation deadline. Central to this failure was the role of France, which began to rethink its position on the Commission's broad-based proposal, especially as it related to the issue of derivatives (i.e. complicated financial transactions – often speculative – that 'derive' their value from the performance of another asset).

Constituting over two thirds of the estimated €34 billion from the proposed tax intake, derivatives were to be a crucial component of the policy's overall success. However, the politically troubled mid-term of French President François Hollande was characterised by re-engagement with the domestic business community, leading to an about-turn on the taxing of derivatives. Responding to fears of the French financial community, a charge on derivatives was now seen as severely damaging to the interests of Paris as a major financial centre within the global economy and indeed, undermined the new 'Place de Paris 2020' initiative (announced in mid-2014) to boost the French financial industry. Furthermore, a number

of other Council members began negotiating for specific exemptions on products such as pensions or corporate and government bonds, thus opening the prospect of multiple exemptions to a future FTT.

In effect, the manipulation of policy-makers' fears by financial associations regarding the structural impact of a broad-based FTT had paid off. Subsequently, in an explicit effort to save face before the new parliamentary election in May 2014, European leaders agreed upon a rushed compromise that: 1) pushed back the start date of the FTT to 2016; 2) agreed that the charge would be implemented provisionally on a very narrow basis; and 3) was projected to raise just a fraction of the originally intended sum. The deal was criticised in harsh terms by a range of FTT civil society supporters, condemned as 'window dressing' for voters before the EU parliamentary elections and – crucially – involving a "tax base [that] is far too small to have any effect."²²

Worryingly, the inclusion of specific exemptions for particular transactions and the rejection of the Commission's "AAA" approach open up the possibility that a future FTT will be subject to massive tax avoidance – putting at risk the already hugely decreased revenue estimates. As then European Tax Commissioner Algirdas Šemeta warned in January 2014, an FTT that is "full of holes" is one that has little chance of effectively combating relocation concerns in a world of highly mobile financial capital.²³ At the time of writing (January 2015), the FTT remains mired in a political stalemate as European Council members continue to negotiate on the precise form of the taxation policy. Although the EU11 countries still maintain their intention to implement the charge in January 2016, this deadline is becoming increasingly unlikely as key outstanding issues are proving difficult to resolve.

The primary conflict revolves around the scope of taxation and debate concerning what kind of derivatives (if any) should be included in a final deal – an outcome that France continues to oppose. However, even Germany's Minister of Finance Wolfgang Schäuble – one of the FTT's most prominent supporters – concedes that the "result [of negotiations] will be modest",²⁴ garnering just a fraction of the originally targeted €34 billion. Compounding these bleak prospects is the recent appointment of Pierre Moscovici as the new European Commissioner for Taxation, the former French Minister of Finance who was centrally involved in the Hollande government's sudden about-turn on the FTT.

Conclusion

The case of the European FTT is just one specific example of the potent political influence of the financial industry within the contemporary global economy. However, across most major policy proposals put forward since the financial crash, one can find such ubiquitous financial sector influence over the final outcomes. With this in mind, I conclude with two suggestions for civil society and activists to challenge the disproportionate political and economic position of the financial industry vis-à-vis other social groups.

First, the current ideological power of finance that promotes a neoliberal policy consensus is politically vulnerable and within that context, there is an opportunity to rein in the excesses of the financial sector. Nevertheless, the urgency for reform that prevailed throughout 2008 and 2009 has rapidly dissipated and official sector regulators have lapsed back into a status quo mind-set of conservative and techno-

cratic tweaking of financial rules. This conservatism is partially a product of the fear of making the economic situation worse by taking strong political action against the financial industry.

Civil society groups need to reignite this sense of urgency for more ambitious policy action by *explicitly linking the absence of substantial financial sector reform with the lack of a robust economic recovery*. As long as financialisation remains the dominant form of economic accumulation, investment is systematically diverted from productive uses within the real economy towards speculative and socially dubious practices within the financial system.

This situation is most vividly reflected in the excessive reliance that authorities have placed upon monetary policy (i.e. money supply and interest rates) as the primary tool driving economic recovery as opposed to fiscal policy (i.e. government spending and taxation). Instead of stimulating flagging demand and prompting a new wave of productive activity, authorities are promoting the creation of new asset bubbles (in particular, property) and stoking excessive risk trading within the financial industry itself. These policies also allow major financial firms to remain heavily indebted and risk-taking, and exacerbate the prospect of another costly crisis in the not-too-distant future.

Emphasising these points, civil society groups should consistently argue that the path to durable economic recovery involves a highly chastened financial sector that plays a largely functional role in the global economy, providing funds to credit-starved businesses rather than driving new activity internal to the industry itself. Crucially, this must be complemented by a concrete public spending plan in infrastructure and services projects such as social housing, national transport, job re-skilling, 'green industry' research and investment, and other stimulus programmes premised upon the specific needs of individual economies.

Secondly, most arguments proffered by the financial sector depend upon some version of structural power; that is to say that political action against the financial sector will result in economic damage to the broader economy. Such arguments must be combatted vociferously by civil society. In many instances, financial sector representatives disseminate highly inflated figures concerning the economic repercussions of regulation premised upon dubious impact assessment reports. These reports too often go unchallenged and thus, exploit the genuine concerns of policy-makers who are unsure of the consequences. Such 'doomsday scenarios' must be repelled by activists in two ways: on the one hand, by constructing their own sophisticated impact assessments that challenge the anticipated negative impact on economic activity; on the other hand, by highlighting the positive benefits of financial reform such as stable credit flows, the discouragement of socially useless trading, the revenue-raising potential of particular measures (e.g. FTT), etc.

Of course, there is no simple way for civil society to develop the technical expertise required to counter the financial sector lobby – it requires a further prioritisation of time and scarce resources to these complicated issues. Nevertheless, activists have little option but to proceed with this task in the context of a deeply 'financialised' global economy.

Manolis Kalaitzake has a PhD in Sociology from University College Dublin, Ireland. His thesis investigated the exercise of financial political power in the aftermath of the 2007/2008 crisis with a particular focus on the European Union and Eurozone crisis, and drawing upon diverse insights from the fields of sociology, political science and international political economy. Also a teacher of sociology his primary interest lies in understanding the role of financial markets within contemporary capitalism.



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The true stakes of internet governance

Richard Hill

Governance of the Internet is currently in turmoil, to some extent nationally, but to a greater extent in the international arena where the US and its allies work to prevent many of its crucial aspects from being meaningfully discussed in multilateral forums, notably at the UN. This situation has significant impacts on social justice and economic equity, which will only increase in the future.

Our increasing reliance on Information and Communication Technologies (ICTs), which include the use of transnational networks to interconnect personal computers and business computer systems, has important consequences for governments¹ and all lines of commerce, in particular finance. The current information revolution is far more significant than the previous changes induced by telegraphy or telephony.² While policy-makers worldwide grasp this, most do not fully see the power implications. In contrast, US policy-makers understand the importance of networks such as the Internet in promoting their country's geo-economic and geo-political goals.³

Many aspects of the Internet continue to be governed by ad hoc entities dominated by US economic interests (or at least those of developed countries), in ways that are almost entirely beyond the control of existing institutions such as the UN's specialised ICT agency, the International Telecommunication Union (ITU), and beyond the control of any national government except the US.

The US is deliberately structuring Internet governance to ensure unrestricted corporate freedom and to favour its own surveillance apparatus to support its foreign policy, under the guise of "combating terrorism". By the same token, it largely denies that certain services should be public services (or public

goods); and rejects any government role in supervising, much less regulating, the Internet.

The power implications of this situation are evident: the US and the private companies it backs have far more say regarding the global Internet than anybody else. And they use this power for political ends (e.g. mass surveillance) and for economic ends (e.g. the very high profits reaped by companies such as Google).⁴ For sure the US accepts some international discussions, but only in forums which it expects to dominate, and only to the extent that the discussions conform to its expectations. Indeed the US openly uses its political power in the forums where these matters are discussed, attempting to impose trade and investment policies that will favour its private companies, blatant examples being discussions within the World Trade Organisation, and, allegedly, the Trans-Pacific Partnership and the Transatlantic Investment and Trade Partnership.

And it uses a human rights discourse, in particular freedom of speech and the spectre of other governments attempting to control the Internet for censorship reasons or to stifle innovation, to mask its own human rights violations, in particular the denial of democratic governance, the imposition of US laws on the citizens of foreign countries and mass surveillance. Moreover the trade deals that the US is using to further corporate interests stymie aspirations for transnational economic equity.

Despite much rhetoric about openness, participation, accountability and democracy, the current governance model (called “the multi-stakeholder model”) is largely undemocratic, because it is dominated by a professional coterie of representatives of commercial and political interests.⁵ And it has been unable to address key Internet issues such as security and affordability of access in developing countries. Meanwhile the rest of the world sits on the sidelines, unaware of the stakes or unable to weigh into the debate. After all, why would anybody be concerned about this power imbalance as long as access to the Internet continues to expand; email and the Web remain apparently open; social media is deployed in ever more creative ways; and innovative “free” services become increasingly available?

This paper tries to answer this question, arguing that recent events show clearly why power matters⁶ when it comes to the Internet and who benefits from the current imbalance.⁷ Few would accept a similar level of US domination, say, in electrical power distribution, or water delivery. Concerns are reinforced by possible future uses of the surveillance techniques deployed by the US and other countries,⁸ which could affect the operation of any devices connected to the Internet: cars, home appliances, etc.

This paper also outlines alternatives for greater social justice, from relatively arcane and technical measures to broad political transformations to achieve democratic Internet governance. As the deficiencies of the current arrangements become more and more evident, these alternatives will hopefully gain traction.

Unilateral cyber-power

Great powers have historically used communication systems (transport routes, telecommunications networks) to further their economic and strategic interests. This is certainly the case with the Internet: its origins can be traced back to US military-funded research in the 1960s, and subsequent deployment by

the military and other government-funded academic programmes.

It is important to note that the term “the Internet” is used, in practice, to refer to very different things. At times it is used to refer to the network itself, at times it is used to refer to the very broad collection of products and services that are made available using networks based on the TCP/IP protocol, and at times it is used as a paradigm for free and open communications.⁹ In this paper we use the latter broad definition that includes not just the network properly speaking, but also the services and applications offered on top of the network (such as search engines, email, social networks, etc.).

As does any network, the Internet requires some central coordination, in particular with respect to allocation and use of identification resources (names and addresses) as well as protocols. The names most commonly used in the Internet are “domain names” and the addresses most commonly used are “IP addresses”. Access to naming and addressing resources is essential for telecommunications (for telephony, the “names” are the familiar telephone numbers, and the “addresses” are lesser known numbers, for example a number embedded in a mobile phone’s SIM card) and has typically been managed by national regulatory authorities and by the ITU at the international level, because it is a matter of public policy to ensure that such resources (often called critical resources) are made available to all players in an equitable manner.¹⁰

However, for the Internet, the naming and addressing resources have not been managed by traditional regulatory authorities. During the early years, when the Internet was a small academic network, management of names and addresses was provided by an individual (John Postel, University of Southern California), funded by the US government. As the network grew, it became apparent that the central coordination function (called the Internet Assigned Numbers Authority, IANA) could not be handled by a single person, and that more sophisticated procedures and processes would have to be developed and implemented.

Consequently, various concerned organisations led by the Internet Society, a US-based non-profit organisation of individuals and private companies supplying Internet-related goods and services, facilitated a process that resulted in recommendations that would have led to an internationalisation of the management of Internet domain names and addresses. However, the US government unilaterally rejected those recommendations and in 1998 proposed the creation of the Internet Corporation for Assigned Names and Numbers (ICANN). According to one analyst the creation of ICANN “reflected a behind-the-scenes agreement that IANA-ISOC and their corporate allies would be the ones in control of the new organisation and that a specific program acceptable to the trademark lobby, the US Commerce Department and the Europeans would be executed.”¹¹ Unsurprisingly, this arrangement attracted criticism from other governments, in particular in the developing world.

In 2014, the US government announced that it would consider relinquishing its unilateral oversight role of the critical resources (names and addresses) required to use, operate, and offer services on the Internet, however, it would not accept any alternative that replaced its role with a government-led or an inter-governmental organisation solution. It requested ICANN to convene a consultation process to develop a transition proposal: those consultations are currently taking place.

Today these critical resources continue to be controlled by private sector entities which, because of the transnational nature of their organisation and activities, largely escape any supervision by national authorities. Those entities (ICANN and the Regional Internet Registries) are non-profit, but their constituencies¹² are profit-making companies directly affected by their decisions; many are US-based private companies and most are from developed countries. As a consequence, those resources are obtained and exploited either by the first comers, or by those who have the connections or the financial means to obtain them later.

Control by the private sector goes beyond names and addresses and includes the backbone physical infrastructure that carries Internet traffic and the most widely used services and applications (search engines, social networks, video and music downloading, etc.).

Does it matter?

Cyber-activists have been raising awareness of the importance of the nitty gritty of the Internet for social justice and its relevance to global power relations:

“Internet governance, i.e. how we develop and implement the standards, rules and decision-making processes that shape the evolution of the Internet, is fundamental to how and whether that space encourages or discourages creativity, innovation, sharing, equality, privacy, freedom of expression; and whether everyone, no matter who or where they are, can access the space and its tools in a fair and equitable manner. In short, Internet governance determines in whose interests ultimately this new and evolving communication space will operate.”¹³

Indeed, naming and addressing as well as infrastructure and routing shape the very structure and topology of the network. A largely transnational network biased in favour of big corporations makes it difficult for national authorities to control other more significant aspects, such as billing and accounting arrangements, flow of funds for services offered by the network, taxation of value-added services offered on the network, legal restrictions on what the network is used for (such as types of goods and services, political speech, etc.). The inability to control flow of funds and taxation makes it difficult for states to raise funds for new infrastructure, which is consequently deployed primarily to generate profits for private companies. Yet infrastructure has traditionally been viewed as a public good, and states have traditionally had the responsibility for providing access to communications infrastructure, whether roads, physical mail, or telephones. As noted above, the impact of the Internet is likely greater than those traditional communications infrastructure, so the inability of states to affect its rollout and use can affect development choices for years to come.

The current transnational arrangements mainly serve to facilitate the worldwide deployment of services, many of which are developed and first deployed in the US, which, until recently, was one of the largest markets. Many of the services benefit from economies of scale: unit costs decrease as the number of users increases. And many benefit from network effects: the value of the service increases non-linearly as the number of users increases. Under those circumstances, many services turn out to be natural

monopolies: there is room for only one player, and the first company to acquire a significant market share will become dominant.

Who benefits?

The Internet is often seen as a generous gift to the world's people, promoting free speech, free markets, and democratic values, helping to end oppression and poverty. Useful services and applications such as search engines, email and social networks are considered to be "free" services.

But in fact nothing is free: the so-called free services are paid for by valuable personal information that is provided by users. That information is stored and processed, and used to determine to whom to send particular advertising messages. The business of using the Internet to send targeted advertising is highly profitable, and the value of the information provided by users far exceeds the cost of providing the services. Thus, those services are actually methods for extracting profits from users who do not realise that their personal information is valuable.¹⁴

More fundamentally, ICTs in general, and the Internet in particular, have facilitated the development of transnational corporations. Such corporations increasingly dominate more and more areas of economic activity, largely escaping the control of national governments, including in key activities such as banking and finance. Today, the organisations that further their interests such as the World Economic Forum argue that national governments, and multilateral forums such as the UN and its specialised agencies, offer inadequate governance mechanisms in the globalisation era: private companies should have a greater say in finding policy solutions.

A greater role for transnational corporations in policy-making is blatantly undemocratic. It cannot result in solutions that are in the public interest because, by definition, the role of private companies is to maximise their profits. In a competitive market, striving to maximise profits may maximise public welfare for the goods and services in question. But some markets are not competitive and lead to monopoly rents and profits, to the detriment of public welfare.

As explained above, many telecommunication markets are natural monopolies, and so are the services offered on top of telecommunication networks. This has long been recognised, and is the reason why states generally regulate telecommunications at the national level, and coordinate at the international level (within the ITU).

Despite evidence to the contrary, the US takes the view that the Internet is different: it can be a competitive market and therefore should not be regulated nationally, and much less internationally.¹⁵ But the Internet is now dominated by a handful of mostly US-based companies (Apple, Amazon, Google, Facebook, etc), with the exception of the Chinese market where comparable home-grown companies (such as Alibaba, Baidu, Tencent) dominate domestically.

Nor is infrastructure a competitive market, hence the discussions in the US and elsewhere on network neutrality: that is, on regulations to prevent dominant infrastructure providers from abusing their position, for example by degrading the bandwidth available for certain services.

Further, as shown in recent scholarly work,¹⁶ the Internet favours the emergence of dominant companies also in other spheres of economic activity, whether manufacturing or services such as banking.

For the past few decades, income inequality has been increasing, both at the national level, and across nations. Surely it is not a coincidence that, in relative terms, the rich have been getting richer and the poor poorer while ICTs and the Internet have been expanding: indeed, the growth of ICTs and the Internet is symbiotic with the increasing influence and importance of transnational companies and transnational capitalism.¹⁷

The US has developed a vast mass surveillance apparatus in the wake of the expansion of the Internet. Indeed, the tools and techniques used by the US surveillance establishment are similar to those used by the private companies that monetise personal data: collect everything you can, store it forever, and develop algorithms to sift through that data to find particular patterns. The task of figuring out that it is worthwhile to send me an advertisement for product X because I mentioned something related to that product in a private email is akin to the task of figuring out where a suspect might be, so that he or she may be arrested or put under close conventional surveillance or targeted by a drone strike.

Status quo narratives

Various narratives are put forward to defend the current (undemocratic) governance arrangements, which are referred to as the successful “multi-stakeholder model” that has allowed the Internet to thrive.¹⁸

Freedom of speech?

The reduced ability of national governments to control the Internet is often seen as positive, because it is said to make it difficult for authoritarian regimes to impose censorship: the Internet is perceived as promoting freedom of expression. But in reality the present governance arrangements do not significantly hinder national censorship, as proven by China and others. Of course vast resources are required in order to implement effective national censorship, but that is equally true for other communication technologies such as physical mail or telephony. Nor do present governance arrangements hinder private companies from blocking whatever material they consider inappropriate, or in violation of copyright. On the contrary, the Internet allows dominant content providers to decide what gets published or not (although few would refer to that as censorship).

In some versions of this narrative it is said that increasing the mandate of the UN or the ITU over the Internet would give states undue control over how people access and use the Internet. This is absurd, because many states have already implemented controls on Internet access and have not waited on any permission from such multilateral agencies. On the contrary, the role of multilateral agencies would be to negotiate and agree on reductions of national sovereignty: for example the ITU treaties have provisions

(albeit weak ones) on the secrecy of telecommunications. If one really wished to export a certain version of freedom of speech to other countries, then one would seek to modify current treaties along those lines.

An efficient governance model?

Another narrative put forward by the US is that it is important to protect “the unique multi-stakeholder model” that has been so successful to date. But in fact the Internet has grown more slowly than has the mobile phone network and is becoming increasingly centralised and dominated by powerful quasi-monopolies.

It is sometimes said that in the “multi-stakeholder model” all players should have equal rights, in particular private companies should participate in decision-making on an “equal footing” with governments. This in effect gives veto power to private companies. How could network neutrality regulations ever be agreed to in such a setup?

The current governance model has been plagued by the same issues for the past 20 years: asymmetric role of the US government compared to other governments, complaints about the financial flows (in particular the relatively higher cost in developing countries), and lack of security (leading to spam, etc.). The multi-stakeholder model has not successfully addressed those issues.

North-South inequalities

Take the issue of connectivity costs. The price of connecting to the Internet for users in developing countries is, in relative terms, much higher than the price for users in developed countries,¹⁹ whereas that is generally not the case for mobile telephony.

Could these relatively higher prices for Internet access be explained by the differences between its governance arrangements and that of other telecommunication technologies? This remains an open question. There is little data available regarding Internet connectivity costs and prices at the wholesale level, because this business is mostly conducted as a barter economy, under informal “no charge” arrangements (large Internet service providers interconnect with each other and exchange their traffic at no cost). Thus, it is difficult to establish whether lack of competition at the national level, or abuse of dominant positions by large international operators, or some combination of both, contribute to the relatively high costs in developing countries.

A persistent narrative used by the US government is that there should be “freedom to connect”. Note that this is not a “right to connect”, which would imply guaranteeing affordable connection costs. So the real goal is to allow more and more people to provide more and more data. That data can then be used, on the one hand, to generate more and more targeted advertising and thus more and more profit for the dominant players. And it can be used, on the other hand, to conduct more and more pervasive surveillance.

Security

Regarding security on the Web, the situation is only getting worse, with more and more spam, more and more phishing attacks, etc.²⁰ There is also increased mass surveillance, whether by governments or by private companies (in which case it is called data mining, big data or targeted advertising). Data mining

uses computer algorithms to search through data in order to find patterns (e.g. demographic), while big data consists in the collection, storage and analysis of vast quantities of data from different sources. Targeted advertising, Google's core business, consists in analysing data about people in order to determine what advertising they are most likely to be interested in, and then displaying that advertising on their computer or smartphone.

So, in reality, for the most part the narratives used to defend current governance arrangements are about maintaining the geo-political and geo-economic dominance of the present incumbents, that is, of the US and its powerful private companies. This creates a vicious circle in which the US uses its existing economic and political power to maintain and promote its own vision of Internet governance in various forums, including the Transatlantic Trade and Investment Partnership and the Trans-Pacific Partnership.

What are the alternatives?

It is tempting for civil society to focus on denouncing the role of governments in regulating the Internet, and in particular authoritarian governments that use it to censor dissent. And it is important to do this, and to do it vigorously. But civil society must also denounce the complicities between governments and private companies in the North, whose abuses go largely unchecked. There is also a need for concrete proposals for more democratic governance arrangements that will prevent monopoly profits and monopoly rents.

Social and economic rights are as important as democracy and freedom of speech. Human rights are indivisible and all human rights must be defended.²¹ The Internet must be used as a means to enable social justice and economic equity, and not just as a means to enable criticism of authoritarian governments or as a means to allow a few individuals to become extremely rich.

Internet governance must be democratic, which means that private companies cannot have equal decision-making rights with respect to democratically elected representatives of the people. That is, multi-stakeholder processes must be embedded in democratic processes that recognise that no one state should have a dominant role.²²

The importance of data privacy and the economic value of personal data must be recognised. Users must be protected from contracts of adhesion that mean losing all control over their personal data, and the profits arising from the use of such data must be fairly redistributed. This will require international agreements on data privacy and taxation and a fundamental rethinking of current governance arrangements.²³

The dominant position of existing entities can be challenged through initiatives that favour the development and deployment of free and open source software.²⁴ And through the use of alternatives to the domain name system maintained by ICANN, for example by alternative domain name databases.²⁵ And through the implementation of network neutrality regulations to ensure that users decide what priority gets assigned to their communications.

Mass surveillance can be stamped out through legal means,²⁶ and technical means (pervasive use of improved encryption). Steps to prevent data to cross national borders (or at least to discourage trans-national flows) may also help. When such steps are mentioned, they are often criticised as leading to “fragmentation” or even “balkanisation” of the Internet. But international connectivity and interoperability are achieved if data is transmitted internationally when the sender or recipient are abroad; there is no need for data to cross national borders if both the sender and the recipient are in the same country. That is, there is no obvious reason (apart from economies of scale) why a person’s private emails or photographs should be stored in some “cloud server” located in the US rather than in a computer centre in the user’s own country.²⁷

As a first step, it is important to recognise that power matters when it comes to the Internet, and to recognise that it is highly concentrated at present. Perhaps the time has come for users to “occupy the Internet”, to ensure that it evolves into a medium that will empower individuals and to avoid it becoming a medium that merely empowers a few dominant private companies and a few dominant surveillance states.

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Endnotes

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Gambling on hunger and climate change

Sasha Breger Bush

Due to far-reaching national and international efforts to deregulate and liberalise global financial markets since the 1960s, the global financial system today wields enormous power over national governments, local communities and families. Financial speculation influences prices in markets for basic goods such as food and energy. Debt undermines the well-being and autonomy of consumers, farmers, students and governments. A handful of big banks hold entire economies hostage to their needs and appetites, particularly during times of economic crisis.

Pressures for higher profits originating in the financial system constrain the behaviours of companies in every part of the economy. There has been a proliferation of dangerous financial products designed just for the global poor – a group that used to be largely excluded from global financial markets. Nor has plant and animal life been spared; polar bears, bees and rainforests all suffer from the environmental devastation accelerated by the workings of the financial system. Indeed, through a variety of mechanisms the financial system today often works to undermine social welfare, increase inequality and accelerate environmental damage.

The scope and depth of financial sector involvement in global social problems is well documented,¹ and this essay will focus on one recent case of financial speculation to illustrate in microcosm some of the pathways by which financial actors, instruments and markets exert their power. The case of financial speculation in global commodities markets illustrates how financial innovation and market expansion is connected to the disempowerment and marginalisation of poor and working class people, especially in the global South. It also helps to draw clear lines between gambling in commodities markets, on the one

hand, and land degradation, water pollution, climate change and deforestation, on the other.

The conundrum for social activists is that the financial system today, despite its blatant disregard for people and Earth, has acquired political legitimacy in many circles. Shielded in part by the technical complexity of the field in which they work, financial actors and institutions wield political and cultural power that undermines public debate, financial sector transparency and accountability, and substantive market regulation. The financial system is also quite good at generating financialised “solutions” to the global social and environmental problems that it creates. These purported solutions, from risk management for peasant farmers to carbon trading, provide political cover for financial actors (who are seen to be social problem-solvers), all the while generating a steady stream of new profits. This suggests the need for a multidimensional approach by social activists to simultaneously shed light on global social problems caused by finance *and* disable some of the mechanisms that currently generate complacency and/or support for financial actors and institutions among politicians and the general public.

The case also generally questions the proper role of the financial system in social life. While most mainstream, neoliberal voices today suggest that a large and sophisticated financial sector relatively free from regulation provides a path to prosperity, the materials reviewed here give reason to think otherwise. At the very least, the commodities market speculation case suggests the urgent need for regulations that limit financial sector power in markets for basic goods and services. The case also suggests that we may want to think deeply about strategies for community protection from predatory and dangerous financial system activities. In the case of food price speculation, this implies thinking about ways for communities to insulate themselves from the consequences of commodity price speculation, for example through local food production.

The reader should be aware that the proper role of finance in the economy is a long-debated topic. In some intellectual traditions, for example the Keynesian tradition, the financial sector is pictured as a potentially supportive system that, with proper regulation, helps society to grow and become more equitable. In the liberal tradition mentioned above, a relatively free financial system helps to increase productive efficiency and works as a check and balance upon the pernicious influence of government in the economy. In contrast, the Marxist tradition sees finance capital as accelerating the exploitation and subjugation of labourers and the Earth, generating inequality, poverty, dependence and, ultimately, crisis. Feminists, ecological economists, anarchists, and voices from the anti-globalisation movement offer still other interpretations. Policy recommendations vary accordingly. As the reader will no doubt glean from the following discussion, it is my general opinion that the financial system should, at the very least, be smaller, simpler, less powerful and better regulated, given its tendencies to excess, abuse, repression and injustice.

Finance–food–environment

In the lead up to the global food price crisis sparked in 2006 and the Great Recession that started in 2007, investors began to move their money into commodities markets *en masse*. By “commodities markets” I mean markets for raw materials (e.g. oil, copper or sugar). Some commodities markets are “spot”

markets where physical products are traded today (these are the markets in which most ordinary folks participate). Others called “commodity derivatives markets” trade raw materials for *future* delivery, that is, they permit trade in materials that are not yet available and may never be. Using complex commodity derivatives – a type of instrument called a “commodity index swap” – investors in the lead up to the food crisis placed large bets on the prices of agricultural goods, metals and energy products, speculating that global commodity prices would continue to rise.

A commodity index swap is a contract made between two parties to “swap” the rate of return on a commodity index (a weighted, moving average of commodity prices) for the rate of return on some other asset (often a short-term US Treasury bond). The deal thus involves an opposite bet by each party on how commodity prices will move relative to returns on the bond. The megabanks (“swaps dealers”) that offered these bets to other financial institutions ended up taking the losing side of the bet in our case – they lost because commodity prices rose more rapidly than bond income. In order to limit their losses, the swaps dealers made offsetting bets in a different set of derivatives markets, the commodity futures and options markets. These secondary bets were very large and came to influence the prices of food, metals and energy around the world. These large bets, most of them made in the US, were actually exempted from regulatory limits, and traders were permitted to take larger positions than regulators normally allow speculators to take. The illustration in Figure 1 depicts an oversimplified commodity index swap deal.

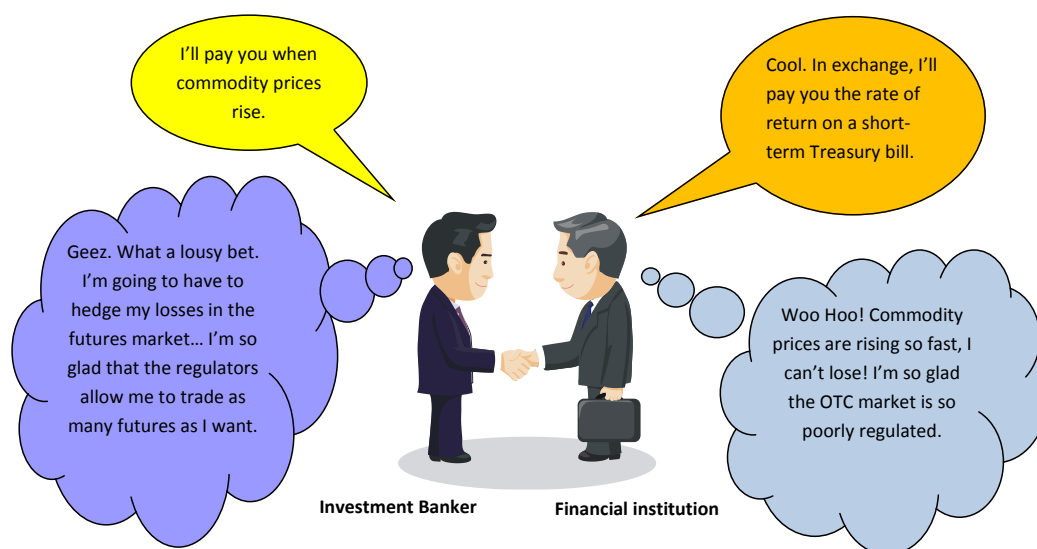


Figure 1: Trading commodity index swaps in the over-the-counter derivatives market.

Source: Prepared by the author.

Speculative financial activity in commodity derivatives markets grew so quickly from 2003 to 2008 that commodity index deals grew to nearly double the volume of all other market transactions. It is estimated that as much as 20 per cent of the increase in global food prices from 2007-2008 was caused by commodity index speculation by financial firms.² Index speculation also played a role in the rapidly rising prices of energy and metals commodities like oil and copper around the same time.

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There are at least two major pathways by which activities in derivatives markets impact prices in spot commodity markets. First, the future prices established in derivatives markets are often used as “benchmark” prices in spot markets, meaning that traders of today’s commodities often look to derivatives markets to see what they should be charging. This provides a direct conduit for future prices to influence spot prices. Second, future prices impact decisions to store or sell physical commodities. Rising futures prices encourage hoarding, while falling futures prices encourage sales. As futures prices rise – as they did in the case under examination here – participants in the spot markets hold commodities, anticipating higher prices and more profits in the future when they finally decide to sell. This very act of withholding commodities from the market for future sale pushes spot prices upwards.

In this way, financial speculation in commodities markets makes the prices of agricultural, mining and energy commodities more volatile. This volatility has a variety of negative consequences: it creates hunger and food insecurity, hurts peasant farmers, fuels civil unrest, leads to land grabbing, and causes an array of environmental problems. There is a further element of global injustice here in that the negative consequences of financial speculation, largely generated in Northern markets by Northern financial firms, are in many cases disproportionately borne by people in the global South.

Hunger and food insecurity

When speculators push food prices upwards in derivatives markets located in the world’s major financial centers (as they did in 2007-2008), food prices also rise in local communities. Researchers have extensively documented that rising food prices, while negatively impacting almost everyone worldwide, disproportionately affect people who are already marginalised by the global economy, many of whom reside in the global South and many of whom are women and children. The UN reports that the recent food crises pushed 20 million people into poverty in the Caribbean, 21 million in Latin America, 5.7 million in the Philippines and 14.7 million in Pakistan. In Mexico, the food price shock caused the average poor household to effectively lose 18 per cent of its food budget. In Sierra Leone and many other countries, this pressure on family budgets has led children to withdraw from school.³

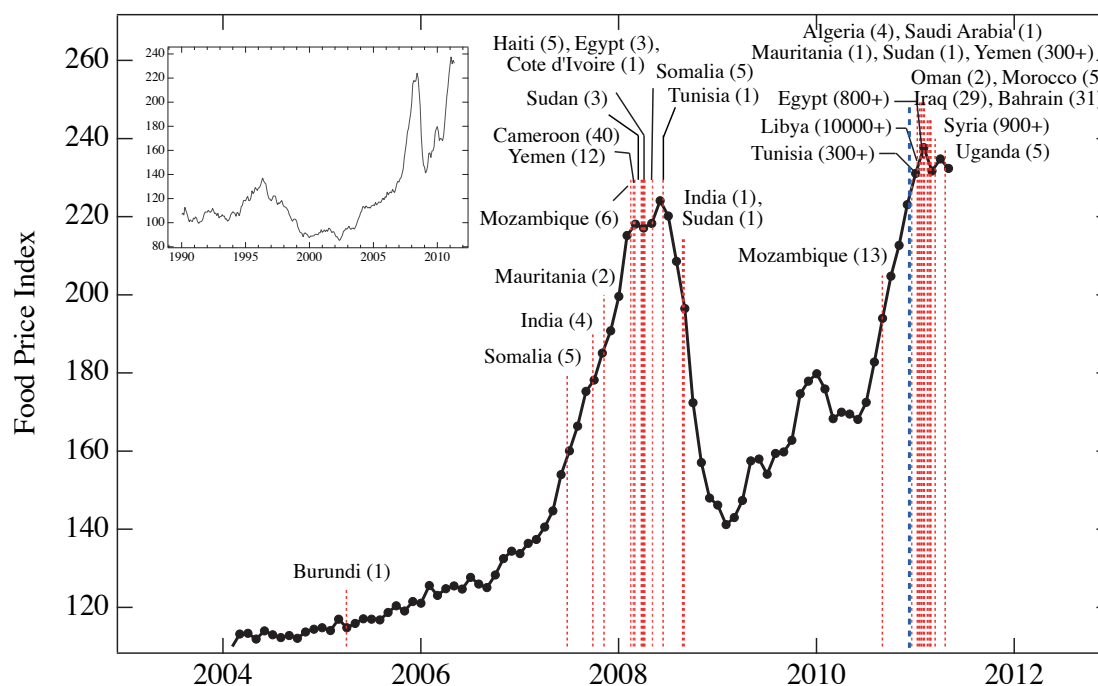
Surprisingly, the world’s peasant farmers – most of whom live in the global South (many are women) and produce almost 70 per cent of the world’s food – also experienced massive food insecurity with the recent food price crisis. Because many peasant farmers have since the 1980s converted their farms to production of cash crops, they rely on a stable relationship between the price of cash crops and the price of food for family well-being. In other words, crop specialisation has made many peasant farmers dependent on market purchases of food, much of it imported, to meet their needs. While crop prices were indeed rising during the recent food crisis, food prices for farm families were in many cases rising more quickly. Of course, when crop prices fall – as they did when index speculators pulled out of commodities markets in late 2008, only to resume their trading in subsequent years – peasant farm families are also likely to experience food insecurity and growing debts as income from farming falls. Hardship among peasant farmers also often translates into rural unemployment, as agricultural labourers are laid off to cut costs.

Rising food prices also impact the decisions that families make at home about how much and what kinds of food to eat. In the South, higher food prices generally mean that families have less food of poorer qual-

ity to eat. In many cases, the burden of higher prices is borne by women and girls, who often sacrifice meals to feed ‘productive’ men and boys.⁴ In the North, where food that is bad for your health is usually cheaper, rising food prices can induce families to purchase lower quality foods that are calorically dense instead of fresh fruits and vegetables and high quality protein, contributing to obesity and other health problems.⁵ In the US and UK, food is also quickly becoming a source of debt for consumers, sometimes via ‘payday loans’ that charge usurious rates of interest. Such financial arrangements may further constrain food choices.

Civil unrest

High food prices act as conflict catalysts, often pushing tense social and political situations to a critical breaking point. For example, food price spikes in 2007-2008 were accompanied by deadly violence in India, Yemen, Haiti and Cameroon, among other countries. Even some Northern countries experienced unrest, such as the 2007 Italian “pasta riots”. High food prices in 2011 contributed to the Arab Spring, with spikes contributing to unrest in many countries in the Middle East and North Africa. Figure 2 illustrates this correlation.



Time dependence of FAO Food Price Index from January 2004 to May 2011. Red dashed vertical lines correspond to beginning dates of “food riots” and protests associated with the major recent unrest in North Africa and the Middle East. The overall death toll is reported in parentheses.

Figure 2: Food prices and civil unrest, 2004-2012.

Source: Lagi, M., Bertrand, K. Z. and Bar-Yam, Y. (2011). *The Food Crises and Political Instability in North Africa and the Middle East*. Cambridge, MA: New England Complex Systems Institute, page 3.

Land grabbing

Rising food prices encourage more food production for profit, intensifying use of soil and water, and motivating farmers to clear more land. In one type of ‘land grabbing’, foreign financial firms looking to diver-

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sify their portfolios (especially after the US housing market crash) scour the globe buying farmland. With demographic growth, soaring demand for meat and dairy, and environmental degradation that reduces arable land area, they expect that the prices of agricultural goods and farmland will rise dramatically. Indeed, the purchase of so much global farmland by investors is itself already driving up the price of land, resulting in a vicious circle of greater price increases for food and other crops.

Often the land being sold to domestic and foreign financial investors has been taken away from people, usually peasant farmers or indigenous peoples who have been working the land for years. In some cases, Southern governments have been working to consolidate small plots into large lots, and then leasing or selling these large parcels to financial firms, capitalising on poor national systems for land title and registration. Those whose land has been sucked into the financial system may resort to deforestation (to get more land) or farm on marginal lands in order to survive, both of which intensify ecological destruction.

In most cases, the land purchased by financial firms is used to grow cash crops for export using unsustainable, industrial farming practices such as monocropping, petrochemical fertiliser and pesticide use, genetically modified seed use and wasteful irrigation practices. These practices are key factors explaining soil degradation, climate change, water over-use, and species extinction, among other problems. Further, they are very technology-intensive, meaning that few jobs are created for local residents. Growing crops for export also undermines local food security, as food that could be eaten by hungry local residents is shipped abroad.

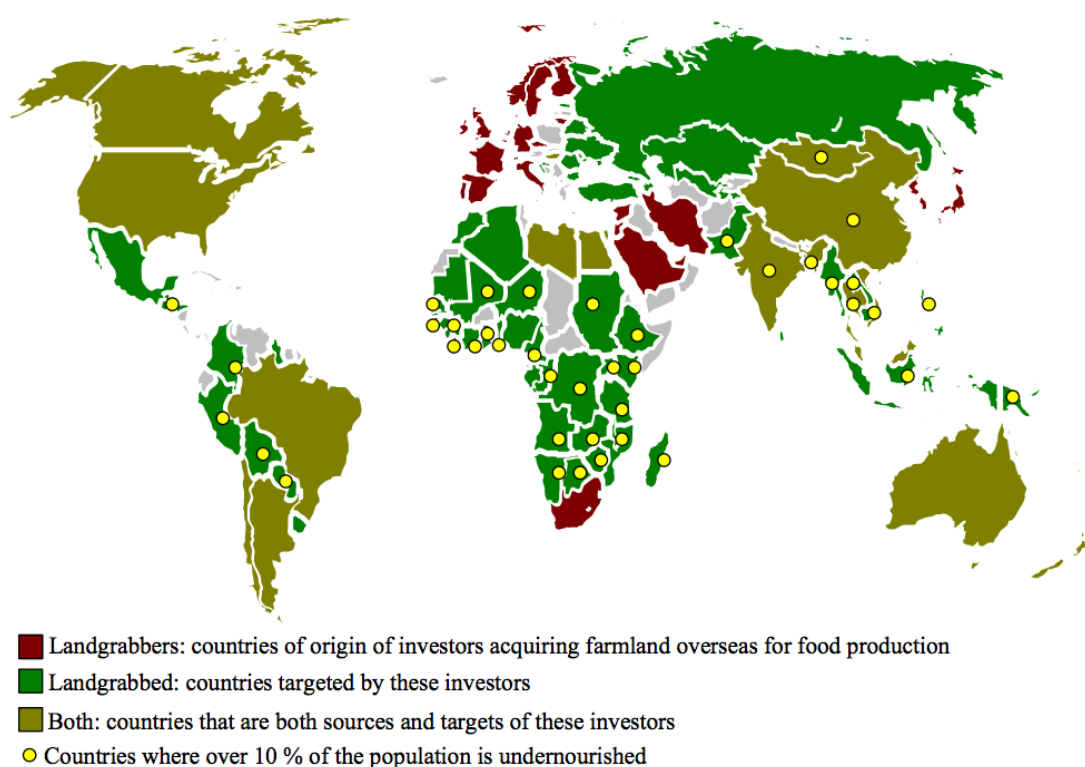


Figure 3: The geography of land grabs (2012).

Source: La Via Campesina (2012). *Stop Land Grabbing! Notebook No. 3.*

The map from La Via Campesina illustrates global land grabbing patterns.⁷ While there is a strong North-South character to these exploitative land deals, with Northern investors basically stealing the land of Southern farmers, this is not a complete picture. There are North-North cases, such as the example of Swiss financial giant UBS that recently bought up large farm parcels in the US. There are also South-South cases, as illustrated by Middle Eastern and Southeast Asian companies involved in land grabbing in Africa.

Energy, mining and extraction

Beyond the food issue, rising commodity prices also put pressure on industrial firms that use metal and energy in their production processes. Depending on the given market, consumers may end up footing most of the bill (e.g. high copper prices in 2007-2008 resulted in high costs for new plumbing).

Higher prices for mined and extracted commodities also encourage more mining and extraction, and generate large environmental costs. In the case of the upsurge in fracking, for example, high oil prices in 2007-2008 motivated extensive exploration and extraction of oil resources that were previously too expensive and difficult to bother with (extracting these hard-to-reach resources also raises environmental costs).⁸ Similarly, between 2002 and 2011 in Australia, South Africa, Canada, China, India and the US, a period over which commodity speculation and commodity prices rose precipitously, mining investments as a percentage of GDP roughly doubled.⁹

Of course, more drilling and mining results in more social and environmental problems. The ongoing oil and gas boom is reducing global energy prices and may be encouraging unsustainable consumption levels, thereby accelerating global climate change. *The Guardian* recently reported on new research that suggests that “a gas boom would cut energy prices, squeezing out renewable energy, and is likely to actually increase overall carbon emissions”.¹⁰

And, as with land grabbing, drilling and mining also often contribute to the marginalisation of local communities that live in areas where mining and extraction occur, as well as to degradation of local land and water resources.

The political legitimacy of finance

The fact that the financial system aggravates global social and environmental problems should create a potentially serious political problem for financial actors and institutions, as well as for the broader neo-liberal project. After all, instability, poverty, crisis and catastrophe have historically spawned protests, riots, policy reforms and, sometimes, revolutionary change. As such, one of the most fascinating and nefarious characteristics of the contemporary global financial system is its ability to preserve its political legitimacy, even as financial sector growth wreaks havoc on people and the Earth. There are four main channels through which the financial system retains political legitimacy: direct political influence, cultural influence, technical complexity and financial innovation.

Direct political influence

Financial firms around the world benefit from direct influence in government at all levels. This influence prevents governments from calling attention to problems generated by the financial system and undermines attempts to better publicise, regulate and monitor financial behaviour.

The influence of financial firms on the US Government has been fairly well documented to date, especially when it comes to electoral campaign finance, lobbying, and the “revolving door” between industry and government. For example, in the 2008 and 2012 presidential elections, the FIRE sector – finance, insurance and real estate – was among the largest sources of campaign funds for candidates from both major parties.¹¹ Further, a good number of officials and staff at the US Federal Reserve and Treasury Department are former employees of major banks, such as Goldman Sachs.¹² It is also important to note that there is evidence of real corruption in the relationship between the US Government and the big banks that it purports to regulate, as evidenced by the recent testimony of whistleblower Alayne Fleichmann in regards to collusion between JP Morgan Chase and the US Department of Justice.

Less frequently discussed is the influence of global financial firms in the governments of countries in the South. But some reports point to similar practices; *Fortune* recently revealed that a former Morgan Stanley executive was charged under the US Foreign Corrupt Practices Act with bribing a Chinese official to gain business for the firm.¹³ In 2012, the Securities and Exchange Commission charged Allianz SE, the global insurance giant, with bribing Indonesian officials.¹⁴ In February 2014, the *Wall Street Journal* reported on a broad ongoing investigation into corruption between officials in Libya and a group of prominent multinational banks, including Goldman Sachs, JP Morgan Chase and Credit Suisse.¹⁵ As many analysts have also noted – for example, debt scholars Susan George and Noreena Hertz – the biggest global banks also wield enormous influence in the World Bank and International Monetary Fund (IMF) in the context of debt negotiations with governments in the global South.

Cultural influence

In the most financially advanced countries such as the US and the UK, but also increasingly in other parts of the world, financial actors wield cultural power that helps to insulate the financial system from criticism and protest. This cultural power is far-reaching and can be seen in a variety of contexts. For example, scholar Adam Harmes notes the extensive financial indoctrination that ordinary folks have undergone over the past few decades, with newspapers printing financial charts for regular perusal by middle-class investors and financial firms even offering investment education to children. He argues that these routine interactions with finance work to reduce popular opposition to financial actors and markets.¹⁶

Referring to the manner in which the cultural power of finance played into the US housing and global financial crises, former IMF Director Simon Johnson similarly notes:

“As more and more of the rich made their money in finance, the cult of finance seeped into the culture at large. Works like *Barbarians at the Gate*, *Wall Street*, and *Bonfire of the Vanities* – all intended as cautionary tales – served only to increase Wall Street’s mystique (...) Even Wall Street’s criminals, like Michael Milken and Ivan Boesky, became larger than life. In a society that celebrates the idea of making money, it was easy to infer that the interests of the financial sector were the

same as the interests of the country – and that the winners in the financial sector knew better what was good for America than did the career civil servants in Washington. Faith in free financial markets grew into conventional wisdom – trumpeted on the editorial pages of *The Wall Street Journal* and on the floor of Congress.”¹⁷

Indeed, a variety of scholars have pointed to the broad global propagation of “free market myths” through education, political discourse and entertainment about how economies and markets work best. These myths often reinforce the power, allure and thus popular acceptance of finance. As such, they can be very dangerous, particularly in contexts where better regulation and monitoring are urgently needed.

Technical complexity

Financial institutions, products and dynamics are often bewilderingly complex, or at least it seems this way. Jargon from economics and mathematics, erudite references and technical discussions are all too common in academic discussions of finance, but also in general public discourse. The use of complex and technical language excludes and disempowers non-experts.

The political consequences of the complex language used to discuss financial products and dynamics are potentially very far-reaching, with this complexity generally serving the political interests of speculators and other financial actors who profit from lax financial regulation. Take, for example, the role of commodity index speculation in raising world food prices discussed above. If this process is not understood, even if only in its most basic form, how are individuals supposed to advocate for the regulatory changes required to limit financial speculation on food? Democratic deliberations about financial policy and regulation require both transparency and a well-informed electorate. The technical complexity of financial discussion and debate is an obstacle on both of these counts.

Financial innovation

Last, in a rather dark paradox, the financial system benefits politically from precisely those financial innovations that cause global social and environmental harms. The financial system is quite adept at innovating financialised ‘solutions’ to the problems it creates. While these tools often do very little of substance to solve global social problems, they do yield political dividends for the powerful institutions and actors that recommend their use, as well as financial gains for the financiers who develop, offer and invest in such instruments.

For example, in a variety of documents and reports from the late 1990s and 2000s, international organisations such as the UN Conference on Trade and Development and the World Bank hold up commodity derivatives instruments – the same instruments that have enabled massive financial speculation in food markets – as mechanisms that can help small farmers better navigate the neoliberal agricultural system. It is argued that these instruments can help farmers get better prices for their crop, secure better access to credit, stabilise incomes and promote investment in future production. In fact, in a 2011 joint report,¹⁸ these organisations simultaneously recognise the role of commodity derivatives in enabling dangerous speculation and then go on to recommend precisely these tools to farmers so they can manage the resulting price volatility. This tendency to try to solve global problems using the very tools that caused them is a testament to the myopia and market fundamentalism that characterises neoliberal policy-making of late.

My recent research on agricultural derivatives (i.e. futures and options markets for agricultural commodities such as coffee) in rural development shows that such instruments are inadequate for small farmers and do not work as advertised by the institutions that promote them.¹⁹ In fact, the major benefits of financial innovations in this context accrue to the financial institutions that develop and sell them. The financial system makes a profit, displays its ‘problem-solving’ capacity and can claim genuine efforts to make things better for the global poor.²⁰ This strategy is also a winner for international development organisations because recommending such instruments makes them appear responsive to the needs of the global poor without engaging in substantial reform of the neoliberal agricultural agenda and without antagonising finance. With public criticism of the World Bank and like-minded organisations mounting since the 1980s debt crisis in the global South, perceptions of legitimacy and apparent willingness to accommodate critics are important political and public relations tools.

While hotly debated, it would appear that similar dynamics are at work in the environmental context. Financial innovations such as carbon trading allow political authorities to act on pressing environmental problems without actually compromising the global economic status quo or making any real headway in addressing climate change.²¹ And, as with the farming context analysed above, the financial system not only gains financially from brokering and trading such instruments, but also does politically as it appears to be genuinely engaged in the fight against climate change.

Directions for resistance and activism

The foregoing discussion contains several key insights that may be turned around to support resistance to financial abuse. First, *most people today have a very intimate relationship with the financial system*, even if it does not appear this way. It affects us when we eat food that costs too much, when we drink contaminated water, when we breathe polluted air. Strategies that help people to connect the dots between finance and their day-to-day lives, strategies that illuminate the finance in their pantries and parks, can help to shine a critical light on the impact of the financial system.

Second, *the financial system cannot continue to operate as it does today without political legitimacy*. Efforts to highlight the social and environmental problems that the financial system causes could be usefully complemented by related efforts to erode general political support for financial actors and markets, for example:

- Strategies that erode the direct influence that financial firms enjoy over governments around the world. For example, the Securities and Exchange Commission and the Department of Justice in the US regularly report publicly those firms and individuals that are being charged with violations of the *Foreign Corrupt Practices Act* (the same goes for violations of anti-corruption laws in many other countries). Let us call attention to these attempts by financial actors to bribe officials and circumvent the law.
- Strategies oriented around financial “myth busting” may also be useful. An interesting and inspiring recent example is the large and growing group of folks calling attention to the fact that global

inequality is much worse than we thought. Pervasive economic and financial myths that could be targeted include:

- The idea that financial “experts” and regulators have all the necessary information and can be trusted to do a good job. In the context of food price speculation, for example, regulators were very much “asleep at the wheel” and even now, with the benefit of research and hindsight, have refrained from enacting necessary limits on speculation.
- The idea that markets work best when government keeps out. In the food and environmental context, it is largely a lack of financial regulation that has aggravated so many social and environmental problems.
- The idea that financial success reflects talent and hard work. Financial elites get rich not only because they are smart and work hard, but also because they exploit people and the environment.

On the matter of technical complexity, while financial issues should certainly be made more accessible, it is also necessary to unveil how financial matters are sometimes *deliberately made more complex* than need be. I think we need to be asking political questions about things we are told should be “left to the experts” – namely, *who benefits from the fact that we don’t understand this?* I think this question should be asked over and over again, in as public a way as possible.

The deployment of financial innovation as a political shield for the financial actors and politicians that tout them as solutions to global problems suggests that activists may want to be very careful in supporting financialised ‘solutions’. Better to err on the side of caution in thinking about the usefulness of derivatives for small farmers or about the importance of carbon trading for mitigating climate change. Financial innovations suggested in the context of peasant distress or environmental collapse can be very seductive; yet in many cases they further politically empower financial actors, forestall necessary reform, and distract us from other kinds of policies that may work better to address global social problems, all the while generating large profits for the very companies that helped cause these problems in the first place.

Third, *better and stronger financial regulations are urgently required*. In the case of commodity index swaps, the US Dodd-Frank Wall Street Reform and *Consumer Protection Act* passed in 2010 in the wake of the Great Recession stipulates new position limits for traders in commodity derivatives markets. These changes would in theory reduce the impact of speculative trading on the prices of basic necessities. However, the new rules have yet to be implemented, and regulators continue to wrangle with industry over their language. The Financial Stability Board – which helps to strengthen and coordinate national financial regulations at the international level – has also tried to move commodities market regulations forward, recommending better reporting and oversight in derivatives markets and securing governmental support for such policies. Thus far, governments have made little headway. Activism that calls attention to these regulatory efforts and helps build popular pressure on governments to adopt them would be useful and important.

Last, *strategies to help marginalised communities protect themselves from predatory and dangerous financial actors and markets are crucial*. While it is a simple inference, it should be stated outright that, were poor communities not so dependent on global markets for food, they would have been better insu-

lated from the high prices caused by financial speculation in food markets. Along these lines, activism in support of farm diversification, local food production and local food sovereignty are important bulwarks against financial speculation. Some scholars and activists have further suggested a return to the national commodity policies and international commodity agreements of the post-WWII era, when governments actively managed world food prices by manipulating commodity supplies.

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Mexico: Challenging drug prohibition from below

Sebastian Scholl

The recent forced disappearance of 43 students in Iguala increased the international public recognition of uncertain, inscrutable and complex power relations in contemporary Mexico. On 26 September 2014, students of the Rural Teachers' College of Ayotzinapa were stopped and attacked by local police forces. Six of them were killed during the confrontation and 43 more were arrested and handed over to a local organized crime cell by the police force under the instruction of the mayor. One of the missing has been proven dead and the remaining 42 are also feared dead but there is no scientific proof to confirm it.¹

This tragedy sparked ongoing mass mobilisations across the country supported by a variety of symbolic protest events in cities all over the world. The continuing social protests – one attracted an estimated 100,000 people – express protesters' anger regarding the felt and experienced public insecurity in Mexico. Since the implementation of so-called “drug war” politics in 2006 that officially aimed to fight organised crime cells, the number of forced disappearances and deaths of civilians has increased steadily.² Those incidents go far beyond clashes between state forces and drug cartels that kill civilians caught in crossfire.

What the Ayotzinapa disappearances exemplify is a much deeper phenomenon in which civil society suffers from the unscrupulous enforcement and protection of particular interests in a highly profitable and diversified illegal economy – from drugs to weapons to human trafficking to product piracy.³ The complicity of organised crime cells and public authorities who protect their own operations of illegal

enrichment through the exercise of violence has been well documented.⁴ These actors thrive in a national context of institutional and democratic weakness caused by corruption and impunity. The resulting unrestricted power of those private interests feeds current and past social protests in the country.

For a deeper understanding of the role of civil society⁵ as a counter-power in this context, I will trace the particular trajectories of the Movement for Peace with Justice and Dignity (MPJD). At the national level, this social movement was the first publicly recognised actor to denounce rising insecurity in Mexico by centring on the victims of drug war politics. From the beginning in 2011 the MPJD challenged the damaging power relationships in Mexico and sought to end drug war politics due to its disastrous humanitarian consequences at home. But the movement progressively 'scaled-up' its protests from local and national scope to international mobilisation to raise awareness of the complex transnational relations and the implications of the UN-pursued drug prohibitionist framework that aims to globally control and reduce illicit drug use by the prohibition of specific substances.⁶

This essay is based on my own fieldwork research experiences with MPJD, conducted in 2012 and 2014 in Mexico and the US. The insights gained by participating in movement meetings and some protest activities shape my understanding of the strategies deployed and their impact. The essay aims to answer the central question of *how* movement members have been effective at shaping the relations between state politics and organised crime. Special attention is given to the spatial dimension of MPJD protest activities – the 'where' and 'why' – to shed light on the dynamics, tactics and effects of mobilisations as well as the movement's empowering processes.

Drug war politics and the staying power of organised crime

There is one central message in current and former mobilisations to end violence in Mexico: 'Fue el Estado!', 'It was the state!'. Protesters see public authorities as responsible for rampant human rights violations. The National Commission of Human Rights conservatively estimates that 2,243 of the 27,243 reported disappearances involved state officials.⁷ To fully grasp what is behind this situation it is necessary to briefly explain the power entanglements between organised crime and state officials in the country.

To multiply profits from illegal business operations, drug cartels and other criminal networks have made allies of state officials and politicians to create a parallel economy that has built up what is referred to as a 'cartel imperium' or 'parallel state'. Cartels nowadays draw on infrastructure and expertise in a variety of sectors that allow them to operate like transnational enterprises, controlling whole supply chains (i.e. production, refinement, transport) of illegalised products and other economically lucrative substances (e.g. raw materials). This means that their money accumulating operations are diversified and cartels are able to secure their monetary incomes far beyond an exclusive traffic of illicit drugs. Given that illegal economies are unencumbered by the existing structural barriers of the formal economic system in Mexico, they seem to offer 'easy and quick' money to all players.⁸

Mexico: challenging drug prohibition from below?

Sebastian Scholl

Parallel with the decline of Colombian drug cartels in the 1990s, the trafficking of illegal substances in Mexico stays attractive to cartels due to the huge US drug consumption market. Key to a stable and enduring trafficking infrastructure is the powerful protection system: Cartels maintain their power by using a reciprocally profitable system with particular officials of state authorities who get a share of the accumulated drug money of organised crime. The crucial component that guarantees the *modus operandi* of this system is the existing level of corruption and impunity that transcends all administrative levels in Mexico.¹⁰

Additionally, cartels deploy a politics of fear and deterrence with any individual or group that seriously tries to get in the way of their system and interests – this obviously includes critical voices, from journalists and social activists to politicians.¹¹ Their measures can be terrifying such as with the practice of publicly demonstrating human cadavers.¹² Combined with the cartels' well-structured parallel economic activities, this politics of fear creates a kind of dominating power over interests of civil society and formal political organisations.

In 2006 former President Felipe Calderón initiated the so-called 'War on Drugs' officially aimed at reducing the power of drug cartels through military and police forces. This 'war' forms part of a much broader security strategy to counter illegal market activities and appeared politically justified in order to enforce public security in regions where there were higher levels of cartel-induced violence. In fact, a 2013 survey reveals that 85 per cent of Mexicans¹³ still consider military and federal police forces as valuable options to fight drug violence in some regions. This national policy has contributed to ameliorating the system of prosecution of central cartel members and has led to captures of numerous leaders, weakening their hierarchically organised structures.

However, in contemporary political, social and cultural settings where particular state officials and politicians interact with organised crime and protect each other in effective ways, the effectiveness of state forces is put in doubt. High levels of corruption paired with institutional weakness means that the use of military and police forces cannot be a fully controllable policy instrument, and in fact may be serving the opposite purpose by allowing corrupt officials to instrumentalise it to protect illegal networks under the guise of a "drug war".¹⁵ As the disappearance of the Ayotzinapa college students illustrates, it seems possible to use the condition of war as a justification and pretext for the enforcement of selective interests linked to the illegal economy by state forces. Hence drug war politics can paradoxically help secure the dominating power of entangled organised crime and state officials over civil society's interests.¹⁶

Civil society responses

In 2011 there was major public outcry denouncing mounting attacks on civilians, widely attributed organised crime and their allied corrupt authorities. On March 27 of that year the son of the famous national poet Javier Sicilia and six of his friends were murdered by drug cartel members in Temixco, in the state of Morelos. The poet's public call for protest marches against insecurity across the country provoked an unforeseeable response from civil society. A march from Cuernavaca to Mexico City the following May assembled more than 100,000 people along the way to end at the main plaza in the capital.

What was extraordinary was the presence of relatives of civilian victims of the drug war who shared personal stories with participants. In this way, the march gave a human face to the collateral damages of the militarisation strategy, with poignant testimonies even more shocking than what many media accounts conveyed. This composition of protesters was crucial at initiating an ongoing process of redefining and building a collectively shared motivation to resist as well as for creating empathy among participants and activists. The experiences gave birth to the MPJD, which soon became a platform for the public recognition of the human cost of the drug war.

These early protest experiences had two crucial consequences. First, protest discussions led to the formulation of a so-called 'National Pact' that became the motivational framework for further mobilisations. The pact consists of six key demands concerning the political handling of public insecurity. A major goal is the termination of drug war politics and the implementation of an alternative security model that recognises drug consumption and trafficking not as a security issue, but as a social phenomenon. Activists thus relate the humanitarian crisis in Mexico to the consequences of the globally dominant drug prohibitionist agenda that, in combination with the mentioned contextual issues of corruption and impunity in contemporary Mexico, are said to facilitate potential abuses by state forces looking to partake in illegal enrichments.

The outrage among protestors opened the way for unifying civil society resources in an extraordinarily spontaneous process. Social activists and victims' groups were able to create a 'network of networks' in order to effectively coordinate further mobilisations. MPJD centralised the resources of already existing non-governmental organisations. Furthermore, personal relations of Javier Sicilia's and other participants were effectively used to reach alternative media, politicians and other social movements. Once well-organised and connected, the remaining obstacle for the MPJD was to get its main messages heard and recognised in wider civil society and within the general public.

The Caravans

In order to address these challenges of getting publicly heard and recognised MPJD organised so-called 'Caravans' as its central mobilisation tactic. It consisted of several journeys, from two to four weeks, travelling in buses from place to place with locally organised protest activities at each stop on the route. The goal of Caravans was to effectively sensitise citizens to the consequences of drug war politics and bring people on board to address deteriorating public security.

By June 2011, MPJD was able to mobilise the necessary financial and human resources to organise the first 'Caravan to the North' with local partners and over 300 activists. Travelling to the northern parts of the country was considered meaningful and important due to the high levels of drug war-related violence occurring there. Starting from Cuernavaca and arriving in Ciudad Juárez with stops in nine other cities, activists witnessed drug war consequences first hand by participating along with the relatives of victims, who were at the forefront of all actions. This human interaction with people close to the victims revealed the full scale of the tragedies behind formerly hidden cases of drug war-induced violence. MPJD spontaneously started to collect and document personal stories in which state officials were partially to blame

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for forced disappearances or murders, building 291 cases in which relatives were generally left without recourse to prosecute before state institutions. The MPJD thereby informed the political debates by registering drug war-induced cases of violence, offering quantitative data not collected in official statistics. The movement also advocated for a 'victims law' as will be explained further below.



Map credits: Sebastian Scholl

Activists organised a second 'Caravan to the South' in September 2011 with over 700 activists and main protest activities in 19 cities. While the general aims of this protest activity were similar to the first Caravan, there were some thematic differences: Whereas the Caravan to the North generated detailed knowledge about the dimensions of physical violence, the one to the South connected these physical aspects of drug war politics to structural aspects of related violence. For example, the Caravan focused more on international migration to the US via Mexico, linking it to violence in Central American countries, especially in El Salvador, Guatemala and Honduras where people flee gang violence due to drug trafficking. While crossing Mexican territory, migrants are exposed to and confronted with documented cartel violence as their members kidnap, rob and abuse migrants on their way to the US. Again, such operations are only possible within the existing power and interest structure between particular officials of state authorities and organised crime that is maintained by mechanisms of corruption and impunity.

Finally, in September 2012 activists organised a third Caravan in cooperation with allies in the US. As the wave of violence in Mexico is shaped by distinctive transnational relations, activists scaled-up the protest space in order to deepen the public articulation of crucial issues regarding US responsibilities in the drug

war. Activists argue that in the context of the globally dominant drug prohibition framework and current drug consumption patterns, especially the important consumption market in the US,¹⁷ prohibition politics empirically fail to control the *use* of addictive drugs. As a result, militarisation that only seeks to tackle *trafficking* of illegalised substances continues to have brutal consequences on civil society under current conditions of impunity in Mexico.

In order to build strong ties with US-based organisations, MPJD coordinated with Global Exchange, the main partner organisation, to form a broader coalition. Six months before the Caravan, this core partner organised a 'pre-tour' with a delegation of MPJD activists – among them Javier Sicilia and some relatives of victims whose stories represented specific consequences of drug war politics – to find potential allies in the US to further the work and goals of the movement. The coalition-building process was articulated around five transnational processes that were considered to be the main causes of drug war civilian casualties in Mexico, putting forward alternative policies to address this:

- (1) *drug war policies*: strengthen the dialogue about alternatives to drug prohibition
- (2) *arms trafficking*: ban assault weapon importation from the US as abuses of these weapons are documented in Mexico
- (3) *money laundering*: push the Mexican and US governments to effectively combat money laundering, which allows cartels to prosper
- (4) *US foreign and aid policy*: end assistance to the Mexican armed forces in combating drug cartels¹⁸
- (5) *immigration policy*: promote a strengthened recognition of immigrants and refugees by pointing to the structural causes of migration flows and to consequently demilitarise the border between Mexico and the US

A strong common front depended on establishing the shared conviction that these issues were closely interconnected. Over time, activists mobilised a coalition of over 150 organisations that included powerful allies with remarkable relations to the political-institutional sphere and to international organisations (e.g. Drug Policy Alliance, Law Enforcement against Prohibition, National Association for the Advancement of Coloured People).

The significance of space in Caravans

The rationale for deploying the tactic of the Caravans becomes more comprehensible when one looks at the spatiality of protest activities – that means investigating the question of *why* protests occurred *where* they did.

At first, activists focused their protests in regions where the worst consequences of drug war politics had been felt. For example, the level of drug-related violence in northern Mexican territories motivated activists to show solidarity in those regions during the first Caravan. While activists knew that violence varied considerably according to the region, a concrete understanding of the scope of lived experiences was missing. The necessity of the physical presence of participants close to the victims was made obvious by this remarkable lack of popular knowledge about real numbers of victims, their identities and the forms of violations that had taken place.

This opacity is maintained by the unclear methodologies used by state agencies in order to provide quantitative information about drug war casualties. There are frequent publications regarding murder rates in general (e.g. by the federal *Instituto Nacional de Estadística y Geografía*) but no systematic recording of drug war-related deaths.¹⁹ Additionally, the poor quality of coverage of these issues by mass media cultivates a very selective knowledge about drug war-related consequences for the Mexican population. Alternative media try to inform in an independent and more objective way about drug-related violence; however their work is made difficult by problems ranging from financial insecurities, to marginal publication possibilities, to death threats.

This situation maintains an atmosphere of uncertainty concerning the extent and constellation of drug war-related insecurity in the country. Activists consider this uncertainty as one of the main factors for continued citizen support for the state forces' operations against cartels. In sum, through Caravans, activists aimed to counter misinformation with the physical presence of the victims' families in many different places, sending a material sign of both indignation and hope. In this way the travelling activists wanted to break with existing dominating communication strategies and an attitude of socio-cultural indifference²⁰ to the consequences of entangled power linkages between particular state officials and organised crime in those very places where fear had kept hope and civic engagement at their lowest. Furthermore, in contrast with generally biased mass media coverage, the protests in different places aimed to sensitise the wider public to an alternative security model that would end the war politics in Mexico.

Thus, the physical presence of activists and local participants in each protest location was meaningful in knowledge-production, network-building and in terms of integrating social actors. First, it served to strengthen knowledge about the consequences of drug war-related violence. Direct contact with personal stories has been crucial for a deeper understanding of the forms of violence and regional differences. Visiting many places helped activists gain visibility as a social movement engaging with public insecurity that provides a platform for articulating and dealing with personal fates. Additionally, at each stop it was possible to publicly denounce personal experiences of injustice, increasing public attention to the matter.

Second, organising protests in many different places enabled activists to draw on the advantages of the multitude of face-to-face exchanges, accelerating the construction of shared norms, values, trust and emotions. Each place provided significant contact points for the development of a broader network of existing human rights organisations. The manifold possibilities of social interactions among activists engaged in diverse local struggles encouraged them to initiate stronger cooperation with locally engaged, place-based actors.²¹

Ties with US-based groups can be considered as an extraordinary possibility to combine experiences 'there' with the daily reality 'here': meeting Mexican drug war-related victims in person helped to shape and motivate the work of activists on both sides of the border. The Caravan to the US contributed to an intensified holistic debate among protest participants and organisations on the formerly mentioned five topics and brought to the fore the complex relationships between '*acting here*' and '*consequences there*'. Hence, the Caravan provided an indispensable basis for increased awareness to transnational dimensions, responsibilities and spatially distinctive consequences of drug war politics.



Photo credits: Sebastian Scholl

Third, the spatiality of the Caravan technique facilitated the integration of economically weak actors. One of the main tasks of a Caravan is to guarantee the mobility of a 'smaller' group of activists who travel from place to place. This includes the mobilisation of resources like vehicles and effective coordination mechanisms and communication channels for the whole caravan, while local committees or partners organise and provide the concrete protest sites, accommodation, food or local commercial and mobilising. This task-sharing allows local groups and individuals to participate in protest activities and in the network-building process without investing a huge amount of money due to travel and accommodation costs. These are crucial aspects in remote and marginalised regions where violence occurs.

MPJD activists were able to use the mobilisation capacities of new technologies in order to contact local partner organisations at each stop and to exchange relevant information. Local partners ensured multiplier effects by distributing information on upcoming protests via existing local mobilisation channels. In sum, these conditions provided opportunities for economically weak individuals, relatives of victims or interested allies to participate in the local protest events during the Caravan and to stay in contact with MPJD.

Impacts of the Caravans

The deployed mobilisation tactic of Caravans must be considered as crucial to the empowerment process created by the MPJD. I want to analyse two issues in more detail to reflect on the effects of this strategy.

At first during the 'Caravan to the North' activists spontaneously started to document the stories of relatives of victims. In the following months a professional group of human rights activists initiated a systematisation of documented cases. This process contributed to giving victims of drug war violence an identity instead of staying mere numbers. By documenting the individual stories of murders or disappearances, activists could better visualise each individual case, share testimonies through the media and analyse the regional dynamics of violence. In sum, the documentation helped to build an important database for the national memory of the humanitarian consequences of drug war politics.

Additionally, through the network established during the Caravans, activists were able to coordinate professional help for victims throughout Mexico. The infrastructure (office space, phones, computers, etc.) of a partner NGO called *Centro Nacional de Comunicación Social* (CENCOS) in Mexico City served as a basis for connecting interested relatives of victims with appropriate local institutions.

Politically, the creation of the database of victims helped to put pressure on the government and to be recognised by policy-makers. The mobilisations were too visible to ignore the movement's claims. Then-President Felipe Calderón eventually entered into a direct dialogue with MPJD, later followed by a meeting with the legislature where relatives of victims articulated personal stories and activists expressed their political demands, relating their arguments to protest experiences and collected data in contrast with official discourses. Eventually, one of the central demands was realised: a 'victims law' was adopted in 2013.

The law was mainly elaborated by a working group that assembled experts of the public university of Mexico City (UNAM), lawyers who collaborate with MPJD and other experts from civil society organisations. The 'victims law' recognises relatives of victims or "direct" victims who survived human rights violations. It upholds the rights of families of "victims" and the responsibilities of different government levels to attend to them. For example, the law guarantees social development, extended family support, public security, public education, nutrition and health care and professional legal support in the court proceedings. The law is therefore a major victory for people who suffered human rights violations. Yet, there are still some difficulties in its implementation, especially at municipal and state levels.

Finally, the Caravans led to the emergence of new local activist groups. The march to Mexico City and the two national Caravans, in particular, motivated loosely engaged persons, relatives of victims and civil society organisations to work together in their local context on demands that emerged from MPJD processes. Besides the main organising group of MPJD that is based in Mexico City and Cuernavaca, locally organised groups including 'Laguneros por la Paz' in Torreón, 'Acapulco por la Paz' or 'Xalapa por la Paz' grew out of the mentioned events and allowed interested people in different regions to participate frequently in MPJD activities.

What kind of power?

These lasting mobilisation effects undoubtedly show that the MPJD can undermine the seemingly superior power of organised crime entangled with particular state officials and politicians. The generated power of the social movement is understandable in terms of ‘power *to*’ do something instead of ‘power *over*’ notions. Notions of ‘power *over*’ refer to power as some kind of domination, gained by imposing one’s will over others;²² in this case, organised crime and corrupt officials exercise power over the interests of civil society and formal politics by committing violent acts as well as carrying politics of fear and deterrence. A broader understanding of power as ‘power *to*’ enables us to get a more nuanced understanding of social movements’ roles and capabilities in society.

MPJD and its allies are able to exercise ‘power *to*’ work on their collectively shared goals. Their actions have constructed *social power*. The gradual build-up of resources enabled MPJD to initiate a platform where relatives of victims of drug war politics can cope with their personal fates by interacting, discussing and sharing their experience with social movement activists. Weekly meetings in Mexico City and other local subdivisions allowed for continued work and access to elaborate on common goals. Furthermore, activists coordinated demands of relatives of victims for professional help.

The established ties with human rights organisations during the Caravans allowed activists to draw on nationally dispersed contacts that offer such expertise. This social power component resembles the conceptual notion of *associative power* that Hannah Arendt (1970) interprets as one crucial potential of social movements, stressing the necessity to recognise the effects of collective mobilisations of resources. This notion of power is dependent on the ability of individuals or groups to come together, to debate and to act together as a collective force to achieve a common purpose.

In this sense, MPJD was able to transform its associative social power into *political power*. Activists were able to gain recognition politically by state authorities and to create direct ties with the political-institutional sphere. It was after the Caravan to the North that activists reached out to initiate dialogue with President Calderón in June and September 2011 and confronted the legislative power with experiences brought to light by the Caravans, the collected data and their derived political demands. One of the main political successes has been the mentioned consolidation of the ‘victims law’ in 2013. Despite obstacles in its implementation, such a legal recognition is a first indispensable step for relatives of victims to receive support from federal institutions and an important symbolic step to get the government to assume responsibility for the consequences of its drug war politics in the civic sphere.

Simultaneously, through discussions with authorities, activists were able to articulate their vision of alternatives to drug prohibition politics. The Caravan to the US strengthened this argument in the international public discourse and pointed to the transnational relations and responsibilities behind the recent humanitarian crisis in Mexico. The Caravan tactic enabled activists to raise awareness of transnational responsibilities and consequences of drug war politics among participants by the physical presence of relatives of drug war victims who transmitted ‘Mexican experiences’ into the motivations and visions of protest participants. This tactic led to an increased spatial reach of MPJD ideologies by shaping the po-

litical position of distinctive civil society organisations across the US on this issue.

Concluding remarks

What the activists of MPJD and partner organisations have built is an impressive ‘network of networks’ comprising the shared resources of formerly isolated NGOs including expertise on different political topics and human rights activism. Therefore MPJD serves both as an indispensable platform for relatives of drug war victims in Mexico and as a politically recognised actor engaged in drug-related debates.

The role of protest places and the spatial implications of the Caravan tactic are key issues for understanding the socially constructed power modalities of the MPJD: it does matter *where* and *how* social protests take place. Putting the relatives of drug war victims at the heart of MPJD actions gave visibility to the severe humanitarian crisis caused by the drug war in Mexico and provided the motivational bases for the mobilisation of activists interested in challenging the existing social, political and cultural arrangements that allow organised crime and entangled officials of state authorities to profit from illegal economies.

In this context, the places protests took place functioned strategically to create public attention to activists’ demands. The different regions in which Caravans took place helped illustrate the different consequences of drug war politics. Presence in those places enabled activists to include and synchronise locally shared political subjectivities with the knowledge built by MPJD and to motivate people to take action. This included merging and communicating themes like physical violence and migration under one framework of drug war consequences. Caravans succeeded in visiting 53 different places and served to effectively connect local actors to a broader networked coalition that has ‘*power to*’ activate new mobilisations, share information, ideas, emotions and experiences.

During the last Caravan to the US, activists reached out to widen the scope of cooperating organisations to the international scale and to sensitise the locally or nationally oriented knowledge of partner organisations to the MPJD’s transnational interpretation of drug war politics. This mobilisation strategy contributed to an intensified international public discourse and an increased visibility for the demands of MPJD and its allies. Seemingly national ‘problems’ in Mexico – such as organised crime, disappearances or corruption – have effectively been put into context by highlighting the transnational set of interconnections between ‘*acting here*’ to combat drug trafficking with related ‘*consequences there*’.

This is not to say that MPJD strategies and policy recommendations have gone unchallenged. There is growing dissatisfaction with the government’s handling of internal security issues within Mexican society, and there remain divisions on the best alternative course. For some critics, the MPJD focus on ‘drug war’ rhetoric (even though demands are in fact much broader) obscures a much deeper governance issue; if drugs were legalised tomorrow, they say, the economic power of criminal networks would remain largely untouched. Furthermore, a majority of citizens living in the regions most affected by the so-called ‘drug war’ – the very people that MPJD has tried to build solidarity with – are broadly in favour of continued police and military protection contrary to the movement’s call for an end to armed operations. Those

kinds of political questions have not only prevented a broader support of MPJD but additionally caused controversial internal discussions and even disengagement from some activists.

Notwithstanding, the MPJD exemplarily shows how spatiality contributes to understanding such a strategic union of different civil society organisations acting with different place-based rationales and problems, and how a coalition across space contributes to enhancing the visibility and effectiveness of civic voices. Mobilisation has directly impacted Mexico's political agenda as discussed in this essay and recent social mobilisations following the recent Iguala killings have benefited from established connections.

A future research agenda could also document what appear to be traces of MPJD work in recent debates and activists' struggles on marihuana legalisation in the US or even in preliminary debates around the UN General Assembly Special Session on Drugs to take place in 2016. These developments point toward the staying power of this established 'network of networks' in effectively shaping and challenging the relation between organised crime, civil society and the state in Mexico and beyond.

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Endnotes

- 1 See the website of the Mexican Attorney General <http://www.pgr.gob.mx/prensa/2007/bol14/Oct/b19114.shtm>
- 2 Official government statistics show an increase from 1,729 to 23,271 disappearances between 2007 and October 2014. <http://www.secretariadoejecutivo.gob.mx/es/SecretariadoEjecutivo/estadfc112014>
- 3 In sum, the Mexican Attorney General states 22 different criminal activities of organised crime cells operating in Mexico, see: Buscaglia, E. (2013). *Vacíos de Poder en México. Cómo combatir la delincuencia organizada*. Barcelona: Random House Mondadori.
- 4 Buscaglia (2013), op.cit.
- 5 By referring to "civil society" I draw on the elaborations of Jürgen Habermas who differentiates between the systems of 'state' and 'economy' on the one hand, and on 'life world' that includes civil society on the other hand. Systems and life world follow different logics: life world is oriented towards solidarity and self-organisation. In contrast, the system of the state is oriented towards political power and the system of economy towards the accumulation of money. Systems and life world are able to interact dynamically and influence each other based on negotiations of their different orientations.
- 6 The UN's three major conventions regarding international drug control recommendations are available at: <http://www.unodc.org/unodc/en/treaties/index.html#Drugrelated>
- 7 See Aristegui Noticias (2013). CNDH reporta 27 mil desaparecidos en México, cifra cercana a la de Segob. June 5. <http://aristeguinoticias.com/0506/mexico/cndh-reporta-27-mil-desaparecidos/>
- 8 See Buscaglia (2013), op.cit. and Redmond, H. (2013). The political economy of Mexico's drug war. *International Socialist Review* (90). <http://isreview.org/issue/90/political-economy-mexicos-drug-war>
- 9 UNODC (United Nations Office on Drugs and Crime) (2014). *World Drug Report 2014*. http://www.unodc.org/documents/wdr2014/World_Drug_Report_2014_web.pdf
- 10 See Buscaglia (2013), op.cit.

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- 11 Since 2005, over 80 reporters have been killed and 17 disappeared. See Reporters without Borders: <http://en.rsf.org/report-mexico,184.htm>
- 12 See Buscaglia (2013), op.cit.
- 13 Pew Research Centre (2013). Mexicans and Salvadorans have positive picture of life in U.S. widespread concern about drugs and gangs at home. October 24. <http://www.pewglobal.org/2013/10/24/chapter-1-mexico/>
- 14 See Buscaglia (2013), op.cit.
- 15 See Romero, R. (2014). La Guerra en México, una política del Estado. *Rebelión*, March 6. <http://www.rebelion.org/noticia.php?id=181684>
- 16 See Agamben's concept of 'state of exception': Agamben, G. (2005). *State of exception*. Chicago: University of Chicago Press.
- 17 UNODC (2014), op.cit.
- 18 This refers mainly to the call for an end of the Mérida Initiative that financially and materially supports the Mexican Army since 2007. For details, see Redmond (2013), op.cit.
- 19 Ley, S. (2012). El desafío de contar a nuestros muertos. *Letras Libres*, September 12. <http://www.letraslibres.com/blogs/polifonia/el-desafio-de-contar-nuestros-muertos?page=full>
- 20 Buscaglia (2013), op.cit.
- 21 Nicholls, W. (2009). Place, networks, space: Theorising the geographies of social movements. *Transactions of the Institute of British Geographers*, 34(1): 78-93.
- 22 See Allen, J. (2003). *Lost geographies of power*. Malden, MA: Blackwell Publishing, pages 15-37.

Contesting **big mining** from Canada to Mozambique

Judith Marshall

During a visit to Mozambique in September 2014, I witnessed a protest against Brazilian mining giant, Vale. Villagers from Bagamoyo, adjacent to Vale's coal mine, were fighting construction of a chain metal fence through their community. Vale claimed it was fencing off "unoccupied land" leased from the Mozambican government. If a "trespasser" had an accident, Vale would be liable!

Chatting with community members as they made their protest signs, it became abundantly clear that this "unoccupied" land was, in fact, the village "commons". While their houses were within the village, they and generations before them had lived off land on the village outskirts and even used part of the land as a cemetery. The Mozambican government had included this land in the leasehold with Vale for its mining operations without informing the Bagamoyo community members. Their farms and their mango trees were on this land. They raised their goats and cattle there. This land was a source of firewood and charcoal for cooking, thatch for roofing and sticks for drying racks for cassava roots, and clay for building blocks. Vale had already bulldozed some of their kilns built next to the clay deposits.

What has given big mining companies the power to grab land already under traditional communal usage all around the globe? Why do governments of every stripe – dictatorial, liberal, socialist – baptise these extractive sector companies as 'development partners' and abdicate any stewardship role over their country's natural resources and the rights and well-being of their own citizens?

Contesting big mining from Canada to Mozambique

Judith Marshall

This essay explores the sources of power of the big mining companies through the historical shifts in the roles of the state and private corporations in economic development strategies, and the new – and promiscuous – intimacy between governments and mining companies. It uncovers instruments used to exercise power, from free trade agreements to investment protection agreements to land grabs. It explores the ideological offensive of big mining through corporate-funded think tanks and grants to universities tied to mining-friendly programmes of study and the revolving doors between government and corporate appointments. It examines corporate branding instruments from membership in the UN Global Compact to high profile philanthropy to local community pacifiers such as a clinic or a school baptised as ‘corporate social responsibility’. It also looks at how mining companies exercise power illegally through bribery, spying and infiltration of popular movements. Finally, the essay looks at some of the innovative ways communities and workers are resisting the power and logic of big mining, all of it drawing on my trade union experiences over the past 20 years in building global solidarity.



Margie Adam / ArtWork

How mining companies gained their power

There are many excellent descriptions of neoliberalism today with its intimate relationships between corporations and governments and its recipe of deregulation, privatisation, cuts in social sector spending and downsizing of the state.¹ One easy way to understand neoliberalism is to remind ourselves of what it replaced. The financial collapse of the 1930s, sandwiched between two world wars and the horrors of fascism, resulted in a congruence of support in the early 1950s for a class compromise between labour and capital. A new world order was set up internationally with the Bretton Woods agreements on

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currency stabilisation, and institutions such as the UN, the International Monetary Fund and the World Bank were created. General agreement prevailed that states should work alongside market processes, but also intervene or even substitute when necessary. 'Embedded liberalism' ushered in an era in which the market and the corporations operated within social and political constraints. The state established a strong regulatory environment but also often led economic and industrial initiatives. State-led planning and state ownership of strategic sectors like mining and steel and auto production were common in both North and South.²

All these constraints on the power of capital in the post-war period were abandoned in the mid-1970s. Owners of capital were frightened of the new energies released in the rebellions of the 1960s and '70s by students, civil rights activists, labour and women. A radicalising anti-colonial movement and militant anti-Vietnam war movement added to the perceived threat to corporate power. All were demanding social inclusion, more rights and fuller citizenship. In the famous report from the Trilateral Commission in 1975, set up to retune efforts to protect American, European and Japanese elite interests, lead author Samuel Huntington argued that there were now problems of governance stemming from an "excess of democracy".³ Corporate interests reasserted themselves aggressively to reclaim the core tenets of the liberal vision – the rugged individualism of the private entrepreneur and market fundamentalism. New right-wing 'think tanks' were established to go on the ideological attack.

The unfettered power enjoyed by mining companies is one of the fruits of this neoliberal world order, because it precipitated the privatisation of access to natural resources in numerous countries. In the South, the instrument of choice for downsized governments, widespread deregulation and generalised acceptance of foreign direct investment as mandatory for economic development was structural adjustment programmes. Countries found themselves in a debt trap when repayment terms for low interest loans from northern financial institutions skyrocketed. They were forced to request International Monetary Fund and World Bank assistance with 'conditionalities' if further credit was to be forthcoming. The standard conditionalities consisted of devaluation, privatisation, deregulation and cuts in social sector spending.

Massive privatisation of public industries ensued with state mining companies among the first to go. By way of example, the largest iron company in the world, Brazilian state mining company Companhia Vale do Rio Doce, was privatised in 1997 through a public auction. Brazilian civil society cried foul, since the sale price of \$3.3 billion omitted key assets and was far below the company's own assessment of its value at \$40 billion. Even a decade later, Brazilian social movements were able to rally more than a million votes for a return to state ownership.

Governments relinquished their regulatory roles in favour of more flexibility in labour and tax regimes, all to create 'business readiness' to entice foreign investors. Mining companies labelled as corporate predators during the anti-colonial and anti-imperial struggles were redesignated a 'development partners'.

In the North, the instrument to move from 'embedded liberalism' to neoliberalism was free trade agreements, better named 'investor privilege agreements'. These went well beyond the established substance of trade negotiations, such as import tariffs, to open up a multiplicity of non-tariff barriers to trade.

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Clauses requiring national treatment for foreign investors and prohibiting performance requirements meant that a host government could not treat foreign investors differently from local entrepreneurs. Quotas for employment of nationals or use of national raw materials or suppliers were ruled out. Under investor–state clauses, a host government could even be sued for policies protecting public health or the environment if they cut into the projected profits of the investor.

In 1997, the Canadian government was sued by Ethyl Corporation for banning imports of gasoline with a toxic additive called MMT. Under NAFTA investor–state clauses, this was deemed a violation. Canada chose to settle, repealing the MMT ban, offering an apology and paying a \$13-million fine. If free trade agreements give corporations this kind of power over countries like Canada, how much more so in poorer countries? In El Salvador, Pacific Rim has been demanding a permit for a gold mining project that threatens the country’s primary source of drinking water. Two successive governments have declined to grant this permit to the mining company and the country now finds itself in a costly lawsuit at the World Bank’s International Centre for Settlement of Investment Disputes. The chill effect on any government trying to protect the public good is enormous.

To cover any mining investments without fulsome protection through free trade agreement clauses, Bilateral Investment Treaties (BITS) and Foreign Investment Protection Agreements (FIPAs) were introduced. Both are heavy on investor rights and yet have nothing on investor responsibilities. The Canadian government has already ratified FIPAs with 27 countries since 1990, with 23 more in the pipeline. A FIPA can be terminated with one year’s notice, but investors typically include a 15-year sunset clause, meaning that a government coming to power on a platform of curbing the unregulated power of big mining would have to wait 15 years to implement its reforms! Another pro-industry clause in the FIPAs demands dispute resolution via binding international arbitration rather than use of domestic courts – that is, litigation using expensive lawyers in business friendly international courts.

In Canada, the transition to FIPAs illustrates the shift to neoliberalism. In the 1970s, the Foreign Investment Review Agency vetted new investors to Canada. Performance requirements included job creation for Canadians, use of national suppliers and government approval of location to prevent regional imbalances. Today they would be inadmissible as ‘non-tariff barriers to trade’ and Canadian government attention has shifted to protecting mining companies investing abroad. Company lawyers argue strongly that headquarters have no responsibility for actions by subsidiaries in other countries, much less for actions of sub-contractors. Communities and workers in disputes with mining companies about social, environmental and labour issues scramble to hold anybody accountable. However, the recent decision by a Supreme Court Justice in the Canadian province of Ontario to hear the claims against Canadian mining company HudBay for rape and murder in Guatemala sets a welcome precedent.

How miners see big mining

The growing power of big mining was a topic of concern at a union conference in Toronto in 2012. International delegates from Australia, Mexico, Peru, Brazil, South Africa and Mozambique shared their stories, starting with the aggressive push by mining companies for ‘no third-party intervention’. Big mining

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today is openly anti-union and lobbies governments incessantly for less regulation and more 'flexibility' around labour, putting pressure for individual contracts rather than collective agreements.

One trend is the push to turn health and safety into a management function and deny workers' right to know about workplace hazards and to participate actively in creating safe working conditions. In Canada, where Vale purchased Inco's nickel operation in 2006, the company has dramatically weakened the structures for active worker participation in health and safety; five Vale miners have suffered fatal work injuries since 2011, a shockingly high statistic for Canadian mines.

Miners at the conference also highlighted the strong push by mining companies to sell the idea that modern mining can be sustainable and that it can and should self-regulate. This serves to downplay the need for government regulatory bodies and inspections, active unions and environmental watchdogs.

It was noted that in every country, mining investors woo governments and communities with promises that mining will create jobs. In fact, the propensity is towards highly capital-intensive mines that employ ever smaller numbers of permanent workers. There is constant company pressure for contractors, temporary foreign workers and technical specialists on short-term contracts.

Finally the delegates noted the trend for mining companies to negotiate low rents on terms highly favourable to themselves, coupled with a capacity to move capital with little or no transparency, outside the purview of the host country thanks to weak regulation and/or corruption.

Miners themselves, then, are deeply concerned about the expanding power of big mining. They see a steady erosion of job security, labour rights, environmental protection and workplace safety. The restraints on corporate power that were previously provided by government regulatory bodies and by unions through collective bargaining have disappeared.

How mining companies see themselves

Mining companies present themselves publicly as key contributors to economic growth, job creation and global competitiveness, all carried out in sustainable ways. When talking in-house, however, they focus on the realpolitik of mining: corporate expansion, profitability and risk management. James Cooney, when he worked for gold mining giant Placer Dome, gave a fascinating insider glimpse on his industry at a conference in 1995 in Reno.⁴ His presentation to mining geologists on "Managing Political Risk in the Americas" began by extolling the unprecedented moment with virtually all countries wide open to foreign direct investment. The risks Cooney identified for mining companies in this new era were aboriginal relations, environmental regulations, small-scale mining, sustainable development and wealth distribution. He then outlined how canny mining companies could manage each of these political risks.

For aboriginal relations, Cooney advocated adoption of the Canadian strategy of creating a national mining organisation with carefully selected pro-mining aboriginal leaders playing prominent roles. For Latin American governments seeing mining and environment as incompatible, Cooney advocated corporate

partnering with the World Bank for an international mining conference, targeting exactly those governments still reluctant to embrace mining. The risk of inequality included recognition of possible resentment that the highly visible wealth from the mining operation was being exported directly by a foreign company or benefiting only a small elite in the national capital city. Far-sighted mining companies actually needed to lean on host governments to adopt visible redistributive tools, not because it was good public policy but because it could lower the risk of community resistance to the mining company!

Intimacy between governments and mining companies

In this deregulated paradise, governments have not only ceased to constrain big mining; in both the global North and South, governments have become pro-active in support of mining company interests. Jean Charest's provincial government in Quebec (Canada) pinned its economic strategy to Plan Nord, launched in May 2011. It committed 1.2 billion of tax-payer dollars to build massive infrastructure in northern Quebec in order to open up rich mining and forestry resources for export. Public officials went courting big foreign investors, but were profoundly silent on royalty and tax regimes, redistributive mechanisms or beneficiation. In Quebec as in Latin America and Africa, the vision was to implement mega projects linked to transport corridors, carrying unprocessed ore onto global markets.

Steelworkers in Quebec asked tough questions about *Plan Nord* at their annual conferences in 2011 and 2012. Would these new mining projects be harnessed to provide revenue for Quebec's much-vaunted social programmes? Would foreign workers be brought in to build these mines? How many good, permanent jobs would really be created? Did plans to export unprocessed ore mean, in effect, exporting jobs? What about the environmental impact on fragile northern ecosystems and the role of aboriginal communities?

Quebec students during their 'Maple Spring' protests of 2012 were quick to connect the dots between a liberal government that cried poor as justification for raising university tuition while spending freely on infrastructure for private mining companies. Issues converged to build a full political crisis that brought down the liberal government but the government that replaced it showed little propensity for establishing a different relationship with big mining.

The pro-active role of governments in supporting "their" mining companies is seemingly boundless. In Brazil, the National Bank for Social and Economic Development (BNDES is the acronym in Portuguese) was a key institution historically in promoting a national economic strategy to control the country's natural resources. In recent years, the Bank's mantra has become "making Brazil competitive in the global economy". This has translated into huge loans for the global expansion of companies such as iron ore producer Vale. Luis Inácio Lula da Silva, renowned labour leader and former president of Brazil, has travelled frequently with Brazilian corporate executives. In Africa he has traded on sentiments of South-South solidarity. After his presidency in November 2013 he joined current Vale president, Murilo Ferreira, on another Mozambique mission. His programme included joining Ferreira in lobbying the Minister of Labour to increase the 15 per cent quota on foreign workers in Vale's future projects!

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The pro-active role of the Canadian government in support of mining is multi-faceted. Despite active pressure from unions and NGOs for enforceable government mechanisms to regulate Canadian mining companies abroad, our government has been steadily increasing its direct support. Mining company executives are included on “Team Canada” missions to promote trade. In some instances, the Canadian Embassy serves as a virtual operations base during the start-up phase of mining projects and even well beyond. Bilateral aid related to mining has ranged from behind-the-scenes embassy pressures in Honduras and Ecuador for policies favourable to the industry, to direct financing for rewriting Colombia’s mining codes.⁵ Government officials from the pro-mining Alberta province – with its vast, environmentally disastrous tar sands projects – travelled to Bolivia to advise on natural gas management.

These overt Canadian government initiatives in support of mining companies are expanding. The Trade Commissioner’s Service teamed up recently with international development NGO World Vision and the Prospectors and Developers Association of Canada to produce a manual for the corporations. *Preventing Conflict in Exploration: A Toolkit for Explorers and Developers* uses a popular education approach to help mining companies win consent from communities for their projects. The first step is analysing the context and identifying key stakeholders: land owners, women’s groups, traditional chiefs, local priests, unemployed youth and anti-mining groups. The second step is to map out stakeholder positions, interests and internal power relations. The toolkit has activities to determine stakeholders’ status, interests, influence and networks, thus enabling the mining company to determine the risk each presents for stopping the mining project. Lamentably there seems to be no equivalent Canadian government initiative to fund a tool for rural communities to decode and challenge the big mining companies’ strategies.

Canada’s international development agency had already begun to divert aid money into project partnerships with mining companies before 2013 when it became part of a merger to create the Department of Foreign Affairs, Trade and Development. World Vision, Plan International and World University Service of Canada partnered with Barrick Gold, Rio Tinto and Iamgold in 2011 to carry out community development and training projects alongside the mining operations. After the merger that brought aid and trade closer together, a similar funding window for NGO–mining company projects opened in the mineral-rich Andean region specifically. Meanwhile, organisations doing public education critical of the behaviour of mining companies abroad, such as Development and Peace and Kairos, have seen their government funding cut. Yet despite public criticism for diverting aid money to help mining companies pacify local communities, the practice continues unabated.

Power through illegal activities

In May 2013, a case study was released on Canadian Embassy support for Alberta-based Blackfire Exploration in Mexico. It documented how readily a mining company used illegal means to assert its power, but also how far the Canadian government went to support it. Blackfire had strong diplomatic involvement throughout a lengthy and highly conflictive situation. Many community members were strongly against the mine in Chicomuselo, Chiapas, because it disrupted their farming and damaged the environment. Blackfire’s bribes to the local mayor to control community protesters went public. A Blackfire private security guard was accused of the drive-by assassination of community leader Mariano Abarca. Despite

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Abarca's death, the suspension of the mine's operations for environmental damages and enough proof of Blackfire's corruption to warrant a police investigation in Canada, the Embassy continued to stand by the company. The parting gesture of support was advice from Embassy officials to Blackfire about using NAFTA investor-state provisions to sue the state of Chiapas, arguing that the mine closure had curtailed projected profits from Blackfire's investment.⁶

Powerful global players like Vale revert regularly to illegal means. Brazilian colleagues have long commented on Vale's propensity to buy union, community and government leaders. During my first visit to Moatize, site of Vale's coal mine, the briefing by the District Administrator to our trade union delegation made reference to the vehicle Vale had given to the provincial trade union head. A few months later, workers constructing the mine stoned the vehicle during a wild cat strike. Local union leaders have recounted that they are regularly offered job security or company credit cards in return for silence on workplace issues.

In Brazil, a disgruntled former director of Vale's Department of Intelligence and Corporate Security became a whistleblower in 2013, presenting documents to the Brazilian state prosecutor as proof of how Vale engages in widespread spying throughout its operations in Brazil, accessing phone records of prominent journalists and infiltrating groups such as the Landless People's Movement and Justice on the Rails, a coalition supporting community struggles in northern Brazil.⁷

For workers and local communities, the dream of what a mining project will bring is simple: jobs and housing, education and health care, a better future for their children. These hopes are quickly dashed. When their disappointment translates into anger and acts of resistance, they are quickly confronted with another phenomenon of contemporary mining, the criminalisation of dissent. All too often dissenters face both government and mining company security forces acting simultaneously against them.

Power through lobbyists and lawyers

Establishing new regulatory measures to hold mining companies to account for their activities abroad has long been a concern of civil society groups in Canada and other parts of the global North. Canadian organisations have engaged in tri-partite processes involving mining companies and government. They have garnered widespread support for private members' bills. In every case, however, the zeal of civil society organisations in pressing for tougher standards with sanctions has been completely eclipsed by industry lobbying activities.

In 2010, civil society groups mobilised widespread support for the Private Member's Bill C-300 to promote "best practices and to ensure the protection and promotion of international human rights standards in respect of the mining, oil or gas activities of Canadian corporations in developing countries." Complaints under this proposed law would result in investigations by the Canadian government. Companies not in compliance with Corporate Social Responsibility guidelines would become ineligible for financial support from Export Development Canada, the Canada Pension Plan and the Department of Foreign Affairs and International Trade. Mining companies lobbied hard; Barrick alone met with 22 MPs and three

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Senators while the Canadian Mining Association lobbied 29 MPs. Other companies registering lobbyists against the same bill included Vale, Goldcorp, Kinross and Iamgold. The intense corporate lobbying paid off. Bill C-300 was not passed.

The world of lobbying and the revolving doors between government and corporate appointments goes largely unregulated, veiled in secrecy and seemingly flourishing, despite moments of exposure in the media. In the US, for example, a *Washington Post* story in the wake of an explosion in April 2010 that killed 29 miners at a Massey Energy mine in West Virginia, revealed that more than 200 former congressional staff members, federal regulators and lawmakers were currently employed in the mining industry. They were in positions ranging from lobbyist or consultant to senior executive. This included dozens working for coal companies with some of the worst safety records in the mining industry.⁸

In Canada, former Conservative cabinet minister, Chuck Strahl, moved from his position as government-appointed watchdog over the Canada Security and Intelligence Service to the private sector. Shortly thereafter he emerged as a registered lobbyist for Enbridge. Enbridge is a subsidiary of Northern Gateway Pipelines, one of the three transport systems to carry tar sands oil to global markets. There have been recent revelations that the Canadian security services, whose operations Strahl had been charged with overseeing, have been spying on opponents to the pipeline.

Power through corporate branding

For mining companies, producing a positive corporate image nationally and globally is as important as producing iron or nickel. Mining companies link themselves to prestigious global institutions, wrapping themselves by association, in the aura of these institutions. The companies have carried out a “green-wash” with their adoption of sustainability as a watchword and their talk of adherence to “environmental bottom lines”.

The UN Global Compact provides a tool for “blue-washing” (referring to the colour that identifies the multilateral body). Announced at the World Economic Forum in 1999 by then-UN Secretary General Kofi Annan, the Global Compact serves to legitimise big corporations through their association with UN principles of sustainability and social responsibility covering areas of rights, anti-corruption, environment and labour. The International Council of Mining and Metals and the International Organisation for Standardisation play similar branding roles. Compliance with the Global Reporting Initiative through which corporations publish annual reports on their application of all of these principles enhances credibility and maintains the fiction of effective self-regulation. The companies project themselves as globally responsible players through glossy in-house publications with no third-party verification of the contents.

The branding also happens at national and local levels. Rather than exercising corporate citizenship by paying royalties or taxes, enabling host governments revenue sources to build infrastructure and implement social programmes, mining companies fight for tax breaks. Then they project themselves as good corporate citizens through high profile and inexpensive ‘corporate social responsibility’ programmes and

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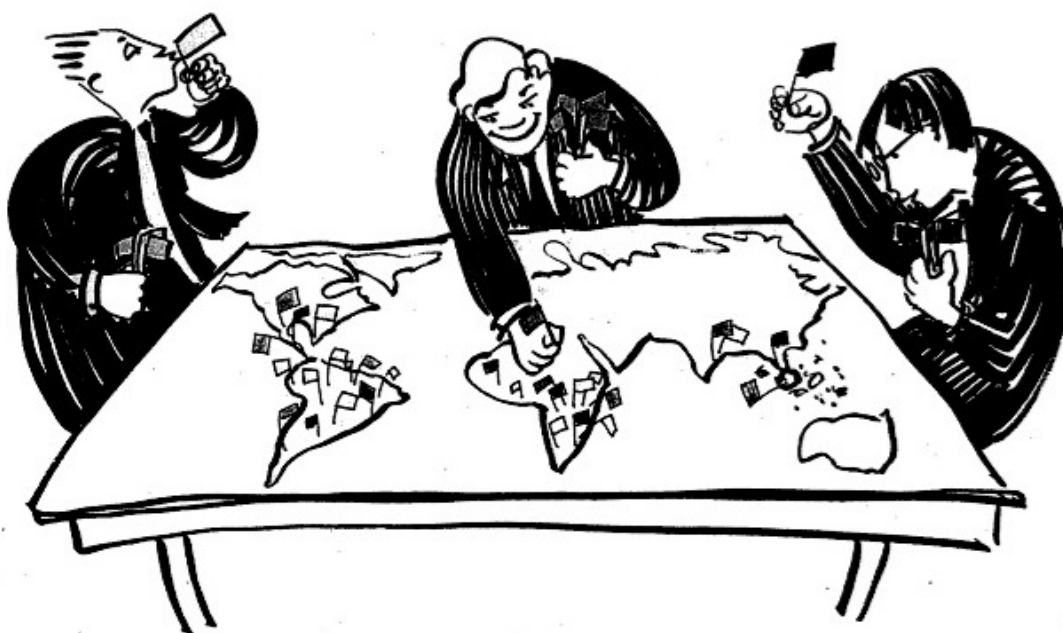
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philanthropy. These range from schools, clinics and sports events close to the mine to highly visible social and cultural institutions at the national level.

Barrick has branded itself through projection of its founding president, Peter Munk, as a great philanthropist. The stories of rape and pillage in Barrick operations in Tanzania and Papua New Guinea, and of how governments in Chile and Argentina have finally reined in Barrick's high-risk plans to move glaciers in the Andes rarely make the news. The carefully cultivated Barrick image in Canada is shaped by the Peter Munk Cardiac Centre at the Toronto General Hospital and the splendidly refurbished heritage building housing the Munk School of Global Affairs at the University of Toronto. The most recent is the Barrick Gold Gallery at the Royal Ontario Museum where it joins the Vale Earth Gallery. The museum plans extensive programming in these galleries for school children, introducing them to the importance of mining. If only the children living near Barrick's gold mines in Tanzania or Vale's coal mines in Mozambique could mount an exhibit with their stories and drawings about mining...

Mining megaprojects and national development

Big mining companies claim national boundaries are *passé*. These corporations operate very much in the world of flows rather than territories, establishing their global supply chains to link one self-sufficient mining enclave with another. All of them are articulated into global flows of information, capital, technology, services, markets, private security forces and legitimacy. Even labour is part of a global flow. To build its mine in Mozambique, Vale promised jobs but also pressures constantly for more foreign workers. At one point during construction, a Vale sub-contractor operating in 30 countries, Kentz, brought in hundreds of Filipino workers on short-term contracts.



Margie Adam / ArtWork

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A typical mining operation today, whether physically isolated with 'fly in, fly out' operations or located in a sparsely populated hinterland, under-resourced rural town or an aboriginal hunting and fishing territory, takes on the characteristics of an enclave. The mining company is basically self-sufficient, operating on a scale vastly superior to its local context, bringing in everything from construction materials to giant equipment, from food to a labour force. Many hire their own private security forces. In many countries, these arrangements are sanctioned by an elite clique with some claim to be arbiters of national sovereignty, prepared to legitimise the autonomy of the mining enclave in return for a piece of the action, sometimes openly, sometimes under the table.

A dual process is taking place with the megaproject enclaves destroying national economic spaces at the same time that they articulate with each other to construct new global spaces. These global spaces are not based on territories and national boundaries, but on flows. They are characterised by a 'flexibility' that is the hallmark of neoliberalism. Giant transnationals and networks of small contractors and subcontractors spanning the globe are fully articulated in a global flow or chain that spans miles and continents effortlessly to create a powerful, new borderless instrument for wielding power.⁹

Mining companies operate in these new global spaces with a staggering sense of entitlement. They actually identify "resource nationalism" as the greatest threat for limiting "their rights and profits". The 2012 and 2013 annual reports on major risks facing the mining industry prepared by business advisory service Ernst & Young, mentions four ways that states exercise "resource nationalism": government ownership, increased taxes and royalties, import/export restrictions and mining law reform. Other corporate law firms take a broader view to include performance requirements such as local sourcing of goods and services, local hiring and "mandatory beneficiation" involving in-country processing.

In other words, the very policies on mining that workers, communities, concerned citizens and future generations are pressuring our governments to adopt are deemed by mining corporations as their greatest threat. Governments exercising wise stewardship over their non-replenishable natural resources are denounced and attacked with all the tools these powerful mining companies have at their command.

Workers and communities challenging the power of big mining

Having mapped how contemporary mining companies gain, exercise and legitimise their power, we can better analyse points of leverage for contesting them. Mining companies operate globally. We also need to go global, building networks linking those affected by particular mining companies on multiple continents. This means building mechanisms to share information, strategies, common actions and mutual solidarity. Networks linking only communities or only environmentalists or only trade unionists have limited effectiveness, given the multi-faceted operations of big mining. The International Articulation of People Affected by Vale created in 2010 has been working to invent new ways to operate globally. Its founding meeting included delegates from 14 countries. Members include popular movements fighting against land grabs and insecure employment, trade unionists, rights and environmental activists, academics, public policy advocates and faith groups in multiple countries.

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Counter-information strategies are urgently needed. Voices from the mining regions themselves need to be heard globally to counter the dubious veracity of the companies' own reports. In Vale's Sustainability Reports, for example, the two forced resettlement communities built in Mozambique are presented as models of excellence. Yet for the Mozambican families forced off their land to make way for the open pits, the relocation has been a nightmare of broken promises by Vale and their government. Five years after the forced removals, issues of land, water, electricity and compensation are still unresolved. The sub-standard resettlement houses began to crumble after the first rainy season. With neither Vale nor the Mozambican government prepared to resolve their problems, the resettlers blocked the railway line carrying the coal to the port in Beira in 2012. The problems and the protests continue.

The International Articulation of People Affected by Vale published a *Vale Unsustainability Report*¹⁰ in 2012 to counter Vale's earlier reports. The graphic format and reporting categories were similar to those in the company's report but the contents included testimonies from workers and communities negatively affected. The Network also succeeded in having Vale voted in as "Worst Company in the World" at the Public Eye Award alongside the World Economic Forum in Davos in 2012. Other global networks are also providing counter-information as a major strategy. The Protest Barrick Network also published a counter-report to Barrick's own annual report in 2013 entitled *Debunking Barrick*.¹¹

Specific shareholders can be targeted, including churches, universities and public sector employee pension funds. Shareholders become anxious when the distance between corporate image and the rawness of the reality around the mine site are exposed to public scrutiny.

The Bench Marks Foundation in South Africa, which grew out of the church-supported divestment campaigns during apartheid, works effectively at two levels to document these gaps. First, it researches the companies' own policy statements and publicity material to establish the benchmarks the company has set for itself. Some time later, Bench Marks carries out a second study, measuring the gap between the company's policies and its actual practices.

A few weeks before the police massacre of 34 striking mine workers at Marikana in South Africa, Bench Marks had released a document¹² measuring the shocking distance between the Lonmin platinum mining company's promises and the actual working and living conditions of the miners, housed in miserable shacks, still on short-term migrant labour contracts and now vilified for "disturbing investor confidence" by striking for a living wage.

The other Bench Marks strategy is to work with local community members, ensuring that youth and women and workers in the mining communities get to tell their own stories about the impact of the mining company. Community monitors do interviews, take photos, make podcasts, and then share their stories with other communities online. They cease to be just victims of mining and become protagonists themselves.

There is a range of other strategies being employed throughout the world to get at the power of big mining. These include Popular People's Tribunals, global campaigns to end corporate impunity, campaigns against trade agreements, on water and others issues of the global commons, on global warming, cam-

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paings around international financial institutions, campaigns around rights violations. All of us are challenged to connect the dots, showing how mining is related to land grabs, poverty and social exclusion, financial speculation, conspicuous consumption, throw-away cultures and corporate greed, all of which highlight the need to transform the prevailing global system and protect our planet.

The collaboration through the International Articulation of People Affected by Vale has had moments when the battlelines with the mining companies and the need to resist are revealed with startling clarity. One of these moments came through a letter from a Brazilian lay missionary who had participated in a network event in Brazil before going to teach at a mission school in Mozambique. Several months after his arrival in Nampula, he reported to the network that peasant farmers had been arriving at the mission with stories of strangers arriving on their farms, measuring land, asking about crops, wanting figures on yearly earnings. The strangers asked the farmers for identity documents. These were later returned with a payment and a receipt for signature. The payer was Vale Mozambique. The farmers were excited, because the strangers had given them more than the previous year's earning, failing to grasp that they had just lost their land to a powerful mining company.

Many of us in the movement of people affected by Vale replied to the lay missionary, expressing our indignation. Didi Travesso, a much-loved and recently deceased Brazilian union leader from CSP-Conlutas, replied almost in poetry:

They move about as if they own the earth...

With receipts and whatever else they need to demonstrate that they lord it over every level, above ground and sub-soil, from one end to the other of our lives.

They conjugate verbs like divide, profit, possess, command.

As for us?

We respond with verbs like unite, share, resist, dream.

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Organising workers' counter-power in Italy and Greece

Lorenzo Zamponi and Markos Vogiatzoglou

Trade unions in Southern European's austerity-ridden countries have been considerably weakened by the last six years of crisis. Labour's loss of power in countries such as Greece and Italy is significant. First of all, the tri-partite systems of collective bargaining (state, employers, unions) that characterised the 1990s and early 2000s in both countries collapsed. Neither state nor employers have shown any concrete willingness to re-establish some sort of collective bargaining mechanisms. Governments in austerity-ridden countries do not seem to need unions anymore.¹

Secondly, despite their vocal opposition, trade unions have failed to block austerity measures, as well as other detrimental changes in labour legislation. The period 2008-2014 has been characterised by limited worker mobilisation in Italy and by the failure of the numerous protests and general strikes in Greece to deliver any concrete achievements. Worse, union members express deep mistrust of their own leadership, as does the broader population.²

This bleak landscape does not give the whole picture of labour movement activity in those countries, however. In both cases, interesting labour-related projects are being developed to restore a workers' counter-power, both by unionists and social movement activists who are exploring actions outside of the traditional trade union repertoire. They draw from concepts such as 'social movement unionism',³ social

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unionism⁴ or 'radical political unionism',⁵ which will be detailed below. This article aims to contribute, through the analysis of concrete experiences, to this debate.

First, we examine efforts to organise precarious workers in professions and productive sectors that previously had weak or no union presence. Second, we investigate projects addressing changes in the physical space where production takes place and their consequences on collective organisation. Then we turn the focus to workers' mutualism (i.e. social solidarity structures ran by the workers themselves), initiatives providing access to welfare that are beyond both the market and the state. Finally, we look at projects that are posing broader questions regarding models of production and development. The article closes with some concluding questions and remarks regarding the future of trade unionism.

We argue that these experiences signal radical innovation in trade union activism. However, this innovation is not likely to spontaneously expand beyond dispersed experiments if it only involves the already politicised components of the urban youth that tend to compose social movements. It will require a massive effort by trade unions to renew their structures, discourse and practices, while labour-related social movement activists will need to contribute to organising all parts of the working population.

Organising the unorganised

In the last 20 years, the workers' movement in *Italy* has been experimenting to counter the effects of precarious work. Its most salient issue has probably been the struggle against different aspects of the labour flexibilisation process. In the context of the recent economic crisis, the idea to "organise the unorganised"⁶ has become the main goal of the Italian labour movement. The push in this direction has come mostly from social movements, building on the experiences of the early 2000s, from radical activism (in cases such as EuroMayDay, the anti-precarity campaigns organised by groups using the symbol of San Precario, the patron saint of precarious workers)⁷ as much as from the struggles that took place in specific workplaces (e.g. precarious university researchers, call-centre workers). Student mobilisations between 2008 and 2011 made precarity a prominent issue in Italy, as people became more aware of the impacts of austerity on young people, deprived of opportunities and rights.⁸

This context favoured the emergence of a broad set of initiatives. On the one hand, in workplaces where precarious workers coexist with permanent employees, some grassroots initiatives of organising workers have taken place, characterised by a horizontal and movement-oriented model. These initiatives are independent from the unions but able to establish (not without conflict) fruitful relationships with them – as has happened with the networks of precarious university researchers and the committees of precarious journalists with their respective sector unions.

On the other hand, trades not traditionally characterised by a high degree of unionisation, such as freelance work, especially in the arts, culture and communication sectors, have experimented in autonomous forms of organisation, including professional associations (ACTA for independent workers in education, information, communication and consulting, ANA for archaeologists, etc.) and movement networks (*Il Quinto Stato*, a political and cultural network of freelance workers reflecting and mobilising on their

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conditions across sectors). Furthermore, country-wide political campaigns, like “*Voglio Restare*” (“I want to stay” that sheds light on rising emigration of Italian youth looking for better job opportunities), have tried to impact public opinion, attempting to politicise the widespread worry about “youth without a future”. These initiatives have used their mobilisation potential and their growing public support as a leverage to push for radical reforms on issues such as elimination of precarious contracts, public investment in education, research and innovation, basic income, etc.

This push from below brought the demands of these precarious workers' organisations to the attention of Italian trade union confederations, in particular some components of the largest one, CGIL. In the last few years, CGIL has been experimenting in this field mainly through three kinds of initiatives:

- local struggles to organise precarious workers (e.g. *Consulta delle professioni*, “council of self-employed workers”) or to extend permanent contracts to them (e.g. public research centres)
- national political campaigns to mobilise precarious workers outside the workplace and across sectors (e.g. *Giovani non più disposti a tutto*, “Young people no longer available for anything”; *Il nostro tempo è adesso*, “Our time is now”)
- attempts at “inclusive bargaining”, trying to re-organise the traditional structure of collective agreements, in order to include precarious workers, subcontracted employees and so on in national and local agreements

The latter experiments are indeed interesting and necessary, even though they come perhaps late in the game: the credibility of trade union confederations has been heavily undermined by delays in tackling the precarity issue, as well as their timid opposition to austerity policies. On the other hand, it seems unlikely that even the most advanced experiments conducted at the grassroots level by movement actors will be able to go beyond their limited size and relevance without the critical mass and the social rootedness of trade union confederations.

A parallel development in terms of organisation of precarious workers' has taken place in Greece. It is important to note a major difference, however: while Italian activists operated mostly outside the traditional workplace, as noted above, the Greek initiatives emerged mostly from inside the workplace and the organisational format chosen by the activists was that of grassroots union entities (company-level or productive sector-level unions). The first attempts were launched during the mid-1990s in the food and catering services, as well as postal services.⁹ Soon after these precarious workers' unions expanded to include other sectors and professions that were non-unionised or had weak union presence, such as cleaning services, telecommunications, technicians and engineers working under an ‘associate’ status.

These grassroots unions were founded and initially led by politicised leftist and anarchist activists as bottom-up initiatives in which union elites were not involved, although the precarious workers' unions do belong to the ranks of the Greek Trade Union Confederation (GSEE) with a few small exceptions. Due to its particular status by Southern European standards (GSEE is the only confederation of private sector workers and is pluralist in political terms), primary unions enjoy a relatively high degree of autonomy, with regards to their political line and strategy. Unionised precarious workers characterise their relation with the confederation as “bad”,¹⁰ because instances of open conflict with or indifference from the central trade union system have been more frequent than collaborative experiences.

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While the precarious workers' unions of Greece constitute a most interesting experiment, due to their firm rooting in the workplace and the high popularity they enjoy both among labour and the broader social movements, they have faced serious difficulties in expanding their activity and scope since the crisis. The reason is that high unemployment – and the consequent fear within the labour force – renders mobilising (and producing victories or concrete achievements) for mid- and small-scale labour struggles extremely difficult. On the other hand, in the Italian context, the high level of fragmentation of the initiatives by precarious workers, both inside and outside the unions, is limiting their capacity to gain more social relevance.

The new workspace

Changes in the geographical organisation of labour in the last three decades, in particular the way the workforce has been physically dispersed across multiple locations, are one of the key causes of the disarticulation of the working class.

How is it possible to create the conditions for workers' organisation and collective action without sharing a common physical space? It is telling that the main protagonists of the Italian anti-austerity mobilisations of 2010 and 2011 have been students and steelworkers: schools, universities and what is left of the once massive Italian metal industry are probably some of the last remaining collective spaces, in which aggregation, socialisation, politicisation, unionisation and mobilisation are still possible.

Different experiments have been proposed in *Italy*, in an effort to construct something similar to the traditional labour centres (*camere del lavoro* in Italy, *bourses du travail* in France, *labour councils* in the UK), which provide a physical space and the chance to nurture a collective identity for workers' organisations based in the same region yet belonging to different industries. They also encourage politicisation and the possibility to organise territorial struggles beyond the workplace, on issues such as housing, welfare and civil rights. The most recent examples include: co-working spaces self-managed by freelance workers; movement-based *camere del lavoro* addressing precarious work in urban areas, in cooperation with grassroots unions; specific spaces inside trade union confederations' own traditional seats (*camere del lavoro*) set up to address job precarity for young people.

The so-called social strike of 14 November 2014 in Italy was another particularly noteworthy initiative that sought to overcome traditional barriers to workers' mobilisation. Organised by an ad hoc coalition of autonomous social centres, grassroots unions, student organisations and movement groups (housing occupations, feminist collectives, etc.), the social strike aimed to redefine the idea of the strike, by extending it to a wider set of struggles.¹¹ It is still too soon to evaluate the longer term outcomes of this initiative but what is clear is that the social strike proved an efficient tool to build a movement coalition in opposition to neoliberal policies and to bring back traditional concepts of trade union activity into the vocabulary used by the most politicised segments of the population – even if it had a limited impact on Italian society at large, due to the size of the unions that participated in the initiative.

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Connected with the re-appropriation of spaces in labour-related struggles, there has also been a growing practice of occupation, significantly used by workers in the cultural and artistic sector who, between 2008 and 2012, occupied and self-managed dozens of cinemas, theatres and other abandoned spaces claiming them as “commons”, that is universally accessible and free both from state and private property control.¹² Other forms of occupation and “permanent presence” have been central in protests against the closing of productive facilities linked to the post-2008 recession. That year, steelworkers occupied the INNSE factory in Milan to stop the owners closing the factory and taking away the machines; a delegation of five workers climbed up a crane and said they would stay there until a solution was found (another company later bought the plant and restarted production).

Following this model, workers of many factories at risk of closure decided to climb on the roof of their factories, or on important monuments in their cities.¹³ The most famous case is probably the one of *L'isola dei Cassintregрати* (literally “The island of workers on redundancy payment”, imitating a famous reality TV show portraying the daily life of celebrities on an exotic island), which in 2010 and 2011 featured a group of chemical workers who occupied for more than 15 months the abandoned prison of Asinara island, north of Sardinia, in a media experiment they called “the only real reality show”; they started a blog in which they told their individual and collective stories, attracting the attention of national and international media.¹⁴

Most of these experiences of occupations have been conducted by workers with the discreet support of trade unions. However, there are notable exceptions where trade unions have played a more direct role. It was an initiative of the agricultural workers federation FLAI-CGIL¹⁵ that launched the *sindacato di strada* (“street union”), a project that brought union organisers to travel to the fields of Southern Italy in a camping van in an attempt to break the forced isolation of exploited migrant workers.

Spatial workforce reconfigurations were much less of a focus in terms of theoretical debate and practical innovation in Greece. The most interesting experiment is the so-called Workers' Clubs that have sprung up lately, initially in neighbourhoods of Athens and then in various cities across the country. Operating in a similar manner as the mid-1990s US-based Workers Centers, the Workers' Clubs in Greece aim to extend the labour struggle beyond the limits of what is commonly conceived as the workplace. They are not formally affiliated with the trade union system, although their employed members are usually involved in their respective unions too. The flexible structure and local focus allows these clubs to engage two groups of people that remain disconnected from traditional trade unions: workers from very small companies and the unemployed. As a member of the Nea Smyrni Workers' Club (WCNS) stated:

“The Workers' Club wants to become a ‘city union’, which will complement, not substitute, the working class unionism inside the labour space. At the same time, it shall unite in struggle the workers and the unemployed across the city.”¹⁶

This comment brings forward one of the main structural difficulties Workers' Clubs face in Greece (similar to the majority of Italian experiments): Despite their innovative logic and advanced understanding of the spatial reconfigurations of labour, their self-depiction as initiatives “complementary” to the formal trade union system, increases their probability of remaining at the margins of a structurally unchanged trade union scene.

Welfare from below

Austerity in the sense of retrenchment on hard-won welfare has been a reality both in Greece and Italy since the early 1990s: national funding for education, health care and social security has decreased systematically, and at an accelerating rate particularly after the 2008 economic crisis.

In response, in *Italy* workers are increasingly embracing the mutualistic tradition that characterised the labour movement's origins in the Nineteenth century, particularly precarious workers such as freelance workers.¹⁷ Co-working spaces in which freelance workers not only share a workstation, but also establish relationships and get access to common services, are increasingly popular in Italy, even if their level of politicisation (or commercialisation) varies considerably, ranging from occupied social centres to more business-type rented spaces.

In this context, there is an ongoing debate on the potential of 'welfare from below' to provide, through freely established relationships of cooperation and solidarity, the level of assistance and social security that state-run welfare programmes do not offer anymore. The experiences are still too limited in size and duration to be evaluated properly, but early results appear mixed. On the upside, they provide a useful link between the labour and the commons movements, and the possibility to experiment with new democratic and solidarity-based practices, as an alternative to neoliberalism. On the downside, we cannot overlook the risk that these new actors can behave like private ones, substituting for the role of the public sector, justifying welfare retrenchment *ex post*, and continuing the same exploitative capitalist practices, but this time with the label of a "sharing economy".¹⁸

In *Greece*, where the (already weak) welfare state model has been totally dismantled after sweeping austerity measures and reforms,¹⁹ the ensuing socio-economic and humanitarian crisis²⁰ has led to the bottom-up emergence of significant social solidarity structures: for example, social hospitals, pharmacies and grocery stores, soup kitchens and even electricians' crews (which "illegally" reconnect the electricity of the poor cut-off for non-payment of their bills). All operate on a volunteer basis and provide their services and goods for free. The formal trade union system is almost completely absent from this process, with the exception of the Electricity Company Union (GENOP-DEH); professional organisations such as the Pharmacists' Association that consists of self-employed shop-owners have also taken part. The core of activists undertaking the voluntary work are politicised specialists in their field (doctors, medical personnel, electricians, pharmacists, and so on), either unemployed or offering their services after work. It is noteworthy that, contrary to the Italian case, Greece had never experienced a "mutualist period" in the labour movement and as such these experiments constitute a true innovation in the country.

These social solidarity structures have a flexible organisational format that privileges direct democracy and assemblies. This contrasts starkly with the bureaucratic, corrupt and weak Greek welfare state of the past. However, such initiatives remain limited and temporary as their volunteers generally do not wish to extend their activities beyond the absolutely necessary (with the exception of a small radical minority); they perceive their actions as an emergency response to an extraordinary situation. The political project on which there is broad consensus is the re-establishment of some sort of safety net for the disadvantaged, so it is no longer dependent on a volunteer, charity basis.

Productive model

The labour movement has challenged, in various periods of its historical development, not only the modes of organisation of work, but also property, as well as the general configurations of production. The aforementioned occupied and recuperated companies in Italy are part of this process. And similar experiments can be seen in Greece. Through their alternative *modus operandi*, they question in a most direct way the principles of capitalist production.

The most prominent projects in Greece are the former construction material factory VIOME (Thessaloniki) as well as the Public Television and Radio (ERT). Both companies were shut down by their owners (in the case of ERT, the employer was the Greek state), but later re-launched their activities in occupied premises under worker control. VIOME recently founded a cooperative in order to legally distribute their products, while ERT employees continue to broadcast their programming from studios around Greece, despite the eviction of their headquarters in Athens in 2013. Makis Anagnostou, a VIOME worker, describes how their self-managed factory is organised:

“We took a decision of full equality among workers, equal wages for all, regardless of the type of work one is doing. What we said is: one factory stock per worker, one vote per worker (...) Finally, we decided that the factory management may be recalled at any time. The same goes for the trade union’s board. This is what we call a cooperative enterprise under workers’ control.”²¹

There has also been a major expansion of cooperatives in Greece that provide a wide range of products and services, from agricultural products to computer repairs and from courier services to bars and restaurants. There is, however, a lack of significant experience with cooperatives in the country, which also explains the lack of awareness on the risks of cooperatives’ replicating mechanisms of labour exploitation and tax evasion.

While social movements have provided ample support to these new cooperatives and worker-controlled enterprises, union elites remain largely indifferent. Even the ERT workers, who received initial support from the Journalists’ Union, frequently denounce GSEE for their complacency and lack of support. Unionists associated with the Communist Party of Greece actually oppose the occupied factories and cooperatives, on political grounds, accusing their leaders of wanting to become “small bosses”. The lack of support suggests, therefore, that many of these initiatives may either die away under the pressure of for-profit competitors or subsist largely unnoticed at the margins of an unchanged capitalist economy.

Nonetheless, and turning the focus back to Italy, the political and symbolic potential of recuperation should not be underestimated: the transfer of installations confiscated from organised crime by the Italian state to workers’ cooperatives has bolstered the idea of worker control as well as provided jobs and opportunities for economic development.

However, neither worker-controlled nor capitalist enterprises can escape the contradictions that emerge when industrial development threatens environmental sustainability. For example, the Italian factory ILVA in Taranto – one of the largest metal factories in Europe with 12,000 employees –, once owned by the

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Italian state and privatised in the 1990s, was almost shutdown in 2012 following a judicial investigation into the pollution created by the factory. This created a conflict between people's dual interests as workers and as residents of the same area, between their job and their health. Maintaining an equilibrium between the demand for full employment and awareness of the damages of industrial growth is a hard one to strike for the labour movement, and the Italian steelworkers' union Fiom found itself in a difficult position on the ILVA issue, trying to advance a complex and courageous proposal aiming to defend both the jobs of the workers and environmental safety. The issue is still far from closed, and the contradiction between work and environmental risks could create a cleavage between trade unions and social movements. The idea that trade unions should discuss not only the organisation of production, but also what is produced at what social and environmental cost, is gaining grounds in the most enlightened components of the Italian trade union system, but the road to concrete and effective proposals is still long.

In northern Greece, a proposal to construct new gold mines in Chalkidiki led some of the area's residents to strongly support the mines' construction because of the promise of jobs, while many others rejected the project on ecological and developmental grounds. A series of violent clashes between the police and the residents, the massive indiscriminate arrests of locals and the persistent doubts about the legality and environmental sustainability of the project, all helped to create a nation-wide movement against the gold mines. During this conflict, the mining company's workers' union strongly supported the construction project, sparking outrage among movement activists. However the union movement is itself divided with high-ranking officials of the trade union system carefully distancing themselves from the conflict, while the precarious workers' grassroots unions are generally supporting the anti-mine mobilisations.

A positive example, both in Italy and in Greece, of trade unionists addressing social and environmental issues, is the committed participation of union members and officials in campaigns against water privatisation. The Thessaloniki Water Company Workers' Union has been leading the struggle against the company's privatisation since 2010. It has received ample support in its efforts both by activists and many other unions not necessarily associated with the water sector. In Italy, the CGIL and many grassroots unions actively supported the campaign that led to the victorious referendum in June 2011 calling for the return to public management of water. Once again, the fruitful debate between the labour and the commons movement provides very interesting perspectives for the development of forward-looking social activism.

Moving forward

The new developments presented in this paper raise some important questions, yet neither institutional trade unions nor informal workers' collectives are fully addressing them. Formal trade unions will require significant structural change – not simply a different leadership or political strategy – if they are to include the masses of precarious workers in their ranks, and if they are to start to restore workers' counter-power in the grim post-crisis setting of Southern Europe. How can such structural changes be ignited and which directions should they take?

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The small, experimental projects taking place on the margins of the official trade union system are important, but for the moment lack the necessary influence and critical mass required in order to have a broader societal impact. How will activists manage to expand their scope and activity in order to concretely contribute to workers' counter-power in the austerity era?

Across Europe, workers and social movements are clearly demonstrating that they both understand the challenges facing the labour movement and have the practical innovative, committed ideas and proposals to reverse the situation. What is missing is a practical debate on how to move forward, commencing from these already existing experiences. The cases we have briefly summarised point towards the reconstruction of the labour movement based on radical innovations in trade union action. Southern Europe, in the midst of an economic crisis and austerity policies, is becoming a laboratory of social and political change.

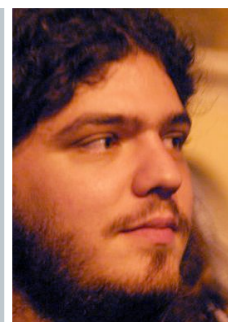
To expand beyond the laboratory will first require greater coordination and cooperation between trade unions and social movements. Trade union confederations need to recognise their failure to stop the implementation of austerity policies and their inexcusable delay in tackling issues such as labour precarity, workplace reconfigurations and the potential for a transition to a new productive model, which has undermined their credibility among the most politicised sectors of the social movement landscape. Social movement actors will need to let go of their faith in the idea that a new society will spontaneously arise from the dissemination of interesting, innovative, yet limited and isolated experiments and come to terms with the complex realities of the post-Fordist workplace.

A radical reform, in terms of structure, content and practices of trade unions is needed. The examples presented here, emerging from trade unions and social movements alike, may provide useful indications for the potential direction of such a reform. It is important to clarify that what we propose is not a fusion of social movement organisations with trade unions. Given the ideological differences between the various political sectors, as well as the need for plurality in the roles that social actors undertake in contemporary society, such a project would be inexcusably naïve. Nevertheless, there was a time in which different ideological options coexisted in the context of a labour movement able to play a significant role in society. Any actor interested in contributing to workers' counter-power in the face of neoliberal hegemony should take seriously the need to reconstruct the labour movement and to radically reform trade unionism, starting from the most innovative experiences taking place today. What we now consider "new unionism", "movement unionism" or "social unionism" might simply become tomorrow's *unionism*.

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How economics bolstered power by obscuring it

Michael Perelman

Conventional economics has constructed a powerful ideological system that reinforces the power of capital by providing much of the intellectual firepower of neoliberalism, which has been successful in imposing destructive austerity around the world. Every reasonable demand made by grassroots social forces, such as calling for environmental protection or better working conditions, will be met by a regiment of dogmatic economists, standing ready to charge that such demands are evidence of ignorance of economics, because popular demands would undermine the presumed efficiency of markets. Naturally, the media and corporate funded think tanks will give the economists a powerful megaphone, typically capable of drowning out the messages of the social movements. This paper is written in the hope that historical and contemporary examples of economists' unwarranted support of corporate power might contribute to diminishing the destructive influence of economics in curtailing the progress of social movements.

Giving economic ideology a veneer of science

A combination of historical and current perspectives is useful for confronting three dimensions of power, which will be discussed here, while disregarding the scientific definition of power in terms of physical force. First, social movements apply power to make society better for human beings. Second, artificial

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human beings, known as corporations, exercise power to offset social movements in order to give them absolute freedom to do whatever will bring them profits, no matter the social cost. Both sides in this struggle communicate ideas to reinforce their positions. Finally, economists have developed a highly influential intellectual power, in the form of a theoretical toolkit designed to further the interests of business, helping to neutralize any challenges to capital.

To avoid addressing questions of power, conventional economics generally obscures the role of power by portraying the market as an efficient system of voluntary transactions that, taken together, results in market efficiency. In doing so, power is reduced to a metaphor with the power of the market or the power of competition, but corporate power is nowhere to be found. At the same time, economists are quick to decry the dreaded power of unions to challenge the untrammelled powers of business.

Ironically, Adam Smith, while largely responsible for inspiring economics' overemphasis on voluntary transactions, also offered trenchant critiques of business' proclivity to engage in "conspiracy against the public," including the way business wielded power to both extract monopolistic rents and to dominate workers. Since then, many have read Smith selectively, praising his pro-market positions while ignoring his insights about the abuse of business power.

The neoliberal movement, which personifies contemporary economic theory, proposes that every problem has a market solution, but if markets do not offer a ready made solution, a new market can be devised. Of course, not all market activity is voluntary. As far back as 1962, Rachel Carson's *Silent Spring*, gave new energy to the environmental movement by showing how pesticides and other chemicals were wreaking havoc on the environment. Carson's book posed a serious challenge to laissez faire by showing how innocent bystanders are involuntary parties to transactions in which producers of chemicals voluntarily supply products to voluntary customers.

Problems, such as toxic chemicals, or more recently, climate change can, and generally do affect the public, as well as the natural world, yet no simple tweaking of the market offers anything resembling a solution. Economists marginalize such problems by labeling them as externalities, because they fall outside of the market. Substantial government intervention seems to offer the only hope. Doctrinaire laissez faire advocates felt threatened enough by prospect of government intervention that they slamed Carson's work, just as many do today in attacking climate science as a hoax and treating individual climate scientists as intentionally lying to the public.

The lack of a market solution to environmental problems had long troubled conventional economists, although they rarely mentioned them. But by 1960, just two years before Carson published her book, the emerging neoliberal movement found a convenient answer in Ronald Coase's famous article "The Problem of Social Cost."¹ Coase, from the University of Chicago, came up with a market solution to the problem of externalities through voluntary negotiations between the polluter and those adversely affected, leading to agreements about fair compensation from the polluter. This kind of transaction supposedly makes all parties better off. Polluters get their profits while those affected by the pollution get compensation that exceeds the value of the damage inflicted on them.

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Coase's market solution offered welcome support to the neoliberals, who were obsessed with the elimination of government regulation in general. George Stigler, a close University of Chicago colleague of Milton Friedman, immediately recognized the ideological implications of Coase's idea, declaring it to be a "theorem," thereby conferring a simple thought experiment with the status of a scientific discovery, which gave pseudo scientific support to the neoliberal project. Coase's work catapulted the Chicago school of economics to the forefront. Within the limited context of economic theory, Coase's suggestion makes sense, but only because of the exclusion of any consideration of power. In practice, Coase's "theorem" is unworkable, because the polluter has no compulsion to negotiate.

Individuals could threaten to sue but the corporation could easily find experts who could undermine any claims to harm. Even worse, to have a case heard before a jury requires proof of legal standing. In the unlikely case of a trial, the victims have to be able to mount a legal team capable of matching the power of the corporation's high priced attorneys. Previously, individuals could sometimes band together in the form of a class action suit, but recent court decisions make that option virtually impossible. The best an individual like me can hope for is the unlikely payment of a modest settlement conditioned on secrecy in order that others will not follow that example.

By way of example, the U.S. judiciary has become increasingly pro business, minimizing the chance of legal redress. For example, three conservative federal judges, Lee Epstein, William M. Landes, and Richard A. Posner, ranked the 36 justices, who served on the Supreme Court from 1946 to 2011, according to the proportion of their pro business votes; all five of the current court's more conservative members were among the top 10. But the study's most striking finding was that the two justices most likely to vote in favor of business interests since 1946 are the most recent conservative additions to the court, Chief Justice Roberts and Justice Samuel A. Alito Jr.

Of course, in a utopian society in which universal consent was required for permitting environmentally destructive investments, all affected parties could possibly arrive at a mutually satisfactory solution, but we do not live in utopia, freed from the undue influence of giant corporations.

Corporations' protection from opposition to their potential environmental damage has won powerful international support in the so called free trade agreements, beloved by both economists and corporations. According to these treaties, national states lose their capacity to place limits on investments, such as toxic waste dump. Any attempt to do so will be met by a legal challenge before a corporate friendly tribunal, which can levy significant fines for a country's illegal efforts to protect the environment and their citizens' health. In short, power becomes tilted ever more against the public interest.

Economics and primitive accumulation

Although economists present capitalism as a system of voluntary transactions, raw power has been exceedingly important in its historical formation. A crucial early step in the evolution of capitalism in Britain was a ruthless practice that Marx called "primitive accumulation". In order for landholders to take advantage of the lucrative market for wool in the Netherlands in the late fifteenth century, they evicted

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people who had traditional rights to the land, often violently to make room for sheep. This process escalated with the rise of industry and was extremely important in creating a commercial society. Those who suffered eviction were left without any means of support, thereby populating a pool of extremely cheap labour for anyone who wanted to hire them. Classical political economists' cavalier attitude regarding this early example in abusive exercise of raw power set a precedent for a long tradition of intellectual avoidance of power.

This historical myopia by economists can also be clearly seen in the different interpretations of the Game Laws versus the Corn Laws in Colonial Britain. In the early 17th century, the state allowed the aristocracy to enforce the Game Laws that granted exclusive property rights in wildlife to the King, remnants of feudalism that had long fallen into disuse. This meant people could no longer hunt to feed their families. A commoner's punishment for killing animals was harsh, from execution to incarceration or transportation to Australia, even when the purpose was to prevent the creatures from destroying farm crops.

Besides the significant crop losses that the protected game caused, neo-feudal fox hunts involved riding roughshod through farmers' fields, creating even greater destruction. One might have expected the political economists at the time to have taken notice of the crop losses associated with the Game Laws' and violation of traditional property rights. Yet they remained silent about such abuses.

By contrast, economists (most famously, David Ricardo) strongly objected to the Corn Laws (1815-1845), which levied a tariff on imported grain to increase agricultural profits, even though these tariffs had a much smaller effect than the Game Laws.

What could cause the different treatment of the Corn Laws and the Game Laws? The Game Laws were an important tool of primitive accumulation, preventing self provisioning, thereby forcing people to enter the labour market in order to subsist. This pressure increased the supply of labour and lowered wages. In contrast, the Corn Laws put upward pressure on wages by increasing the cost of food. Seen in the context of coercive power, however, both the abolition of the Corn Laws and the earlier renewed enforcement of the Game Laws served to strengthen capital's position.

Political economists of the time were too concerned with demonstrating the justice of markets to address such obvious abuses of power. However, in their more private writings, diaries and letters, they applauded the use of power to push workers off the land and into wage labour. Contemporary economists generally follow this tradition in presenting the evolution of markets as if they were a purely voluntary phenomenon, beneficial to all.

Land grabs continue around the world to give cheap access for commercial agriculture or new factories without compensation for the displaced, except for the possibility of the meager wages necessary for survival. In Africa, both American hedge funds and Chinese business interests get land for a few pennies per acre. In the United States, local governments invoke eminent domain in order to evict homeowners and renters in order to provide real estate for commercial development. Even so, economists continue to reproduce the myth of voluntary transactions.

The power of expertise

Major policy decisions often turn on which side is able to enlist the most credible experts, including economists. Policy advocates typically take pains to make themselves more attractive as expert witnesses or well paid advocates within neoliberally inclined think tanks. Others get lucrative grants. Once Coase's idea became commonly accepted, his work gave considerable confidence to neoliberals, who could claim scientific grounds for their anti regulatory agenda, both in the courthouse and in the seats of government, while social movement's demands were treated as demonstrations of their economic ignorance, even when backed up by scientific experts.

Corporate public relations operations employ their expertise in destroying the reputations of experts that work for the public interest, even if they have the support of the overwhelming majority of scientific research. The same outfits exaggerate the credentials of their clients' experts, even if their work is generally rejected in the halls of science. In short, scientific evidence becomes irrelevant. Business interests employ supposed experts to protect industries by creating enough doubt to sidetrack unwelcome government actions. The tobacco industry pioneered this strategy of manufacturing doubt, by recruiting purported experts who raised enough doubts about the dangers of smoking to prevent government action for decades. Others have followed this strategy by employing the same public relations firms as the tobacco industry did. Nowhere is this strategy more obvious than in the debates over climate change.

Government regulators also often rely upon experts, whose intentions are not suited to serving the public interest. Frequently, their expertise comes from previous employment in the same industry that they are now charged with regulating. Often after serving for a few years, they can return to a more lucrative position in that industry, which is grateful for their services. One recent example is the Environmental Assessment Impact report released in January 2014 by the State Department, which has authority over the controversial Keystone XL Pipeline, a project to convey environmentally-destructive Canadian tar sands oil. The report found no fault with the project, which is perhaps not surprising when you learn that companies with commercial interests in a more intensive reliance on tar sands happened to be major contributors to the report.

Leading figures in the world of finance frequently move back and forth between business and government. Often those who take government positions are rewarded with responsibilities, based on their presumed expertise, which allows them to make regulations ever more friendly to finance. This has enabled the private financial sector to develop new products, such as risky derivatives and swaps, as well as practices that created the financial meltdown of 2007.

Power and microeconomics

Power enters into microeconomic theory. According to the standard assumptions of conventional microeconomics prices tend to move toward the cost of producing one more unit of output, which excludes fixed costs such as rent or interest, (in the jargon of economics, 'marginal costs'). In a small village

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economy based on handicrafts, this arrangement might work satisfactorily. But what happens when marginal cost pricing operates in a modern economy in which fixed costs are very high and marginal costs are insignificant, such as in the case of a railroad where adding a few pounds of freight has insignificant costs? Something similar is common throughout modern industries in which production requires massive investment in research or equipment industries such as software, pharmaceuticals, telecommunications, etc. With little thought, one can easily see that with competitive pricing corporations could not cover their fixed costs. Bankruptcy would become common, because marginal cost pricing does not take those prior costs into account.

By the 19th century, the introduction of modern technologies with low marginal costs led to widespread bankruptcies, especially in the capital intensive railroad industry. Other industries throughout the United States with low marginal costs suffered a similar fate, leading to what became known at the time as the Great Depression, which began in 1873.²

Most economists, indoctrinated with a theory of market efficiency, had little to say about this problem. However, at the time many of the most promising economists went to study in Germany. These German trained economists, who returned to the United States, had no problem identifying the nature of these bankruptcies, in part because they were steeped in a tradition similar to that which Karl Marx experienced. Given this training, these economists were discouraged by the irrelevance of much of the merchant oriented simplicity of conventional economics. To promote their more holistic Germanic orientation, they formed the American Economic Association.

Given their more realistic understanding of economics, these economists recognized the need for some kind of countervailing power to blunt the destructive power of competition. They advocated trusts, cartels, and monopolies as a way to give corporations enough power to prevent the market from self destructing. Nonetheless, perhaps motivated by careerism, the leaders of this new organization then turned around and wrote textbooks praising the wonders of perfect competition. John Bates Clark was the most egregious example of this duplicitous form of economics.

In effect, these economists carried on two separate dialogues to serve the interests of the rich and the powerful. One recommended blunting the power of market forces, which would protect industries with high fixed costs from competitive pricing. The other dialogue insisted that unregulated markets were both just and efficient; that the rising militancy of the working class was misguided. According to their “scientific” theory of economics, wages were a mutually beneficial transaction in which workers’ meager earnings were their just rewards. In short, while the power of competition should be allowed to collapse the level of wages, the state should take measures to increase profits by weakening the power of competition in product markets.

Power and monetary theory

Monetary theory concentrates on the effect of changes in the money supply on the respective levels of economic activity and inflation (often a codeword for wages). Power was once briefly considered as a

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factor in monetary policy in studies coming out of Latin America around the 1960s. The Latin American experience suggested that inflation reflected the response of the state to a stalemate in which it was incapable of simultaneously satisfying the demands of both powerful business interests and militant labour organizations. To appease both powerful interest blocks, the state adopted policies that created significant inflation.

In conventional economics today, monetary policy is treated as a purely technical matter, unrelated to power. The stated goal of monetary policy is simply to ensure price stability, which can allow the economy to follow its natural equilibrium path of economic growth and stability, an unrealistic vision to say the least.

While wage repression is a high priority, the outlandish fees that banks and credit card companies charge do not even merit a comment. Increasing prices of financial assets (bubbles) appear as a sign of economic health; however, wages must, by all means, be kept in check. The disconnect between the need to hold down wages and the lack of concern about other kinds of prices suggests that concern about price stability can be nothing more than a cover for a crass exercise in class warfare.

In 1979, shortly after taking the reins at the Federal Reserve, Paul Volcker voiced his determination to hold inflation in check. At first, many powerful people doubted whether Volcker would be willing to follow through with his plans, which were sure to create enormous casualties. A front page story in the *Wall Street Journal*, entitled, "Monetary Medicine: Fed's Cure is Likely to Hurt in Short Run by Depressing Economy, Analysts Say" expressed this sentiment. The paper noted:

"Among those who are skeptical that the Fed will really stick to an aggregate target is Alan Greenspan ... who questions whether, if unemployment begins to climb significantly, monetary authorities will have the fortitude to stick to the new policy."

Around this time possibly in response to the article Volcker invited the editor of the *Wall Street Journal* editorial page, along with his deputy, and the features editor, to a lunch at the New York branch bank of the Federal Reserve. Volcker asked his guests, "When there's blood all over the floor, will you guys still support me?" The deputy editor responded affirmatively, later proudly recollecting, "There was blood indeed, as overextended Latin borrowers and American farmers were caught out by a return to a sound dollar. But we held fast."³

Volcker's militaristic analogy (expressed privately to the staff of the *Wall Street Journal*) let the cat out of the bag. The effort to tame inflation was, in reality, little more than an exercise in class war. In fact, Volcker himself had intended to spill blood. Volcker also visually expressed his intentions as Greider reports:

"[Volcker] carried in his pocket a little card on which he kept track of the latest wage settlements by major labour unions. From time to time, he called various people around the country and took soundings on the status of current contract negotiations. What is the UAW asking for? What does organized labour think? Volcker wanted wages to fall, the faster the better. In crude terms, the Fed was determined to break labour."⁴

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Toward this end, Volcker restricted the money supply, making interest rates soar so extremely that the United States experienced what was became the worst economic downturn since the Great Depression. Volcker only let up when the collateral damage became too great. Mexico, which owed a great deal of money to U.S. banks, seemed to be on the brink of bankruptcy, threatening the U.S. banking system. .

Later, Michael Mussa, director of the Department of Research at the International Monetary Fund, looked back fondly at Volcker's accomplishment. Mussa continued the military analogy, praising Volcker's victory in vanquishing "the demon of inflation".

"The Federal Reserve had to show that when faced with the painful choice between maintaining a tight monetary policy to fight inflation and easing monetary policy to combat recession, it would choose to fight inflation. In other words to establish its credibility, the Federal Reserve had to demonstrate its willingness to spill blood, lots of blood, other people's blood."⁵

What would the response have been if unions had gloated about using their power to spill capitalists' blood in the streets? Even if unions merely suggested the imposition of serious hardships on the capitalists, an angry response would have been followed by strong anti labour measures. Instead, monetary policy continues to appear as a bloodless technological policy to ensure the smooth operation of voluntary markets. Power has no place in such matters.

By the end of the 20th century, the chairman of the Federal Reserve, Alan Greenspan, was confident that the war was already won. The Fed need not take any aggressive actions. Greenspan believed that the psychological state of the workers, what George Orwell called "the haunting terror of unemployment", meant that the threat of increasing wages had been annihilated. As Greenspan testified before Congress, in a language that was legendary for its obscurity: "The rate of pay increase still was markedly less than historical relationships with labour market conditions would have predicted. Atypical restraint on compensation increases has been evident for a few years now and appears to be mainly the consequence of greater worker insecurity".⁶

Greenspan was correct in his assessment of the situation facing workers. He had numbers to back him up, reporting:

"As recently as 1981, in the depths of a recession, International Survey Research found twelve percent of workers fearful of losing their jobs. In today's tightest labour market in two generations, the same organization has recently found thirty seven percent concerned about job loss."⁷

With wages held in check while the economy boomed, inequality soared during the late 1990s. In 1997, responding to a question from Representative Patrick Kennedy, Greenspan, who made a science of public evasiveness, blamed the resulting growth in inequality on technology and education, excusing his own contribution:

"It is a development which I feel uncomfortable with. There is nothing monetary policy can do to address that, and it is outside the scope, so far as I am concerned, of the issues with which we deal."⁸

Power, labour economics and crisis

In order to emphasize the voluntary nature of markets, economists have generally gone out of their way to create a theory that excludes all considerations of work, workers, and working conditions. Instead, economics represents the job market (suggesting that labour is just another commodity) as a voluntary arrangement. Two highly respected economists, Alchian and Demsetz, one of whom was the instructor in my freshman class in economics, compared the relation between employer and employee to that between shopper and grocer:

“The firm has ... no power of fiat, no authority, no disciplinary action any different in the slightest degree from ordinary market contracting between any two people He [an employer] can fire or sue, just as I can fire my grocer by stopping purchases from him or sue him for delivering faulty products... To speak of managing, directing, or assigning workers to various tasks is a deceptive way of noting that the employer continually is involved in renegotiation of contracts on terms that must be acceptable to both parties. Telling an employee to type this letter rather than to file that document is like my telling a grocer to sell me this brand of tuna rather than that brand of bread.”⁹

The main benefit of this exclusion is that it conveniently eliminates a major area of power from the discipline of economics, even if this practice is exactly what “good” economists are supposed to do. The problem is that “good” economists ensure that their approach obscures any negative effects of markets.

That cover, however, is incapable of hiding the intractable problems of capitalism. Most obviously crises repeatedly occur. Once the damage becomes obvious, power may briefly enter into the picture. After the crisis subsides, power quickly returns to its previous state of invisibility. What is most remarkable is that a clear consideration of mainstream economic theory should be enough to alert economists to the inherent contradictions in their view of the capitalist economy. Such insight might be capable of moderating some of the more destructive results of untrammelled capitalism.

Business power over workers and consumers

Although the use of power to take advantage of workers is important, power under capitalism has numerous dimensions. For example, Schumpeter made the case that large firms often act as corespectors; that is, they both compete and cooperate. Such corporate cooperation may be intended to wield power against suppliers, distributors, the public, or even competitors, which are not involved in the collusion.

Of course, businesses also wield power on their own. For example, business does everything possible to take advantage of consumers without losing too many customers. To avoid unnecessary controversy, I will ignore the use of advertising that saturates capitalist society. Although the sophisticated use of art, demographics, and psychology to control consumers’ minds may be seen as an exercise in power, I will not make that case here.

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One could also ignore the requirement that consumers sign agreements before consummating a purchase as an exercise in power; even though such agreements often involve the purchasers waving any rights to sue the sellers.

Classifying the seemingly arbitrary imposition of fees, which have no relationship to business costs, as exercises in power would seem to be less controversial an example, especially because the customer may not even be aware of the possibility of such fees.

The power over consumers is not unrelated to the power over workers. In the early 19th century, economists, such as Simon Patten, were explaining to workers that they should see themselves as consumers rather than as workers. This tactic made perfectly good sense for capital because workers, who laboured side by side with other workers, were more likely to feel some sense of solidarity with each other. In contrast, consumption is an individualistic activity. Taken to extremes, consumers can even compete with each other in their consumption.

Competitive business power

Businesses also use raw power to gain a competitive edge over other businesses. Economists ignore such use of power, emphasizing the benign consequences of competition: lower prices, improved quality, and even entirely new products.

Yet competition also has a dark side. The earlier discussion of the macroeconomic use of power to affect the level of wages is paralleled by a much more direct, microeconomic application of raw power in which business attempts to lower wages and intensify work. In business to business competition, power is used to hobble competitors. Corporate chains will choose to open outlets strategically in order to stymie competitors' expected business strategies.

Businesses also engage in predatory pricing, meaning that they lower prices to a level that drives competitors out of business. Once the competition disappears, the predator can charge prices that take advantage of consumers who are deprived of alternatives.

One of the most effective competitive measures is to take advantage of the legal structure of intellectual property. Corporations sue one another in order to prevent them from carrying on business of one kind or another. Presently, companies are spending billions of dollars for the patents owned by defunct companies. They intend to use them either to sue other companies or defend themselves when other companies take them to court. While textbooks describe the beneficial results of competition, this sort of deadweight loss goes unmentioned. In the end, consumers will bear the cost of all this exercise in power.

Power is a factor in the relationship between businesses and their suppliers or distributors. A classic example is the relationship between Vlasic Pickles and Walmart. The boutique pickle company wanted to take advantage of the marketing scope of Walmart. The giant retailer, however, made increasingly difficult demands of Vlasic, which destroyed its reputation as a premium brand. For example, Walmart

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demanded that the pickles be packaged in gallon jars. Similarly, Charles Kernaghan has documented the damage done when Walmart demands increasingly low prices from its sweatshop suppliers, who have no choice but to squeeze more out of the young girls who are already working in subhuman conditions.

In other cases, power lies with the producer rather than the distributor, imposing conditions on the distributor. In the digital world, hardware producers can configure products in ways that prevent people from using materials from competing providers.

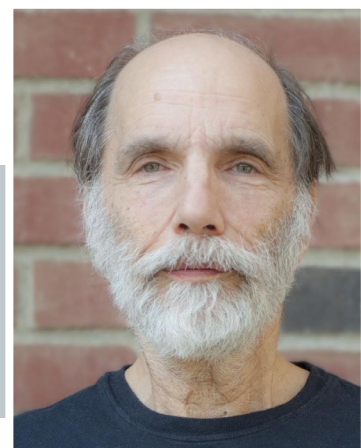
Conclusion

What this paper reveals is the existence of abusive economic power, which requires a sequence of recognition and understanding as well as movements well organized enough to assure a decent society. Understanding the nature of power and how economists have managed to invisibly apply their discipline to shore up the structures of capital is very important in pushing back.

Economists consistently have upheld the power of elites. They have done this by advocating policies by virtue of their alleged expertise as we saw in the Keystone Pipeline but also by coldly taking the side of elites as we saw in the case of Volcker's willingness to sacrifice working families to push through monetary stability. But the main way they have done this is by ignoring or obscuring power, giving economics a veneer of science, in which the impact on people and the environment is hidden from public view.

Unfortunately the fact that this discussion would not be possible in most North American venues brings us to another dimension of power. As an economist, I am sensitive to the fact that radical analysis or curiosity about the exercise of power has been virtually banned from the discipline. Of course, this systematic exclusion is, in itself, an inexcusable exercise of power.

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