



GOVERNANCE,  
GLOBALIZATION  
AND PUBLIC POLICY

Edited by Patricia Kennett

# Governance, Globalization and Public Policy



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*Edited by*

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**Edward Elgar**

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# PART I



# 1. Introduction: governance, the state and public policy in a global age

**Patricia Kennett**

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## INTRODUCTION

Public policy is located within an increasingly complex, multiple and overlapping network of interactions which are embedded in a transnational and subnational polity and economy. This collection is concerned with exploring the nature of the policy arena in the context of globalization and the reconstitution of the state. Many of the key cornerstones of public policy analysis have become problematic as processes of globalization have disrupted the traditional analytical and conceptual frameworks through which policymaking and implementation have been understood. The reorientation of the role of the state, the increasing variety of terrains and actors involved in the making of public policy, and the transition from government to governance are all aspects of a changing environment, the implications of which need to be captured within contemporary analysis.

It is against this backcloth that the contributors to this collection seek to broaden, extend and integrate theoretical, conceptual and substantive policy debates. This first chapter will focus particularly on the broad themes of governance and globalization and the relationship between them. It will consider various interpretations of governance, the implications for the state, and the institutions, actors and processes involved in the making and implementation of public policy. The chapter will conclude with an introduction to the structure, organization and content of the remaining contributions to the collection.

## THE GLOBAL CONTEXT

The contested and linked concepts of globalization and governance have become firmly established in academic and political debates. There are a myriad of interpretations, as well as a spectrum of opinion on the extent, nature and implications of the phenomena. Globalization can be perceived

as an economic, ideological, political and institutional project facilitated and enabled through a technological revolution, an ideological and policy shift, a strengthening of the role of international financial institutions and a changing geopolitical landscape (Giddens, 1999; Held and McGrew, 2000, 2002).

Debates about and definitions of governance have emerged at different spatial scales, and from within different types of institutions and academic fields. The term 'governance' has been utilized in a range of countries across Western Europe, the USA, Canada, Australia and New Zealand, and has subsequently become a dominant theme in international organizations, particularly the World Bank and the United Nations. In Western literature it is mainly concerned with the idea of a change from the realist perception of old government and the Westphalian system, whereby the world is organized into territorially exclusive, sovereign nation states, each with an internal monopoly of legitimate violence, to new governance. The former is characterized as having a governing administration which is regarded as the key dominant actor in the policy arena. Internally there exists a clear hierarchy of authority and governing is seen as a top-down, hierarchical process, with the nation state taking centre stage. However, with the change from government to governance the governing administration is now only one player amongst many others in the policy arena. The policy arena has become visibly more crowded, there are more actors involved, the boundaries between the public and the private sphere are less precise and the government's command over the policy process is said to have been transformed (Kjaer, 2004; Newman, 2005).

For Richards and Smith (2002):

'Governance' is a descriptive label that is used to highlight the changing nature of the policy process in recent decades. In particular, it sensitises us to the ever increasing variety of terrains and actors involved in the making of public policy. Thus, it demands that we consider all the actors and locations beyond the 'core executive' involved in the policy-making process. (p. 2)

According to Newman (2005) 'the image of a hierarchical relationship between state and citizenry . . . is displaced by the idea of multiple parallel spaces in which power is encountered and negotiated' (p. 4). Whilst Stoker (1998) supports a general view that governance is about styles of governing in which the boundaries between and within the public and private sectors have become blurred, he asserts that the 'essence of governance is its focus on governing mechanisms which do not rest on recourse to the authority and sanctions of government' (p. 17). Rhodes (1996; also see 2000), in an attempt to establish the meaning of 'governance' and its usefulness for understanding the evolution of the British state, identified six separate uses of the term

as a minimal state, corporate governance, the new public management, 'good governance', socio-cybernetic system, and as self-organizing networks.

In identifying an interpretation of governance as a socio-cybernetic system Rhodes (1996) is drawing primarily on the work of Kooiman (2003) for whom a major area of concern is the relationship between government and society. Kooiman (2003) is concerned with making governing relationships productive through notions of socio-political governance, or interactive governance between different societal and political actors. Concepts of diversity, dynamics and complexity are central features of governance itself. The socio-political system is increasingly differentiated, characterized by multiple centres and is one in which 'Actors are continuously shaped by (and in) the interactions, in which they relate to each other' (Kooiman, 2003, p. 2). It is the role of government to enable interactions, encourage many and varied arrangements for coping with policy, and ensure equitable distribution of services between actors through self- and co-regulation and public-private partnerships, or what Kooiman calls 'types of societal interactions' and 'modes and orders of governance'. However, for Kooiman no single governing agency is able to realize legitimate and effective governing:

No single actor, public or private, has all knowledge and information required to solve complex, dynamic and diversified problems; no actor has sufficient overview to make the application of needed instruments effective; no single actor has sufficient action potential to dominate unilaterally in a particular governing model. (Kooiman, 1993, p. 4)

Within the context of what Rhodes (1997) calls a 'differentiated policy' he identifies a fragmented and dispersed pattern of service delivery and regulation. For Rhodes, recent global political and economic shifts have limited the capacity of nation states to govern. These changes have taken place in an ideological climate hostile to 'big government', leading to a series of reforms producing both a reduction in the size of the machinery of government and its fragmentation. Drawing on the experiences of Western democracies, Pierre (2000) refers to these developments as a challenge to the state 'from within' as institutional arrangements of the post-war period were perceived as the source of poor economic performance, and barriers and impediments to effective competition within states and in the increasingly important international markets. As Pierre (2000) explains:

For Reagan, Mrs Thatcher, Mulroney and their ideological followers in several other countries the recipe to alleviate these problems was a firm monetarist economic policy coupled with deregulation, privatization, drastic reductions in the civil service, the introduction of 'managerialism' in the public sector, and a profound institutional restructuring of the state creating semi-autonomous agencies

to replace governmental centres of command and control functions, i.e. the creation of a minimalist state. (pp. 1–2)

Rhodes (1997) contends that central government's authority, autonomy and power have been reduced by being dispersed – upward to the supranational level, for example Europe, the International Monetary Fund and the G7 (G8 including Russia); outwards through privatization and market testing; and downwards through the creation of agencies and quangos. A 'differentiated policy' requires a new form of coordination which, according to Rhodes (1997), emerges through networks. These policy networks are increasingly influential as policymaking in central government occurs not through formal institutions but through contacts and informal networks. So a crucial element of governance is the shift from markets and hierarchies towards networks and partnerships as modes of coordination (Marsh and Smith, 2000), or what Stoker (1998) refers to as 'the ultimate partnership activity' of autonomous self-governing networks of actors (also see Atkinson and Coleman, 1992) involved not just in influencing policy decisions but also in the business of government itself.

## GLOBALIZATION AND NEW FORMS OF GOVERNANCE

Although not the only factor shaping the nature of governance, globalization is clearly a crucial context in which the policy process should be understood (Hudson and Lowe, 2004). For Cerny (1999) it is economic structural change that is at the heart of globalization in that 'it challenges deeply embedded socio-cultural and political structures in critical ways . . . provoking dynamic responses of promotion, accommodation, and resistance' (p. 199), both within and beyond the state. It is the nature of competition in this changing environment that has had the major impact on governance structures as the marketized, competitive state 'searches for effectiveness in an increasingly economically penetrated world' (Cerny, 1999, p. 199).

The political and ideological context through which globalization was able to flourish was one in which there was a major shift in the orientation of economic and policymaking and a fundamental 'breakdown of the economic policy consensus that had brought in its train more than two decades of almost uninterrupted economic growth and prosperity in the industrial North' (Weiss, 1991, p. 144). The post-Second World War Bretton Woods system of closed capital accounts and fixed exchange rates, and the modest and gradual approach of the General Agreement on Tariffs and Trade

(GATT) to trade liberalization, came to an end during the 1970s. Over the next decade a policy environment was established that facilitated economic integration and capital mobility through the deregulation of financial markets and the removal of most of the restrictions on capital flows. In 1995, the creation of the World Trade Organization (WTO), after eight years of complex and difficult negotiations, heralded a transformation in the multilateral trading regime. The WTO, made up of 184 member governments, has a much wider remit than its predecessor, moving beyond tariffs and trade in goods to include agriculture, standard-setting, intellectual property and services. In addition the 'single undertaking' binds member governments to all WTO agreements, and its dispute system is legally binding (Sinclair, 2003). Increasing competition in global markets, pressure from international institutions, domestic policy decisions to reduce national barriers to international economic transactions, combined with the impact of new technologies, 'created the enabling conditions for the onset of globalization' (Biersteker, 1998, p. 24).

More recently, in the context of an established, yet still evolving globalization and governance architecture, new forms of governance have emerged involving what Rosenau (1990) refers to as the increasing relevance of private, 'sovereignty-free actors', multinational corporations, transnational societies and international governmental and non-governmental organizations. The dominance of market-driven approaches to stimulate growth and competitiveness has, according to Wilkinson (2005), 'recast transnational corporations into mobilisers of capital, generators of technology, and legitimate international actors with a part to play in an emerging system of global governance' (p. 37).

The growing visibility of non-governmental organizations (NGOs) and social movements in the global arena has generated powerful debate, at a time when traditional, nationally based channels of participation (for example membership of a trade union or political party, voting turnout) have been in decline. Concern regarding the social and environmental impacts of globalization, corporate 'irresponsibility' and unsustainable growth, as well as the nature of emerging governance structures, became particularly apparent during the 1990s. The 'democratic deficit' and lack of transparency in the powerful international institutions has been, and continues to be, a major issue, as was the growing awareness of the negative impact of the neoliberal strategies these institutions were advocating and implementing during the 1980s, particularly in the countries of the South. *The Human Development Report* (UNDP, 2000) points to the role of civil society actors in maintaining pressure on national governments, international agencies and corporations to protect human rights and environmental standards. In the year 2000 there were more than 37 000 NGOs – nearly

one-fifth of them formed in the 1990s. Around the world there are more than 20 000 transnational NGO networks, and more than \$7 billion in aid to developing countries now flows through international NGO activity (UNDP, 2002).

Rhodes (1996) argues that 'Government reform is a world-wide trend and "good governance" is the latest flavour of the month at the World Bank, shaping its lending policy towards Third World countries' (p. 656). This is in contrast to the 1980s when the Washington Consensus, incorporating the familiar neoliberal themes of deregulation, privatization and the liberalization of trade, was considered the most appropriate model of economic and political management. This was a reflection of the new economic orthodoxy emerging in the North which was promoted by the most powerful state players and subsequently transmitted to developing societies through the influential international financial institutions. The response of the World Bank and the International Monetary Fund (discussed in more detail in Chapter 6) to sustained criticism not only of the negative impact of their structural adjustment programmes, but also in relation to issues of accountability and transparency, has been to turn instead 'toward embedding, legitimating and securing reform' (Porter and Craig, 2004, p. 390) through 'inclusivity', extending their association with civil society in the policymaking process and promoting a form of 'good governance' that 'marries the new public management to the advocacy of liberal democracy' (Rhodes, 1996, p. 656). Eyoh and Sandbrook (2001) characterize this approach as one of 'pragmatic neo-liberalism' which has been particularly apparent since 1999 and the introduction of the Comprehensive Development Framework (CDF). According to the World Bank the CDF promotes a more holistic, participatory and country-owned approach to poverty reduction through Poverty Reduction Strategy Papers which require national governments to reassess their relationship and engage with civil society in the policy arena.

The proliferation of NGOs and their increasing visibility in world politics and policy has also been promoted and reinforced by the rhetoric of decentralization, local participation, self-help and partnership which has, in turn, contributed to the development of new collaborative forms of governance. These developments have received 'ringing endorsements . . . from widely distant points on the ideological spectrum' (DeMars, 2005, p. 34). They are perceived from the Right as an appropriate alternative to national governments, from the moderate left as a democratizing force promoting accountability and social rights, and from the more radical Left as a potential force for 'a counter-hegemonic project that would eventually yield revolutionary change' (DeMars, 2005, p. 34). The novel forms of participatory governance, the emergence of a 'global civil society', and the

transnational political networks put in place by actors in civil society challenge the state from below (Lipschutz, 1992). For Lipschutz 'the growth of global civil society represents an ongoing project of civil society to reconstruct, reimagine, or re-map world politics' (ibid., p. 291).

Whilst it is evident that new forms of politics, representation and layers of governance (Swyngedouw, 2005; Richards and Smith, 2002) are emerging, both internationally and locally, one cannot yet confirm the arrival of multilayered public governance (Scholte, 2000; Held et al., 1999) or a strong global governance. As Jessop (2004) argues, there is still substantial scope for the state 'to mediate between the increasing numbers of significant scales of action' (p. 18). Participatory processes appear to have remained relatively weak. Within some developing countries the process has been more one of consultation than participation and in some cases has been 'limited to giving feedback on complete draft documents or voicing opinions at large consultation workshops' (McGee et al., 2002). It has also been perceived as an externally imposed condition by some governments which are *required* by the donors to implement broad-based participatory processes to produce Poverty Reduction Strategy Papers.

So whilst the emphasis is on country ownership, policy autonomy and the mainstreaming of poverty reduction policies there remains a tension between national autonomy and policy conditionality imposed by IFIs. The World Bank is the largest provider of long-term development finance for poor countries. Its concessional development arm, the International Development Association, provided \$8.7 billion in aid to developing countries (Oxfam International, 2006). The International Monetary Fund (IMF), although initially assigned the role as a worldwide central bank, has become almost a 'permanent fixture' (Oxfam, 2006) in developing countries, as the activities of the World Bank and the IMF have converged. According to Oxfam (ibid.) the IMF has a gatekeeper role, 'in that nearly all official development donors tie their aid and debt relief to the presence of an IMF lending programme'. Thus the economic conditions the IMF attaches to its lending are highly influential on national policies and thus on the content of the country-prepared PRSPs as governments seek endorsement. 'If a poor country does not fulfil IMF conditions it risks losing both IMF finance and all other sources of aid and debt relief tied to the IMF programme' (ibid., p. 9).

Commenting on the effectiveness and extent of 'inclusive' participatory processes, Clarke et al. (2005) conclude that simply because there has been a substantial increase in the number of non-state actors, this does not automatically translate directly into more systematic participation within international governmental organizations or mean that states and international organizations uniformly respond to NGO 'knocks' by opening the

intergovernmental ‘doors’ (Clarke et al., p. 294). More important is an assessment of the nature and quality of procedures governing civil participation. In their assessment of three United Nations World Conferences held in the 1990s Clark et al. (2005) did find evidence of the development of ‘shared procedural repertoires’ between NGOs, and ‘deepening common frameworks’ between NGOs and states. However, their overall conclusion was that: ‘States continue to dominate the procedures and the substance of interaction on key sovereignty-related issues’ (p. 295), and ultimately it is ‘State sovereignty [that] sets the limits of global civil society’ (p. 314).

## GOVERNANCE AND THE STATE

A central concern of the globalization and governance debate has been the implications of global integration for the state. As Pierre (2000) points out:

The overarching question is what significance or meaning remains of the liberal-democratic notion of the state as the undisputed centre of political power and its self-evident monopoly of articulating and pursuing the collective interest in an era of ‘economic’ globalisation, a hollowing out of the state, decreasing legitimacy for collective solutions, and a marketisation of the state itself. Is it the decline of the state we are witnessing, or is it the transformation of the state to the new type of challenges it is facing at the turn of the millennium? (p. 2)

As Rose and Miller (1992) argue, simply ‘relocating aspects of government in the private or voluntary sectors does not necessarily render them less governable’ (p. 200). It is not about a reduction in government, rather the dispersal of government power across new sites of action, augmented through new strategies and technologies. Whilst global processes can clearly be associated with the changing nature of constraints faced by the state, and patterns of interaction between and within states, this is not to say that national governments no longer have any importance but rather that the things they are able to do are different and are done through a new array of institutions and relationships. Jessop (2004) characterizes the contemporary policy arena as one of ‘unstructured complexity’ (p. 17), in which national governments, international organizations, firms, International Governmental Organizations (IGOs) and NGOs, and civil society might provide governance services in many different combinations (McGinnis, 2000), as indicated in the subsequent chapters in this book.

States remain key players in regulating and directing economic and political globalization – they are not passive players but primary architects. We might therefore speak of state adaptivity rather than state retreat (Weiss, 1998). More recently, Weiss (2005) has referred to a process of ‘state

augmentation' in which globalization is reinforcing the role of national institutions. She argues that:

there is strong evidence that in the contemporary period the growth of the state has gone hand-in-hand with the rise of global corporations and multilateral institutions, and that these contemporary global networks remain intimately entwined with the domestic structures of nation states. As national networks have grown, so too have transnational ones. This is a story of structural and political entwinement, of mutual reinforcement, rather than of power displacement. (p. 346)

Swyngedouw (2005) highlights a threefold organization of governing contributing to a 'rearrangement of the relationship between state, civil society and the market' (p. 1998). This involves the externalization of some state functions through privatization, deregulation and decentralization; the downscaling of governance to incorporate 'local' practices and arrangements (p. 1998); and the upscaling of regulatory functions and other roles to supranational levels of governance, such as the EU, IMF and WTO. This governance structure is accompanied by polycentric ensembles and horizontal networks of association between private, civil society and state actors (Swyngedouw, 2005) operating within what Hajer (2003) has referred to as an 'institutional void'. According to Swyngedouw (2005), 'the rescaling of policy transforms existing power geometries, resulting in a new constellation of governance articulated via a proliferating maze of opaque networks, fuzzy institutional arrangements, ill-defined responsibilities and ambiguous political objectives and priorities (p. 1999). However, central to these arrangements is the state which plays a pivotal role in establishing the contours and content of this new form of networked governance.

Jessop (2004) reinforces the argument that the state has never existed 'in majestic isolation overseeing the rest of society but is embedded in a wider political system, other institutional orders, and the life world' (p. 12). The state itself, as well as its relationship with other institutional forms, is 'historically variable and socially constructed' (p. 12). Jessop (2004) refers to a series of counter-trends evident in the current reorganization of the national state. The dispersal of state power and activities to actors, networks and institutions at different spatial scales represents the denationalization of statehood. However, this very dispersion has created sites for the emergence of new state powers, albeit at different territorial scales – and this represents the reterritorialization of the national as the state seeks to play a central role in this 'unstructured complexity as different scales of economic and political organisation proliferate and different scale strategies are pursued' (p. 17). Thus, according to Jessop, the shift from government to governance (or de- and restatization) has not weakened the role of

the state; on the contrary it is precisely because of these trends towards the blurring of the boundaries between the public and private, and changing relationships between organizations, that the new responsibilities at different spatial scales have emerged.

The governmentality approach also reinforces the notion that the neoliberal state 'not only retains its traditional functions, but also takes on new tasks and functions' (Lemke, 2001, p. 201). Central to the notion of governmentality are the concepts of political rationality and technologies of government (Foucault, 1996). Political rationality, according to Lemke (2001), refers to a discursive field in which exercising power and forms of action are 'rationalised'. This rationalization occurs through the emergence of concepts, arguments and justification, and the creation of objects. Lemke argues that political rationality 'constitutes the intellectual processing of the reality which political technologies can then tackle'. Thus, a form a reality is constructed for which particular political technologies are then deemed appropriate, and instigated through various institutions, agencies and legal forms (Barry et al., 1996; Burchell et al., 1991). For Foucault (1982), government is also about the 'conduct of conduct', involving the governing of self as well as governing others and, according to Lemke (2001), how the modern state and the modern autonomous individual co-determine each other's emergence. The state is itself a tactic of government, 'since it is the tactics of government which make possible the continual definition and redefinition of what is within the competence of the state and what is not, the public versus the private, and so on' (Lemke, 2002, p. 58). The shift from government to governance can thus be interpreted not as a diminishment or reduction of state sovereignty and planning capacities, but rather as a consolidation of new technologies of government with the dominance of a neoliberal government rationality and the transformation of the technologies of government, from formal to informal techniques and the inclusion of new actors in the governing process (Lemke, 2002).

## CONCLUSION

Globalization and governance are clearly interrelated processes, each with the potential to shape the other. Globalization needs to be understood not as a dynamic, inevitable force, and 'ascribed a kind of ubiquitous causal agency' (Tickell and Peck, 2003, p. 163) which has impacted on states and governance structures, but instead as a process which unevenly and contingently shapes the 'field of action' of governance structures. Domestic governance continues to play a key role in steering and supporting, to varying

degrees, the pace, extent and impact of global interaction. As Lake (2000) argues, globalization itself 'is the product of a particular form of governance rooted in the domestic political economy of the earlier industrialisers' (p. 32). However, as power has become more diffuse within 'an increasingly complex structure of socio-economic forces and levels of governance' (Cerny, 1999, p. 190) so the capacity of states to influence and participate in global governance has become more differentiated. States have very different capability in terms of exercising power internally and internationally (Jessop, 2004). However, in a global era states with the ability to exercise power both economically and politically should not be construed as the 'unchallenged masters of the global economy'. Nor should we conclude that we are experiencing the 'end of territoriality'. Most appropriate for understanding contemporary politics and policymaking is that they involve processes that are dynamic, dialectical and differentiated. This is an approach that is adopted in the substantive chapters of this book which will provide insight into the spaces and practices of governance (Newman, 2005) under the conditions of globalization.

## CONTENT AND STRUCTURE OF THE BOOK

This edited collection is divided into two parts. The first part explores the concepts and perspectives associated with globalization and governance, the links between them and the implications for the state and public policy. It also considers developments at the global and regional levels and the implications of the emergence of new regulatory regimes in the context of liberalization and privatization. Issues associated with power and politics are key concerns and are integrated into discussions about new approaches to policymaking in governmental and non-governmental settings. The second part focuses on a broad range of substantive areas of public policy such as human rights, health and health care, security, housing markets, poverty and terrorism.

For Adrian Kay one of the key elements of globalization, and a crucial aspect of new governance structures, is the ascendance of economic modes of thinking within the policy process. In Chapter 2 he is concerned with the transcendence of economic logic in the development, implementation and evaluation of public policy, which he argues 'is increasingly wedded to this hallmark of neoclassical economics [cost-benefit analysis]'. In order to explore the relationship between economism and public policy he focuses on three themes: market failure and the policy prescriptions that follow from that; theory of public goods; and government failure as the logic behind many public reforms over the last 20 years.

In Chapter 3 Kevin Farnsworth looks at the changing nature of corporate power and the growing influence of business in shaping policy interventions both nationally and internationally. His general argument is that business power and influence has been strengthened within global capitalism. However, in developing a theory of business power, Farnsworth stresses the need to differentiate between structural and agency power, and more specifically between institutional frameworks, economic contexts and policy levels.

For Otto Holman in Chapter 4 the power and influence of business in the policy process is also a key concern. The particular focus in this contribution is European governance and the interplay between formal and informal practices of governance. He examines one particular public-private partnership which has developed between transnational business and the European Commission – the European Round Table of Industrialists (ERT) – its influence in relation to the substance of the European Employment Strategy, and role in shaping the European Social Model.

The final chapter (Chapter 5) in Part I looks at governance and the state in Asia, in the context of global neoliberalism. The chapter outlines the policy paradigm of international financial institutions applied to developing countries in the 1980s and contrasts it with the ‘counter-critique of the neoliberal paradigm’ captured in the concept of the ‘developmental state’. Amornsak Kitthananan explores the nature of governance in the developmental states of Japan, South Korea and Taiwan, and the more recent challenges of liberalization and financial crisis to the model of capitalist development. He suggests that recent developments in governance structures in the region, particularly in Thailand, might appropriately be characterized as the emergence of the ‘neo-developmental’ state.

Part II of this collection focuses on bringing together more general debates in public policy analysis and the policy process, with discussions relating to specific contemporary issues. In so doing it seeks to locate abstractions within specific policy contexts and subsequently illuminate and bring into sharper focus the interdependencies, complexities, diversity and contradictions evident in the current policymaking arena.

In Chapter 6, the focus is on the nature of human rights protection, and its implementation and enforcement. Tonia Novitz begins by outlining the three ‘generations’ of human rights: civil and political rights; economic, social and cultural rights; and the rights of ‘peoples’, and the systems and institutions established to implement these rights. She goes on to explain the governance structures surrounding each of the ‘generations’ of rights and to consider the reluctance of states to strengthen international human rights. The remainder of the chapter goes on to consider whether the pace and depth of global market forces has undermined individual states and

human rights, and the potential for the increasingly influential international economic institutions to promote and contribute to the protection of human rights on a truly global scale.

Paul Cammack, in Chapter 7, considers the role of global governing elites and international institutions in the making of policies considered appropriate for the alleviation of poverty. He argues that in policy terms a global consensus has emerged around the logics of entrepreneurship and competitiveness. This logic is being transmitted and perpetuated through a range of instruments directed towards poverty policy such as benchmarking, surveillance and peer review. These instruments are promoted by increasingly coordinated global institutions and implemented by national governments, and can best be interpreted as constituting a global 'convergence club' model. Drawing on this model, Cammack highlights the logic and coherence of global policy in relation to poverty.

In Chapter 8 Sarah Payne focuses on the contradictory relationship between globalization and health, and the role of health governance in protecting and promoting the well-being of individuals. The chapter considers the uneven distribution of the gains and costs of globalization on health status, as well as the implications of the emergence of new health challenges. Processes of globalization have generated new risks, increased the speed at which such risks can travel and strengthened the necessity for effective global health governance. The chapter concludes by outlining the structure and institutions of global health governance, the impact of these organizations on addressing the negative health impacts of globalization, and the prospects for the future.

Ray Forrest, in Chapter 9, disrupts the traditional national orientation of housing debates and instead locates the discussion in the wider context of global financial integration and global competitiveness. He focuses specifically on home ownership, now the majority tenure and a significant component of global financial flows and national and international financial stability. He reconstructs the shifting relationship between national governments and national housing systems, as more market-based provision has become deeply embedded in global processes and within a more complex institutional architecture. Forrest shows that 'the economic forces which are shaping local housing markets are increasingly supranational', and considers the implications for individual homeowners.

In Chapter 10 Elke Krahnmann considers the increasing importance of non-state actors in the security field. She argues that these developments can best be understood as part of a shift from government to governance in North American and European security policymaking. For Krahnmann the emerging system of security governance can be mapped in seven dimensions: geography, function, resources, interests, norms, decision-making

and implementation. Building on a theoretical model which distinguishes between government and governance as two ideal types along these seven dimensions, the chapter explores the growing role of private actors in international security, the problems arising from this transformation of security policymaking and how they could be addressed.

In Chapter 11 Christina Pantazis and Simon Pemberton focus on the dynamics of a multilayered governance in the development of counter-terrorism policies in the UK. Whilst analysing the role and influence of actors and institutions at different spatial scales, the authors also assess the influence of specific local and historical contexts and the role of policy transfer in the development of policy initiatives. Thus, this chapter links developments in UK domestic counter-terrorist policies post-9/11 with previous state responses to political violence in Northern Ireland.

In combination, then, the chapters in this collection provide a comprehensive, integrated insight into the relationship between global processes, governance and public policy.

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## 2. Economism and public policy

**Adrian Kay**

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### INTRODUCTION

A significant and consistent feature of the globalization debate is the contention that there now exists a series of non-negotiable external economic constraints on policy, which render certain policy choices ‘necessary’ in order for governments and workers to survive the forces of globalization. The argument usually develops that the globalization of economic activity exceeds the regulatory reach of national governments; simultaneously, the existing multilateral institutions of global economic governance are too weak to control this process; and thus global markets may effectively escape political regulation. Further, the exigencies of global competition impose a certain set of economic governance structures on national governments, which to resist or avoid runs the risk that nationally located economic activity will rapidly shift to other economic spaces with more favourable governance structures.

One crucial aspect of these new governance structures is the ascendancy of economic modes of thinking within the policy process. The term ‘economism’ is employed in this chapter to refer to governance structures where economic logic or economically inspired advice is institutionally embedded, normalized and held as necessary in the determination of policy choices. The concept comes from Marxist history and originally referred to the belief that the economic mode of production absolutely determines a society’s social, political and intellectual life. However, it has come to have a more specific contemporary meaning as the transcendence of economic logic in the development, implementation and evaluation of public policy (Teivainen, 2002). The characteristic of this process has been a shift beyond the normative position that public policy ought to be carried out on the basis of economic analyses, to one in which economic logic is actually entrenched within contemporary governance structures (Hay, 2004).

One example of this embedded economic logic is the widespread, international embrace of cost–benefit analysis (CBA) as a decision-making tool in policymaking. The irony for moral philosophers, like Wolff and Haubrich (2006), is that while philosophy has turned away from any theory

which assesses the value of actions in terms of the maximization of good consequences over bad, public policy decision-making is increasingly wedded to this hallmark of neoclassical economics.<sup>1</sup> The political power of central budget agencies in national governments is the driving influence behind many areas of public policymaking being dominated by CBA. In its textbook form, CBA is a basic form of consequentialism: all consequences can be and should be valued in a common currency (usually money). This is how governments often represent their decision-making, from the building of a sixth terminal at Heathrow Airport to the public funding of the anti-cancer drug Herceptin in Australia. Despite the voluminous literature discussing the technical deficiencies of the cost–benefit method, one guiding ideal remains: in any situation, there exists a public policy choice for which the ratio of benefits to costs is greater than the alternatives.

This is the choice that would be made by a ‘benevolent’ dictator; any actual policy decision that deviates from this choice demonstrates the inefficiencies of politics. Economism is the acceptance of imperatives of economic necessity, at both the micro and macro levels, as occluding or limiting alternative moral or democratic decision-making logics. The CBA example reveals the anti-politics heart of economism; politics is inimical to the ability of policymakers’ ability to implement the policies to ensure national economic spaces are competitive in the global economy.

However, this chapter steps above and beyond the economic ideology and takes as its starting premise that any policy based on economism has both political intentions and political consequences, and that its proponents, in asserting ‘politically neutral’ policymaking, are essentially either misconceived or deliberately concealing political motivations. As Peck (2001, p. 447) argues with respect to economic necessity arguments in globalization: ‘contrary to the impression fostered by some globalisation ideologues . . . these developments are not naturally occurring, inevitable consequences of “the way the world works”. Instead, they are part of a sustained political project which is explicitly concerned to normalize and naturalize conditions such as free trade, flexible labour, public sector austerity, and low inflation.’

This chapter aims to show how basic economic understandings and concepts act as a foundation for policy analysis. However, within this exposition, I probe the extent to which there is a single or unique economic logic to be institutionally embedded and argue that within the straightforward, entry-level concepts of neoclassical economics which are embedded in policy discourses there are, in fact, many different policy choices that might be recommended. That particular economic ideas have been influential to the extent of becoming normalized is a function of politics, not inevitable or irresistible changes in the global political economy.

The term 'economism' has the advantage of distinguishing the political power of economic ideas from economics itself, and helps mollify protesters from within the economics profession who may complain that unsophisticated and elementary analysis is being used for political purposes in a way that does not always reflect what economists actually think. In showing that economic concepts and understandings have been influential in public policy, I have two ambitions. First, to show that many of the economic ideas embedded in governance structures are introductory, ideal-type textbook heuristics; they are often held by assumption, without reference to more sophisticated economic theory or detailed empirical work. The second ambition is a corollary of the first: to query the notion of a consistent set of policy options that might be labelled 'economic logic' and reveal how economic ideas have been used at different times to support very different policy prescriptions. For example, I show that the post-war Keynesian welfare state was constructed partly on the basis of a theory of public goods, just as the neoliberal reforms set in motion during the Thatcherite period were based partly upon public choice theory.

Economic ideas per se do not provide an automatic presumption for or against government intervention or the use of the market as a method of allocating goods and services. This is the corollary of pointing out that the transmission of ideas into government and their institutionalization is a political process, and that ideas themselves are being used in particular political ways. The journey from economic textbook to political project is one in which the ideas themselves are changed, moulded or interpreted for specific purposes. That is, the ideas themselves did not possess some disembodied power that captured the open minds of political agents in response to the requirements of globalization.

The chapter uses three main concepts from economics in the service of the ambition to illuminate economism and public policy. The first section looks at the concept of market failure and the policy prescriptions that follow from its recognition; the second section introduces the theory of public goods and discusses how this economic rationale was used to justify the construction of the welfare state; the third section probes the textbook notion of government failure as the logic behind many public policy reforms over the last 20 years.

## MARKET FAILURE

Most economists use the achievement of Pareto efficiency as their goal in public policy design. According to this standard, a situation is efficient only if no individuals can be made better off without making someone else

worse off. 'Better off' and 'worse off' are understood in terms of the welfare of individuals, as opposed to groups, communities or societies. In these terms, Pareto efficiency refers to a utilitarian conception of what is valuable. It is often defined as the summation of the welfare of all the individuals in the society. Welfare can be measured either cardinally in terms of a common currency, or measured ordinally in terms of relative utility.

Importantly for understanding microeconomic analysis, it can be shown that, under certain idealized conditions, a system of free markets will lead to a Pareto-efficient outcome. This is known as the 'first welfare theorem' and was first demonstrated mathematically by Kenneth Arrow and Gerard Debreu; although equally important for assessing economic logic is that the result depends on several restrictive assumptions in the proof: for example markets exist for all possible goods, markets are perfectly competitive and transaction costs are negligible.

But what normative value is Pareto efficiency? There are many combinations of consumer utility, production mixes and factor input combinations consistent with efficiency. The first chapters of most public economic textbooks have a production possibility frontier; there are as many Pareto optima as there are points on this frontier. Crucially, each Pareto optimum corresponds to a different income distribution in the economy (see LeGrand et al., 1992). Some may involve great inequalities of income. So how to decide which Pareto optimum is the most desirable? Economists use the specification of a social welfare function to represent this decision. The social welfare function is a way of mathematically stating the relative importance of the individuals that comprise society, and this embodies value judgements about interpersonal utility. How then to make such judgements? This is academic ground that economists have tended to cede to moral philosophy. For example John Rawls, Robert Nozick and Amartya Sen all construct different arguments about the specification of social welfare functions. For our purposes here, there are two key points. First, even if markets can deliver Pareto optima, this is only a necessary and not sufficient condition for social welfare; and second, for economists the separation of questions of efficiency from distributional questions comes early in their education.

Although most microeconomics textbooks are predisposed to favour markets as efficient methods of allocating resources, this disposition is always accompanied by recognition of market failures. Indeed, beyond most introductory undergraduate classes this is the starting point for economic analysis of public policy. For example, the UK's central budget agency, the Treasury, produces a 'Green Book', which is the manual for the UK Government Economic Service and contains a series of justifications for public policy in terms of market failures (HM Treasury, 2003, Chapter 3).

Market failure is a broad concept for a variety of critiques of markets in economics terms: it refers to a series of factors that may result in pure market solutions failing to be efficient. This is an important point for appreciating the role of some economic thinking in policymaking: the efficiency advantages of markets are contingent upon certain key assumptions. I set out the main ones below under separate headings and suggest that they may all be doubted. These doubts provide the economic logic behind many public policies: governments should intervene to correct market failures in the economy. More detail on any of these market failures can be gained from most public economic textbooks (for example, Stiglitz, 2000).

Before proceeding it is worth noting that the notion of market failure contains the implicit assumption that markets take primacy over other forms of economic organization. These are pre-existing ontological entities or natural properties of the world. Government intervention is secondary, and only justified in terms of the extent to which it corrects market failure, that is, the extent to which it can help markets work and function. Further, there is nothing in the concept of market failure to answer the following question: how bad do the violations of the conditions necessary for Pareto efficiency have to be before an alternative means of delivery would be an improvement? That is, at what point is it efficient for government to stop correcting the market failure and consider some other non-market, allocative means. This is an important gap in microeconomics and means that economists will tend to frame policy analysis as the correction of market failure rather than a positive endorsement of something else.

### **Externalities**

The result that markets deliver Pareto-efficient outcomes assumes that the social cost and benefit of any activity is the aggregation of individual or private costs and benefits for that particular activity. So the social cost of producing motorcars is the sum of the costs to each firm producing motorcars in the economy. An externality is any situation where this does not hold; where the sum of private costs diverge from the true social cost and/or the social benefit from the production and consumption of a good is greater than the sum of the private benefits. This occurs when the actions of one individual affect others but where that individual does not bear the true costs nor reap the rewards of their actions upon others. Pollution emitted by a factory that spoils the surrounding environment and affects the health of nearby residents is an example of a negative externality. Another common example is people deciding to use motor vehicles at certain peak times, leading to traffic congestion. An example of a positive externality is the effects of a well-educated labour force on the productivity of a

company, or perhaps more frivolously the decision to use deodorant on public transport.

Market prices can only reflect the actions of individual consumers and firms; and these agents only act on the basis of private costs and benefits. This means that market prices, consumption and production decisions will be on the basis of private costs and benefits. Market outcomes will thus be inefficient as too much of an activity will occur which has a negative externality, that is, firms underestimate the full social cost of their actions as in pollution-creating production; and too little of an activity which has a positive externality, as in the case where individuals do not account for the total social benefits of acquiring education.

### **Failure of Competition**

The first welfare theorem requires competition in order for the invisible hand of the price mechanism to allocate goods and services efficiently. For this to be the case, there must be no monopoly, oligopoly or monopsony in any product, factor and capital markets. In addition, firms are price-takers: no firm controls a sufficiently large enough share of the market to directly influence market prices.

There are a number of good reasons why competition tends to fail against this standard. For example, barriers to entry for potential firms may exist. If there are increasing returns to scale in production, then already-established large firms can always produce more cheaply than new entrants. This is why there are so few mass production car companies in the world. Alternatively the barrier to entry may be the result of control of some technological standard, as was the case with Microsoft and the Windows operating system prior to the legal ruling that the company was acting anti-competitively in the United States. Further, transportation costs may limit competition (especially in the personal services sector of the economy), which may result in spatial monopoly. In terms of market failure, lack of competition can lead to less of the good or service being supplied, and at higher price than the Pareto-efficient level.

### **Public Goods**

These are goods which it costs little or nothing for an additional individual to enjoy the benefits of (a property of non-rivalrousness in consumption) and yet it is very costly to exclude any individual from using the good (non-excludability). A market will provide too little or nothing at all of a public good. A potential supplier will face full cost of production but users cannot easily be charged or have no incentive to pay – the so-called ‘free-rider’ problem.

The classic example of a nearly pure public good is national defence: you cannot defend the vulnerable border regions of a country from foreign threat without also simultaneously defending everyone else that lives within the borders. The inability of potential providers to exclude people who refuse to pay from nevertheless consuming and benefiting from an expensive public good usually means that very many of the consumers of the good will act as free-riders and choose not to help pay for its provision. Consequently private production of the good or service may prove unprofitable, and the good or service thus may not be provided at all by the free market even though everyone would be better off with some positive level of production of the good in question.

### **Information Failures**

For goods that are infrequently purchased, or require prior experience or knowledge to enjoy the benefits of, or which have a complex set of characteristics, consumers may be ignorant in some degree. This means that the price at which they are willing to buy or the amount they wish to buy may not represent a correct estimation of the benefit to them. Used cars are a classic example of such information failures. In such cases, the price in the market will not necessarily achieve Pareto efficiency in production and consumption for a given initial income distribution.

The more general point is that individuals may not be in a position to make rational choices. The rational actor, *homo economicus*, is axiomatic for models in neoclassical economics. Most other social sciences start from the position that individual agents do not have a clear, fixed and consistent set of preferences that they attempt to maximize the satisfaction of. Neither can agents be assumed to have the correct model of the world that predicts accurately the link between actions and consequences. However, for economics the concern is that once individuals or firms are seen as non-rational, bounded rational or irrational, the result that markets will deliver Pareto optimality cannot be assumed to hold.

### **Immobility and Time Lags**

The first welfare theorem requires the whole economy to be in equilibrium simultaneously rather than just any single market; yet in the model as well as in practice, a single change in demand in one market can send a ripple through the economy via a set of interdependent markets. There is no economic theory to suggest how prices readjust to equilibrium nor how quickly. It is assumed that prices will readjust to ensure that each market is in equilibrium. But consider the transmission from product to factor markets in the

case of dental services. An increase in demand for dental services increases the demand for dentists' time, which can only be satisfied to a limited extent by the existing number of trained dentists through overtime or reduction in holidays. This will lead to an increase in the wage rate for dentists that will encourage more people to train as dentists, or perhaps some migration. However, the dental profession requires four years of training prior to being an approved dental practitioner. Further, for reasons of family, friends, housing costs and government regulation, dentists may not respond to changes in relative wage rates inter-regionally or internationally. This factor of production is immobile to some degree. Thus increases demand for certain services may take several years to ripple through the economy and arrive at an efficient equilibrium again. It is relatively easy to imagine these sorts of cases for many sectors in the economy, and thus immobility and time lags become an important aspect of market failure.

### **Incomplete Markets**

A complete market economy would provide all goods and services for which the cost of provision is less than the benefits derived by potential consumers. Where markets are not complete the result that markets lead to Pareto efficiency will not necessarily hold. Markets may be missing and incomplete due to lack of information or asymmetries in information between potential buyers and sellers. This is sometimes expressed in terms of the principal-agent problem. The market for insurance is a good example: an insurance firm (principal) may not offer insurance to low-risk customers (agents) that would be willing to pay more for the insurance than it costs to provide it, because it cannot recognize low-risk agents or because it fears offering insurance to bad-risk agents. This is a problem of adverse selection (the principal cannot observe the type of agent). There exists a market exchange between buyer and seller that would improve Pareto efficiency that does not occur because of poor information. There is also the problem of moral hazard, where the principal may not be able to observe the behaviour of agents. In insurance terms, a firm may not insure individuals because it cannot observe how they will behave post-insurance contract. That is, will they start acting differently because they are insured? The problem of moral hazard is frequently raised in terms of health policy, where arguments are made that health insurance can promote demand for 'lifestyle' health care services, such as cosmetic surgery, which drains resources from cases of genuine medical need. This concern may lead to a less than efficient number of insurance contracts as companies raise prices to cover for the risk of extra claims, which reduces demand for insurance and potentially leads to missing markets for certain forms of insurance.

Different governments in justifying different public policies have variously used the six market failures described above. They are part of a consistent logic to the extent that they share the objective of improving the efficiency of markets, but beyond that each failure can be used as the basis of a whole suite of policy instruments from direct provision of a good for which there is a missing market (for example health care in certain countries) right through to indirect regulation (for example administering sub-legislative industry agreements about trademark standards to ameliorate problems of information failure). There is no determinate logic from the identification of a market failure through to a particular public policy prescription. One of my aims in this chapter is to show that not all economic concepts lead inexorably to neoliberal policy prescriptions, and indeed much economic analysis though predisposed to certain, broad types of solutions is not quite as determinate or relentless as is sometimes assumed. The next section focuses in some detail on the theory of public goods because: (1) it is a clear example of how the notion of a market failure can be used to support a whole set of policy proposals; and (2) in a particular case, the market failure logic has been used to justify an extensive welfare state.

## PUBLIC GOODS AND POLICY SOLUTIONS

The simple version of the theory of public goods noted above suggests a significant social problem for market allocation methods. Nevertheless, various social arrangements and institutions have evolved to encourage the provision of public goods. For example, the non-profit or third sector of the economy devotes considerable effort to the provision of public goods financed by voluntary contributions that are motivated by appeals to duty or conscience. Alternatively, voluntary contributions may also be gathered from those people most intensely and deeply concerned about the particular social need being addressed, or from those who may be less beneficent but can be shamed into it by informal social pressures that withdraw status and respect from people identified and stigmatized as free-riders.

In addition to these non-profit approaches, the provision of 'impure' public goods may often be handled through ordinary market forces. These are goods that have one or other property (non-rivalrousness or non-excludability) to some degree. A frequently discussed example in economics textbooks is fire protection and the feasibility of fee-based private provision. For Stiglitz (2000), fire protection is similar to a pure public good in that the marginal cost of covering an additional person is very low, as most of the time firefighters are not engaged in fighting fires but are waiting for calls. Protecting an additional individual has little extra cost. However,

the ease of exclusion for fire protection is similar to that of a pure private good. Indeed in many rural and remote areas around the world, fire protection is by voluntary subscription. However, in urban areas buildings without fire protection may benefit from their proximity to buildings which are insured; that is, for the fire service to protect insured buildings requires them to put out fires in uninsured buildings because of the risks they may pose (see Carlson, 2005, for a discussion of the Great Fire of London). This situation is more difficult to solve in a private market.

It should also be noted that at least a partial provision of public goods often occurs when there is a single organization (or a rather small group of persons) who feel they will benefit from a particular public good to such an unusually large degree that it is worthwhile for them to go ahead and just pay for the whole thing while ignoring the many other small-time free-riders as irrelevant. Thus, mining companies in remote areas of Australia have invested heavily in infrastructure for their immediate commercial purposes, but the road, rail and port developments have benefited other economic activities as well.

Nevertheless, the classic solution to the problem of underprovision of public goods has been government funding – through compulsory taxation – and government production of the good or service in question. Although this may substantially alleviate the problem of numerous free-riders that refuse to pay for the benefits they receive, it should be noted that the policy process does not provide any very plausible method for determining what the optimal or best level of provision of a public good actually is. When it is impossible to observe what individuals are willing to give up in order to get the public good, how can policymakers assess how urgently they really want more or less of it, given the other possible uses of their money? There is a whole economic literature dealing with willingness-to-pay methods and contingent valuation techniques to try and divine such preferences in the absence of a market price doing so, but even the most optimistic proponents of such devices tend to concede that public goods will still most likely be either underprovided or overprovided under government stewardship.

Another line of economics argument is that where there are problems with the market mechanisms, these are not really cases of market failure at all but rather the absence of clearly specified and enforceable private property rights (Cheung, 1978). For example, the broadcasting of television programmes used to be seen as a public good: public television stations like the British Broadcasting Company (BBC) transmit to the whole of the UK, so that no one can be prevented from tuning in, nor does any extra person doing so reduce the amount of viewing available for subsequent viewers. However, this form of broadcasting was adopted not because of anything intrinsic to the market of television broadcasting, but because, with funding

from licence fees, there was no need for exclusion. With the advent of satellite broadcasting, there are now several methods of exclusion: pay per view or monthly subscriptions. The point is that public goods are only public goods because they are provided as public goods; public goods or externalities only persist in the absence of markets. However, such a point of view does illustrate the indeterminacy in the theory of public goods: can all public goods, following the introduction of property rights, become private goods? The answer is contingent on the current state of technology.

Whilst the theory of public goods can support government intervention, it does not exclusively do so. Indeed, the problem of public goods admits many different types of solution. Thus although notions of economic necessity, economic logic or market rule are properly represented in the political economy literature as part of political ideology, it is proper to note in this chapter on economism that the economics discipline itself would not recognize such definitive, immutable and determinant logic. The subject allows very different views on the balance between state and market provision and the efficient design of public policy. For a more detailed exposition of this point, consider the theory of public goods as a justification of the welfare state.

Utility interdependence is the term economists use to describe a ‘caring’ externality. By assumption, each person has a set of preferences that ranks alternative outcomes; the caring externality – utility interdependence – arises when the well-being of other people enters into an individual’s preference schedule. For example, I may obtain a higher level of utility by giving money to the destitute than from satisfying some other preference. This means that if I am currently spending the money on that other activity, I will raise my utility by instead donating the money to the destitute. However, complications to this analysis of a basic donor preference arise if acts of charity are a public good. Many more people than I will care about the fate of the destitute, but their knowledge of my charitable intentions may lead them to keep for themselves what they otherwise would have given, that is, to free-ride on my benevolence. If each individual in a society followed the same logic, then nothing would be done for the destitute.

In the words of Milton Friedman (1962, p. 190):

It can be argued that private charity is insufficient because the benefits from it accrue to people other than those who make the gifts . . . I am distressed by the sight of poverty; I am benefited by its alleviation; but I am benefited equally whether I or someone else pays for its alleviation.

The well-being of any agent whose preferences are utility interdependent may be lower than it could be. If an agent knows that others would refrain from giving if she donated, that is, they would free-ride in satisfying their preference for poverty alleviation on her donation, then she may decide, in

terms of maximizing expected utility, to use the money for another purpose. The overall result of this kind of logic is that the amount of charitable giving is suboptimal. This is the case for government redistribution or a welfare state. For if charitable contributions were compulsory, then not only would the position of the destitute be improved, but also donors would be brought to a higher level of utility, that is, their preference for the alleviation of destitution would be satisfied at a higher level.

The theory of utility interdependence is advanced by some as a justification of the post-war welfare state. For example, consider the health economist A.J. Culyer (1980, p. 65):

The very existence of the Welfare State is evidence for the proposition that specific caring exists, for if individuals did not care for one another then no externality would exist and there would be little reason for collectivist action.

This argument conceives of the welfare state as a kind of social contract. Without compulsion, as explained above, individuals who 'care' are left at a lower level of utility than is possible. The social contract welfare state provides a solution because everyone agrees to be compelled to contribute, because everyone is so compelled. This welfare state is justified because it eliminates the problems of caring externalities.

## GOVERNMENT FAILURE

Some economists believe that even with good intentions governments seldom get their policy application correct. They can tax, control and regulate, but the eventual outcome will be a deepening of the market failure or, even worse, a new failure may arise. Market failures may provide a rationale for public policy intervention, but there are good reasons to believe that public policy interventions will actually reduce efficiency relative to the status quo, that is, no intervention level. Those reasons usually come under the broad heading of government failure.

Public choice has been concerned with the application of economic reasoning to the study of politics, using in particular the idea of *homo economicus* or the rational agent to explain the behaviour in the public sector, and the extent of the problem of government failure in the delivery of services in line with citizens' preferences. Public choice as a theoretical perspective has been closely associated with the gamut of institutional reform and public sector restructuring under the broad rubric of the 'new public management' (NPM).

In economics, an incentive is any factor (financial or non-financial) that provides a motive for a particular course of action, or counts as a reason for

preferring one choice to the alternatives. Public choice theory is essentially about different incentive structures faced by public sector employees compared to private sector counterparts, within the guiding postulate of instrumental rationality. The absence of (significant) competition in the provision of government goods and services has the same deleterious effects on efficiency as it does in the market failure story. For public choice theory, the key point is that the absence of competition is the norm rather than the exception in the public sector. Indeed, just as neoclassical economics analyses the deadweight welfare losses of monopoly, so monopolies in public service markets are equally efficiency-reducing as bureaucrats have little incentive to keep costs down or introduce innovations in service delivery. Compounding the lack of competition are the lack of a threat of bankruptcy and the ability to secure government subsidies, which mean that public sector organizations do not have the incentive to respond to changes in the preferences of citizens whereas private sector organizations are bound to respond to shifting preferences as expressed in changes in relative prices.

Monopolies need not necessarily have adverse consequences so long as the behaviour of bureaucrats can be easily monitored and controlled. However, for public choice theory there are no unambiguous indicators of performance in the public sector. A key component of public choice approach is that only public officials know the true cost of delivering a government good or service that is desired by the political sponsor. It is therefore easy for bureaucrats to persuade politicians to allocate more money than is necessary for a particular task. This is the standard principal-agent problem of asymmetric information; however, the possibility of solving this with a well-designed contract is lower in the public sector than the private sector for several reasons.

In terms of economic theory of optimal contract design, the starting point is that any measure of performance that reveals information about the effort level chosen by the agent should be included in the compensation contract. In the public sector, due to the complex nature of its activities and the multiplicity of objectives that public policy often seeks to achieve, there is rarely a measure that provides feedback on the performance of an individual agent. This problem exists for relative performance evaluation as well – measurement relative to other, similar agents, so as to filter out some common background noise. Indeed, extant measures of public sector performance tend to be at the team or organizational level; it is impossible to ascribe the output of hospitals, for example, to any particular agent. These are complex production processes that do not resemble Fordist production lines.

The optimal intensity of incentives in economic theory depends on several things, including the precision with which the desired activities are

assessed and the agent's responsiveness to incentives. The more compensation varies with effort, the better the incentives for the worker to act in a certain way. This is easier to implement in terms of private sector firms but more difficult in the public sector, not least because of the difficulty of monitoring; any high-powered incentive scheme requires costly monitoring to the point where any putative advantages in improving efficiency may be negligible relative to the total costs of monitoring. The general point is the lack of potential for high-powered incentives for agents in public sector organizations. Without incentives that are strong enough to change significantly the behaviour of agents, principal-agent problems persist and government failure is endemic.

There is a presumption in public choice theory that the problem of coordination and control grows disproportionately with organizational size. For the public choice analysis, the public sector is characterized by large inflexible bureaucracies that are capable of producing significant quantities of outputs often at impressive speed, but lack the deftness to respond to changing circumstances or shifts in citizens' preferences. The standard Weberian bureaucracy that pervades most public sector organizations misaligns the incentives facing public sector employees toward rule-following in the mass production of standard goods and services rather than the tailored delivery of public services to satisfy citizens' preferences.

There is an enormous and still growing literature on NPM (see for example McLaughlin et al., 2001 or Boyne et al., 2003 whose broad contours follow from the public choice analysis of government failure). Although the term 'NPM' suffers from a degree of concept stretch, Hood (1991) sets out some broad reformist principles in which the public choice heritage can be clearly observed. The first is that the focus of public sector reform should be on structural reorganization rather than policy. It is the structure of the public sector that fails to provide adequate incentives for public sector organizations to respond to citizens' preferences for government goods and services. The provision of public services should be made more competitive, both between public sector providers and between the public and private sectors. Contracting out, quasi markets and separation of the questions of who pays (public finance) from who provides (public provision), are all hallmarks of NPM. They follow from the government failure logic and the objective of greater efficiency in particular. As discussed above, individual contracts in the public sector will generally fail to provide efficiency-enhancing incentives, but the public choice view is that increased competition in the provision of public services will.

A second public choice perspective is a stress on performance evaluation. Public sector organizations should be forced to provide more information on their performance. The argument is that this will move power, in terms of the

control of information, away from public service agents toward different principals such as politicians, academics, pressure groups and the public at large.

The third major type of reform in the NPM agenda is disaggregating large multifunction public bureaucracy into several single-function agencies. The reasoning is that performance becomes more visible with different tasks attached to different publicly visible organizations; some of the problems of specifying multiple and potentially conflicting objectives in a single contract are mitigated as separate contracts can be specified for each of the smaller agencies; smaller free-standing 'firms' can then compete more effectively for market share in the public services market.

## CONCLUSION

The term 'economism' has been used here to refer to the institutionalization and normalization of economic logic in public policymaking. It has been adopted as a term here partly because it helps to distinguish the political power of economic ideas from the academic discipline of economics. This is important in highlighting that the economic logic that is in the ascendant is not necessarily representative of contemporary economic theory. Indeed, the economic logic that is embedded in policymaking is the outcome of an explicitly political process.

There is nothing obviously normal or natural or commonsense about economic prescriptions; but alternatively neither is economic reasoning always unique in its policy prescriptions. I have tried to show that many of the influential economic ideas are introductory, ideal-type textbook heuristics; they are often held by assumption, without reference to more sophisticated economic theory or detailed empirical work. The journey from economic textbook to political project is one in which the ideas themselves are changed, moulded or interpreted for specific purposes. Additionally, similar economic ideas have been used at different times to support very different policy prescriptions. For example, the welfare state has an intellectual basis in, *inter alia*, a theory of public goods, just as the NPM reforms in many OECD countries since the 1980s have been justified in terms of, and drawn from, public choice theory.

## NOTE

1. Henceforth I will use the term 'economics' to refer to neoclassical economics. Although this fails to recognize the heterodox traditions in economics, it is justified by the dominance of the neoclassical paradigm in economic analysis of public policy.

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### 3. Governance, business and social policy: international and national dimensions

**Kevin Farnsworth**

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#### INTRODUCTION

The issues of business power and influence over policymaking have re-emerged in the academic literature in recent years after a hiatus spanning almost two decades. The demise of academic interest in business power mirrored the falling out of favour of Marxist ideas, and its rediscovery can be traced to the growth of interest in the global economy and the central role played by corporations in globalization processes. Despite the rekindled interest in these general themes, however, business power is often under-theorized in the literature, whilst specific issues concerning the role of business in social policymaking remain relatively under-researched. This chapter theorizes corporate power before examining how globalization has transformed the power and influence of business. It then investigates how business has helped to shape social policy internationally and nationally, taking the UK as a case-study.

#### A THEORETICAL OUTLINE OF BUSINESS POWER

In order to better conceptualize and comprehend corporate power under globalization it is useful to begin by outlining the various ways in which power is exercised by business. To facilitate this, a conceptual distinction is drawn between structural and agency power.

Structural power can be defined most simply as the ability to influence social policy without exercising agency, and it is derived, not from the actions of business agents, but from the monopolization of capital: financial holdings, industrial plants and machinery. According to theories of structural power, various mechanisms restrict the choices of policy-makers and the activities of labour to those which encourage investment,

competitiveness and profitability. For governments, taxation revenues and stable political environments rely on continued business investment and profitability and a collapse in either may result in spending cuts or electoral failure (Block, 1990, pp. 300–305; Lindblom, 1977; Offe and Ronge, 1982). Employees similarly depend on employers for their livelihood which, for many workers, extend beyond income to workplace occupational welfare schemes. This reality compels workers and states to situate their own interests alongside those of business, and to ensure, as far as possible, that their actions do not unduly undermine or threaten business activities (Przeworski and Wallerstein, 1988, p. 12; Lindblom, 1977; Offe and Wiesenthal, 1980, p. 180), thus elevating business power above all other interests. As a result, business exercises ideological hegemony since its interests can be legitimized as being akin to the ‘national interest’ (Lindblom, 1977; Miliband, 1969, p. 165; Poulantzas, 1973, pp. 303–5).

The other form of business power relies on agency – the political engagement of business interests and their sympathizers. Business people and those occupying similar class positions occupy key positions within the policymaking institutions of the state according to Miliband (1969) and Domhoff (1967, 1978). Business can also utilize its access to vast financial resources to influence the policy process directly through donations to political parties and various corporate lobbying activities, including manipulation of public opinion (Lindblom, 1977, p. 185; Block, 1990, pp. 300–305; Mintz and Schwartz, 1990).

## GLOBALIZATION, CORPORATE POWER AND SOCIAL POLICY

One of the paradoxes in contemporary social policy is that, at the same time that Marxist theories on welfare – which tended to stress the importance of structuralism to social policy development – have declined, strong accounts of corporate dominance have been revived under the globalization banner. Such accounts have revived structural accounts of business power in particular which tend to stress the inevitability of welfare retrenchment. Mishra (1999, p. 12), for instance, argues that globalization has ‘strengthened the hands of capital against the nation state’ through the creation of new exit opportunities which has meant that firms have ‘far less stake in the nation state’. Roth (2002, p. 33) goes further, arguing that, as a result of globalization:

European social policy has been ravaged by the lowering of social expenses, privatization, and corporate dominance. Indeed, corporate power is so influential

in both private and government policy that what we may once have called 'democracies' are often more accurately described now as 'corpocracies'.

At the heart of these accounts of globalization and social policy development is a particular view of how globalization transforms business power and economic conditions so that contemporary economies are no longer able to support public policies. This 'strong' globalization thesis can be summarized as follows:

1. Globalization exposes national firms to greater levels of competition which, in turn, undermines competitiveness and profitability.
2. Governments must act to reduce regulations and costs on firms in order to preserve profitability and prevent capital flight.
3. Firms will seek out the most cost-effective nation within which to do business and declare profits.
4. Unless governments continue to investigate ways of retaining current firms and/or attracting new ones, unemployment will increase and tax revenues will decline.
5. These pressures will render state welfare 'unproductive' and lead inevitably to ever greater cuts in public provision.

The problem with this thesis is that it lacks a credible view of corporate power. It is also too fatalistic and economically deterministic. The fact that key differences continue to exist between welfare systems, and within welfare states over time, makes it difficult to sustain (Pierson, 1995). This does not mean that all elements of the thesis are flawed, however, but that a more nuanced view, underpinned with a clearer exposition of corporate power and influence, is needed. In order to arrive at this, the following sections both rehearse and evaluate some of the most important contributions to the debate on corporate power and globalization in recent years.

## CORPORATE POWER AND GLOBALIZATION

Various accounts of corporate power, including Marxist, elite pluralist and the assertions of strong globalization theorists, are guilty of putting forward inflexible and deterministic theories that underestimate the political autonomy of governments and overstate the ability and willingness of governments to act in the interests of business. To reject outright these theories of business power, however, is to risk underplaying the potency of business power. A range of factors impact on power and influence, rendering power itself a variable rather than a constant force (Vogel, 1989; Hacker

and Pierson, 2002). To begin with, power, especially structural power, is clearly dependent on the extent of the real, as opposed to imagined, abilities of business to shift investment to other nations. Second, business power, especially agency power, is dependent on the organization, unity and cooperation that exist within the business community. Third, state and inter-state governance are important determinants of business power. Of relevance here is the location of decision-making, the nature of democratic processes in place, the historical dominance of particular classes or interests, the political complexion of dominant parties and the openness of the institutions of the state. How these factors affect the various aspects of corporate power and influence are considered below.

## CAPITAL MOBILITY

The extent to which business can relocate investment is a key factor in determining structural power and influence. Yet, the conditions for capital mobility shift and vary over time and between spaces. It is far easier for capital to shift investment within rather than between states, for instance, and some firms may find it easier to shift investment than others. For still other firms, relocation may not be an option at all because they are tied to specific locations by production or access to markets.

Despite the processes of globalization, Hirst and Thompson (1996) have pointed out that increases in financial flows and foreign trade as a proportion of world GDP have increased very little since the early part of the twentieth century. More importantly, they have demonstrated that, far from being global, increased trade and investment flows since the 1970s are, for the most part, restricted to the triad of North America, Japan and Europe, although this is less and less the case with the phenomenal growth of China and India. Yeates (1999, p. 48) also reminds us that even the most transnational companies still have identifiable national bases, and that relocation is expensive and entails greater logistical problems than is often assumed, especially for firms that require access to raw materials or markets. It is generally easier for larger firms than smaller firms and is more straightforward within nations or free trade areas than between them. These are important arguments since, as outlined above, the extent of structural power is shaped, in part, by investment options and levels of mobility.

However, structural power is not determined by the extent of capital's global reach but by the actual and perceived ability of capital to shift investment to other states. Indeed, regionalization may amplify structural power to a greater extent than if capital were truly global as it tends to lead to increased mobility but depress national political interventions. This has

been especially true within the EU, where mobility is especially high but political institutions remain incredibly weak. Thus, Europeanization is as important, or even more important, to growing structural power within the EU as globalization. The influx of capital into the EU from North America and East Asia has encouraged member states to compete actively with each other for this new investment.

Although the global reach of investment flows is not important to the extent of structural power, the motivation behind a firm's investment decisions within states is. A firm's decision to invest elsewhere simply to access new markets, for instance, is unlikely to trigger the same level of structural influence in the 'home' nation as outward investment in order to avoid anti-competitive regulations, tax levels or labour costs. Indeed, outward FDI can bring benefits to countries, including the development of new international trading links and the acquisition of new skills, technology and management methods. Governments will be much more concerned about losing investment to similarly developed economies than much less developed economies where they could not be expected to compete effectively on the grounds of cost. Similarly, governments are likely to be less positive about inward investment in the form of foreign takeovers than they are about new investment which expands production.

Existing governance structures, especially around capital mobility, corporate taxation, business regulations and social provision, are all important here. States with a high level of cooperation and coordination between companies and other 'stakeholders' – what Hall and Soskice (2001) refer to as coordinated market economies, for instance – are likely to face fewer threats to social provision from significant corporate relocations. Within such states, companies tend to be more long-termist, place higher value on the social contract negotiated with employees, and depend more heavily on greater skills and productivity levels that are underpinned by good-quality social policy (Scharpf and Schmidt, 2000). Hall and Soskice's (2001) other state form – liberal market economies – lack such coordinating structures; hence governments face a much greater threat from corporate 'shoppers' keen to seek out more profitable investment opportunities abroad, although they may also be more successful in capturing free-floating capital where more coordinated economies may fail.

The implication here is that national policies can themselves create certain needs and dependencies within the business community. If the economic setting is such that firms can only extract competitive advantage through cost factors, so that they are unable to rely on higher skill levels, stable employment relations and higher levels of stability and flexibility afforded by welfare systems, they are more likely to push for reductions in regulations, taxation and public provision. If, on the other hand, business

is able to extract added value from more highly skilled and productive workers, it is less likely to demand such reforms from the government (Hall and Soskice, 2001, pp. 55–6).

Beyond the nation state, international governance is important. The policies of international governmental organizations (IGOs) play an important role in determining structural power. Although structural power is blunted somewhat at the international level – since beyond nations, the threat of exit disappears – international hegemons also play a part in reinforcing structural power through IGOs. The imposition of macroeconomic or welfare strategies on nation states directly reduces state autonomy and, if the effect is to increase the state's dependence on private capital, it will concomitantly increase structural power. The spread of global hegemonic ideas that promote privatization and market liberalization will have similar effects.

## DIVISIONS WITHIN THE BUSINESS COMMUNITY

It is commonly held that governments cannot be unduly swayed by business opinion because there is no one clear, coherent and unified business view (Dahl, 1961). Competition, rivalry and opinion divide different sectors, large and small firms and national industrial interests (Mann, 1993). This has an impact on both structural and agency power. Although divisions within the business community clearly exist, it is important not to overemphasize the depth of the cleavages between different business interests. Business tends to unite on bigger substantive questions and divide on more specific issues, and is capable of uniting behind a range of issues when its interests are threatened or when opportunities for collective action emerge (Miliband, 1969; Coates, 1984).

Globalization has undoubtedly played a role in increasing the capacity for closer cooperation and greater unity amongst diverse business interests. Inter-corporate ties, based on formal ownership or informal association, have increased unity between firms (Clawson et al., 1986; Useem, 1990) as much as they have created new cleavages between them. Globalization and regionalization processes have also encouraged firms and organized business to improve the frequency and effectiveness of lobbying at the supranational level in order to shape international policy debates (Sklair, 2001; Coen, 1997). As the decision-making powers of international governmental organizations (IGOs) have increased, so the need for business to both lobby and speak with one voice beyond national economies has increased. Because they are keen to engage with key players, IGOs have also worked harder in this climate to seek out business partners and business opinions on key policy developments. As a result, exchanges and linkages between

national and international business organizations and IGOs, including the EU, have become more institutionally embedded and this has given rise to greater coordination between corporate interests and decision-makers and even, according to Sklair (2001), the formation of common ideological and class positions at the global level.

## THE IMPORTANCE OF NATIONAL AND INTERNATIONAL GOVERNANCE

There is no doubt that, even when faced with increased pressure from powerful interests such as business, national state governance remains important. For some, the particular interests and goals of state actors are most important to understanding national social policies (Skocpol, 1985, p. 28). Here the opportunities that key interests have to engage with, and potentially influence, state players is crucial. Thus, for institutionalists like Skocpol (1985), the state is 'potentially autonomous' and capable of acting independently of business interests. Not only are states capable, in theory at least, of controlling investment flows, but state officials are also themselves innovators of social and public policies according to Skocpol (1985), and are able to expand, cut or alter service provision (Martin, 1989, p. 194). The engagement between key actors outside the state is also important in determining power relations and ultimate policy outcomes.

Although such arguments are important reminders that governments, and other interests within nation states, retain a great deal of power, influence and autonomy under globalization, it is important to recognize that national governance structures are themselves less malleable than is often thought – they are shaped by historical decisions and may privilege, as well as create access points, for certain interests. Thus, regardless of the hypothetical choices they may have, many states have felt compelled to adjust domestic policies in order to steer social and fiscal policy towards business interests through reducing corporate taxation, relaxing controls over labour and cutting levels of social provision. And any reversal of these policies – or attempts to buck current policy trends by increasing corporate taxation, labour regulations and social provision – could put at risk existing and future investments. The level of this risk will depend on how a country has been 'sold' to investors in the past, and how quickly the economy is able to readjust to different ways of securing future investments; hence it is important to emphasize again the importance of the institutional and economic setting. However, within the prevailing global climate, it is more difficult to expand welfare and taxation than to reduce them. In this respect, even if it is the case that globalization has given birth to political

fatalism, this fatalism has tended to promote business power and business interests above those of other groups.

The political room for states and IGOs to manoeuvre is also dependent on the access key players have to policymaking bodies. The importance of business to the economic and even political fortunes of governments means that they are unlikely to be left out of key policymaking forums. Indeed, contrary to the familiar picture that is painted of interest groups banging on the doors of policymakers in order to gain access, governments and IGOs often go out of their way to recruit corporate players onto decision-making bodies. In some instances access is formalized, as is the case in corporatist states. In other instances, attempts have been made to increase the voice of business. This has especially been the case within newly evolving international governance structures. For instance, one key forum which brings business and policymaking elites together – the Transatlantic Business Dialogue (TABD) – was set up not by business, but by the European Commission and the US Department for Commerce (Balanya et al., 2000, p. 103). Business-sponsored policy forums – most notably the World Economic Forum held annually in Davos – have also evolved into international celebrity events, attended by global corporate and political elites which include the most senior business representatives of the largest companies and the prime ministers and presidents of the smallest and largest countries. Through these various routes, international business gains important access to the international policy arena and helps to shape social policy discourse within and beyond supranational institutions.

## IMPACT ON SOCIAL POLICY

What emerges from the above discussion is that, by and large, the potential for business influence on social policy has increased as globalization has transformed corporate power and social policy governance. However, the processes through which business has come to assert greater influence on social policy are multidimensional.

At the international level, business has become more adept at exploiting opportunities for agency engagement. As already noted, structural power is considerably reduced beyond nation states and international business has become more adept at promoting corporate-centred social policies. Thus, contrary to the view that business lacks an overarching policy perspective, globalization processes have given rise to a relatively coherent international business perspective on social policy which has been documented elsewhere (Farnsworth, 2004, 2005a, 2005b) and can be summarized as follows: (1) increases in social policy expenditure can only be afforded through the

increased productivity, investment and profitability of business; (2) social provision has to fit with contemporary competitive pressures; (3) public services should be opened up to more competition; and (4) services should be made to emulate the private sector (Farnsworth, 2005b). In short, international business has tended to push for general reductions in 'unproductive' welfare, including social protection and health care, and an expansion in 'productive' welfare, most markedly education and training services, although importantly, business has also advocated a bigger role for the private sector in these areas. Only in education and training is more generous public funding consistently supported; privatization and spending cuts are advocated for other parts of the welfare state (Farnsworth, 1998, 2004). Business has also argued forcefully against future increases in corporate taxation (see Farnsworth, 2005a, 2005b). Whilst this approach to social policy is not especially prescriptive with regards to the details of what business might support in the area of social policy, it is relatively restrictive in terms of its compatibility with social provision.

The impact of this corporate-centred view of social policy can be seen in the policy prescriptions of IGOs. If we focus on recent developments in those IGOs that are considered to be the most sympathetic to social provision, the OECD and the EU, and compare these with the class positions of capital and labour, international social policy discourse appears, if anything, actually to have shifted closer to the business agenda. The OECD's *Jobs Study*, for instance, recommended that governments tackle inflation, increase wage and employee flexibility, eliminate 'impediments to the creation and expansion of enterprises', relax regulations on employment, increase employee skills and reform social protection systems to ensure that they do not impinge on labour markets (OECD, 1994). *A Caring World* (OECD, 1999), meanwhile, argued that social protection 'can ensure that those who lose their jobs are insured against loss of all their income during the period while they search for a new job' and can 'assist displaced workers to readjust to the new labour market opportunities'. It went on to argue that 'well administered' social provision can 'reduce resistance to change and new working practices' and enhance 'the attractiveness of the country concerned as a business location' (ibid., p. 137). Although it concluded that 'one effect of globalisation could be to increase the demand for social protection', it went on to suggest that governments, under financial pressures, should make 'more effective use of the networks and skills of non-government organisations' including 'outsourcing some activities . . . to the private and not-for-profit sector' in order to 'benefit from cost-efficiencies and competitive tendering' (ibid., p. 126). Finally, it argued that because globalization increases capital mobility, it is likely to lead to an increased burden of taxation being borne by workers, and because this will distort the labour market, this may mean that 'regardless of

the need for it social protection may become more difficult to finance' (ibid., p. 137).

Within the European Union there has been a similarly increased emphasis on competitiveness and a more capital-centred social policy since the 1990s. The 1997 Amsterdam summit, for example, urged that 'more attention be given to improving European competitiveness as a prerequisite for growth and employment' through the development of a 'skilled and adaptable workforce responsive to economic change'. It went on to recommend 'a reduction in the overall tax burden', and 'training and lifelong learning in order to increase employability' (Balanya et al., 2000, pp. 64–5). More recently, and more importantly, the Lisbon Agenda has, since 2000, pushed member states towards making improvements to education and training provision, cutting regulations and red tape on corporations, increasing work incentives, cutting non-wage labour costs and completing the internal market in services, with the aim of making Europe 'the most competitive and dynamic knowledge-based economy in the world' by 2010 (European Parliament, 2000). Where IGOs have acted to foster better corporate governance, they have stopped short of regulation in favour of voluntary agreements. Corporate social responsibility (CSR), for instance, has been promoted as a method of militating against the worst aspects of global corporate activities that can undermine social conditions and, in the worst cases, erode basic human rights. The UN has established its Global Compact while the OECD and the European Commission have both established guidelines of operation for multinationals. What they all have in common is that they have no legal or binding status on governments or corporations themselves.

Beyond the international level, partly as a strategy to facilitate unity around baseline issues, and partly in order to deal with the fact that national business interests may have unique concerns, interests and opinions, international business tends to leave the specifics to national business interests. It is at this level, with respect to policy details, where divisions most often occur, although here national institutional frameworks and policy context are often important determinants of the extent of divisions and subsequent impact. This notwithstanding, there is evidence to suggest that the international 'bottom line' approach to social policy is helping to shape some national business prescriptions on welfare where the key determinant of business opinion on social policy is the extent to which provision impacts on the free movement of capital, on the employment and skills set of labour, and ultimately, on profits (Farnsworth, 2005a, 2005b). The rest of this section reviews evidence from British social policy.

The ability of most countries to control financial capital has become extremely weakened under globalization, but the UK is distinguished

especially by a decisive move towards opening its economy and deregulating capital controls since 1980.<sup>1</sup> The UK has some of the highest levels of inward and outward FDI rates, as a percentage of GDP, amongst the G7 countries. In 2000, for instance, the UK's outward FDI was almost double the rate of the next-highest country, Canada (UNCTAD, 2002, p. B6). The UK is also relatively highly exposed to transnational industry, as foreign manufacturers now account for more than 30 per cent of total production in the UK, which is higher than for most of its competitors (Coppel and Durrand, 1999, Table 6). This, together with the fact that the UK has historically had relatively low absolute levels of domestic business investment (Gamble, 1990; Bond and Jenkinson, 1996), creates disproportionate dependency on mobile capital. In the UK, a great deal of store has been placed on the importance of maintaining high levels of foreign investments, partly to make up for failing domestic industry and historically low levels of indigenous investment, where this competition has been based primarily on cost factors. Thus, the UK has tended to sell itself as a country with low labour regulations, low taxation, low wage costs and low social costs, facilitated by a significant weakening of trade unions. The 1982 *Green Paper on Corporation Tax* stated that:

The UK system of company taxation must be capable of application to multinational concerns, overseas shareholders and so on. It must also command a degree of acceptance from the international community . . . Any major change in the level or incidence of tax on company profits would affect the balance of advantage between the United Kingdom and other countries. (HMSO, 1982)

Later, in 1993, the British government placed an advertisement in the German business press which encouraged firms to take advantage of:

lower wage costs in Great Britain . . . [where] wages and social charges are significantly lower. [T]he labour costs index for Britain is 100 compared to 178 for Germany. (cited in IDS Quarterly, 1993, p. 8)

The following speech by Tim Eggar, Minister for Energy and Industry in 1994, reiterated the message:

Today, the United Kingdom attracts more FDI than any other country in Europe . . . Our European partners are becoming more competitive . . . we are competing for new investments in an ever tougher market . . . We have a pro-business environment that is unequalled in Europe. Commitment to deregulation has played a major role in securing the level of inward investment . . . We have no foreign exchange controls, nor restrictions on spending profits abroad. We have a transport infrastructure that provides fast and easy access to the rest of Europe . . . the English language . . . [and] the best available combination of

a skilled and flexible workforce, with lower production costs than our neighbours. By coming to Britain, inward investors get access to the single European market *without the costs of the Social Chapter* . . . UK non-wage labour costs are below those of nearly all other European Union countries. It was Jacques Delors who remarked that the Social Chapter opt-out 'makes Britain a paradise for foreign investment' – a most helpful endorsement of the [former Conservative] government's policies. Inward investors also know that they can negotiate single and non-union agreements with an adaptable workforce that is ready to learn new skills and willing to work flexible hours . . . The UK strike rate has been below the EU average for each of the last nine years. (Eggar, 1994; emphasis added)

Despite the fact that the Labour government has subsequently signed up for the EU's Social Chapter, introduced a national minimum wage and made the joining of trade unions easier, these proposals have not seriously altered the general sales pitch used to sell the UK to foreign investors. The Labour government has tried to assure business that, taken together, its labour market, taxation and social policies continue to make the UK a better place to invest. The Labour's Party's 2001 *Business Manifesto* spelled out the central role that tax competition continues to play in the UK government's strategy to attract inward investment:

The taxation system is one aspect of a country's environment of relevance to inward investors and others. We have created a tax framework which encourages investment and enterprise by reducing the rate of corporation tax, making capital gains tax more pro-enterprise, introducing incentives for R&D and making permanent the capital allowances available to small firms. Taken overall, UK business taxation levels, including employers' social security contributions and corporation tax, are competitive with the rest of the European Union. This is a situation we intend to maintain. In Europe, we successfully opposed a withholding tax for savings income. We will continue to make the case for fair tax competition, not tax harmonization. (Labour Party, 2001)

The 2002 statement on the Invest in Britain Bureau's web pages also explained that Britain had a 'skilled and adaptable' workforce coupled with 'high standards of education with a strong emphasis on vocational education and training'.<sup>2</sup> It went on to state that:

Labour market regulations in the UK, including working hours, are the most flexible in Europe, and staffing costs are highly competitive . . . Plus, the UK has the lowest main corporation tax rate of any major industrialised country, and there are no additional local taxes on profits.

Thus, successive British governments since the late 1970s have responded to structural pressures by lowering corporate taxation and deregulating labour in order to compete for inward investment. Neither would it have

been possible for any incoming government to shift drastically away from this. Any change to the UK's industrial strategy in the short to medium term would have proven very difficult. As Rhodes puts it:

low corporation taxes and social charges are vital, not just for sustaining Britain's FDI dependent manufacturing sector, but also for meeting the demands of the large low-wage, low-skill, low-productivity sector of the economy . . . (Rhodes, 2000)

At the same time, competing in this way has amplified structural power as dependence on those forms of capital that are attracted by low-cost, flexible labour and low taxation increases has forced governments to review constantly their fiscal and regulatory competitiveness. KPMG, in its 2003 survey of corporate taxation, for example, stated that:

Whilst the figures show that the UK's corporate tax rate is at a respectable 30, this is only just below the EU and OECD average rate. And with increasing competition from countries such as the Netherlands, Belgium and Ireland . . . there is no room for complacency. (KPMG, 2003)

Such reductions in corporate taxation do not benefit all businesses, of course, and some companies may even suffer as a result of such policies. For instance, indigenous firms may face tax increases in other forms in order to make up for lost revenue from taxes on the profits of mobile capital. Still other companies may benefit from more extensive public provision. Some commentators have suggested that this fact weakens the possibility that states can truly act in the interests of business under the conditions of globalization (Yeates, 1999). In reality, governments can and do react to structural and agency pressures under globalization but they do so in different ways at different times. Moreover, the ways in which they act and react to corporate power impacts on subsequent levels of corporate power. Responding positively to structural pressures will often serve to reinforce and amplify structural power in future. To be clear, the more that states give in to structural power – willingly or otherwise – the more they will be likely to feel the impact of structural power in the future. As Cerny points out, those states which deregulate their economies in response to global pressures will find it very difficult to re-regulate them (Cerny, 1997). This is something that is often forgotten by those who stress the freedom and autonomy of states to resist globalization and corporate power. In the British case, given the UK's high level of dependence on foreign investment, and given that the strategy to try to attract and retain mobile capital continues unabated, it is clear that it would feel far greater structural pressure from any future attempts to regulate labour or increase taxation on employers than Germany or even

France. Whilst many commentators stress the fact that states still have choices under globalization, it is probably more accurate to say that some states have more flexibility and more policy options than others.

Under these conditions, we would expect to see expansion in those parts of social policy that contribute most to profitability and competitiveness – education, training, public transport infrastructure and so on – along with the simultaneous withdrawal of those services which undermine, or at least do not promote, private markets, and this is precisely what has happened in the UK. Rather than forcing spending cuts, therefore, increased structural power steers public spending towards provision that promotes the interests of business. These changes are not inevitable; the greater the dependence of a state on mobile capital, the more likely it will be forced to compete for mobile capital by introducing these types of reforms. However, the extent to which a state is dependent on mobile capital is also an outcome of past decisions and power struggles played out between labour, state agents and organized business.

If a future government wanted to try to resist corporate structural power in the UK, therefore, it would first have to transform the British economy to one which is less dependent on mobile capital, low labour costs and regulation. Companies attracted to the UK because of low-cost labour might reduce investments if the government tried to impose greater regulations or higher taxation. Radical changes would therefore take a huge amount of political determination, though quite how much would depend on other countervailing forces to business, including the organization and determination of labour. However, the Labour Government, under Tony Blair, appears to be going in the opposite direction – reinforcing rather than challenging corporate structural power. It has to be borne in mind, however, that as well as responding to structural pressures, the UK is, like other nations, responding to the demands and preferences of an increasingly well-organized business lobby. The nature of these demands and how they are played out takes us away from structural power to agency, and leads us to consider the position and strength of organized business on various levels.

The strengthening of business agency since the election of Labour in 1997 runs counter to the policies of most previous UK governments. For some governments, shutting out certain business interests was a political goal. In other instances, governments have been eager to engage with business, but frustrated by a lack of credible business organizations able to speak on behalf of their constituents (Grant and Marsh, 1977). Within the largely adversarial and uncoordinated British polity, structural pressures have tended to take precedence over agency, and governments have tended to react to structural pressures, rather than the direct inputs of business, in making adjustments in public policy.

To be clear, the potency of agency power is determined by institutional factors, primarily business access to the policy arena, as well as the willingness of governments to grant such access to business and, aside from Labour's brief experiment with corporatism in the 1970s, UK policymakers have tended to be selective in the types of business lobbies they engage with. This is in contrast to other states, especially Northern European states, where particular business organizations are recognized as key brokers for industry. The 1980s Conservative governments, for instance, felt that their radical plans for transforming the economy would not allow for the type of corporatist interest intermediation that Labour had previously tried to set up, and were much more selective about which business voices they were prepared to listen to. The early Thatcher government in particular tended to favour financial above industrial interests, and the interests of sympathetic entrepreneurs above organized interests. As a result, the Confederation of British Industry (CBI), the UK's largest employers' association, which tended to be critical of Conservative economic policy, was excluded from the national policy arena during the early 1980s in favour of the more sympathetic Institute of Directors (IoD) (Grant and Marsh, 1977). As a result, the CBI was actually consulted less after the election of the Conservatives in 1979 than it had been under the previous Labour administration (Grant, 1993). The early effect of this was that the relative cost to the CBI of exercising its voice at the national level was increased and this forced the organization to examine new ways of how it might more effectively concentrate its resources on influencing government. One of its solutions was to place greater emphasis on mechanisms of business influence that were relatively inexpensive (Farnsworth, 1998). It sought to improve its lobbying techniques through the production of clear and concise policy statements, and made more efforts to communicate the view of business direct to the general public through the greater use of press releases and by staging its high-profile annual conferences. It also sought to politicize and empower individual business members and its regional branches to become more actively involved in local decision-making. Under the provisions of the 1984 Rates Act, local authorities were required to consult with local businesses before setting local taxation rates; and gradually, in a whole range of areas from local planning to educational provision, services were forced to incorporate business interests into their decision-making structures so that provision more closely reflected the needs of business. This coincided with central government placing increasingly rigorous requirements on local councils and service providers to ensure the integration of business representatives within decision-making structures.

The Thatcher government's reluctance to engage organized business on key policy matters, however, did not extend to local services. Business people

were a crucial element of the Conservatives' managerialist revolution which involved the transformation of state management cultures and the imposition of private sector values into public services (Clarke and Newman, 1993; Cutler and Waine, 2000). This revolution involved the removal of elected representatives from local services and their replacement with business people and, as a result, the private sector came to assume greater responsibility and leadership roles in areas previously monopolized by local authority representatives including in education, housing, care services and transport (Oatley, 1998). Senior business people were guaranteed, by statute, a majority presence within the Training and Enterprise Councils (TECs), for example, and in other areas, most notably public health bodies and state schools, the government replaced local government representation with business people and other 'stakeholders', and replaced locally administered financing with direct central government grants, backed up with increasingly large amounts of private funding. By the time Labour came to power in 1997, therefore, business needs were already shaping social policy outcomes and business people had been well embedded into key services. The Labour government enthusiastically built upon Conservative policies by seeking to embed business people, firms and values still further into public services. It has since created the opportunities for the increasingly formal engagement of business people and companies into state bodies, including regional development agencies, schools and hospitals.

Under New Labour the voice of business has grown still stronger. Business has been consulted more frequently and co-opted into various decision-making bodies in a deliberate attempt to increase the voice of business in Britain (Hay, 1999). Labour's priorities were outlined clearly by Blair at the CBI's 1997 conference, which was the first time the employers' organization had been addressed by a sitting Labour prime minister:

when I last addressed the CBI's National conference, I promised a new partnership between New Labour and business. Six months into office, we have laid the foundations of that partnership. There are business people bringing their experience and expertise by serving in Government, on Advisory Groups, leading task forces, all contributing to the success of Government policy. But there is also great commitment and enthusiasm, right across the Government, for forging links with the business community. That this is the approach of a Labour government is of historic importance. It demonstrates we are entering a new era in British politics. (Blair, 1997)

So successful was this strategy that the outgoing president of the CBI, Clive Thompson, explained to the *Financial Times* that the working relationship between the CBI and the Labour government was, in 2000, 'probably closer than at any time in the last 25 years', and certainly closer than under the Thatcher or Major governments (Brown, 2000).

Reaching out to business in this way would, it was felt, lend legitimacy to the New Labour project; business was viewed as an important ally against entrenched interests within the public sector (Falconer and McLaughlin, 2000, p. 122). Moreover, business actors were thought to have valuable experience that might be utilized in order to devise innovative solutions to institutional problems within public services. These pressures, coupled with the government's desire to steer public services towards the needs of business, led to a concerted effort to create new opportunities for business people to fill strategic decision-making positions from the highest levels of government down to individual services. Even more radically, business has been invited to bid to take over the running of essential services, including schools and hospitals.

Thus, in many respects, there has been little need for organized business and firms to seek to influence social policy during recent years since, in most ways and in most areas, policy has been steered in a pro-business direction by politicians. Governments have responded to structural pressures in different ways, but in the UK context they have increasingly led to cuts in spending on unproductive services and expansion in productive services. Business interest in social policy has been triggered wherever it has perceived provision as either harmful to firms or where it felt that provision could be better steered towards the needs of employers and, beyond this, it has been enough for business to limit its campaigns to the major issues of tax reform and labour costs. Provided business could secure for itself cuts in general and corporate taxation and commitments to reduce spending in non-productive areas, it could limit its focus to these key issues.

Where it has exercised its voice, business has responded positively to government initiatives and, has itself, pushed for a more corporate-centred social policy: public provision funded through taxation on labour rather than business; deep spending cuts, especially at the local level and in unproductive welfare; cuts in corporate taxation, especially local business rates; the increased targeting of social provision to a narrower 'deserving' recipient base for social provision; an increased emphasis on vocational skills within education; increased participation in post-compulsory education and training; the establishment of tighter educational targets; increased business involvement in key services; an increased reliance on outsourcing; increased targeting of social provision and reliance on private provision; and increased private sector inputs into services (see Whitfield, 2001; Farnsworth, 2004; Pollock, 2004). This renewed agency capacity, itself entrenched and expanded by New Labour, has been complimented by increased structural power and a sympathetic international discourse so that British business has not had to battle as hard as it might otherwise have had to in order to promote these kinds of reforms. For the most part, it has

been enough for business to limit its campaigns to issues of central importance to business: regulations, tax reform, access to markets and labour costs.

## CONCLUSION

The issue of business power has been generally neglected in the public and social policy literature although it has re-emerged as a key concern of globalization theorists. However, the issue of business power and influence has generally been treated poorly in the literature. Discussions of business power have tended to be rather sweeping and simplistic.

The aim of this chapter has been to develop a more robust theory of business power within global capitalism. The key argument of the chapter is that globalization has strengthened corporate structural and agency power. However, the extent to which this has occurred depends on institutional frameworks, economic context, policy level (whether international, regional or local) and policy area. Structural power is more important in certain contexts, agency power in others. Thus, it is impossible to make sense of the power and influence of business under the conditions of globalization unless the analysis simultaneously takes into account structural and agency factors. It is also necessary to examine the multiple layers of decision-making: the international, regional and national.

The case of the UK illustrates well the fluctuating importance of structure and agency at these various levels. Business agency power has increased at the international and regional levels although structural power, beyond the level of the nation state, has been less important. At the national level, structure and agency continue to vary in importance according to national situations. In the UK, ongoing structural pressures and a more historically adversarial relationship with business has led the government to investigate new ways of embedding business within a range of decision-making and welfare service institutions. A business-sponsored race to the bottom is unlikely to occur in the short term, but the development of more business-centred welfare provision, influenced by both structural and agency factors, is more likely in future.

## NOTES

1. For a review of the evidence on this see Farnsworth and Gough (2000); Farnsworth (2004).
2. [http://www.invest.uk.com/investing/benefits\\_of\\_the\\_uk.cfm](http://www.invest.uk.com/investing/benefits_of_the_uk.cfm), accessed November 2002.

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## 4. Transnational governance and national employment regulation: the primacy of competitiveness

**Otto Holman<sup>1</sup>**

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### INTRODUCTION

The concept of governance is a very versatile one. It is used in various (sub)disciplines to denote different phenomena at different levels of analysis. The burgeoning literature on ‘corporate governance’ in economics and the recent emphasis on ‘good governance’ in international development studies are cases in point. But even if we focus on European governance, we find distinct uses of the concept and different definitions (although the concept is more often bandied about than defined). In the European Commission’s White Paper on European Governance, governance is defined as the ‘rules, processes and behaviour that affect the way in which powers are exercised at European level, particularly as regards openness, participation, accountability, effectiveness and coherence’ (European Commission, 2001, p. 8). The normative underpinnings of this definition – that is, ‘better’ governance in terms of more efficient and transparent rules, processes and behaviour is aimed at – resembles a common assumption in the so-called multilevel governance (MLG) literature that state sovereignty is in retreat – and with it state-centric or intergovernmental interpretations of European integration – and that a new and to a certain extent unique polity is emerging which is supposed to be ‘closer to the people’ and better equipped to enhance democratic legitimacy and effective decision-making. In this respect, the descriptive value of bringing in sub- and supranational (non-state) actors and multiple levels of government turns into an apology of recent (political) attempts to substantiate the principles of subsidiarity and proportionality (the enshrining of competences in the Constitutional Treaty can serve as an example).<sup>2</sup>

A more straightforward and less normative definition looks at governance as the organization of collective action – and the production and regulation of public, or collective, goods – through formal and informal institutionalization (institutions being the ‘rules of the game that permit, prescribe, or

prohibit certain actions' (see Prakash and Hart, 1999, p. 2; see also Marsh and Furlong, 2002, p. 37) at multiple levels, including the European. Here, the multilayered interplay of formal and informal institutionalization seems crucial. Yet another scholar defines governance as 'the intentional regulation of social relationships and the underlying conflicts by reliable and durable means and institutions, instead of the direct use of power and violence' (Jachtenfuchs, 2001, p. 246). This definition breaks away from formal structures of state authority, but it remains unclear whether the author exclusively refers to self-regulation in the context of civil society (that is, self-governance) or not. In short, it looks as though every contribution to the governance literature is adding a new, implicit or explicit definition, in the process causing more instead of less confusion. Everyone seems to agree that the concept of governance is much wider and more complex than government, but disagreement *inter alia* arises about whether governance should include government, whether it should include both informal and formal practices, institutions or forms of regulation, and whether it should include both private and public actors. If we decide to take a more inclusive stand, the precise interplay between formal and informal, between regulation and self-regulation, and between public and private, pops up as a next major puzzle.

In this chapter, I will not propose yet another definition of governance. Instead, I will follow the line of argument put forward in a recent article by Jan van Tatenhove, Jeannette Mak and Duncan Liefferink on the interplay between formal and informal practices (Van Tatenhove et al., 2006). After defining informal practices as 'those non-codified settings of day-to-day interaction concerning policy issues, in which the participation of actors, the formation of coalitions, the processes of agenda-setting and (preliminary) decision-making are not structured by pre-given sets of rules or formal institutions', the authors distinguish two strategic motivations behind the emergence of these informal practices, that is, a cooperative one and a conflictual one. As to the former, informal practices facilitate formal processes of agenda-setting, decision-making or implementation either by functioning as a lubricant within a given formal setting (that is, without changing its rules) or as an 'experimental garden' for new rules (that is, alternatives for existing formal practices) which may well become formalized at a later stage. As to the conflictual strategy, Van Tatenhove et al. again distinguish two different subcategories, both in opposition to existing formal practices and rules (and their undesirable consequences): first, a strategy labelled as 'critical voice' criticizes the specific substance of formal practices and/or the application of existing rules for, for example, not being far-reaching enough; and, second, a strategy of 'circumvention' deliberately aims at bypassing formal routes (that is, at circumventing existing formal practices and rules), in the process creating alternative (indirect and informal) routes and practices (Van

Tatenhove et al., 2006, pp. 14–15). As said before, in this chapter we follow this line of argument and categorization. After isolating one particular ‘informal practice’ – that is, the setting of the regular, quasi-institutionalized interaction between the European Commission and the European Round Table of Industrialists (ERT), in which the processes of agenda-setting and preliminary decision-making are not structured by pre-given sets of rules or formal institutions – the European Employment Strategy (EES) will be singled out as an example of how informal practices can have an impact on formal (or quasi-formal) practices. It will be argued that this specific interplay of informal and formal practices was intentional and part and parcel of a carefully and strategically planned process involving the neoliberal restructuring of the so-called European Social Model. In fact, the four general strategies distinguished by Van Tatenhove et al. – that is, informal practices as lubricant, experimental garden, critical voice and/or circumvention – all apply, albeit with some (minor) modifications.

This brings us back to the concept of governance. Instead of redefining the concept, I will start the next section with eclectically putting together some of the most relevant aspects of what has come to be known as the ‘new governance’. I will base my argument on an authoritative account of Roderick Rhodes (Rhodes, 1996). But unlike Rhodes, I will focus on the European level of agenda-setting and decision-making rather than on domestic politics. And unlike Rhodes, I will not introduce a strict separation between governance and government. In the end, governance can only exist at the mercy of government (perhaps also, and increasingly, vice versa; but that is not the point here), in the same way as informal practices can only make sense if translated into formal practices. That leaves us with the title of this chapter: transnational governance without supranational government. In the European Union, transnational (or multilevel, if one prefers) governance is always with national government, but at the same time without a proper supranational government. This is at the heart of what will be referred to as ‘asymmetrical regulation’ in the next section. In addition, it will become clear that transnational governance is about control and authority but – unlike ‘government’ in democratic politics – not necessarily about legitimacy and democratic accountability.

## MULTILEVEL GOVERNANCE AND ASYMMETRICAL REGULATION IN THE EUROPEAN UNION

European governance is not a very new phenomenon. It can indeed be argued that some kind of governance (at the European level) always

existed, at least since the early integrational steps in the 1950s. I am referring to the 'backstaged', elite-driven process of European integration thus far. What we do witness, however, is a certain intensification of informal practices of governance concomitant to the so-called extended relaunch, that is, the completion of the Single Market and the subsequent move towards economic and monetary union. In the aforementioned article on the new governance, Roderick Rhodes distinguishes six different ways in which the concept of governance is used (and gained new relevance after the late 1970s and early 1980s).<sup>3</sup> The first use is governance as 'the minimal state'. This is part and parcel of the large-scale privatization schemes which have been executed in all the member states of the EU since the early 1980s. As a result, ownership of public services has been replaced by regulation, sometimes in the form of (partial) self-regulation. At the European level, these national privatization schemes were to a substantial degree inspired by European re-regulation in the context of the Single Market project, notably in those sectors with traditionally strong state monopoly structures. Governance (particularly in the meanings of MLG and good governance) has become the key term to defend 'the minimal state' at the European level, as opposed to a would-be 'federal super-state'. Secondly, governance as 'new public management' refers to the introduction of private sector management methods to the public sector, and private sector 'incentive structures' into public service provision. Inasmuch as the new public management is about steering and competition, in the process transforming traditional patterns of hierarchical government, it is relevant to Rhodes's discussion of governance. Below we will see how this new public management has entered the European decision-making structures too. A third use, governance as a 'socio-cybernetic system', comes close to alternative notions like 'the centreless society', the polycentric state or indeed 'governance without government'. Next to central government, a large number of interactions take place between public and private actors, state and non-state actors (and sectors) at multiple levels. Policy outcomes are increasingly determined by (and dependent upon) these interactions beyond – and to a certain extent independent of – a single sovereign authority. The fact that complex (inter)dependencies between different actors are replacing central government is at the heart of the last, fourth, way governance is used according to Rhodes: governance as self-organizing, interorganizational networks. The main difference with governance as a socio-cybernetic system seems to relate to the self-organizing capacity of these networks, which means that they are not accountable to the state. In other words, 'networks are an alternative to, not a hybrid of, markets and hierarchies and they span the boundaries of the public, private and voluntary sectors' (Rhodes, 1996, p. 659).

To a certain extent, the six uses distinguished by Rhodes are related to each other: for example the emergence of self-organizing networks is the result of government withdrawal, deregulation, privatization, in short, the minimal state. Perhaps this is because they all relate to recent phenomena, concomitant to the neoliberal restructuring (if not dismantling) of the post-Second World War Keynesian welfare state. As indicated above, Rhodes concentrates on British government and on how the hollowing out of the British state has been and is related to the new governance. Strangely enough, in doing so he only mentions the EU in passing. Yet if we apply his last two 'uses' of governance to the EU we come rather close to the MLG approach (and the literature on network governance). Indeed, the EU's hybrid nature is characterized by the existence of overlapping competencies among multiple levels of governance and by the interaction of political actors across those levels. In this sense we should look at governance as a transnational rather than a national phenomenon.

Although the MLG literature has contributed to a better understanding of the institutional structures of the EU, some important corrections to this commonsense notion have to be made. Mainstream MLG literature is focused on how the formal structures of European governance are functioning, without raising the questions of why this multilevel system has emerged and what kind of European Union it seeks to promote. One way of illustrating this point is to look at the specific nature of European integration thus far. It is as much about economic and monetary supranationalization (involving the creation of supranational structures of regulation and surveillance) as it is about strict intergovernmentalism, notably in the related social policy area. This is what I refer to as 'asymmetrical regulation'. By regulation I mean, following Giandomenico Majone, the 'sustained and focused control exercised by a public agency, on the basis of a legislative mandate, over activities that are generally regarded as desirable to society' (Majone, 1996, p. 9). If we take the Single Market as an example, we can assume that the free market activities since the mid-1980s are regulated in a would-be European society that 'generally' considers free market integration through European (re-)regulation as an activity worthwhile in itself and 'hence in need of protection as well as control' (*ibid.*). Similarly, we can look at the European Central Bank as a public agency that exercises sustained and focused control over activities which have an impact on, for instance, price stability. The same can be said, finally, for activities in the field of social policy. Maintaining social cohesion, or guaranteeing a certain degree of social protection, can be generally regarded as desirable to society. The problem is, however, that (re-)regulation at the European level in terms of the Single Market and monetary integration causes deregulation at the national level in social terms. Asymmetrical regulation, then,

refers not only to the discrepancy between European economic and monetary free market regulation, on the one hand, and the lack of social regulation (or harmonization) at the European level, on the other, but – more importantly – also to the adverse impact of economic and monetary integration at the European level on social cohesion at the national level. In other words, ‘multilevel’ then also means that some areas are moved to the supranational level while others are strictly reserved to national authorities claiming national sovereignty. One wonders why.

Part of the answer to this question is related to a second phenomenon. Part and parcel of multilevel decision-making is the principle of political spillover. This refers to the fact that non-state actors (usually called ‘lobby groups’) move their lobbying activities to the European level in response to an increase in the policy-planning and law-making powers of, notably, the European Commission. It makes no sense to lobby at the national level when decision-making is – or at least starts – in Brussels. In theory this seems a quite reasonable conclusion. But in practice we see an unequal distribution of ‘capabilities to act’ at the European level, an unequal access to the cupola of European decision-making and – most importantly – an unequal outcome as far as agenda-setting, policy-planning and decision-making are concerned. The post-war development of the welfare system – and, more specifically, the concomitant redistribution of income and decommodification of labour – was primarily the result of concerted actions between organized labour and business at the national level. If we look at the role of organized labour since the mid-1970s, we see a dramatic decline in union density, negotiating power and capacity to act (Ebbinghaus and Visser, 1999). At the European level this is even more true, especially when compared to the extent to which European business successfully organized itself in transnational planning bodies like the European Round Table of Industrialists (ERT). In the absence of a strong institutional representation of labour at the European level, European business is optimally using the ‘multilevel playing field’ that has been created within the European Union to implement fully its own neoliberal project and to arrange its own regional cohesion.

These two corrections – the asymmetrical nature of European regulation, premising supranational free market regulation over national social regulation, and the asymmetrical spillover of social actors to the European level – are a first step in answering the aforementioned questions of why MLG has emerged and what kind of EU it seeks to promote; that is, in discovering the social purpose of MLG. It is here that Rhodes’s typology of the new governance brings us closer to a better understanding of this social purpose, although he fails to grasp fully the transnational framework in which the informal practices of governance take place. In developing this

argument further, I will focus in the next section on one particularly important and influential public–private partnership: that is, between transnational business and the European Commission. I see this partnership as an informal practice of European governance, intentionally regulating social relationships and the underlying conflicts by reliable and durable means and institutions (see Jachtenfuchs, 2001).

## PUBLIC–PRIVATE PARTNERSHIPS: THE EUROPEAN COMMISSION AND EUROPEAN BUSINESS

As said before, a particularly important feature of the new European governance is the phenomenon of public–private partnerships which emerged in the early 1980s and to some extent was institutionalized in the course of the 1990s. By this I mean the informal and formal structures (or networks) where chief executive officers (CEOs) of European business, politicians and high representatives of the European cadres meet each other. It is particularly the agenda-setting and policy-planning capacity of these networks that is of importance here. And this is as much about decision-making as it is about non-decision-making: keeping specific policy areas or topics from the European agenda is as important as keeping the momentum of neoliberal restructuring and disembedding free market capitalism (under the banner of competitiveness).

The partnership between the European Commission and the aforementioned ERT is perhaps one of the most striking (and influential) examples in this respect. The European Commission is of particular importance in its policy planning capacity and in its role as the ‘Guardian of the Treaties’. As far as the former task is concerned, the Commission operates in close cooperation with organized business. The ERT is a privileged agenda-setting and policy planning group, privileged in its access to European institutions and member state governments and in its capacity to influence the European agenda. The relationship between the two can best be described as a ‘symmetrical interdependent’ one: the Commission and the ERT need each other in the realization of their respective goals. In the early years of its existence, a member of the Delors cabinet referred to the ERT in the following way: ‘We see this group as a very useful bunch of people. These men are very powerful and very dynamic. They seed us with ideas. And when necessary, they can ring up their own prime ministers and make their case’ (quoted in Merritt, 1986, p. 22). In other words, the Commission could (and can) use the members of the ERT in its attempt to strengthen its position *vis-à-vis* the member states, both in its policy initiating and innovating capacity. On the other hand, the ERT needs the Commission because of its

role as executive and co-legislature at the European level. The fact that the Commission has 'a quasi-monopoly of policy initiation and innovation inside the Community' (Church and Phinnemore, 1994, p. 271) makes it the focal point of numerous interest groups. And again, among these interest groups the ERT is *primus inter pares*.<sup>4</sup>

The ERT was founded in 1983 on the initiative of the erstwhile European Commissioner Etienne Davignon and the President of Volvo, Pehr Gyllenhammar. The early ERT members were recruited from industrial sectors like electronics (Philips and Siemens), car manufacturing (Fiat, Renault, Volvo) and steel (Thyssen). Soon after its foundation, the ERT developed into a platform for the improvement of the dialogue between European industry and decision-makers at both the national and European levels. Its principal aim was twofold: to search for common solutions for the perceived loss in competitive power *vis-à-vis* US and Japanese adversaries and to find support at the Community level (and especially within the European Commission) for the completion of the Single Market.<sup>5</sup> What the ERT was aiming at was clearly stated in a 1985 report: 'The emphasis of the group's work is on developing ideas and taking initiatives to promote the European scale in industrial and market development – strengthening European industry's competitiveness . . . by promoting competition and co-operation on a European scale' (ERT, 1985, p. 2).

And indeed, it was its agenda-setting role that characterized the influence of the ERT in European affairs from the very start of its foundation. The ERT formulated priorities in the field of European integration, particularly with respect to the overall objective of strengthening European industry's competitiveness, in the expectation that decision-makers at the European and national levels would start to take concrete action. In the words of the ERT in its 1991 report *Reshaping Europe*: 'Perhaps more than in the past, business opinions today express a comprehensive world-wide vision of modern society and its problems, a vision which may in some ways go beyond the ideas of our political leaders' (ERT, 1991, p. 2). The striking synchronization of ideas between the ERT and the European Commission headed by Jacques Delors (whose capacity to elaborate a 'comprehensive vision of modern European society' was unquestioned), *inter alia* exemplified by the latter's adoption of the European Champions strategy, to a large extent accounted for the successful implementation of the Europe '92 initiative. The close cooperation with the ERT gave the European Commission an additional powerful instrument in its attempt to convince member states' governments.

Again in the subsequent move towards EMU, the ERT successfully played its agenda-setting role: the most important priorities of trans-European business were realized or put high on the European agenda. In

its report *Reshaping Europe*, which was published on the eve of the European Council meeting in Maastricht, in December 1991, it was stated that ‘the time has . . . come to fix the goal of a single currency in Europe as an essential condition for securing the full benefits of the single market. Money is the life-blood of an economic system. A single, strong and stable currency is a necessity for the post-1992 market place.’ In addition, a strong and independent Central Bank was demanded, to guarantee ‘a stable value for our currency’, as well as ‘binding disciplines’ against inflation and budget deficits (*ibid.*, p. 46).

It is not difficult to see the clear resemblances between these demands and the final outcome of the Summit, laid down in the Treaty of Maastricht. As in the case of the Europe '92 project (a clear instance of negative integration, that is, the removal of all barriers to the free movement of goods, capital, services and people), the ERT managed to realize one of its most important objectives in terms of positive integration (that is, the creation of new policy domains at the supranational level): the creation of a single currency, symbolizing the establishment of a supranational institution – the European Central Bank (ECB) – in charge of the main monetary policy objectives (notably price stability) and supported by a firm commitment to austerity and macroeconomic discipline by the member states of EMU. At this point it was already foreseeable that the extended relaunch of European integration would severely limit the national capacity to act of member state governments in the case of macroeconomic imbalances. Obviously, within EMU governments could no longer resort to competitive devaluations. But they would also lose the possibility to influence their economies by other means. After all, it would be the task of the ECB to set the interest rate, primarily to meet the objective of price stability in the Eurozone at large (and certainly not directed at stimulating economic growth in sluggish member states). Finally, and as a result of the Stability and Growth Pact (which was adopted in the course of the 1990s but already anticipated in the Maastricht Treaty through the so-called excessive deficit procedure), governments would – by and large – lose the instrument of fiscal policy. In the absence of a strong European government with strong redistributive powers, structural imbalances between member states could then only be neutralized through microeconomic supply-side structural adjustments, that is, adjusting product and labour markets (to increase real competitiveness), or through regime competition (to increase nominal competitiveness).

It was from that moment (that is, the early 1990s) onwards that the ERT started to narrow down its ‘comprehensive world-wide vision’ and to concentrate on the concept of competitiveness. In a number of reports, the ERT unambiguously stressed the need for deregulation and flexibilization

of labour markets. According to the ERT analysis, the causes of structural unemployment in Europe and the weak response of employment to economic growth were mainly due to institutional rigidities and high levels of social protection. This made it mandatory to flexibilize and upgrade the supply of labour, to allow for more wage differentiation and more responsive and, where necessary, lower wages and non-wage costs, and so on. In the words of the ERT in its 1993 report on *European Labour Markets*: 'even painful measures should become socially acceptable, provided they contribute to a sustained improvement of the unemployment situation' (ERT, 1993, p. 2).<sup>6</sup>

A recovery of European industry's competitiveness could be realized only through adjustments in the supply side of the European economy, because 'only a healthy, efficient and competitive private sector is able to provide sufficient jobs' (*ibid.*, p. 9). All other decisions within the EU (in terms of negative and positive integration) would have to be tested against this all-pervasive goal. In this context, in 1993 and 1994 the ERT proposed the establishment of a European Competitiveness Advisory Group, which would 'act as a watchdog, by subjecting policy proposals and new regulations to the test of international competitiveness' (ERT, 1994, p. 3). In 1995, this Advisory Group was established to keep competitiveness high on the EU policy agenda.

This latter example confirms a more general pattern in the history of the ERT: at strategic moments – and preferably on the eve of an important meeting of the European Council – the ERT publishes reports or memoranda containing very concrete priorities and suggestions for EU policy. These reports are sent to the European and national decision-making centres. Simultaneously, these reports are discussed during regular meetings with the President and various members of the European Commission, and contacts are established with ministers and the Prime Minister of the member state then holding the presidency of the European Union. This latter event is part of a standing ritual within the ERT. At least twice a year, all the members of the ERT come together for a plenary meeting, to be held just before a European Council meeting. During this plenary, the Prime Minister of the member state holding the presidency is invited for 'an informal exchange of ideas'.

Being a pressure group of at present 45 CEOs representing transnational companies with a combined turnover of about 1500 billion euros, employing more than 4.5 million people worldwide, the ERT is clearly a factor to reckon with at the European level. This cannot only be illustrated by analysing the success of its proactive suggestions for European regulation to force national economies (directly or indirectly) to increase competitiveness (a true case of Europeanization). It is also reflected in the successful

attempts of the ERT, throughout the 1990s, to keep a European (that is, supranational) social policy in general, and a proactive European employment strategy in particular, from the agenda. In the 1993 *European Labour Markets* report, an attack against the Social Charter – ‘with its inherent risk of uncontrolled momentum in EC social interventionism’ – and against the proposal of a European Works Council was launched (ERT, 1993, pp. 12–13). Finally, the report expressed the ERT’s fierce opposition against proposals directed at creating a European employment policy: ‘Experience shows that top-down bureaucracy in detailed matters and excessive central influence significantly slow any structural change . . . There is little that can be done at the Community level to directly solve the unemployment problem’ (ibid., p. 9). The report therefore called for strict subsidiarity in labour market policies.

A couple of years later, the ERT, through its Secretary-General Keith Richardson, again expressed its opposition to an active employment policy at the European level. In his view, European industry’s competitiveness should be strengthened ‘by making it possible to build an integrated free market economic system, with a *maximum of flexibility and a minimum of regulation*’ (original emphasis). And more explicitly: ‘jobs cannot be created by laws or by writing some new clause or chapter into the Treaty. What is urgently needed is the deregulation of labour markets and better education and training. New jobs will then follow from economic growth and the creation of wealth by business’ (Richardson, 1997, pp. 64–5).

In quoting from different ERT sources, it is not my intention to establish a simple cause–effect relationship, implying that the persistent opposition of the ERT against any form of supranational social regulation and against an active European employment policy is the sole factor explaining the absence of such a policy at EU level. It can be argued, however, that European decision-making in the field of economic and monetary union has not put the slightest obstacle in the way of European business thus far. However, we do not want to downplay the importance of ERT involvement either. The very close relationship which developed between the ERT and the European Commission under the presidency of Jacques Delors has been well documented, and shows convincingly that it was the ERT which kept the ‘1992’ programme on course during the second half of the 1980s. The ERT was closely involved in the shaping of the initiatives at Maastricht and beyond with respect to monetary unification and macro-economic stability, and its concerns – that is, flexibilization and deregulation of European labour markets in order to increase European industry’s competitiveness – determined to a large extent the direction of these initiatives. In short, the ERT successfully played its agenda-setting role,

at strategic moments cemented by active lobbying at the national and European levels. In returning to our previous discussion of informal practices of governance, it can now be argued that the regular, quasi-institutionalized interaction between the European Commission (EC) and the ERT have had an important impact on the agenda-setting and preliminary decision-making processes determining the general course and direction of European integration in the 1980s and 1990s, without being structured by pre-given sets of rules or formal institutions. In this sense, the public–private partnership between the EC and the ERT can be seen as a self-organizing, interorganizational network which is not (directly) accountable to any government (supranational or national), or any democratically legitimized legislature for that matter.

If we next look again at the four general strategies distinguished by Van Tatenhove et al. (see the Introduction to this chapter), we can rephrase the above in slightly more general terms. The first strategy, informal practices as lubricant within a given formal setting, is clearly at work. At strategic moments, the EC and ERT (informally) get their act together and manage to set the European Council agenda in decisive ways (without changing the rules of the latter). Second, and turning for the moment to the first ‘non-cooperative’ strategy, it is the critical voice of the ERT – urging for a more far-reaching deregulation and flexibilization of national labour markets while at the same fiercely attacking any attempts to Europeanize social policy – that has been one of the factors in creating and maintaining the system of asymmetrical regulation. Third, referring to the second cooperative strategy, it has been the informal setting of the EC–ERT partnership that functioned as ‘experimental garden’ for developing European alternatives for existing formal practices (at the national level). As we will see in the next section, the so-called Open Method of Coordination (OMC) and the related concepts of benchmarking and peer reviewing, were first suggested by the ERT and subsequently translated in policy proposals of the EC. Obviously, this informal practice can be subsumed under the heading of governance as the ‘new public management’. Finally, the ERT has deliberately and intentionally tried to escape from formal routes in the area of social policy – that is, the primacy of national regulation and state intervention – by constantly suggesting an alternative route, that is, the circumvention of national regulation in the field of social policy by limiting the capacity to act of national governments through economic and monetary supranational integration. Again, this is basically what the notion of asymmetrical regulation boils down to. In the next section, I will indicate how these strategies have had an impact on formal (or quasi-formal) practices by looking briefly at the European employment strategy.

## EUROPEAN EMPLOYMENT STRATEGY: MAKING EUROPE COMPETITIVE AGAIN

The first attempts to create a European employment policy date from the early 1990s. The EU was confronted with economic recession and a rapid succession of monetary crises right after the Europe '92 project had been formally completed on 1 January 1993. This so-called 'post-Maastricht crisis' resulted in a period of negative growth in some member states and, more generally, in a spectacular rise of unemployment. In a relatively short period of time, unemployment in the EU reached a peak of 11.3 per cent in April 1994, and in a country like Spain even a rate of 24 per cent. In 1995, 4 million fewer people were employed than four years earlier; the employment rate, at 60 per cent in 1995, was significantly down from a peak of 63 per cent in 1991; youth unemployment was twice as high as that of adults, at over 20 per cent on average; long-term unemployment increased to over 50 per cent of the unemployed in 1995; unemployment of women, at 12.5 per cent on average in 1995, remained higher than that of men in all but three member states (Finland, Sweden and the United Kingdom). Finally, the number of people working at night and weekends increased, most new jobs created in the first half of the 1990s were part-time, and temporary work accounted for all of the increase in employment of men (European Commission, 1996a, pp. 8, 147–62). The freeing of market forces inherent to the Single Market programme was apparently not enough to generate additional economic growth and to create extra jobs.

The former conclusion was also drawn in the Commission's White Paper on Growth, Competitiveness and Employment, which was published in 1993. According to the Commission, the different performances of individual member states in generating wealth and in improving job opportunities clearly showed 'that growth is not in itself the solution to unemployment, that vigorous action is needed to create jobs' (European Commission, 1993, p. 16). In general terms the 1993 White Paper proposed a much more balanced approach than the strategy hitherto followed, which aimed at completing the Single Market. It combined supply-side measures with a number of Keynesian elements, such as the promotion of major European infrastructure networks (*ibid.*, p. 21).

The White Paper was well received by the member states and the social partners, albeit for different reasons. For the time being, the catch-all strategy could compromise between the different national and social conceptions. It was *The Economist* which summarized the general feeling by concluding that the White Paper 'contained enough grand ideas to please French and other *dirigiste* visionaries – and enough stress on labour-market deregulation to silence British and other sceptics' (quoted in Tsoukalis,

1997, p. 131). It soon turned out, however, that the implementation of the Commission's priorities mainly concentrated on elements like deregulation and labour market flexibilization, the plea for a more active demand policy being successfully silenced.

One year later, during the European Council meeting at Essen in December 1994, it was again concluded that an 'additional effort' had to be made to combat rising unemployment. A five-point plan for action was adopted, *inter alia* directed at promoting investment in vocational training; improving the employment intensiveness of growth, in particular through more flexible organization of work and wage policies; reducing non-wage labour costs to facilitate the hiring of employees; and improving the effectiveness of labour market policy (European Commission, 1996b, p. 1). One of the main conclusions from the Essen meeting was that any attempt to develop some kind of European – more or less supranational – initiative to fight unemployment was abandoned. The European Council requested the member states to transpose the five action areas into national policies. The resulting Multi-Annual Employment Programmes at member state level should be monitored by the relevant Councils of Ministers (Social Affairs and Ecofin) and the European Commission.

This line of thought, according to which employment policy basically remained a matter of national governments, at best resulting in some kind of intergovernmental coordination on the basis of noncommittal guidelines formulated by the European Council, was reaffirmed by the European Council meeting in Amsterdam. To be sure, as part of the Amsterdam deal and under pressure from the new French government, the EU leaders issued a complementary resolution on growth and employment. In this resolution, the European Council *inter alia* asked the European Investment Bank to investigate the possibilities of broadening its scope, notably by investing in small and medium-sized high-tech, education, healthcare and environmental projects (European Council, 1997). As a trade-off against the stability pact, this resolution was presented by some of the EU leaders as a sign 'that EMU was not only a banker's dream but that it was also intended to tackle the pressing issue of unemployment'.<sup>7</sup> 'We are entering another phase', the then Italian Prime Minister, Romano Prodi, stated. 'Europe has finally turned towards other objectives, besides those of arithmetic convergence.' Germany's then Finance Minister, Theo Waigel, however, seemed to strike a much more realistic note when concluding that 'unemployment has not become an issue of common European policy'.<sup>8</sup>

This certainly held true for the new treaty's employment chapter, in which 'the promotion of coordination between employment policies of the Member States' was set as one of the main objectives. According to Article 1:

Member States and the Community shall . . . work towards developing a coordinated strategy for employment and particularly for promoting a skilled, trained and adaptable workforce and labour markets responsive to economic change . . .

The Council of Ministers should each year draw up guidelines which the member states should take into account in their employment policies; the member states should provide the Council and the Commission with an annual report on the principal measures taken to implement their employment policies in the light of these guidelines; on the basis of an examination of these reports, the Council could make recommendations to member states (Article 4).<sup>9</sup> The Treaty of Amsterdam did not depart however from the course the EU had taken since the early 1990s. Employment policy basically remained a strictly intergovernmental affair. The reaction of the employers' organizations right after the Summit were quite illustrative in this respect. The president of the Federation of German Industry (BDI), Hans-Olaf Henkel, condemned the jobs chapter as 'superfluous' and said it could be accepted only because it would have no real effect (*Financial Times*, 18 June 1997). The Secretary-General of the European employers' federation UNICE, Zygmunt Tyszkiewicz, commented in a similar way: 'We never wanted an employment chapter in the first place, but if we have to have one, then this version is not too bad' (quoted in *European Voice*, 26 June – 2 July 1997).

It soon turned out why this jobs chapter was 'not too bad'. In retrospect we can conclude that the Amsterdam Treaty was the very start of the so-called Open Method of Coordination of national employment and labour market policies aiming at greater flexibility. This can be illustrated by the European Employment Pact – 'a comprehensive overall approach bringing together all the Union's employment policy measures' – that was agreed upon during the Cologne European Council in June 1999. The Pact consists of three interrelated 'pillars' (European Council, 1999):

- Coordination of economic policy and improvement of mutually supportive interaction between wage developments and monetary, budget and fiscal policy through macroeconomic dialogue aimed at preserving a non-inflationary growth dynamic.
- Further development and better implementation of the coordinated employment strategy to improve efficiency of the labour markets by improving employability, entrepreneurship, adaptability of businesses and their employees, and equal opportunities for men and women in finding gainful employment.
- Comprehensive structural reform and modernization to improve the innovative capacity and efficiency of the labour market and the markets in goods, services and capital.

The European Commission was asked to distil from the best-practice comparison specific but non-binding recommendations on the basis of equally non-binding employment policy guidelines. Four broad guidelines would structure the European Employment Strategy (EES):

- Improving employability, *inter alia* by moving from passive to active labour market policies and promoting lifelong learning. Active labour market policies include reforms of tax and social security policies (aiming at an increase of the gap between minimum wages and unemployment benefits), making it 'more attractive' for the unemployed to take up jobs.
- Developing entrepreneurship by making it easier to start up and run businesses and making the taxation system more employment-friendly.
- Encouraging adaptability of businesses and their employees by modernizing the organization of work, including flexible working arrangements, and by incorporating into national law more adaptable types of contract.
- Strengthening the policies for equal opportunities: tackling gender gaps, reconciling work and family life and facilitating reintegration into the labour market. This objective seems first and foremost directed at increasing employment rates in Europe.

These employment guidelines were drawn up at Community level and then translated into National Employment Action Programmes. In 1999, a Peer Review Programme was started. This 'dissemination of good [*sic*] practices of member states in labour market policies has the overall aim of enhancing transferability and mutual learning processes and promoting greater convergence towards the main EU goals'.<sup>10</sup> Although the EES has been modified as a result of the so-called Lisbon process, its basic objective (that is, improving competitiveness at the national level) and method (that is, benchmarking and the OMC) remains the same. Returning once more to our above discussion of informal practices, and to governance as the new public management, it can be established that the ERT was first in suggesting the value of benchmarking for European policymakers. As such it forms a fine example of the strategy of 'experimental garden'.

In a 1996 report, the European Round Table of Industrialists clearly outlined the concept of benchmarking: 'benchmarking means scanning the world to see what is the very best that anybody else anywhere is achieving, and then finding a way to do as well or better'. Benchmarking:

is a simple, flexible and above all dynamic process. It helps companies and governments to compare their own performance with the best in the world, and to

motivate everybody concerned to do better . . . No organisation today can afford to rest on its laurels in a world where last year's achievements are already gathering dust, remote and irrelevant . . . Benchmarking succeeds because it works with human nature. It doesn't simply tell people to do better, it shows them how to do so by demonstrating what other people are doing . . . Benchmarking is non-stop. It is a tool to bring about the continuous improvement and adaptation which are the only means to survival in a continually changing world. (ERT, 1996, p. 5)

Benchmarking for policymakers in the field of labour market policies then primarily boils down to scanning the world (that is, introducing Anglo-Saxon practices of internal and external labour market flexibilization), to motivating workers to do better by reducing social protection, to enhancing individual competition (as part of human nature), and to adaptation in a continuous survival of the fittest. Though benchmarking must be applied Union-wide in order to function, the guiding principles are non-binding and the implementation and coordination are primarily realized at the member state level. It is rather fashionable today to emphasize the shortcomings of the OMC, particularly because of its non-binding and informal character. And indeed, if we focus on the top-down capacity of the European Commission to enforce member states, then we must come to such a conclusion. Necessarily so, since this is the very essence of transnational governance without supranational government, that is, the primacy of informal practices at the European level. At the same time, as stated above, governance can only exist at the mercy of government, and informal practices like the OMC can only make sense if translated into formal practices. The solution to this paradox is a simple one: in the field of social policy in general, and the EES in particular, transnational or multilevel governance is always with national government. To put it differently, the ideological preference for less government, for more flexible labour markets, and so on, is one thing; the actual process of privatization and social deregulation is quite another. And it definitely needs government, that is, formal practices. The popular saying that 'the proof of the pudding is in the eating' in that sense also applies to the OMC: if we accept that the guidelines of the EES primarily focus on microeconomic supply-side structural adjustments and if we accept that national governments in the EU – without any exemption – are fully engaged in comprehensive labour market reforms (Germany being a spectacular case in point), we may evaluate the effectiveness of the European system of asymmetrical regulation in a different, that is, more positive, way. The question remains, however, whether the formal, government-led social deregulation at the national level can (or could) do without the OMC. In other words, is the OMC really necessary? To this we turn in the last concluding section.

## CONCLUDING REMARKS

In this chapter I have tried to show the remarkable synchronization of ideas developed in the cupola of the ERT (and put down in a number of reports), on the one hand, and a number of policy initiatives of the European Commission in the field of the EES, on the other. As such, the EES served as an example of a more comprehensive, agenda-setting and policy-initiating process, which was by and large the result of the privileged public–private partnership between the European Commission and the ERT. Many of the catchwords of European integration since the early 1980s were very much related to the ideas that were developed through this partnership at an earlier stage: Europe '92; one market, one currency; competitiveness; labour market flexibility; and benchmarking, to name just the most important ones.

I also looked at the EES as an attempt to reconcile supranational, economic and monetary integration with the illusion of national self-determination in 'modernizing' the so-called European Social Model. This is even more so since the EES has become part of the more comprehensive Lisbon Strategy to make the EU the most competitive and dynamic knowledge-based economy in the world by 2010. In the words of the Lisbon European Council, 'achieving the new strategic goal will rely primarily on the private sector, as well as on public–private partnerships. It will depend on mobilizing the resources available on the markets, as well as on efforts by member states'. In terms of governance, however:

A fully decentralised approach will be applied in line with the principle of subsidiarity in which the Union, the Member States, the regional and local levels, as well as the social partners and civil society, will be actively involved, using variable forms of partnership. A method of benchmarking best practices on managing change will be devised by the European Commission networking with different providers and users, namely the social partners, companies and NGOs. (European Council, 2000)

It is this combination of public–private partnerships at the European level (agenda-setting and policy planning) and multilevel governance (implementation) that is at the heart of the EES and its related OMC. In an 'integrated market governed by fragmented sovereignty', as Wolfgang Streeck argues, 'the wielders of that sovereignty compete with one another, in part for the respect of their citizens . . . but most importantly for the allegiance of mobile production factors' (Streeck, 1997, p. 3). The 'Open Method of Coordination' of labour market policies is perhaps one of the best examples of this: in keeping up the illusion of the 'persistent plurality of national citizenship regimes' it introduces mechanisms of regime competition in the field

of social policy. More specifically, peer pressure and recommendations from the European Commission are used to make domestic political and social relations more fluid and more adaptable to the exigencies of European business. And business is well aware of this. To quote once more from the 1996 ERT report *Benchmarking for Policy-Makers*:

At a time when the European model of society is experiencing some difficulties, and change may be perceived as painful (though not nearly so painful as the results of not changing), the role of symbols in mobilising human effort may become more important, and benchmarking can be part of this. (ERT, 1996, p. 17)

The OMC as applied in the EES and the more comprehensive Lisbon Agenda is, then, not only an instrument in the intentional regulation of social relationships at the national level – reflecting the rational and strategic objectives of particular interests at the European level – but also, and perhaps more importantly, an instrument in mobilizing human effort. It is about the role of symbols or, to put it differently, about discourse production at the European level. And again, the partnership between European business and the European Commission has been a vital element in this process. And the stakes are high: no less than the European model of society is under attack. If at some moment in the history of European integration the national welfare state may have been the most important obstacle to social policy integration, it is the victory of transnational market forces that makes it the most vulnerable institution in the present European system of multilevel or transnational governance. But we must never forget that it is government at the national level that is really in charge when it comes to the formal execution of the so-called reform agenda.

## NOTES

1. This chapter is a slightly revised version of an earlier paper, published in *Perspectives on European Politics and Society*, 7 (1), 2006.
2. For an early account of the multilevel governance approach, see Marks et al. (1996). For an assessment of the normative underpinnings of MLG, see Marsh and Furlong (2002), p. 38.
3. See Rhodes (1996), pp. 653–59. In the following, I will refer to only four uses of governance, leaving two uses which have no direct relevance for the argument of this chapter (that is, corporate governance and good governance) largely undiscussed.
4. It is now generally acknowledged that the ERT played an important role in the relaunch of European integration in the 1980s, with respect to both the completion of the internal market and the development towards EMU. See, for example, Holman (1992); Green Cowles (1994) and Van Apeldoorn (2002).
5. For a detailed account of the initiating role of the ERT in the run-up to the presentation of the Commission's White Paper on the completion of the Single Market in 1985, see Green Cowles (1994).

6. These are the recurrent themes in four different reports on European labour markets which the ERT published in the 1990s. More recently, these themes are part of publications on the progress of the so-called Lisbon process (see ERT, 2002).
7. The Dutch Prime Minister and social democrat Wim Kok, quoted in *The European*, 19–25 June 1997.
8. Both quoted in *The European*, 19–25 June 1997.
9. The Treaty of Amsterdam can be downloaded at <http://europa.eu.int/eur-lex/lex/en/treaties/index.htm>.
10. <http://peerreview.almp.org/en/principles.html>, last accessed 9 January 2006.

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## 5. Developmental states and global neoliberalism

**Amornsak Kitthananan**

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### INTRODUCTION

The neoliberal discourse of global institutions is extremely influential in the West; and is a dominant theme of academic analysis of the state, governance and the policy process. However, in some countries of Asia, states have followed a different path from that prescribed by global institutions and neoliberal orthodoxy. This chapter addresses this issue and uses the dynamic of state reorientation in Asia as a contribution to the debate. It discusses the dynamism of state orientation and reorientation in the light of global neoliberalism. While many states in the West might play a crucial role in providing the regulatory framework for markets to function efficiently, what is distinctive about some states in Asia is that they deliberately sought to intervene in the market or economy differently from the neoliberals' vision. Economic development in East Asia was not something that simply happened as a consequence of the fortuitous and unplanned influence of market forces, but was a result of the state's decision in the extent to which it should intervene to direct or guide the economy. It also depended on how the state had arranged its institutional relationship with other players in the governance structures.

### GLOBAL NEOLIBERALISM, STATE AND PUBLIC POLICY

It has been over three decades since the 1970s when the neoliberal ideal began to replace the state-led Keynesian orthodoxy, firstly within Western governments, then as the main policy prescription of international financial organizations, and later transferred into the policymaking of developing countries. Such ideas established themselves at the heart of the transformation processes that have shaken the primacy of the state in Western industrialized economies. In the 1980s, starting in the UK and the

USA, neoliberal economic policies persuaded many Western governments to turn away from statist and redistributive concerns in favour of ideas and policies that emphasized the role of the free market, a reduced role for the state in development, and promoted liberal trade and foreign investment policies. In the 1990s, we saw the rapid ascendance of the neoliberal regime in several advanced and developing economies through the promotion of many international aid agencies. The state and its *modus operandi* became defined not as the solution, but rather as a chief source of several problems in society, and most distinctly to poor economic performance (Savoie, 1994). From this perspective, it was argued that states should play a minimum role in economies. Rather than decisively intervening in the economy, states should allow market mechanisms to govern the economy and direct welfare distribution in society. As a consequence, pre-existing Keynesian welfare strategies for economic management were systematically dismantled.

The basic policy package through which the neoliberal project has been implemented, often known as the Washington Consensus (WC), has been characterized as the following (Standing, 2002):

- trade liberalization;
- financial market liberalization;
- foreign capital liberalization (eliminating barriers to foreign direct investment);
- privatization of production;
- deregulation of legal framework;
- secure property rights;
- unified and competitive exchange rates;
- diminished public spending (fiscal discipline);
- tax reform (broadening the tax base, cutting marginal tax rates, less progressive tax);
- a social safety net (narrowly targeted, selective transfer for the needy); and
- flexible labour markets.

From this policy discourse, it seemed to be necessary for neoliberals to deploy state power and public authority in pursuit of the superiority of markets, and of individualized and privatized economic relations. This primacy of economic liberalization and the free market explicitly rejected the ideas of the 1960s and 1970s which saw a key role for the state in planning, redistribution and the provision of basic human needs (Leftwich, 2000).

This view has been absorbed, elaborated and reproduced within the international (financial) organizations such as the International Monetary

Fund (IMF) and World Bank. The idea was translated into the policy strand called structural adjustment lending (SAL). SAL was the generic term used to describe a package of economic and institutional measures which the IMF, World Bank and many aid donors sought to enforce developing countries to adopt during the late 1980s and 1990s in return for policy-oriented loans (Mosley et al., 1991). It aimed at ending import substitution manufacturing regimes, embracing free market solutions, privatizing state enterprises and imposing fiscal austerity (World Bank, 1981; Williamson, 1990). The general pattern of the SAL package usually involved two main stages, stabilization and adjustment, often deployed by the IMF and World Bank, working in conjunction (Leftwich, 2000). Stabilization normally meant immediate devaluation and often quite drastic public expenditure cuts. Adjustment followed and sought to transform economic structures and institutions through varying measures of deregulation, privatization, dismantling or diminishing oversized public bureaucracies, reducing subsidies and encouraging realistic prices to emerge as a stimulus to greater productivity (Nelson, 1990). SAL entailed the set of ideas of economic freedom, free markets, private sector initiatives and the cutting away of regulations aimed at providing conditions and incentives for unleashing entrepreneurial energies. In other words, SAL was intended to lead to the dismantling of the dominant post-war state-led and state-planned development paradigm, and overcome the problems of developmental stagnation by promoting open and free competitive market economies that were supervised by minimal states.

Most of development assistance was increasingly tied to SAL packages designed to enforce market reforms. SAL reached almost a quarter of the World Bank's lending by the end of the 1980s and it sought to provide incentives and means for restructuring developing countries around such principles (Mosley and Toye, 1988). Neoliberal ideas sharply framed the development policies and goals of developing nations through the Bank's intervention (World Bank, 1981; Toyle, 1994). This meant that neoliberalism became globalized by the international development agencies working across the globe. As Deacon et al. (1997) argue, the public policy of a country or locality is no longer wholly shaped by the politics of the national government. It is increasingly shaped by the implicit and explicit social policies of numerous supranational agencies, ranging from global institutions, through supranational bodies, to supranational non-government agencies. These international institutions have done more than contribute to discussions about domestic public policy – they have directly and indirectly played an active role in social regulation and provision. Their interventions have been carried out through, for example, the structural adjustment funds (such as those issued by the World Bank), various social

development assistant programmes (such as those initiated by the United Nations Development Programme – UNDP, and the IMF), or standard setting (as implemented by the International Labour Organization – ILO – and the World Health Organization – WHO).

However, the Washington Consensus and SAL were never far from criticism. Manor (1995) argued that the policy prescriptions of the IMF or World Bank were too standardized and enforced without due consideration for local institutional variations. The approach assumed too much cultural, social, historical and political homogeneity among developing countries. It incorporated the belief that the policy prescriptions would produce roughly similar results in all Third World settings. The enormous variations that existed among states in Asia, Africa and Latin America tended to be overlooked. Variations were in fact so marked that they inspired doubts about the universal efficacy of any single economic strategy. The broad array of variation ranged from differences in regime, institutional arrangement and state–society relations, to the historical development of state power. In particular, the complexities within and the variations among political regimes in the less developed countries were underestimated. It was scarcely recognized that a single state or regime could play varied roles at the same time, as was the case of the independent Indian state<sup>1</sup> (Nandy, 1982 quoted in Manor, 1995).

The neoliberals' distaste for state intervention often caused them to overlook a great deal of evidence of mutually supportive relations between states and markets. In several cases, for example Japan, South Korea, Taiwan and the Scandinavian countries, the state had commonly played an important role as protector and enabler of private sector development (Weiss, 1998). A counter-critique of the neoliberal paradigm evolved based primarily on the East Asian development experience. The central thesis associated with the emerging counter-critique was the notion and practice of the 'developmental state' which could be understood as a process in which states played a strategic role in taming domestic and international market forces and harnessing them to national ends. The next section addresses key features of the developmental state.

## CONCEPTUALIZING THE DEVELOPMENTAL STATE

Leftwich (2000) traced the basic idea and concept of the developmental state from a number of antecedent sources and histories starting from the work of Friederich List (1885), Carl Marx (1852), to Gerschenkorn (1962), Myrdal (1970), through to Ellen Kay Trimberger (1978) and A.J. Gregor (1979). He suggested that none of these accounts explicitly used the

concept of the developmental state, nor ever made any attempt to elaborate it by specifying its preconditions, characteristics or constitutive elements. It was only in the work of Chalmers Johnson on the East Asian state (1981, 1982, 1987, 1995, 1999), focusing specifically on Japan, that the phrase 'developmental state' made its formal debut and that a serious attempt was made to conceptualize it. In the 1980s, when neoliberalism began to influence policymaking in the West, the concept of the developmental state became central to the study of East Asian development. Rapid economic growth in Japan, South Korea and Taiwan was credited at least in part to a strong, autonomous state that guided private investment into particular industrial sectors.

Johnson invoked the concept of the developmental state to characterize the roles that the Japanese state played in Japan's extraordinary and unexpected post-war economic success. He distinguished the developmental orientation of the 'plan-rational' developmental state from the 'plan-ideological' state in the Soviet-type command economies on the one hand; and from the more familiar regulatory orientation of typical liberal-democratic states on the other hand (Johnson, 1982). His model of the developmental state embodied a set of key characteristics. Firstly, economic growth, productivity and competitiveness constituted the priority of state action. Secondly, the market was guided with instruments formulated by an elite bureaucracy. The power, continuity and autonomy of its elite bureaucracy remained a defining feature of the concept. Thirdly, the Ministry of International Trade and Industry (MITI) played the key role in policy formulation and implementation. MITI was run by bureaucratic elites who were a powerful actor in the central decision-making instead of the political or legislative elites (Johnson, 1982, 1995). Fourthly, the important feature of the developmental state was the intimacy of its relationship with the private sector and the intensity of its involvement in the market (Johnson, 1981). Finally, the developmental state was also driven by a sense of nationalist ideology (Johnson, 1982). These features implied a specific form of governance whereby the state enjoyed its pivotal role in the process of policymaking, and worked closely with the private sector in shaping the market. This was the beginning of an interest in searching for alternative forms of economic governance.

There were a number of valuable studies following Johnson's work, for instance Evans (1985), White and Wade (1985), Deyo (1987), Amsden (1989), Wade (1990), Woo (1991) and Evan (1995). Almost every account of the developmental state retained the focus on East Asian countries, specifically Japan, South Korea and Taiwan, with very few studies turning to Southeast Asia. General observations on the success of such East Asian states emphasized the roles of a government that was able to (Pempel, 1999a, p. 139):

extract capital; generate and implement national plans; manipulate private access to scarce resources; coordinate the efforts of individual business; target specific industrial projects; resist political pressures from popular forces such as consumers and organized labour; insulate their domestic economies from extensive foreign capital penetration; and, most especially, carry through a sustained project of ever improving productivity, technological sophistication and increased market shares . . .

Some authors argued that the developmental states were *sui generis* to East Asia since they were the 'product of unique historical circumstances' (Onis, 1991, p. 120). From an alternative perspective, Leftwich (1995) argued that the model could be found in other Southeast Asian and African countries, including not only Malaysia, Thailand and Indonesia but also Botswana.<sup>2</sup> However, it is important to stress that not all such states shared all the characteristics of the type in equal measure, and that they varied with respect to both 'structure and strategies' (Pempel, 1999a, p. 149). Leftwich attempted to present the developmental state model, by which he meant an extraction of common properties from a set of diverse concrete forms, and argued six major features of the model.

First and foremost, all developmental states were led by determined developmental elites. The elites had developmental determination, commitment to economic growth and transformation, plus they had capacity to put it through. The elites in this case were composed of the strong connection between top levels of the civil and military bureaucracies and high political office with highly nationalistic sentiment. In other words, states were strong politically and endowed with a large and competent bureaucracy. Their apparatus was meritocratic enough to impose its collective objectives onto its individual servants, and at the same time was able to cooperate within networks where industrialists, civil servants, bankers, industrialists and policymakers coordinated their decisions (Vartiainen, 1999).

Secondly, developmental states held relative autonomy of the elites and state institutions from other forces. Political and bureaucratic elites were generally able to achieve relative independence from the demands of socio-political forces in society and used this condition to promote rapid economic growth. However, this did not mean the state was isolated from society. States were most likely to exhibit 'embedded autonomy' (Evans, 1995) – autonomy of the well-developed bureaucracies had been embedded in a network that tied with both non-state and external actors who collectively helped to define, redefine and implement development objectives. The closeness between the key bureaucracies and the business sector in the case of Japan had made the combined public–private drive to attain development goals so effective.

The first two features shaped the third feature: bureaucratic power. This meant very powerful, professional, highly competent, insulated and

career-based bureaucracies who directed the economic and social development. Examples were the Ministry of International Trade and Industry (MITI) in Japan, the Economic Planning Board (EPB) in Korea and the Economic Development Board (EDB) in Singapore. Distinctive features of these agencies which differentiated them from planning institutions in other developing countries were their real power, authority, technical competence and insulation in shaping the fundamental thrusts of development policy.

Fourthly, in all developmental states, civil society experienced weakness, flattening or control at the hands of the state. State actors were relatively free from major populist pressures, most especially from organized labour and peasant groups (Pempel, 1999a). It seemed that the weakness of civil society was a condition for the emergence and consolidation of developmental states.

Next, developmental states had the capacity for effective management of private economic interests. The power, authority and relative autonomy of the developmental states was established and consolidated at an early point in their development take-off, well before national or foreign capital became potentially influential. The consolidation of state power at this stage greatly enhanced capacities of developmental states to have much greater influence in determining the role that both foreign and national capital played in development and also enabled states to set terms for this. States did not supplant the role of private enterprise but they sought to guide private investment into priority areas identified by themselves. States exerted leverage over private capital through instruments such as credit control, import protection and a variety of investment incentives.

The final characteristic, by Western liberal or socialist standards, was that the condition of human rights was poor in developmental states. Any organization or movement that looked as if it would challenge the state and its developmental purpose had been swiftly neutralized, penetrated or incorporated as part of the ruling party.

The contributory role of state in the developmental model was so obvious that even one of the prominent advocates of neoliberal views, the World Bank, had to acknowledge this in the report entitled *East Asian Miracle*. The Bank admitted that 'in most of the East Asian countries, in one way or another, the government intervened – systematically and through multiple channels . . . [and this intervention] . . . resulted in higher and more equal growth than otherwise would have occurred' (World Bank, 1993, pp. 5–6). The key features of the developmental state model implied a certain form of governance architecture in East Asia. Instead of letting the market govern, the state took an active role in guiding the economy and society. The very nature of the state in East Asia owed much to the primacy of domestic politics.

## PRIMACY OF DOMESTIC POLITICS AND INSTITUTIONALIZED ECONOMIC GOVERNANCE

The distinguishing characteristics of developmental states discussed in the former section were their institutional arrangements, or in other words, the nature of governance. At the heart of these states, fundamentally political factors, not the market, shaped the pace of their developmental strategies through the particular structure of the state–society relations (Pempel, 1999a). Several issues arise from this observation.

Firstly, the developmental state stressed the primacy of domestic politics. For the developmental state proponents, market forces alone could not induce economic growth. State intervention in the economy, in many cases involving market sanctions, was necessary. The state actively intervened in economic activities with the goal of improving the international competitiveness of domestic economies. From this position, key elements of the developmental state were against the neoliberal orthodoxy, especially in the perception of the role of the state in economic governance. Political actors, rather than individual utility-maximizing consumers as the neoliberals proposed, were the key shapers of economic transactions. Such actors – bureaucrats and technocrats – defined their economic agenda in terms of improving long-term national economic competitiveness. The state became strong as its internal *modus operandi* was insulated from both the market and the logic of individual utility maximization (Vartiainen, 1999). The developmental state underscored the ways in which political power can contribute positively and effectively to a nation's economic performance. For this reason, perspectives embodied in the developmental state model made an important critical contribution to the broader comparative political economy literature by developing a serious critique of the neoliberal school.

Secondly, the developmental state expressed ways in which long-term economic success requires bureaucratic directives to be compatible with international market forces. Robert Wade (1990) articulated the link between state and market under the theme 'governed markets'. The key of the linkage was a 'synergistic connection between a public system and a mostly market system' (p. 5) where the rule-making power of state bureaucrats constructed economic rules that advanced long-term capital and technological character of the nation. The market was guided by a conception of long-term national rationality of investment formulated by the state. It was the synergy between the state and market that provided the basis for the outstanding development experience. Again, this position posed an alternative vision from that promoted by neoliberals in the way that market rationality was constrained by the priorities of industrialization set up by a strong and autonomous state.

Thirdly, the developmental state also presented a distinctive model of economic governance. Economic governance referred to the 'political and economic processes that coordinate activity among economic actors' and the 'transformation of the institutions that govern economic activity' by focusing on the 'emergence and rearrangement' of several forms of governance (Lindberg et al., 1991, p. 3). Numerous studies drawing on extensive research have investigated the role of the state in coordinating sectors of the economy by constituting various governance regimes in Western developed countries (Campbell et al., 1991; Hollingsworth et al., 1994). In the case of Asia, in contrast to the neoliberal economic governance model, the developmental state model centred its economic governing arrangements on state-organized policy networks with business associations and relational or network-based private sector governance. Public-private cooperative networks were directly and deliberately engineered by state elites. The state elites consciously sought to create cooperative relationships with private business via the creation of a series of unusual institutions. Examples of such institutions were the *keiretsu* in Japan and the *chaebols* in Korea that owed their extraordinary growth to the special incentives provided by the state. The effectiveness of state intervention has been amplified through the fostering of such state-linked private sector conglomerates that dominate strategic sectors of the economy.

Following on from the third point, the developmental state thesis suggested that a strong state was typically characterized not only by a high degree of bureaucratic autonomy and capacity, but also by the existence of a significant degree of institutionalized coordination between state elites and business. State intervention in the economy relied on organizational and institutional links between politically insulated state agencies and major private sector firms. In other words, the strategic power of the developmental state depended on the formation of institutionalized collaboration between the state and business groups in the process of policy formulation and implementation. The industrial development policies in the developmental state were built around long-term relations between political power and the private sector, as well as between banks and targeted private firms. The unusual degrees of bureaucratic autonomy and public-private cooperation underlined the effective state intervention in strategic industrial policy. These two conditions were critical as they allowed the state and the bureaucratic elites to develop independent national goals and to translate these broad national goals into effective policy actions (Onis, 1991). The same set of policies would have been counterproductive or at least ineffective in the absence of the associated set of institutional and political structure or contexts. Thus, the state played a key role as the focal point for the institutionalized and centralized coordination

of investment plans between complementary investments (Chang, 1999; Chang and Rowthorn, 2001).

The institutionalist framework underlying the developmental state thesis provided a serious critique of the one-dimensional, universal logic of neoliberal development discourse presented in the first section of this chapter. The discourse emphasized a specific set of appropriate policies designed to establish a free market regardless of the historical, institutional and political context of individual countries. This institutionalist perspective of developmental states pointed towards ‘the importance of multiple logic in the interaction of governments and markets in the development process’ and drew attention to ‘the multiple trajectories of economic and political development available for developing countries’ (Onis, 1991, p. 125). A stylized comparison between the core idea of developmental state and the market-based regulatory state can be established in Table 5.1. The developmental states retained their legitimacy in providing an alternative model of development for almost two decades until the late 1980s when the model was challenged by the process of liberalization.

*Table 5.1 Comparison between the market-based regulatory state and the developmental state*

Dimensions	Neoliberal state (regulatory state)	Development state
Basis of rationality	Market-rational	Plan-rational
Focus	Rules	Outcomes
Main goal	Regulation	Economic growth Productivity Competitiveness
Criteria for success	Economic efficiency	Economic effectiveness
Explicitness of industrial policy	No	Yes
Pilot agency	No	Yes
Examples of key policy	Liberalization Privatization Deregulation	Credit control Import protection Investment incentives for target industries
Decision makers	Parliament and cabinet	Developmental elites
Mode of governing	Market	Institutionalized network
Examples	UK, USA	Japan, Korea, Taiwan

## LIBERALIZATION AND CHALLENGES TO DEVELOPMENTAL STATES

The strength and autonomy of the developmental state during the 1970s and 1980s was their ability to control almost totally the country's financial assets. With such control, states could not only direct the flow of financial capital to state-favourable projects, but could also withhold finance from recalcitrant businesses, thus ensuring their cooperation (Woo, 1991). However, from the late 1980s, the developmental state governments decided to open up their capital markets based upon the financial liberalization logic with different reasons. Liberalization of financial markets meant that firms in developmental states could now raise funds independently of the state. This resulted in businesses turning away from the state. Nonetheless, not every country that introduced financial liberalization reform experienced the same outcomes. Differences in outcomes of the reform process depended on the pre-existing institutional governance arrangements of a country. The divergent responses to liberalization in the Korean, Japanese and Taiwanese states provided a fruitful discussion on the challenges to the developmental states.

In Korea, business relied most heavily on state-controlled finance to make the leap to industrial development. The state maintained strict control over the flow of foreign funds, and used subsidized credit and policy loans to encourage investment in strategically designated industries. Domestic banks could borrow funds from foreign markets but the Economic Planning Board (EPB) was responsible for allocation decisions (Woo, 1991). The only way the *chaebols* could pull themselves free of the state was to find alternative sources of funding for their massive investments. Financial liberalization provided the means.

The process of financial liberalization began with a gradual ideological shift towards liberalism among key government bureaucrats, particularly since the late 1980s. An extraordinarily large proportion of Korean economists and bureaucrats were trained in conservative, free-market US economic programmes (Chang and Evans, 2000; Kim, 1999; Wade, 2000). Woo (1991) used the term 'ideological osmosis' to explain the process of change of economic technocrats within the key economic institutions where almost the entire staff had received PhDs from American universities. The newly empowered neoliberal bureaucrats headed the process of change with the key aim of financial liberalization. The change in ideological orientation affected the role and scope of state involvement in the Korean economy as well as opening the door for business to press for greater financial independence. The process began when the state gradually expanded the financing options of the *chaebols*, privatized state-owned banks, increased

reliance on equity financing through the creation of a stock market and reduced policy loans (Kim, 1999). Accompanying this change, the EPB, Korea's pilot agency which oversaw the country's industrial transformation, was increasingly marginalized and eventually dismantled in 1993 (Gills, 1996).

This change coincided with powerful domestic forces and a growing domestic constituency supporting such liberalization. Big business grew ever stronger from the late 1980s (Kim, 1997). Successful industrialization bred a strong, independent class of industrialists who were keen to be independent from state control (Evans, 1995). They wanted more economic freedom in their foreign operations, thus they welcomed financial deregulation since it allowed them to borrow foreign capital easily and cheaply. This critical change happened at the beginning of the 1990s when the Ministry of Finance allowed the *chaebols* to gain access to short-term money markets, including the corporate bond market (Weiss, 2000). Following this policy change, the *chaebols* turned to direct financing in domestic and foreign financial markets. The top *chaebols* could access international capital markets at much lower rates than in Korea so there was no longer any need for them to be entirely reliant on domestic banks (Kim, 1999). Such economic liberalization challenged the state's capacity to discipline the private sector and weakened the state's autonomy since financial control became a less effective method of controlling big business. Liberalization hampered the operations of the Korean developmental state and forced it to retreat step by step. It illustrated the way in which the transformative capacity of the Korean developmental state became one of weak regulatory control. However, Erdogdu (2002) argued that although the Korean state's developmental capacity declined, the state's strength and the quality of its bureaucracy and social institutions that had given rise to developmentalism did not evaporate, and the Korean state still possessed a considerable level of state capacity. The evidence was that, during the crisis, the Korean state did not completely leave economic decisions to the market. The state exercised a high degree of direct administrative control over the private sector. For example, the government used its control of banks to force the *chaebols* to shrink their debt-to-equity ratio, encouraged mergers and swaps among conglomerates, and put pressure on the *chaebols* to eliminate their intra-group mutual loan guarantees.

In contrast to Korea, the Taiwanese developmental project and institutions remained intact during the process of liberalization. Instead liberalization became a complement to state capabilities (Weiss, 2000). Taiwan began deregulating the corporate bond market in 1989, allowing Taiwanese companies to raise funds abroad by issuing bonds overseas. But in 1993 the Central Bank changed the rules and allowed companies to remit the

proceeds of overseas bond issues for domestic use. This was accompanied by new rules that all domestic remittances had to be invested in plant expansion. In specifying that inflows had to be directed to production, the Taiwanese developmental state was perhaps seeking to guard against the speculative investment that fed stock and property bubbles. Further, the Central Bank appeared to be the embodiment of financial caution in the way that it set about opening up the capital and financial market. As Weiss (2000) observed, it remained vigilant on the disruptive potential of capital flows and the foreign currency market, insisting on intervention to discipline international speculators in the currency and stock markets, and before and after the Asian crisis to prevent currency speculation and stock market manipulation. The Central Bank demonstrated both purpose and capacity in monitoring compliance and intervening in the economy when it suspected that foreign inflows were not used for designated purposes. The way the Taiwanese developmental state opened its capital markets brought about new regulatory controls which preserved and strengthened coordination powers. According to Weiss (2000), financial liberalization in Taiwan 'has become much more an instrument for complementing and enhancing state capacities than for relinquishing them' (p. 33). The Taiwanese experience undermined the proposition that capital market opening inevitably led to state retreat from managing the economy.

In the case of Japan, the structural changes that made Japan move toward the market model were multifaceted. On the one hand, pressure from the US could be counted as a reason for change. As Japan's economy grew and most Japanese exports poured into America, the US initiated a long-running series of bilateral trade negotiations designed to open up Japan to imports from America and liberalize the Japanese economy as a whole (Schoppa, 1997). Although these negotiations might not have had the serious impact which the US had hoped for, it was clear that they contributed to the erosion of Japanese trade barriers and integrated the Japanese economy more readily into the world economy (Beeson, 2007). On the other hand, the general restructuring of the international political economy pushed multinationals from Japan and elsewhere to become outward-looking and mobile, and subtly changed the orientation of Japanese firms (Ruigrok and van Tulder, 1995). Foreign competitive pressures forced many Japanese companies to shift production offshore or to raise finance in international bond markets.

The migration of Japanese firms and the steady liberalization of the financial sector fundamentally changed the internal relationships and structures of the formerly discrete Japanese economy (Pempel, 1999b). The tight relationships between industry and the banks, that were so central to the operation of the Japanese economy, began to erode and the sense of

national orientation and commitment became diminished. When firms could borrow freely in international capital markets, and when the Japanese finance sector lobbied for greater liberalization, the policy tool that allowed Japanese planners to guide the course of the developmental state simply no longer worked (Beeson, 2007). The state could no longer use access to scarce finance to persuade the private sector to behave as it might wish. Thus, a major factor in the transformation of the Japanese developmental model was the erosion of the state's ability to manage the national economy due to long-term structural changes in the international political economy which affected the way local firms engaged with external forces.

This very brief account of the challenges of liberalization upon the developmental state is not meant to assert that neoliberalism was being projected in an unmediated form. Each of the East Asian developmental states accepted the liberalization process differently. However, all articulated the retreat of the state from its prime role in economic governance to some extent. Further, when the financial crisis hit Asia in 1997, the developmental model was seemingly discredited by the neoliberals and prompted increased scepticism towards the developmental model. The Asian crisis was seen as confirmation of the failure of the 'Asian model' of developmental capitalism. The arguments continued that the Asian model was unsustainable because it ignored the realities of globalization. Critics scorned moral hazard and other undesirable collusive practices, especially financial sector weakness (Kaminsky and Reinhart, 1998). This was followed by the discourse associated with 'crony capitalism' that blamed the crisis on corruption and inefficient 'Asian capitalism'. This argument led to the cries for 'governance reform' in both the public and private sectors. The cries were accompanied by demands for a reform agenda which was more consistent with neoliberalism – enhanced transparency, further liberalization, reductions in unproductive government spending and public sector reforms (Ouattara, 1998). The liberalization agenda was strongly supported and enforced by the IMF upon those countries in receipt of financial aid package to assist with economic recovery.

Although the promotion of financial sector liberalization made significant inroads in the region after the crisis through the reform packages enforced by the IMF, there has been some rethinking on the ways in which a country might engage with a liberalized economy. A move designed to insulate a country (if not the region as a whole) from potentially destructive flows of mobile financial capital was seriously reconsidered in Malaysia, for example. Thus, the financial crisis was a critical turning point in attitudes towards the proclamation of the liberalization agenda. The experience of Thailand offers an interesting case study. The neoliberal reform agenda was a significant challenge to the state. Changes in the role

of state in Thailand might appropriately be characterized as the emergence of the 'neo-developmental state'.

## THE THAI STATE AND ITS DEVELOPMENT TRAJECTORY

In Thailand, the state began to play a significant role in promoting economic development in 1959 following the World Bank's report that advocated a systematic and state-led programme of economic development using a central planning agency<sup>3</sup> and a series of national development plans as an instrument (World Bank, 1959). The Bank's advice laid the foundation for Thailand's economic development policy and growth strategy. Development policy based on industrialization began with an import-substitution strategy in the 1960s. This strategy was clearly presented in the first plan (1961–66) and was presented until the fourth plan (1977–81). The Thai state played a pivotal role and was committed to promoting economic development (Christensen et al., 1993). However, a turning point came in the 1980s as the economic development strategy moved towards an export-oriented strategy and moved Thailand towards fuller engagement with and integration in the neoliberal, globalized economy.

The oil crisis in 1979–80 forced Thailand to seek assistance from the World Bank (Pasuk and Baker, 2002). The Bank extended loans to Thailand under its structural adjustment programme conditional on reforms in fiscal policy, tariffs, investment incentives, and institutional arrangements designed to reorient the Thai economy towards an export-oriented strategy. The new economic orthodoxy argued for market liberalization which would remove constraints on growth built into the earlier model of state-led and state-protected development. The shift in development strategy was accompanied by a move away from regulated to deregulated and from state-dominated to market-oriented economies. This involved dismantling trade barriers, financial market liberalization, removing distortions in the price system and making labour markets more competitive (Tan, 2000). During this period, most technocrats and business people believed that Thailand should open its economy and move towards a neoliberal agenda. By the late 1980s, the Thai government was promoting foreign direct investment, export promotion and diversification, and tight budget, monetary and fiscal discipline. By the early 1990s, controls on interest rates and capital accounts were removed, leading to increased competition, internationalization and heavy dependence on foreign capital inflows (Hamilton-Hart, 2000).

One key principle of the neoliberal doctrine was financial liberalization. In 1993, the Bangkok International Banking Facility was established to

enable offshore banks to lend into the domestic market. The liberalization process opened up financial markets of short-term capital through the multiplication of domestic credit institutions and gave domestic borrowers direct access to overseas financial markets. However, the large capital inflow delivered unexpected consequences. The flood of money impelled financial firms to behave in a riskier fashion. Much of the finance was poorly planned and invested redundantly, creating overcapacity in certain sectors and a boom ('bubble') in property markets. Export growth began to fall and the current account deficit reached 7.1 per cent in 1995. This signalled to international financial speculators an attack on the baht currency. Policymakers failed to manage macroeconomic policy and sacrificed financial reserves in a futile defence of the currency value from hedge funds. The devaluation in 1997 marked the end of the boom and the beginning of the 'bust' period. The liberalization policies, which the Bank had urged Thailand to adopt (Warr, 1999), were directly linked to the most severe crisis ever experienced in the country's history.

After the crisis, the IMF became particularly influential in shaping Thailand's policy agenda. Agreeing to IMF conditions for a rescue loan of \$17 billion, the policy package consisted of a macro plan adapted from the IMF's long record of bail-outs in Latin America.<sup>4</sup> The Thai government fully accepted the neoliberal development paradigm (Choi, 2003). The government embraced globalization and its concomitants such as liberalization, smaller government and the free market. Further, the government preferred market-driven corporate and banking restructuring in which the government's direct intervention remained minimal. The government's primary role was defined as providing regulatory and other legal-institutional frameworks for the market. Finally, the government focused its policies on strengthening the financial sector at the expense of other sectors. However, the underlying causes were very different in Thailand from those in Latin America. Far from establishing economic stability and prosperity, the strategy produced extremely serious social consequences.<sup>5</sup>

The negative impact of the IMF package fostered resistance from domestic businesses, workers and farmers. Business leaders mounted a broader attack on the IMF programme for concentrating too much on fiscal discipline, external stability and financial restructuring while paying no attention to the manufacturing sector. Many people felt the IMF package represented a major change in the role of the state as the government lost its policy autonomy by promoting the 'selling' of domestic businesses to foreigners at cheap prices (Pasuk and Baker, 2000). The main theme of the rhetoric was that the government had been too obedient to the IMF, too accommodating to foreigners and too negligent of the country's interests (Phitthaya, 1997, 1998). Business nationalism and rural

populism emerged as dissatisfaction with the government's performance grew even stronger. A new political party – the Thai Rak Thai (TRT) party – was formed at this time with a campaign designed to appeal to the nationalist sentiment of local business and the farmers' resentment that their interests were being sacrificed for the sake of financial sector recovery. Crisis brought domestic discontent, with demands for the state to take an active role to alleviate the negative impacts of the crisis (Bello et al., 1998).

On 6 January 2001, the TRT received a landslide victory on a populist platform of economic growth and rural development that tapped anti-foreign sentiment. With nationalist sentiments high, the TRT built its electoral triumph on promises to the rural poor, the disaffected middle class and domestic capitalists through nationalist and populist policy (Baker, 2005; Rodan et al., 2001; Pasuk and Baker, 2004). As the policies demanded a strong role for the state, the state regained its power in the developmental process. Further, government perceived that the real problem of the 1997 crisis was that the previous government was duplicating the neoliberal economic model while ignoring the country's own strength and potential ability of its culture and resources to produce its own development pathway (Pansak, 2003). Neoliberal initiatives caused the country's economic growth to depend too heavily on external influences and made the country too vulnerable to the volatility of the global marketplace and other forces beyond its control. The government thus embarked on an initiative called the 'dual track plus' policy. The first track emphasized mass manufacturing stemming mainly from foreign direct investment, while the second track employed neo-Keynesian policy to encourage the strengthening of the domestic economy and the grassroots. The distinctive feature of this initiative, often dubbed 'Thaksinomics', was the emphasis on the second track in a manner that gradually shifted the Thai economy from export dependence to greater reliance on the more controllable domestic economy (Looney, 2004).

In pursuit of these policies, the state needed to take a more active role than before, especially in credit allocation, to boost the domestic market and support domestic firms to revive. Several policies<sup>6</sup> were financed by unused reserves of credit in the state banking system. The government employed 'quasi-fiscal' measures (Pasuk, 2004a) through several government-owned banks.<sup>7</sup> It also placed a greater emphasis on the nation's competitiveness. By mid-2002, the government had identified core industries each of which was believed to be capable of establishing and maintaining a competitive niche for Thailand. These included tourism, fashion, food, health and medical care, computer graphics, agro-processing and automobiles. The Board of Investment revised its operations to target the new priority sectors (*Bangkok Post*, 21 December 2002). The government began to administer Thailand

with a new policy platform, a new position for the state and new management practices that reshaped the role of the state (Amornsak, 2004) and could be characterized as 'active developmentalism'.

## THE NEO-DEVELOPMENTAL STATE REVISITED

Jayasuriya (2000) analysed the process of state reorientation in Asia after the crisis and argued that the crisis would result in the transformation of the state, moving away from the Asian developmental model to a regulatory model. In a developmental state, government seeks economic growth by promoting domestic capital. In a regulatory state, the state provides a safe environment for international capital: economic governance is transferred to rule-based institutions and power is concentrated within a social and technocrat elite. As discussed earlier, from the mid-1980s, as Thailand followed a neoliberal path, the role of the state gradually diminished. The neoliberal reform package enforced by the IMF deepened Thailand's crisis and resulted in a further retreat of the state in the governing process. By aligning itself with the IMF, the government at that time presided over the kind of regulatory state reorientation discussed by Jayasuriya (2000). However, the change of government in 2001 was accompanied by a shifting policy agenda and a changing role for the state.

Some authors have argued that the government pressed for a shift away from the neoliberal model of 'letting the market govern' as proposed by the IMF, and for a move towards the developmentalist view of the role of the state in the economy (Deyo, 2000; Pasuk, 2004b). The government played a proactive role in protecting and promoting domestic firms in order to compete against more advanced economies. It controlled the sources of capital funds and channelled them to selected sectors of the economy with other promotional measures. However, if we draw upon the major components of the developmental state presented earlier, the Thai state did not fit the model in all characteristics.

Firstly, it was very clear that the government had strong economic development determination as it put economic recovery and growth as a high policy priority. It aimed to achieve recovery from the crisis and attain OECD status and transition into the First World (Thaksin, 2001 quoted in Pran, 2004; *The Nation*, 27 December 2003). Secondly, this strategy was pursued by the developmental elites who had the determination and capacity to put it in place. However, it consisted of slightly different groups of elites from the East Asia developmental state model. Instead of being driven by the bureaucratic elites as in the case of East Asia, since 2001 the development trajectory of Thailand has been shaped by the political elite.

These elected politicians came with a strong policy agenda and forced the elite bureaucrats and civil servants to align with it (Amornsak, 2004). Contrary to the developmental state model, the TRT government reformed the civil and military bureaucracies and subdued them under the political will of the government. The role of bureaucratic power (the professional, highly competent, insulated and career-based bureaucrats) became very weak in the Thai case.

Next, the Thai state regained its capacity for effective management of private economic interests. However, in the Thai case the extent to which the state could influence or determine the role of both foreign and national capital was uneven. Given the relatively open economy of Thailand at that time, it was difficult to neglect the importance of external forces to the Thai economy, a point that was clearly evident when a law restricting the role of foreign retailers had to be abandoned in late 2002. In terms of promoting its emphasis on domestic capital, the government actively worked for direct credit allocation and industrial policy. As mentioned earlier, the government forcefully directed the state banking system to finance local business, especially small and medium-sized enterprises (SMEs). Focusing on SMEs and the domestic economy would appear to be a distinctive characteristic of the Thai developmental state model.

Fourthly, the developmental states generally held relative autonomy from the demands of special interest groups. This feature was clearly evident in Thailand. During the late 1980s to the early 1990s, there had been a situation in which non-governmental organizations (NGOs) had flourished and the government had, to some extent, recognized the role of NGOs (Amara, 2002; Jaturong and Gawin, 1995). Pasuk and Baker (2004) observed that, throughout the 1990s, increasing access to daily newspapers, radical publications, an increasing number of public seminars and a range of new media sources created an expanding public space for civil society. However, after 2001, the situation changed. Many authors have criticized the oppressive actions of the state towards civil society during the first term of the TRT government administration (such as Kurlantzick, 2003; McCargo, 2002; Pasuk and Baker, 2004). The media and press were manipulated and silenced in many sophisticated ways through a mixture of law, regulation, intimidation and money (Chookiat, 2004; Kavi et al., 2001; Mutebi, 2003; Thitinan, 2003). The role of labour and other social movements was also undermined, and some NGOs, and their protests over development projects, were forcefully repressed (Brown and Hewison, 2004; Pasuk and Baker, 2004). The government believed that it could do a better job than the civil society groups in bridging the gap between the state and the people. The premier once said: 'NGOs are social groups that help bridge the gap between the government and the people. If such a gap no longer exists, the

role of NGOs will be automatically diminished and foreign donors will not need to fund them any more' (*The Nation*, 10 May 2003).

Another important feature of the Thai developmental state was the 'new social contract', a term referring to the government's agenda that targeted the poor, supported the development of social welfare provision, and envisaged a central role for the government in the management of society (Hewison, 2004; Pasuk and Baker, 2004). Prior to the crisis, the old social contract had supported the strategy of economic government achieved through support for private capital with the benefits eventually trickling down to the working class and the poor (Hewison, 2003). This contract was destroyed by the 1997 crisis. The TRT government gave priority to boosting the domestic economy. This process needed political and social stability. To achieve this, the poor had to be taken care of and society had to be managed (Brown and Hewison, 2004; Pasuk and Baker, 2004). The government came up with the new social contract that aimed to deliver the social and political stability which domestic capital demanded to rebuild and restructure its power. The state introduced a range of social policies, such as village funds and a universal healthcare scheme, that provided a higher level of social protection than ever considered possible in the past (Hewison, 2004).

In Thailand the crisis punctured the belief in purely market mechanisms for governing the economy, and a shift to a more active role for the state in the process of governing could be observed. The significant reorientation of the Thai state in favour of an active role in developmentalism could be claimed as a reaction to the neoliberalism that destroyed the Thai economy during the crisis. A brief discussion in this and the previous section shows that the post-crisis Thai state put more emphasis on the active developmentalist role. However, the nature of the Thai developmental state appears to be different from that established in other East Asian countries. Although the state seemed to be able to generate and implement national plans, manipulate private access to resources, target specific industrial sectors and resist political pressures from popular forces, the nature of the Thai developmental state did not fully match the overall features of the East Asian development state model. The difference is likely to be caused by the historical development of the state–society relationships of the country. The emergence of this neo-developmental state could also be seen as a reaction of the domestic state to the pressures of global neoliberalism.

## CONCLUSION

From the discussion in this chapter, we have observed that the globalization of neoliberalism neither produced unitary outcomes nor did it erase local

and national differences in government policy. It would be a mistake to imagine that neoliberalism was being projected in an unmediated form. Tickell and Peck (2003) argue that it would be quite wrong to anticipate a process of simple convergence towards a singular neoliberal state form reproduced transnationally. Outcomes of neoliberalism are politically negotiated and mediated at the national level. They are not based on 'unmediated market hegemony, cultural homogenisation, or institutional convergence' (p. 164); rather the outcomes give rise to an array of politically mediated forms of integration into a complex and changing global economic system. The authors argue that:

there are no 'pure' markets, only markets shaped by different configurations of legal frameworks, social conventions, power relations, institutional forces and such like . . . there is no 'pure' form of neo-liberalism, only a range of historically and geographically specific manifestations of neo-liberalisation-as-process . . . (they are) a range of nationally and locally specific and qualitatively differentiated forms of neo-liberalism. So the process of neo-liberalisation has exhibited a *qualitatively* different form . . . in which neo-liberalised elements have been grafted onto quite distinctive state structures. (p. 165)

Therefore, neoliberalism requires *qualitatively* different, not less, state action (O'Neill, 1997). The practice of neoliberalism had little to do with laissez-faire deregulation but instead 'is associated with the extensive deconstruction and reconstruction of institutions' (Tickell and Peck, 2003, p. 168). Specific institutional arrangements between state and society (or the private sector in the case of developmental states) determine the very nature of the state's intervention in the economy. As this chapter has demonstrated in the case of countries in East Asia, market liberalism is not universally admired and adopted. The precise way markets are realized depends upon a specific array of historically contingent social and political forces that determine the way economic activity is organized and the relative influence of market mechanisms (Beeson, 2007). Although Taiwan, Japan and South Korea possessed similar characteristics of the developmental state model, they produced different outcomes when engaging with liberalization. In Thailand, the neoliberal strategies proposed by the IMF were actually accompanied by the emergence of a stronger state which took a more decisive role in the domestic arena. What the developmental state notion and experience suggests is that neoliberalism continues to display significant variation across different regions, and central to understanding this diversity is grasping the dimensions of the political process and governance structures within a society. The precise historical-socio-political conditions that pertain in different countries and regions will be key factors

influencing the range of economic structures, practices and relationships that emerge in different parts of the world.

## NOTES

1. Firstly, the Indian state was a relatively neutral arena within which relationships between various social groups were constantly renegotiated. Secondly, it played the role of protector, a guarantor that the sensibilities of the vast array of subcultures in this heterogeneous society would not be unduly disrupted. Thirdly, it had also acted as a liberator, mitigating or removing certain injustices.
2. Some authors argue the Southeast Asian states have never become developmental states due to the different contingency factors compared to East Asian states. See Doner et al. (2005).
3. It was initially named the National Economic Development Board (NEDB) but later became the National Economic and Social Development Board (NESDB) when the social dimension was taken into account of the plan.
4. The package raised taxes (value added tax from 7 to 10 per cent); cut government spending by 20 per cent; implemented tight money policy and high interest rates; increased access for foreign investors, starting with the banking sector; privatized key sectors, including energy, transportation, utilities and communications; reformed laws on bankruptcy and foreclosure; and enhanced transparency in many ways.
5. For example, short-term capital began to flood away, the financial sector shrunk, domestic consumption seriously declined. The GDP growth dropped from 5.9 per cent in 1996 to -1.4 in 1997 and -10.5 in 1998. The total number of school dropouts rose from 510 400 students in 1996 to 546 891 in 1997 and reached 676 221 in 1998. The average income of Thai citizens decreased in the first half of 1998 by 19.2 per cent over the previous year. Per capita real income in the first and second half of 1998 was 2633 and 2402 baht per month which compared to 2930 in 1997, the highest per capita real income achieved by Thailand (Somsak, 1998). The poverty incidence, which had fallen rapidly since the mid-1980s to 11.4 per cent in 1996, increased markedly to 12.9 per cent in 1998, reached 15.9 per cent in 1999, and slightly reduced to 14.2 per cent in 2000. Some estimated that about 1 million people fell below the poverty line at the end of the first year of the crisis. The absolute number of poor rose from 6.8 million in 1996 to 8.8 million in 2000 (Pasuk and Isara, 2000).
6. Urgent policies included: three-year debt moratorium, Million-baht Village and Urban Revolving Fund (VURF), universal healthcare with a low 30 baht charge, the People's Bank, One Tambon (sub-district) One Product (OTOP) project, the Bank for Small and Medium-sized Enterprises (SMEs), and the Thai Asset Management Corporation. See description in Amornsak (2004).
7. The Government Saving Bank (GSB) was mobilized for the VURF while the People's Bank was set up by creating another window into the GSB. The Bank of Agriculture and Agricultural Cooperatives (BAAC) financed the three-year debt moratorium policy and government widened the scope of the BAAC to provide credits for village communities, local administrative organizations and co-operatives. Further the Government Housing Bank and the GSB provided credit for real estate companies and their clients to boost the real estate market. The Bank for Small and Medium-sized Enterprises was set up while several government banks were also directed to provide credit for SMEs, for example BAAC, GSB, Export-Import Bank of Thailand, Industrial Finance Corporation of Thailand, and the Small Industry Credit Guarantee Corporation. The rest of the above urgent policies were financed by the annual fiscal budget. In addition, the government also pressed the Krung Thai Bank (also a state bank) to be more expansive in its lending policy to compensate for the other commercial banks.

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## PART II



## 6. International law and human rights in the context of globalization

**Tonia Novitz**

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### INTRODUCTION

It is established under international law that human rights are deserving of protection. This principle can be traced back to initiatives taken to incorporate a humanitarian element into the laws of war and the condemnation of slavery, especially in the early twentieth century.<sup>1</sup> However, there remains controversy over the content of human rights and how they may best be protected.

This chapter begins by considering established legal mechanisms for the international protection of human rights in the light of this controversy. It outlines the history of differential treatment of three ‘generations’ of human rights: civil and political rights; economic, social and cultural rights; and the rights of ‘peoples’. It also examines how this is reflected in international instruments for the protection of human rights and the systems set up to monitor and promote their enforcement. The implications for governance at the international level are also considered. What emerges is that states have been reluctant to submit themselves to stringent scrutiny of their breaches of human rights, and that this reluctance is compounded by a fractured approach to human rights protection.

The chapter then goes on to consider how compliance with international human rights law has been further undermined by the phenomena associated with market-led globalization. In particular, it considers acute challenges posed on the international stage by the economic power wielded by international financial institutions (IFIs), such as the International Monetary Fund (IMF), the World Bank Group, and the World Trade Organization (WTO). The capacity of such organizations to determine the conditions of aid or access to trade gives them powers to inhibit the protection of human rights, especially those with an economic, social and cultural dimension. There is some potential for human rights to be invoked as a constraint on their activities, but for the various reasons outlined in this chapter, they appear to be ineffectual.

Some argue that the solution is to place the substantive protection of human rights squarely within the mandate of IFIs, while others propose the introduction of procedural mechanisms, which promote dialogue between economic institutions and those dedicated to protection of human rights. It is possible that the two strategies might even operate in tandem. The first option seems superficially attractive, for IFIs possess powers of enforcement that dedicated human rights mechanisms lack and such a development might lead to more effective protection of human rights than we have seen to date. The second option arguably promotes cooperation between international organizations whose activities could otherwise conflict. Nevertheless, there are potential drawbacks to both proposals, which are outlined at the end of this chapter. Indeed, if either is to be viable, longstanding arguments relating to the proper content of international human rights will need to be settled and the reasons for longstanding reluctance of states to provide effective human rights protection on the international stage will need to be addressed.

## ESTABLISHED LEGAL MECHANISMS FOR THE INTERNATIONAL PROTECTION OF HUMAN RIGHTS

International law is formed through the consent of states. International instruments for the protection of human rights tend to be formulated in the context of an institutional framework, notably but not exclusively the UN General Assembly.<sup>2</sup> The instruments are usually adopted within such a forum by a majority vote among state representatives. Declaratory instruments will not have binding legal force, but may have moral persuasion. Other instruments, which are intended to have legal status, may then be signed and ratified by states that, as a consequence, become legally bound by their content. Binding international human rights instruments set out requirements for state conduct and provision is commonly made for procedures whereby state compliance with the instrument will be scrutinized. The scope and limitations of a number of relevant instruments will be considered here. They may best be understood in the context of two key issues associated with both domestic and international protection of human rights: firstly, what entitlements qualify as 'human rights'; and secondly, how 'human rights' should be enforced, given the problems that enforcement may pose for democratic governance.

### **The Three Generations of Human Rights**

In the course of debate over the appropriate subject-matter of human rights, three 'generations' of human rights have been identified. The first are civil

and political rights, familiar from domestic instruments such as the United States Declaration of Independence of 1776, the French Declaration of the Rights of Man in 1789 and the 1791 US Bill of Rights. Civil liberties were defined in this century by T.H. Marshall as ‘the rights necessary for individual freedom’, such as the right to life, freedom of religion and ethical belief, the right to privacy, and rights of due process under civil and criminal law procedures. He identified as the ‘political element’ of citizenship as ‘the right to participate in the exercise of political power’ within a representative democracy, incorporating such entitlements as freedom of speech and freedom of association, as well as a right to vote in free and fair democratic elections (Marshall, 1950, pp. 10–11).

Marshall also famously contended that our understanding of citizenship had progressed beyond this point to encompass a second category of rights, ‘social rights’, which cover ‘the whole range from the right to a modicum of economic welfare and security to the right to share to the full in the social heritage and to live the life of a civilised being according to the standards prevailing in society’ (Marshall, 1950, p. 11). Examples include the right to work, the right to education, the right to food, the right to housing and the right to healthcare. Their protection as ‘economic, social and cultural rights’ under both domestic legislation and international instruments has been the subject of considerable controversy.

Some claim that incorporation of second generation rights within a human rights framework amounts to a philosophical muddle (Cranston, 1973). This is because their concern is often with collective welfare rather than individual claims. Where civil and political rights seek to prevent the state interfering with personal freedom, socio-economic rights often require positive action by the state and the provision of material resources. Others, especially interest theorists, have pointed to the way in which economic, social and cultural rights reflect shared but ultimately individual interests of persons and are not so easily distinguishable from civil and political rights (for a summary, see Novitz, 2002). The dispute between these two perspectives was at its height during the Cold War period, when Western states emphasized protection of civil and political rights and the Eastern bloc claimed superiority for economic, social and cultural rights.

More recently, in the era of decolonization, a third generation of human rights has been identified. These encompass rights that often have an economic, social and cultural aspect but which are best understood not as the rights of individuals at all, but as the rights of ‘peoples’ (Crawford, 1988). Third generation rights include, most notably, the rights to self-determination and development, which have to be exercised collectively. The definition of a ‘people’ has proved difficult, but is commonly understood to include claims by both ethnic groupings and national polities (Jones, 1999).

All three generations of rights are, to some extent, recognized and incorporated into international legal instruments relating to human rights protection. One of the earliest key human rights instruments, the Universal Declaration of Human Rights 1948, traverses the boundaries between these categories, providing for protection of civil and political, as well as socio-economic rights. Similarly, the Declaration of Philadelphia 1944, later appended to the Constitution of the International Labour Organization, made links between these types of rights. Article 1 of the UN Charter of 1945 requires respect for 'self-determination of peoples'. Taken together, these early examples of international human rights protection suggest that the labelling of three 'generations' of rights may be a flawed historical reconstruction of actual events, at least as far as the history of international human rights protection is concerned.

It was only later, in the Cold War era, that the UN followed the example of the Council of Europe in making separate provision for civil and political rights from economic, social and cultural rights in two discrete Covenants of 1966, each with quite distinctive supervisory mechanisms.<sup>3</sup> The Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR) makes provision for individual complaints to a Human Rights Committee, alongside scrutiny of state reports, while the International Covenant on Economic Social and Cultural Rights (ICESCR) makes provision solely for the latter.

With the 'democratization' of the Eastern bloc and the gradual opening of China's markets, states retreated slightly from this position, declaring the 'indivisibility' of what were previously thought to be categories of rights in tension.<sup>4</sup> It is arguable that an approach which recognizes the connections between these so-called 'generations' of rights makes sense, since the subject-matter of civil, political and socio-economic rights clearly intersect, as for example in the case of freedom of association guaranteed under Article 22 of the ICCPR and the right to form and join trade unions recognized under Article 8 of the ICESCR. Nevertheless, there has still been considerable resistance to reform. There is at present no question of amalgamating the guarantees in the two 1966 Covenants in one single instrument, and attempts to improve the supervisory mechanisms available for protection of socio-economic rights have not yet proved successful.<sup>5</sup>

The right to self-determination is guaranteed under Article 1 of both the 1966 Covenants, as well as in the UN Charter itself. This was commonly understood to be a fundamental first generation 'political right'; its wider implications and its specific relevance to the rights of 'peoples' have only emerged gradually, as decolonized and developing states lobbied for its recognition. An important development was the elaboration of the right to self-determination in the African Charter on Human and Peoples' Rights,

a regional human rights instrument, Article 20 of which recognizes not only that all peoples have the right to self-determination, but also that they are entitled to assistance in 'their liberation struggle against foreign domination, be it political, economic, or cultural'.

A Declaration on the Right to Development was adopted by General Assembly resolution 41/128 of 4 December 1986. Then, in 2002, 189 nations agreed unanimously on the Millennium Development Goals (MDGs), which included the creation of a 'global partnership for development' and the effective achievement of certain targets by 2015; but it is widely acknowledged that these targets are not currently likely to be met.<sup>6</sup> Compliance with the right of peoples to development is also monitored by the International Committee on Economic, Social and Cultural Rights under the ICESCR, as it has long been recognized that there is a significant overlap between this entitlement and other socio-economic rights.<sup>7</sup>

Another significant 'third generation' right, which can be linked to both self-determination and development, is that of indigenous peoples. Again, the potential connections between apparently discrete generations of rights were acknowledged initially in ILO Convention No. 107, and elaborated upon in 1989 with the adoption of ILO Convention No. 169. Article 5 of Convention No. 169 states that rights of a collective character should be granted in social, cultural and religious spheres, while Article 7 stresses the entitlement of indigenous peoples to determine their own development. Nevertheless, this seems to have been too bold a statement for most states, and has only been ratified by 17 countries to date.

What may be promising, from the perspective of 'indivisibility' of rights, is the relatively recent creation of the Office of the High Commissioner for Human Rights (OHCHR). This Office was founded in 1993 and its objective is to 'protect and promote human rights for all', without any obvious differentiation between conventional categories of rights. The OHCHR has promotional tasks but also has more recently been involved in studies relating to reform of international institutions. Its weakness lies in its relatively limited personnel and funding (see, for example, the criticism made by Darrow, 2003, pp. 287–93). It is however the most likely instigator of change in human rights protection, should its albeit limited research findings persuade the UN General Assembly and the international community at large of a compelling need for change. Some significant proposals of the OHCHR will be considered in the last section of this chapter.

In March 2006, a Human Rights Council was established by the United Nations to replace the Commission on Human Rights. A significant feature of the mandate of this new supervisory organ is to be a 'universal periodic review' of the fulfilment of human rights obligations and commitments in each UN member state, beginning with the 53 states which have been elected

members of the Council. The rhetoric of the Preamble to the General Assembly Resolution A/Res/60/251 would suggest that such a review would be sensitive to the view that 'all human rights are universal, indivisible, inter-related, interdependent and mutually reinforcing, and that all human rights must be treated in a fair and equal manner, on the same footing and with the same emphasis'. However, it has yet to be determined how this procedure will operate.

### **Issues Relating to Appropriate Enforcement of International Human Rights**

It emerges from this brief overview that protection of human rights at the global level has to date been fractured, at least in part due to a traditional distinction drawn between three generations of rights. The weakness of the supervisory mechanisms attached to particular international human rights instruments can only be further understood if we consider more generally the problems of governance that human rights protection raises.

Civil and political rights have come to be understood as 'trumps' over collectively agreed policies. As Ronald Dworkin has observed: 'A Man has a moral right against the State if for some reason that State would do wrong to treat him in a certain way, even though it would be in the general interest to do so' (Dworkin, 1977, p. 139). This means that human rights protection has the potential to constrain decisions made by political communities, even where fair voting and other deliberative procedures have been followed. In the domestic context, the incorporation of human rights protection into national law has the potential to give political power to the judiciary, before whom the breach of a human right will be litigated (see Ewing, 1999). In the international sphere, states have been eager to set minimum standards by which all governments should abide, but are less enthusiastic at the prospect of stringent enforcement by an international supervisory body, as this has the potential to constrain even democratically elected governments in their formation of domestic policy. Hence we tend to see a very tentative approach to supervision.

For example, the former UN Commission on Human Rights consisted of 53 members, elected by the Economic and Social Council (ECOSOC), many of which had problematic human rights records, such as China, Cuba, Saudi Arabia and, most controversially in 2004, the Sudan. There were also fears that criticism of particular countries was motivated by political factors, and was not fair or impartial. Moreover, since the Commission reported to the ECOSOC rather than the UN General Assembly directly, there was an additional mechanism by which criticism

could be filtered out. The hope is that the new Human Rights Council will improve on this, given its direct responsibility to the General Assembly, but already there has been evidence of bloc voting against Israel which has caused concern, as has the omission to consider the human rights situations in Darfur, Burma and Uzbekistan. The former UN Secretary-General Kofi Annan even intervened, voicing his hope that 'the body would broaden its work beyond focusing on the Israeli-Palestinian issue'.<sup>8</sup>

While it may not be so very surprising that the politicized UN Charter mechanisms have not provided scrupulous supervision of human rights violations, it is perhaps more concerning that the findings of expert supervisory bodies attached to specific UN instruments have such little influence. For example, while opinions of the Human Rights Committee (HRC) on compliance with the ICCPR may be regarded as morally compelling, they do not possess binding legal force. In response to HRC comments, some Western states, notably the US, remain recalcitrant and are determined to maintain reservations to key aspects of the ICCPR. Also, it is often difficult to assess whether particular changes to the policy of states, such as for example, the treatment of political prisoners in Uruguay, occur due to concern expressed by the HRC or for other, political reasons (Forsythe, 2000, p. 76).

Moreover, economic, social and cultural rights are said to pose particular difficulties. Their enforcement at the international level might allow international supervisory bodies to require of states the dedication of specific resources to achieve a given result, resources which the democratically elected government of a state might choose to deploy in different strategic ways. This may explain the particular weakness of the supervisory mechanism utilized in respect of the ICESCR, which at present does not contemplate the hearing of individual complaints and also does not provide decisions which are legally binding on ratifying states. Nevertheless, various commentators have pointed to the flaw in this reasoning, noting that not only socio-economic rights require the commitment of the state to provide resources, since the maintenance of a civil and criminal justice system and provision for free elections also have significant costs. Moreover, some socio-economic rights, such as the right to strike, require an absence of state intervention rather than the commitment of resources. Altogether, human rights may place on states the obligations to respect, protect and fulfil the needs of persons within their territories. The fulfilment may not be immediate, but can in respect of all categories of rights be incremental. As long as progress is being made in an appropriate direction, no complaint against a state will be upheld.<sup>9</sup> These arguments have not, however, so far persuaded states to accept parity in the construction of supervisory mechanisms for

compliance with first and second generation rights (see, for the as yet unsuccessful attempt to introduce a complaints protocol on the ICESCR, Vandenhole, 2003).

The International Labour Organization has, arguably, had greater success in the promotion of progress on labour-related issues, often regarded as an aspect of socio-economic rights. This may be because condemnation by ILO supervisory bodies, such as the ILO Committee of Experts on the Application of Conventions and Recommendations, is often complemented by technical and programmatic assistance. An example, which ILO officials point to, is the progress made in the United Arab Emirates and Qatar towards the elimination of child labour required for compliance with ILO Convention No. 182 on the worst forms of child labour (Boivin and Odero, 2006, p. 7).

The international recognition of a right to self-determination of peoples is uncontested, but its content and appropriate enforcement is less certain. On the one hand, a right to self-determination could be viewed as an aspect of the emergent right under international law to democratic governance (Franck, 1995), and straightforwardly deserving of protection as a 'first generation' political right. On the other, compliance with the right to self-determination could involve radical reform to international structures to protect vulnerable states from (for example) economic domination, or could even require change to national institutions to provide scope for self-government by ethnic groupings within states. Progress was made when the UN created a Working Group on Indigenous Populations as a subsidiary body of the Sub-Commission of the Promotion and Protection of Human Rights, which led to the creation of a Permanent Forum on Indigenous Issues in 2000. Their activities resulted in the drafting of the Declaration on the Rights of Indigenous Peoples adopted by the UN Human Rights Council in June 2006. The UN General Assembly has yet to adopt that instrument, due to an objection voiced by Namibia to the text of the Declaration, which was supported by other African states. The General Assembly will reconsider the status of the instrument again in September 2007, but even if it were adopted at that time the Declaration will not be binding under international law.<sup>10</sup> Moreover, until the activities of the new UN Council on Human Rights are settled, its relationship with the Permanent Forum is uncertain.

This section has sought to introduce two complex debates relating to the protection of international human rights on the global stage. The first relates to the content of human rights, and the extent to which one should distinguish between three so-called generations of rights. The second concerns the potential problems associated with governance posed by each generation of human rights. The issues highlighted here go some way to

explain the reluctance of states to strengthen the current system for the protection of international human rights, which may be influential but does not compel compliance.

## GLOBALIZATION, INTERNATIONAL FINANCIAL INSTITUTIONS AND THEIR EFFECT ON HUMAN RIGHTS PROTECTION

As early as 1978, the concern was expressed that the 'transnational social forces' mobilized for the global protection of human rights were being overwhelmed by 'globalization of market forces' (Cox, 1978, p. 527). The latter term has come to be associated with the increased economic interdependency of peoples, organizations and states. Economic interdependence can be linked to such diverse factors as the greater volume of world trade, greater concentration of capital in the form of multinational enterprises (MNEs), increased currency transactions, extensive foreign investment, diversity in manufacturing and service sites, growth in cross-border migration and expansion in information networks (Held, 2004, Chapter 1).

As economic interdependence has become more pronounced, many commentators have observed the loss of regulatory control by national governments. There is an obvious asymmetry of power between certain MNEs and poorer developing states. In such circumstances, an MNE can influence the policies of a representative elected government by using threats to withdraw capital or by promising future investment. An example commonly given is the conduct of Shell in Nigeria (Symonides, 2000, p. 151; Smith et al., 1999, p. 208). This means that states now find it difficult to protect the first generation right to political participation. They may also find it difficult to resist pressure to sell public services to private providers and to deregulate labour markets so as to make them more attractive to foreign manufacturers.

As a result, there have been arguments for the imposition of legal responsibility on MNEs for violations of human rights (discussed in Blackett, 2001 and Shelton, 2002). However, it is evident that states have found it hard to regulate further at the international level to constrain the activities of global capital. This may be illustrated by the revision of the ILO Tripartite Declaration and the OECD Guidelines on Multinational Codes of Conduct in 1999 and 2000 respectively, which do not notably improve the efficacy of these instruments and do not place binding legal obligations on non-state actors (Hepple, 2005, Chapter 3). This is consistent with the old precept that international law is made by states to bind states and not other legal persons.

What may be even more significant are the rules according to which global trade, aid and investment are regulated. In this respect, legal norms that govern the operations of international financial institutions (IFIs) within the UN framework have become increasingly significant. These are the World Bank Group and the International Monetary Fund (IMF). Also of fundamental importance are the activities of another key economic (if not financial) institution, the World Trade Organization (WTO), which affects international financial investment and production by determining terms of trade for its members. The conduct of these three institutions arguably has greater implications for the protection of human rights globally than traditional international human rights mechanisms. This section shall seek to explain why they have such influence.

### **The IMF and the World Bank**

The IMF and World Bank were conceived in 1944 at a conference in Bretton Woods to promote international economic cooperation and stability. They subsequently took their place as key UN agencies, alongside other institutions such as the International Labour Organization (or ILO, which was a pre-existing international institution created by the Treaty of Versailles) and the World Health Organization (created later in 1948).

The IMF focuses on the functioning of the international monetary system and on promoting the adoption of what are believed to be appropriate macroeconomic policies. It is designed to address balance-of-payments difficulties experienced by states and operates as a monetary club; that is, its members lend money to other members where they are troubled by balance-of-payments deficits. Each state has a quota reflecting the economic size of the state. In addition, the IMF engages in bilateral borrowing from wealthier member states or 'creditor states'. The latter is achieved through the General Arrangements to Borrow (GAB) established in 1962, and the New Arrangements to Borrow (NAB) introduced in 1997. Specific financial assistance and concessional lending to low-income countries is provided through the Poverty Reduction and Growth Facility (PRGF). Specific debt relief is now provided under the Heavily Indebted Poor Countries Initiative (HIPC).

The role of the World Bank Group is not so much to maintain financial stability but to channel aid and loans to support development. It funds and manages specific projects of various types, when governments ask for assistance. The Group has developed into a complex operation, consisting of five agencies. The first and foremost is still the International Bank for Reconstruction and Development (IBRD), which was set up in the wake of the Second World War to address the need for investment in social

infrastructure following the ravages of global warfare. It now seeks to address poverty in middle-income and creditworthy poorer countries through sustainable development. The International Development Agency (IDA) provides concessional lending to the world's poorest 81 countries, and operates in parallel to the specific mechanisms set up for such countries through the IMF. The International Finance Corporation (IFC) seeks to channel loans and investment from the private sector as business partners with government, while the Multilateral Investment Guarantee Agency provides guarantees for foreign direct investors in developing countries against non-commercial risks. Finally, the International Centre for Settlement of Investment Disputes (ICSID) seeks to provide international commercial stability by ensuring that there is an avenue for settlement of disputes between states and investors.

Both IMF and World Bank loan facilities for developing countries tend to come with an 'arrangement' which stipulates the conditions that a state must meet in order to gain access to the loan. To assist compliance with these conditions, both organizations provide 'technical assistance', through missions to the countries concerned. In recent years, the IMF has imposed conditions in conjunction with the World Bank. While the two institutions have different mandates, their objectives are intertwined (Ahn, 2000).

The conditions associated with IMF and World Bank funding have been known as 'structural adjustment', because they require extensive change to the economic infrastructure of the debtor state.<sup>11</sup> These conditions tend to include: reductions in social security to reduce external debt; devaluation of overpriced artificially maintained currency; development of creditor confidence; and labour market flexibility. Especially from 1981 (under the presidency of William Clausen) until 1995, the two institutions have been described as operating under the 'Washington Consensus' that deregulation was the ideal way of achieving general prosperity and economic stability (see Stiglitz, 2002, especially Chapter 4). Since 1995, under the leadership of James Wolfensohn, Paul Wolfowitz and Robert B. Zoellick, the World Bank has sought to move away from a simple deregulatory agenda towards 'institution-building' and 'client/country ownership', but others doubt that this amounts to a significant shift in attitude. Its concerns (and perhaps institutional bias) can be illustrated by the content of the Bank's *World Development Report* of 2004, which is titled *Making Services Work for Poor People* (World Bank, 2003). This report examined the pros and cons of provision of health, education and other services by governments centrally, but overall advocated exploration of alternative forms of delivery, such as contracting out, while putting in place suitable forms of accountability. The World Bank no longer pursues straightforwardly a privatization agenda, but nor has this been entirely abandoned.

Neither the IMF nor the World Bank have any specific mandate to protect human rights, but are rather concerned directly with fiscal stability and the alleviation of poverty. Their emphasis on the latter may be regarded as consistent with the protection of, at the very least, the right to development and the achievement of socio-economic rights. The difficulty is that the conditions under which funding is offered usually require a cut in public spending, leading to the potential diminution of public services such as health, education, housing and food. This has led to concern that the activities of the IMF and World Bank place pressure on states to neglect or even violate the protection of socio-economic rights, expressed by both the Committee on Economic, Social and Cultural Rights and the Commission on Human Rights.<sup>12</sup> The ILO Director-General has also observed the capacity of deregulatory conditionality, which may be aimed at creation of a flexible labour market, to undermine protection of core workers' rights guaranteed under ILO Conventions and the ICESCR.<sup>13</sup>

Moreover, structural adjustment promoted by the Bretton Woods institutions may diminish the political rights of citizens to participate in making policy choices regarding redistribution of wealth within states, and more generally limit the right of peoples to self-determination. This is because the financial incentives for compliance by creditor states are so great that governments have to prioritize the demands of the IMF and World Bank in preference to the views expressed through domestic democratic institutions (Morgan-Foster, 2003 highlights the catastrophic consequences of structural adjustment for Argentina). The shift from structural adjustment to the PRSP was supposed to lead to greater participation by states in the framing of appropriate loan conditions and thereby 'country ownership'. However, there has in fact been little consultation over the content of Poverty Reduction Strategy Papers, which are usually prepared without parliamentary endorsement and without considering the implications with or for key members of civil society, such as indigenous populations. There is still a technocratic approach taken within the IMF that its technicians know best. These concerns have been elaborated upon by Darrow, who, when citing the experiences of Mozambique, Mauritania and Bolivia, describes the PRSP as 'old wine in a new bottle' (Darrow, 2003, pp. 87–91).

The Operations Evaluation Department of the World Bank has for some time monitored the viability of loans for projects and what they offer in terms of contribution to countries' development. In 1993, the Executive Directors of the IBRD and the IDA went further and established an Inspection Panel, the aim of which is to ensure that the Bank adheres to its own operational policies and procedures, including consultation with those most likely to be affected by the finding of the project. It can receive requests for inspection by those affected, and some 27 requests for inspection have

been lodged since it was created. Some have led to changes in approach to the management of particular projects, an example being the resettlement of affected persons in the Argentine Yacyretá Hydroelectric Project in 2004.<sup>14</sup> In this way, the Bank ensures some degree of transparency in its operations and reinforces its commitment to consultation. However, there is little chance of stepping in before a project becomes operational to prevent harm being done.

One key move towards actual reference to human rights took place in 2005, when the World Bank adopted a distinct policy on 'Indigenous Peoples' recognizing that such peoples have 'distinct social, cultural and economic rights'. It is however curious that the World Bank has refused to accept that ILO Convention No. 169 is clear international law, evidently due to its low rate of ratification, but is prepared to concede that 'there are emerging international principles and practices relating to Indigenous Peoples'.<sup>15</sup> What this seems to mean is that, for the time being, the consent of indigenous peoples to Bank activities that directly affect their welfare is not explicitly required (see Larson, 2007).

The IMF has its Independent Evaluations Office, founded in 2001. It selects issues or 'terms of reference for evaluation' and then publishes these for public consumption. These do tend to be subjects in respect of which the IMF has received criticism, but are not prompted by specific complaints. For example, the work programme for 2003/04 consisted of three projects: an evaluation of the PRGF, an evaluation of the IMF's role in Argentina, and an evaluation of IMF technical assistance. Recent projects added to the work programme include corporate governance, research, interactions with member states (democratic governance) and international trade.<sup>16</sup>

Such mechanisms for self-scrutiny provide the Bretton Woods institutions with the potential to reflect on the implications of their operations and consider how they might be improved, with reference to the persons they affect. Moreover, those assessing the conduct of these institutions are also likely to be aware of the technical difficulties and fiscal constraints by which these institutions may be bound, and will not make unrealistic demands. However, internal mechanisms may reflect an institutional bias, such that there remains little effective or truly independent scrutiny of compliance with established international human rights norms. Comments and observations from the public are welcomed, for instance, in relation to analysis of the impact of IMF policies in sub-Saharan Africa,<sup>17</sup> but what is also evident is that traditional human rights mechanisms, such as the Committee on Economic, Social and Cultural Rights and the Human Rights Commission, appear to be powerless to challenge the influence exerted by the IFIs.

## **The World Trade Organization**

The operations of the World Trade Organization are also crucial to the impact of globalization on human rights, as they set the conditions for world trade. There are four key agreements in operation within the WTO institutional framework. The first is the General Agreement on Tariffs and Trade (GATT), which has been in operation since 1948, even though its content and structural implementation has been progressively revised through various rounds of negotiations. The WTO as an institution is parasitic on the longstanding operation of this instrument, only being created by unanimous agreement by signatories to the GATT in 1995. Subsequently, we have seen the adoption of the General Agreement on Trade in Services (GATS) and the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). All three agreements are supplemented by a Dispute Settlement Understanding, which provides a more rigorous procedure for dispute settlement than was previously envisaged under the GATT.

Most important, for our purposes, are the WTO rules for international trade instantiated in the three key substantive agreements. These are: firstly, 'most favoured nation status', namely the principle that one cannot discriminate in trade against any of the parties to the GATT, GATS or TRIPS,<sup>18</sup> and secondly, 'national treatment', which requires that foreign goods or services should receive the same treatment of those produced or provided locally.<sup>19</sup> These are apparently neutral rules that apply to all signatories to these instruments, but it has been observed that they have very different implications for developing as opposed to developed countries.

In particular, a number of charges have been levelled against the WTO. The first is that trade barriers have been left intact. This is because the GATT does not require the abolition of tariffs but merely that they be 'bound' at a particular level by one contracting party for all those other contracting states interested in exporting to that country. This allows Western states to protect, for example, domestic agriculture, by placing a uniformly high tariff on agricultural goods from all states. This policy might appear neutral in its operation, but has a disproportionate effect on developing countries, which tend to rely on such goods as their sole form of export. Secondly, it has been said that the WTO as an institution supports a continually expanding trade agenda, which focuses primarily on issues of interest to developed countries. The UNDP Report of 1999 highlighted concerns that protection of intellectual property rights through TRIPS was not in the interest of those developing states whose citizens are dependent on access to cheaper pharmaceutical products. Moreover, it warned against the potential impact of the TRIPS on food security, indigenous knowledge and bio-safety, a concern reiterated in the same year by the UN Committee on

Economic, Social and Cultural Rights.<sup>20</sup> A third criticism stems from the complexity of the application and operation of trade rules, as they can prove difficult for developing countries which have few representatives in Geneva. These representatives cannot then be expected to master every technical aspect of WTO policy initiatives and therefore often fail to participate effectively in negotiations.<sup>21</sup> Overall, there are fears that the operations of the WTO can endanger the self-determination of peoples in developing countries, and their ability to make provision for the socio-economic rights of their population.

To some extent, members of the WTO have acknowledged the potential for this to occur and have attempted to address the problem through the principle of 'special and differential treatment' of developing states, which has been recognized expressly in provisions such as Article XVIII of the GATT. Article XVII allows for temporary withdrawal or modification of trade concessions so as to enable developing countries to meet specific short-term objectives, such as development of a local manufacturing industry, or to resolve balance-of-payments problems. However, these alterations to application of standard rules require negotiations with the other state or states affected and the offer of appropriate compensation. It is only where over a period of time such agreement is not reached that the WTO contracting parties will step in to determine what modifications to trade arrangements and what compensation may be appropriate. The ability of developing states to utilize this clause is also limited by the paucity of their bargaining power in negotiations and the technical complexity of the procedures (see, for detailed discussion of these difficulties, Ademola Oyejide, 2004). Moreover, when India sought to invoke their development policy as a basis for quantitative restrictions, the Appellate Body indicated that they were more convinced by the IMF's view that this measure was unnecessary.<sup>22</sup>

There is also a more general savings clause in Article XX of the GATT, which has the potential to be utilized for the protection of human rights (Bal, 2001). This provision provides for key exceptions to the principles of 'most favoured nation' status and 'national treatment', allowing states to block imports or discriminate against foreign goods for certain reasons of public policy, listed in the provision itself. However, it has been narrowly interpreted and has yet to be invoked in explicit reliance on the protection of human rights. Instead, the provision has tended to be relied upon by developed states, such as the US, on environmental or health grounds.<sup>23</sup> Developing states may be careful not to invoke this provision, since they themselves might be vulnerable to protectionist trade blocs if the clause were commonly invoked (see Blackett, 1999; Summers, 2001).

Finally, it is notable that protection of human rights enters only as an exception to otherwise established legal principles for the conduct of trade;

it is far from being the objective of the WTO. This then raises the question as to what should be done to ensure effective protection of human rights at the international level.

## PROPOSALS FOR CHANGE TO INTERNATIONAL GOVERNANCE OF HUMAN RIGHTS

In the light of these challenges, proposals for change to international governance of human rights protection tend to take essentially two forms. The first amounts to what I will label ‘substantive’ reform, and would entail the inclusion of an express ‘human rights’ agenda within institutions such as the IMF, World Bank and the WTO. The second ‘procedural’ reform requires more general dialogue between international organizations to arrive at a cooperative approach to the protection of human rights. The two are potentially complementary, but could also be pursued independently, should one or the other not receive significant support. I shall outline each type of potential approach in turn, and consider the benefits that they offer, as well as the concerns that they raise.

### **Substantive Proposals**

Substantive reform would involve formal acknowledgement of the relevance of human rights to IFI activities. Notably, this type of reform has not as yet been advocated officially by the IMF, World Bank or WTO, but is supported by certain academic commentators. I shall focus here on the concrete proposals made by two academics: those offered by Mac Darrow in respect of the IMF and World Bank, and those made by Ernst-Ulrich Petersmann relating to the WTO.

One option, supported by Darrow, is the adoption of an express human rights ‘policy’, thereby correcting the current view of officials that such concerns are marginal to the conduct of the organization for which they work (Darrow, 2003, p. 234 et seq.). Another possibility is a legal instrument, which would serve a similar purpose. Petersmann proposes a WTO Declaration ‘that all WTO members are committed to respect for universal human rights within the confines of WTO law and policy . . . and welcome the contribution of trade policy to the fulfilment of human rights’ (Petersmann, 2004, p. 626). What, then, has the express substantive incorporation of human rights norms to offer us?

For those concerned with the negative impact of IFI activities on human rights protection, a human rights policy or human rights instrument adopted by an IFI would provide a key reference point for evaluation of the

conduct of officials as well as the outcome of their actions. It might promote a significant cultural shift within those institutions, since human rights concerns, previously thought marginal, would become the subject of active reflection and engagement. The pursuit of key objectives, such as the provision of education, through World Bank projects could be viewed in human rights terms, with reference to those principles previously established by specialist human rights supervisory organs. The views taken by the IMF Independent Evaluations Office and the World Bank Inspection Panel could also be expressly informed by the undertaking to comply with international human rights standards. Similarly, exceptions in Article XX of GATT relating to 'public morals' and 'health' could be explicitly interpreted by Dispute Settlement Panels and the Appellate Body in line with the human rights commitments made by the WTO as a body, as much as the individual commitments of member states. Others may see this as a way in which to achieve effective human rights protection, since financial and trade conditionality is likely to compel compliance in a way in which dedicated human rights supervisory mechanisms cannot hope to do. Finally, as Petersmann observes, this substantive step towards human rights protection could provide the foundation for 'input-legitimacy' of rule-making and adjudication of the WTO. Its human rights credentials would be established (Petersmann, 2004, p. 607).

This type of substantive reform is, however, likely to generate apprehension for a range of reasons. Firstly, trade and aid technocrats are likely to be alarmed by the complications posed by a human rights dimension to their work. Secondly, and perhaps more importantly from a political perspective, there will be objections from developing states who fear that human rights and labour standards will be relied on by developed states for protectionist reasons, in order to block their exports. They have been adamant that human rights matters should be left to enforcement by the appropriate UN supervisory organs, and even within the ILO context have been eager to reiterate their entitlement to their legitimate comparative advantage in world markets.<sup>24</sup> For these reasons, Petersmann acknowledges that there is unlikely to be sufficient consensus on the adoption of a human rights instrument under the auspices in the WTO. He can only, ultimately, offer the panacea of entry of human rights concerns through the interpretative mechanism of dispute settlement.

However, there is one further reason for concern that is worth examining in this context. This is the potential for the 'merger and acquisition' of human rights by economic objectives (Alston, 2002). There remains the possibility that, within IFIs, the character and content of established human rights norms could be reinterpreted to reflect the priority that IFIs place on the right to private property and freedom of contract. Moreover,

the established principle of 'proportionality' within human rights law will come to be equated with economic efficiency. This spectre is raised by Petersmann's work which highlights the 'complementary functions of liberal trade law and human rights law' (Petersmann, 2004, p. 620). The complementarity of the two are obviously less apparent to those who place priority on economic, social and cultural rights. Indeed, Alston questions whether a right to private property is uncontroversially a human right. The fear is that, if the WTO is to be the forum in which conflict between property rights and other human rights is determined, then there is a genuine risk that a neoliberal agenda will be legitimized without reference to the longstanding struggle for recognition of other aspects of respect for human dignity. First generation rights will be privileged in comparison to second and third generation rights. Moreover, the views of dedicated human rights mechanisms on these subjects, which lack legal force, will become secondary, given the economic force attached to the pronouncements of the WTO Dispute Settlement Panels or Appellate Body.

### **Procedural Proposals**

There have been two key sources of procedural proposals that relate to enhanced protection of human rights and which have the potential to affect the governance and activities of IFIs. The first is the World Commission on the Social Dimension of Globalization, established by the International Labour Organization in 2002, which reported its findings in January 2004.<sup>25</sup> The second is the analytical study of the High Commissioner for Human Rights, which examines the fundamental principle of participation and its application in the context of globalization, and was presented in December 2004.<sup>26</sup>

The ILO World Commission consisted of 21 experts from diverse backgrounds, such as government, business, trade unions, NGOs, development and economics. The Commission held a series of dialogues with interested actors at the national, regional and international levels that informed its conclusions; this methodology led its members to advocate dialogue more broadly as a potential panacea for conflict. Its recommendations encompassed proposals for change at national and regional levels as well as within the international community. The Commission advocated strengthening the role of parliaments as a check on the actions of governments on the international stage (pp. 120–21). Parliaments should be able to hold governments accountable for what they negotiate internationally, such as, for example, Poverty Reduction Strategy Papers (PRSPs) or compensation offered under Article XVIII GATT. The Commission also recommended greater dialogue between international institutions, through 'Policy Coherence Initiatives',

which would promote the collaboration of various executive heads of international institutions such as the World Bank, IMF, WTO, ILO and other UN bodies. The Commission's suggestion was that the executive heads meet initially in this way to address the question of global growth, investment and employment creation, but later address other vital issues (see, in particular, pp. 135–6).

The focus of the High Commissioner's study being on participation, it is not surprising that the orientation of its recommendations were also procedural in nature. The High Commissioner's report began with an examination of the human rights credentials of the right to participate, which is identified as a political right under Article 25 of the ICCPR to be claimed against states, but also potentially exercisable in the formulation and implementation of policy at the international level, as observed by the Human Rights Committee in its 25th General Comment (see para. 8). It was also noted that certain other civil and political rights, such as freedom of association and freedom of speech, are prerequisites to the right to participation, as are economic, social and cultural rights, such as the right to education. This was expressly recognized by the OHCHR as an aspect of the third generation 'right to development' (para. 11). The three generations of rights were presented as entirely compatible and reinforcing, without reflecting on the long-term controversy over disparities in their treatment. In this context, it was observed that 'the rules and policies established within the WTO, the World Bank and the International Monetary Fund have a particularly strong influence in shaping the workings of the global economy' and that they were therefore the focus of the report's recommendations (para. 19). In summary, the following proposals were made: first, the greater participation by developing countries and civil society in all aspects of international governance; second, the introduction of human rights impact assessments of policies before (as well as after) policies are implemented; third, strengthening of national parliaments in global governance through domestic parliamentary committees, but also perhaps global parliamentary networks.

These are more fruitful suggestions for reform, but require extensive elaboration before they become workable. The specific mechanisms by which developing states and civil society achieve effective participation in international decision-making will be crucial. The operation of the reformed PRGF within the IMF demonstrates that mere lip service to 'country-ownership' and consultation may be insufficient to achieve genuine participation. Similarly, greater engagement with parliamentary mechanisms seems desirable, but the powers given to any parliamentary network on the international stage need to be thought through carefully, so as not to disrupt the efficient workings of extant international institutions. Indeed this is recognized explicitly in the High Commissioner's report (para. 45). Also important will

be sufficient political will to realize any of these proposals. The modest proposal from the ILO of a Policy Coherence Initiative could be workable if appropriate resources could be dedicated to its operation, but while the ILO seems provisionally willing to organize a series of meetings along this basis, the executive heads of the IMF, World Bank and WTO are less enthusiastic. They clearly see no reason to constrain their policymaking in this fashion, when they are not obliged to do so.<sup>27</sup> More promising would seem to be the potential for human rights assessments before and after policies are followed and projects initiated. The High Commissioner's report seems however to envisage that these will be carried out by IFIs internally and by states at the national level. What then of involvement of existing dedicated human rights mechanisms already operating at the international level? Of them, nothing is said.

It is curious and somewhat dismaying that neither of these prominent reports addresses what may be the root of the problem. The disputed content of the three generations of human rights does not receive comment. The superior status of civil and political rights is likely to be preserved and, if Petersmann is correct as to the trend of decisions under the WTO dispute settlement procedure (Petersmann, 2003), likely to become more entrenched as those civil and political rights consistent with a liberal trade agenda receive recognition. This is despite international concern that the actions of the WTO are threatening the protection of second generation economic, social and cultural rights, as well as the third generation rights of peoples to development and self-determination. Moreover, there is no suggestion in these reports that we should strengthen existing instruments for the protection of human rights and the supervisory procedures attached to these. There seems to be no proposal to give the findings of extant human rights supervisory bodies legal effect. Nor is it proposed that they should be granted any power that might, for example, temper the persuasive force of economic conditions imposed by the IMF and World Bank when engaged in concessional lending. Obviously, the appropriate subject-matter and enforcement of human rights on the international stage remains so controversial that those writing these policy papers feel the need to skirt these topics. However, as this chapter has sought to demonstrate, any viable solution to current dilemmas needs to stimulate debate on these issues, rather than avoid them.

## NOTES

1. See, for example, the 1907 Hague Convention and Regulations on the Rules of War and the 1929 Geneva Convention relating to treatment of prisoners of war; also the Slavery Convention 1926.

2. Other significant instruments pertaining to the protection of human rights have also been adopted in other UN organs (such as the International Labour Organization), in the OECD, and in regional organizations (such as the Council of Europe, the Organization of American States and the Organisation of African Unity, now the African Union).
3. The equivalent instruments within the Council of Europe were the European Convention on Human Rights 1950 and the European Social Charter 1961.
4. See the 1993 Vienna Declaration on Human Rights, UN Doc. A/CONF.157/24. Another example commonly cited is the Declaration on the Occasion of the 50th Anniversary of the Universal Declaration of Human Rights, adopted by the Council of Europe Committee of Ministers on 10 December 1998, para. 4: civil, political and socio-economic rights are 'universal, indivisible, interdependent and interrelated'.
5. A draft optional protocol to the International Covenant on Economic, Social and Cultural Rights, which would allow for a complaints procedure similar to that available in conjunction with the International Covenant on Civil and Political Rights, is still under consideration. The open-ended working group established for this purpose has been given a further two-year mandate to write a draft of an optional protocol (Res. 2006/3).
6. The 2002 Millennium Goals were to: (1) eradicate extreme poverty and hunger; (2) achieve universal primary education; (3) promote gender equality and empower women; (4) reduce child mortality; (5) improve maternal health; (6) combat HIV/AIDS, malaria and other diseases; (7) ensure environmental sustainability; and (8) develop a global partnership for development. See for specific objectives to be pursued under each head and analysis of progress to date, see <http://www.un.org/millenniumgoals/> (last checked 27 November 2006). See also for further comment, Commission on Human Rights, *Effects of Structural Adjustment Policies and Foreign Debt on the Full Enjoyment of Human Rights*, E/CN.4/2005/42, 5 January 2005, para. 13.
7. Note General Comment 3 (1990) issued by the Committee on Economic, Social and Cultural Rights, para. 14: '[I]nternational cooperation for development and thus for the realization of economic, social and cultural rights is an obligation of all States. It is particularly incumbent upon those States which are in a position to assist others in this regard. The Committee notes in particular the importance of the Declaration on the Right to Development adopted by the General Assembly in its resolution 41/128 of 4 December 1986 and the need for States parties to take full account of all of the principles recognized therein. It emphasizes that, in the absence of an active programme of international assistance and cooperation on the part of all those States that are in a position to undertake one, the full realization of economic, social and cultural rights will remain an unfulfilled aspiration in many countries.'
8. Reported in November 2006 at <http://www.rferl.org/featuresarticle/2006/11/8FEEC69D-A409-4D13-B17C-0B0817EA7FF7.html>. For criticism from the US administration, see <http://www.state.gov/p/io/rls/rm/71839.htm>.
9. See for use of this 'respect, protect and fulfil' framework, the Committee on Economic, Social and Cultural Rights, General Comment No. 15 (2002), The Right to Water (Articles 11 and 12 of the International Covenant on Economic, Social and Cultural Rights), E/C.12/2002/11, paras 20–29.
10. See, for further information, the website of the UN Permanent Forum on Indigenous Issues at <http://www.un.org/esa/socdev/unpfii/>, last checked on 27 November 2006.
11. The PRGF replaced the IMF Enhanced Structural Adjustment Facility in 1999. Whether the change of this title has been significant is much disputed.
12. For example, this has been observed by the International Committee on Economic, Social and Cultural Rights responsible for supervising compliance with the ICESCR in Argentina: Concluding Observations: Argentina 8/12/99 E/C.12/1/Add.38. Paragraph 10 of the Report states that: 'The Committee acknowledges the financial difficulties encountered by the Argentine economy in the last four years. While the Government has succeeded in stabilizing the value of the currency, the implementation of the structural adjustment programme has hampered the enjoyment of economic, social and cultural

rights, in particular by the disadvantaged groups in society.' In its General Comment No. 2 on technical assistance measures, the committee has voiced similar concerns. Similarly, the Commission on Human Rights stated in Resolution 2000/82: 'the exercise of the basic rights of the people of debtor countries to food, housing, clothing, employment, education, health services and a healthy environment cannot be subordinated to the implementation of structural adjustment policies and economic reforms arising from debt'.

13. *Report of the ILO Director-General: Reducing the Decent Work Deficit: A Global Challenge* (2001), Chapters 2 and 3.
14. See for the report and press release on the World Bank website: <http://web.worldbank.org/WBSITE/EXTERNAL/EXTINSPECTIONPANEL/0,,contentMDK:20227174~pagePK:64132080~piPK:64132058~theSitePK:380794,00.html>. Last checked 27 November 2006.
15. See World Bank, Legal Note on Indigenous Peoples, 8 April 2005, Staff Response to Public Comments, Revised Draft Policy on Indigenous Peoples, 1 December 2004, and Operations Manual: Operational Procedure 4.10 – Indigenous Peoples.
16. See for a summary of IMF Independent Evaluation Office activities, including transparency, <http://www.imf.org/External/NP/ieo/2006/not/072606.htm>, last checked 27 November 2006.
17. See IMF, Issues Paper, 31 May 2006, available at: <http://www.imf.org/External/NP/ieo/2005/ssa/eng/121305.pdf>, last checked 27 November 2006.
18. See GATT, Article 1; GATS, Article 2; and TRIPS, Article 4.
19. See GATT, Article 3; GATS, Article 17; and TRIPS, Article 3.
20. See Statement of the UN Committee on Economic, Social and Cultural Rights to the Third Ministerial Conference of the WTO, Seattle, 26.11.99, E/C.12/1999/9, para. 4.
21. Report of the UN High Commissioner, *Economic, Social and Cultural Rights on the Fundamental Principle of Participation and its Application in the Context of Globalization* E/CN.4/2005/41, para. 37.
22. See Decision of the Appellate Body, *India – Quantitative Restrictions on Imports of Agricultural Textile and Industrial Products*, WT/DS90/AB/R, adopted 6 August 1999, paras 121–30.
23. See, for example, *United States – Import Restriction of Certain Shrimp and Shrimp Products*, Appellate Body Report, Appellate Body Report, 12 October 1998, WT/DS58/AB/R.
24. See WTO Ministerial Conference Singapore 1996 – Final Declaration 13 December 1996 WT/MIN96/DEC/W, para. 4; and ILO Declaration on Fundamental Principles and Rights at Work, Article 5.
25. World Commission on the Social Dimension of Globalization, *A Fair Globalization: Creating Opportunities for All* (2004).
26. Report of the High Commissioner to the Economic and Social Council, E/CN.4/2005/41, 23 December 2004.
27. There have been two 'informal technical consultations' organized by the ILO on 'growth, investment and employment in the global economy', involving staff from various UN agencies as well as IFIs. However, 'it was made clear from the outset that participation by the agencies in these consultations did not imply any formal endorsement of the World Commission's recommendation on the launching of the Policy Coherence Initiative, nor was the PCI itself being initiated'. See *A Stronger Social Dimension of Globalization: Follow-up to the November 2004 Meeting of the Working Party GB.292/WP/SDG/1*, 292nd Session of the ILO Governing Body, para. 13. In 2005, there was a UN General Assembly Resolution encouraging such cooperation. The first tentative steps towards such dialogue seem to have been taken by the ILO and the WTO. This is reflected in a carefully written policy document, *Trade and Employment: Challenges for Policy Research*, published jointly by both institutions in 2007. This document makes the observation that there are connections between issues concerning trade and labour and suggests that there should be consideration of joint policymaking in the future.

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## 7. Poverty policy and the politics of competitiveness

**Paul Cammack**

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### INTRODUCTION

New institutional arrangements associated with the rise of neoliberal governmental rationality are said to be shifting governance out of the hands of the state to local or subnational and supranational levels of governance, to civil society and the market, and to horizontal networks of various kinds. This has prompted Hajer to talk of an institutional void in which ‘there are no clear rules and norms according to which politics is to be conducted and policy measures are to be agreed upon’ (Hajer, 2003, p. 175; see also Swyngedouw, 2005, p. 1992). Global public policy concerning poverty is certainly ‘located within an increasingly complex, multiple and overlapping network of interactions which are embedded in a transnational and subnational polity and economy’ (Chapter 1, p. 3). But the resulting policy-making arena is anything but an institutional void. First, there is a consensus among global governing elites and international institutions on policies appropriate for the alleviation of poverty. Its logic has moved beyond the replacement of Keynesian macroeconomic management by the neoliberal trinity of deregulation, privatization and free trade – rather than simply relying on markets, the aim is to restructure social institutions and relations in order to promote entrepreneurship and create, in the words of the World Bank (2004a), ‘a better investment climate for everyone’. Second, a variety of mechanisms have been developed to disseminate this consensus across developed and developing countries alike. Third, their objective is to make states the effective enforcers of local and global competitiveness. Fourth, the resulting system constitutes a global ‘convergence club’ which embraces subnational, national and supranational levels; orders relations between the state, civil society and the market; and incorporates horizontal networks at various levels. It is to this competitiveness-oriented ‘convergence club’ that we must look in order to grasp the logic of global policy in relation to poverty, and assess its coherence. And as we shall see, it is just as coherent, but no more so, as capitalism itself.

## THE CONVERGENCE CLUB MODEL

In recent years a substantial literature on ‘convergence clubs’ in the narrow sense of groups of countries with similar or converging patterns of growth and productivity (for example Baumol et al., 1994; Durlauf and Quah, 1998; Färe et al., 2006) has generated a heavily prescriptive body of work, particularly within the Organisation for Economic Co-operation and Development (OECD), which claims to identify the regulatory and institutional paths to growth and prosperity (Scarpetta et al., 2002; OECD, 2003, 2005). This has prompted OECD Chief Economist Jean-Philippe Cotis (in the post since 2002) to speak of the OECD itself as a ‘convergence club’, an institution concerned primarily with policy advocacy and the promotion of mutual learning between states in the context of a marked slowdown of convergence on high levels of growth and productivity across the OECD countries in recent years.

Launching *Economic Policy Reforms: Going for Growth* (OECD, 2005) in London on 1 March 2005, Cotis highlighted the ‘premature interruption of economic convergence across OECD economies’ reflected in poor labour productivity and a 30 per cent gap between gross domestic product (GDP) per capita in France, Germany or Italy on the one hand, and the US on the other. He advocated systematic international comparison in the form of benchmarking to enable countries to learn from each other and thereby bring about convergence, and reported that the OECD had developed structural indicators that would enable governments to distinguish between ‘bad policies’ on the one hand and ‘legitimate societal choices’ on the other – the objective being to help governments to make ‘appropriate’ policy choices, and build public support for them (Cotis, 2005, pp. 1–2).

It is not surprising that Cotis should bemoan the slow pace of convergence among the OECD countries, and urge ‘laggards’ such as France, Germany and Italy to copy the best practice of their more competitive peers, nor that he should condemn the barriers to entrepreneurship within the OECD region represented by ‘the unfriendly environment for start-ups and relatively high regulatory and administrative burdens’, as he did, for example, in Spain in 2004 (Cotis, 2004, p. 5). But in September 2006 he took the same message to New Delhi. He told the competitors of the OECD countries in the Federation of Indian Chambers of Commerce and Industry that the OECD was a ‘convergence club . . . where policy makers from a wide variety of fields meet together to learn from each other and to emulate best practice’, then outlined the ‘new type of economic surveillance, the so-called benchmarking surveillance’ that the OECD had initiated in the previous year, and insisted that *Going for Growth* had policy

lessons not only for its own member countries, but for emerging economies such as India as well (Cotis, 2006, p. 1).

In launching *Going for Growth*, the OECD was consciously striking out in a new direction. It would draw policy lessons from the experience of the OECD countries, and devote its energies to promoting them not only within the OECD itself, but also across the rest of the world. In its own words, it is 'moving beyond a focus on its own countries and is setting its analytical sights on those countries – today nearly the whole world – that embrace the market economy' (OECD, 2007b). When it does so, the programme on which convergence is sought is prescriptive in the extreme, aimed against government policies that are 'keeping out of the labour force people who are capable of working, and often willing to do so' (Cotis, 2004, p. 3), and oriented to the promotion of competition and entrepreneurship, and the reform of labour markets and social institutions to support them: reduced labour taxes, unemployment and retirement benefits, and minimum wages, and the abolition of policies that put obstacles in the way of hiring and firing workers.

The 'convergence club' mode of policy dissemination, then, is aimed at getting states around the world to adopt policies infused with an encompassing logic of global competitiveness – or, if you prefer the phrase, of neoliberal rationality. It is both system-wide (global in scope) and state-centred, as national governments are identified as the principal agents both of reform and of the effort to legitimize reform to citizens. The lead agents in the promotion of reform packages to national governments are international agencies, increasingly coordinated among themselves, and the instruments they use are typically benchmarking, surveillance and the promotion and support of peer review. The whole model is expansive, in that states (such as the UK) and civil society actors (such as the Federation of Indian Chambers of Commerce and Industry) are drawn into the process and become reliable agents of its further propagation. And as the scope of convergence has broadened to a global scale, rules, norms and institutions largely devised in relation to issues of productivity and domestic politics in Europe and the OECD have been exported wholesale into approaches to poverty alleviation on a global scale (Cammack, 2006c). This is the process that has filled the 'institutional void' imagined by Hajer. From an institutional perspective, the means by which these policies are promoted – benchmarking, surveillance, peer review and the like – are as significant as the policies themselves, and constitute a significant innovation in global public policy, as case-studies of the OECD itself, the World Bank, the UN/UNDP (United Nations Development Programme) and the UK government will illustrate.

## THE OECD

As its name suggests, the forerunner of the OECD, the Organisation for European Economic Co-operation, was explicitly oriented from its foundation in 1948 to the harmonization of economic policies across Western Europe. The OECD itself, founded in 1961, took the form of a ‘convergence club’ from the start. Its first Article pledged it:

(a) to achieve the highest sustainable economic growth and employment and a rising standard of living in Member countries, while maintaining financial stability, and thus to contribute to the development of the world economy; (b) to contribute to sound economic expansion in Member as well as non-member countries in the process of economic development; and (c) to contribute to the expansion of world trade on a multilateral, non-discriminatory basis in accordance with international obligations. (OECD, 2007a)

The organization would seek to foster consultation, cooperation and common policies among its members, while recognizing their sovereignty by disposing that its agreements were binding only on representatives and governments that endorsed them. It also engaged with non-member states, which could be invited to join the organization if they were prepared to ‘assume the obligations of membership’ (Article 16). The OEEC/OECD may therefore be considered the first ‘convergence club’ in the area of global economic policy.

The Jobs Strategy produced by the OECD in the mid-1990s (Box 7.1) stands clearly in this tradition. It came in the context of a number of related initiatives that cannot be covered further here – notably, the founding of the European Bank of Reconstruction and Development in 1991, with its agenda of pro-market reform in Central and Eastern Europe (Cammack, 2006a, pp. 335–6), and the December 1993 publication of the EU White Paper on Growth, Competitiveness and Unemployment, following the entry into force of the single market at the beginning of the year (the latter, it may be noted, giving rise to the Open Method of Coordination, whose principles of subsidiarity, convergence, country surveillance and mutual learning perfectly epitomize the convergence club approach).

The Jobs Strategy was not addressed to the alleviation of world poverty. Rather, it proposed a general policy framework featuring sound macroeconomic policy, welfare and labour reforms, and the nurturing of an entrepreneurial climate, all geared towards enhancing competitiveness both within and between economies. However, the same broad policy framework, representing a consensus across the EU, the European Bank for Reconstruction and Development (EBRD) and the OECD itself in the period, would underpin all the approaches to the alleviation or elimination of poverty that

**BOX 7.1 THE OECD JOBS STRATEGY, 1994–95**

1. Set macroeconomic policy such that it will both encourage growth and, in conjunction with good structural policies, make it sustainable, i.e. non-inflationary.
2. Enhance the creation and diffusion of technological know-how by improving frameworks for its development.
3. Increase flexibility of working-time (both short-term and life-time) voluntarily sought by workers and employers.
4. Nurture an entrepreneurial climate by eliminating impediments to, and restrictions on, the creation and expansion of enterprises.
5. Make wage and labour costs more flexible by removing restrictions that prevent wages from reflecting local conditions and individual skill levels, in particular of younger workers.
6. Reform employment security provisions that inhibit the expansion of employment in the private sector.
7. Strengthen the emphasis on active labour market policies and reinforce their effectiveness.
8. Improve labour force skills and competencies through wide-ranging changes in education and training systems.
9. Reform unemployment and related benefit systems – and their interactions with the tax system – such that societies' fundamental equity goals are achieved in ways that impinge far less on the efficient functioning of the labour markets.
10. Enhance product market competition so as to reduce monopolistic tendencies and weaken insider-outsider mechanisms while also contributing to a more innovative and dynamic economy.

*Source:* Blondal and Scarpetta (1997–98), p. 7.

emerged from the mid to late 1990s onwards, as the international organizations moved away from the International Monetary Fund (IMF)-dominated market fundamentalism and 'shock therapy' approaches of the early 1990s towards the more comprehensive 'post-Washington Consensus'. A review of the anti-poverty policies promoted by the World Bank, the UNDP and the UK government shows just how much they share the approach of the OECD, both in policy content and the promotion of convergence.

## THE WORLD BANK

The World Bank was committed at the beginning of the 1990s to a policy framework broadly similar to that subsequently set out in the OECD Jobs Strategy, but it would take a decade to spell out the policy in detail and develop strategies to disseminate and legitimize it through the promotion of ‘country ownership’ of its sweeping recommendations for reform. The title of its 1990 World Development Report, *Poverty* (World Bank, 1990), had given notice that the Bank was making the alleviation of poverty its global priority. However, it did not make an issue of the distribution of wealth across the world, let alone its redistribution. Instead, it proposed growth as the mechanism by which poverty would be alleviated, and insisted on the need to pursue ‘market-friendly’ approaches within which the poor would mobilize their principal asset, the ability to work. It followed that the overall policy objective was to get the poor to work, by providing an environment that disposed them to do so, and adopting policies that would reproduce an exploitable workforce for the future:

The evidence in this Report suggests that rapid and politically sustainable progress on poverty has been achieved by pursuing a strategy that has two equally important elements. The first element is to promote the productive use of the poor’s most abundant asset – labor. It calls for policies that harness market incentives, social and political institutions, infrastructure and technology to that end. The second is to provide basic social services to the poor. Primary health care, family planning, nutrition and primary education are especially important. (World Bank, 1990, p. 3)

The 1991 Report, *The Challenge of Development* (World Bank, 1991), then spelled out the need for states to support competitive markets, and ‘unleash entrepreneurship’:

Competitive markets are the best way yet found for efficiently organizing the production and distribution of goods and services. *Domestic and external competition provides the incentives that unleash entrepreneurship and technological progress.* But markets cannot operate in a vacuum – they require a legal and regulatory framework that only governments can provide. And, at many other tasks, markets sometimes prove inadequate or fail altogether. That is why governments must, for example, invest in infrastructure and provide essential services to the poor. It is not a question of state or market: each has a large and irreplaceable role. (World Bank, 1991, p. 1, emphasis added)

Since the early 1990s, then, the World Bank has been consistent in the view that poverty is to be addressed by promoting competitive markets, and therefore by leading states and individuals alike to adopt the patterns of behaviour that will meet that end. It has systematically promoted the

proletarianization of the world's poor (their equipping for, incorporation into and subjection to competitive labour markets) and the creation of an institutional framework within which global capitalist accumulation can be sustained, while simultaneously seeking to legitimate the project through policies of controlled participation and pro-poor propaganda (Cammack, 2001a). The *World Development Reports* from 1990 on were of fundamental significance in this respect. At the same time as calling on the world's poor to work their way out of poverty for one or two dollars a day, they developed complementary policies intended to reorient state activity in support of the market, and shape the delivery of services to its logic. And they called explicitly from the beginning for the coordination of the activity of all agencies concerned with aid and development, in order to ensure unity around the demand for the promotion of market-friendly policies (Cammack, 2002a, 2002b).

In pursuit of these goals the Bank produced a Comprehensive Development Framework in 1999, and persuaded the IMF to revise its approach to conditionality in order to tie heavily indebted poor countries to the policy matrix and continual surveillance to which it was linked (Cammack, 2002c). The framework advocated good government, the rule of law, strong financial systems, and safety nets; education (especially for girls and women), population control and basic healthcare; investment in essential infrastructure; and rural and urban development strategies that would complement the promotion of a vibrant private sector as the engine of growth. It reflected two central aspects of convergence club politics – the first that governments should take responsibility for the adoption, implementation and legitimization of programmes, and the second that those programmes should adhere unconditionally to the promotion of enterprise and competitiveness. So Wolfensohn was emphatic that 'country ownership' was essential:

Countries must be in the driver's seat and set the course. They must determine goals and the phasing, timing and sequencing of programs. Where there is not adequate capacity in the government to do this, we must support and help them to establish, own, and implement the strategy. (Wolfensohn, 1999, p. 9)

At the same time, there could be no compromise over the need for private sector-led strategies, or for the related need for 'a climate of investor confidence – with appropriate laws, transparent regulations, and predictable taxes' (ibid., pp. 19–20). To this end the Bank developed a battery of instruments intended to procure appropriate policies and bring them under a permanent regime of monitoring and surveillance. The most prominent of these was the introduction of Poverty Reduction Strategy Papers in 1999, launching a process in which debt relief was conditional upon agreement

of a detailed programme covering every aspect of economic and social policy. It was supplemented by instruments that reached down to sectoral and local level (Sectoral Strategy Papers and the City Development Strategy), while middle-income countries that were not susceptible to pressure created by the need for debt relief would be guided towards appropriate policies by the negotiation of Country Assistance Strategies underpinned by an agreed statement of development policy (Cammack, 2002c, pp. 45–52).

This project, developed under the joint patronage of World Bank President James Wolfensohn and Chief Economist Joseph Stiglitz, reached its apogee under Sir Nicholas Stern, successor to Stiglitz at the Bank as Chief Economist, and the source of the emphasis upon building better climates for investment (Cammack, 2004a; 2006a, pp. 337–9). The 2005 World Development Report, *A Better Investment Climate for Everyone*, planned before Stern left the World Bank for the UK Treasury, advocated precisely the policies set out in the OECD Jobs Strategy. The Bank urged developing countries to ‘provide opportunities and incentives for firms – from microenterprises to multinationals – to invest productively, create jobs and expand’ (World Bank, 2004a, p. 1), and reported the introduction of two related instruments intended to enable developing countries to set themselves targets and measure their progress against their competitors – the Investment Climate Survey and the Doing Business series. The first of these, arising from the 1998 World Business Environment Survey, confronted the ‘unfortunate perception that work to improve conditions for private sector development does not relate to poverty alleviation and social development’, and featured a ‘standard diagnostic instrument applied uniformly across countries’ intended to ‘provide practical policy implications for the 80 countries studied’ (Stern, 2003, pp. xi–xii). These surveys (of firms) were complemented by Investment Climate Assessments (of countries), which focused on the ease with which business could be conducted. They typically focused on the poorest and least successful economies in the developing world. Thus one of the earliest noted that Bolivia had ranked 58th and last in the 2000 World Economic Forum *Global Competitiveness Report*, and drew attention to features of the business environment that have become a central focus of attention in all such exercises since:

New firms . . . required an average of four to five licenses and permits. Getting the paperwork done took them 66 days – a lengthy process. Some 36 percent contracted a facilitator to help obtain the necessary documents, at an average cost of \$3396. The burden on established firms is not much lighter: they needed four licenses or permits a year that took 40 days to acquire, and 26 percent contracted a facilitator at an average cost of \$1730. About 14 percent of these firms reported delays and 10 percent had to change their firm in some way to comply with the

rules. The burden of complying with these procedures may be an important explanation for the high rate of informality in Bolivia. (World Bank, 2001, p. 12)

Such data are now the staple fodder of the Bank's most conspicuous contribution to the global machinery of convergence, the Doing Business series launched in 2004 to support its private sector development agenda. Its promotion of regulatory reform as a means of securing a good business environment with competitive labour and product markets is explicitly intended to encourage poor countries to learn from and emulate rich ones (World Bank, 2004b, p. 83). In pursuit of this goal it uses benchmarking to motivate reforms in the regulatory environment for business in developing countries, to inform the design of reforms, to provide data on which monitoring can be based, and to inform regulatory theory. And as the reference above to the World Economic Forum's *Global Competitiveness Report* reminds us, the World Bank is far from alone in this endeavour. First published in 1979, with a focus on only 16 European economies, the *Global Competitiveness Report*, intended 'to help national economies improve their competitiveness' (<http://www.weforum.org>), had grown by 2006–07 to cover 125 countries, and introduced a new Global Competitiveness Index with over 90 variables, reflecting in full the elements of the 'convergence club model' outlined here, and showing how the system of mutual learning and surveillance has been perfected in recent years (World Economic Forum, 2006).

Over recent years, then, the World Bank has complemented a policy orientation focused on unleashing entrepreneurship in the developing world with the institutionalization of a comprehensive policy promotion and surveillance effort intended to achieve country adoption and 'ownership' of its favoured policies and to monitor the manner in which governments implement them. At the same time, however, its efforts to promote convergence have been hampered by the wave of 'anti-globalization' protests that began at the WTO Ministerial Conference in Seattle in 1999. It was in these circumstances that the UNDP took on a leadership role in the promotion of global convergence on poverty reduction through the promotion of enterprise.

## THE UNDP

A period of systematic institutional reform pursued by Kofi Annan after he became UN Secretary-General at the beginning of 1997 allowed the UNDP (United Nations Development Programme) to move to centre stage in the promotion of global convergence on the pro-enterprise policy reforms outlined above, especially after a wave of global protest at the end of the last century weakened the capacity of the World Bank to make the

running. In the wake of the adoption of the Millennium Development Goals in September 2000, the UNDP oversaw the commitment of governments around the world to reforms intended to build 'business climates' and unleash entrepreneurship, first in Monterrey in 2002, then at the UN World Summit of October 2005. Under the leadership of Mark Malloch Brown, who moved to the agency in 1999 from his position as World Bank Vice-President and Director of External Relations, it assiduously promoted the policies and convergence mechanisms devised by the World Bank and the OECD, exploiting to the full the potential of the Millennium Development Goals (MDGs) to secure legitimacy for the promotion of private enterprise, entrepreneurship and the exploitation of 'flexible labour' in order to alleviate poverty (Cammack, 2006b).

Annan had signalled his intentions as soon as he became Secretary-General, travelling to Davos in February 1997 to declare to the World Economic Forum that 'the United Nations and the private sector can and must work together to bring 60 per cent of the world's population into the market'; the UN's job, he told the assembled chief executive officers (CEOs), was 'to help create the conditions that make your job successful' (UN, 1997, p. 3). It would do so, as it had done in the past, by promoting convergence around private sector development and the creation of local bourgeoisies:

The United Nations has a vital role to play in supporting and preparing the ground for domestic and foreign private investment. Our detailed work in this area has included assistance for public administration reform, for economic restructuring, for privatization programmes and for essential infrastructure, as well as the strengthening of legal and regulatory frameworks. *We set the international norms and standards that make progress possible.* The United Nations has played its part in creating special economic zones, removing trade barriers, supporting entrepreneurs, and in the development of small and medium-sized enterprises. In all of these areas, we have a proud record. (Ibid., emphasis added)

His conclusion, that 'our goal for the twenty-first century is nothing less than the creation of a true global economy, genuinely open to all of the world's peoples' (ibid., p. 4), was not empty rhetoric. Subsequent internal reforms brought the Economic and Social Council (ECOSOC) and the United Nations Conference on Trade and Development (UNCTAD) into close cooperation with the IMF, the World Bank and the WTO, and made it possible for Mark Malloch Brown to seize the initiative after the 1999 Seattle meeting of the WTO and the protests that surrounded it. Speaking in February 2000 in New York, he identified a 'crisis of legitimacy' facing the IMF and the WTO, noted that the UNDP had lost ground over recent years to the World Bank, and defined for it a new role in response to new

circumstances. Such agencies were no longer to be seen as ‘instruments of transfer of development assistance from North to South, but as a catalytic force for helping the South seize the opportunities available to it in this changing world’; and the UNDP, with its ‘extraordinary global platform and convening power’, could help countries ‘develop the right policies and the right institutions that will allow them to manage their successful integration into the global economy’. This required it ‘to help them with the national institutions of political governance that they want to see strengthened when they ask it of us’, and ‘to help them develop the institutions of managed market economies’ (Brown, 2000). The UNDP from this point would be committed to promoting convergence, precisely by guiding national governments towards the ‘ownership’ and implementation of policies intended to lock them into a global economy governed by the disciplines of capitalist competitiveness.

Responsibility for generating and disseminating clear rules and norms according to which politics was to be conducted and policy measures were to be agreed was given to the High-Level Committee on Programmes, an early product of Annan’s reforms. Its terms of reference show that it was conceived as an instrument for the simultaneous promotion of national and systemic policy convergence, and expected to deploy the full range of instruments developed for the purpose. It was to ‘share experiences on policy development, programming and monitoring modalities, such as results-based approaches and the integration of statistics and indicators into policy formulation’, paying special attention to ‘enhancing the capacity of the system and member countries to assess and measure progress in the pursuit of agreed international goals, and to streamlining requirements for national reporting’ (UN, 2001a).

The committee noted at its first meeting that the ‘comprehensive and authoritative policy framework provided by the Millennium Declaration’ created the opportunity for it to become ‘a key agent of system-wide change and progress’, and for the MDGs to be ‘the driving force of the work of the system as a whole’. It concluded that it was important, for this to be achieved, that ‘each organization should “internalize” the poverty eradication goals embodied in the Millennium Declaration and for all organizations to join in a major advocacy effort in support of those goals’. Each should assess the analytical contribution it could make, and ‘the analyses should provide the basis for the development of a comprehensive framework within which relevant initiatives and activities would be introduced and placed in relation to each other’ (UN, 2001b, pp. 2–3). Similarly, the Programme of Action agreed at the 2001 Conference on Least Developed Countries (LDCs) detailed the entrepreneurial, productivity- and competition-oriented character of the strategy to be pursued at national level, and laid out detailed

arrangements for 'Implementation, Follow-up and Monitoring and Review', producing a comprehensive surveillance regime that linked the UN's own Common Country Assessments and the United Nations Development Assistance Framework (UNDAF) to the World Bank's Poverty Reduction Strategy Papers (PRSPs), and proposed 'independent peer reviews of the application of commitments by individual LDCs and their partners as part of the follow-up at national, sectoral, subregional, regional and global levels' (UN, 2001c, pp. 57–64). In sum, a comprehensive system for achieving convergence on pro-enterprise policies was put in place at the UN around the turn of the century, with the Millennium Development Goals as the driving force behind it.

Three successive initiatives between 2002 and 2005 demonstrated the systematic manner in which the agenda laid out here was pursued. The first was the adoption of the Monterrey Consensus at the First International conference on Financing for Development in March 2002. This was the product of a High-Level Panel on Financing for Development convened by Annan in December 2000, and chaired by ex-President of Mexico Ernesto Zedillo, with Jacques Delors, former President of the European Commission, Robert Rubin, former Secretary of the US Treasury, and Manmohan Singh, the architect then and since of India's neoliberal reforms prominent among its members. The second was the publication by the UNDP in 2004 of the report of the Commission on the Private Sector and Development, chaired again by Zedillo, this time in conjunction with Canadian Finance Minister and subsequent Prime Minister Paul Martin. The third was the outcome document of the UN 'World Summit' of September 2005. As detailed elsewhere (Cammack, 2006b), the first and third of these committed the governments that adopted them to develop a domestic environment hospitable to domestic entrepreneurship and foreign investment, while the report of the Commission on the Private Sector and Development, *Unleashing Entrepreneurship: Making Business Work for the Poor* (UNDP, 2004) offered emphatic evidence that the UNDP had taken charge of the convergence agenda launched by the World Bank over a decade earlier.

Drawing heavily on the World Bank's *Doing Business in 2004* and the OECD's private sector development work (ibid., p. 44), *Unleashing Entrepreneurship* opened with the statement that ending poverty, 'the aspiration of the Millennium Development Goals', was 'the overriding developmental objective of the 21st century', and moved immediately to declare that 'the objective of poverty alleviation leads us to focus on developing businesses that create domestic employment and wealth – by unleashing the capacity of local entrepreneurs' (UNDP, 2004, pp. 1–2). The document marked the full extension to the developing world of the policy framework

identified in the OECD Jobs Strategy reviewed above, with its emphasis on the development of local accumulation in a domestic policy environment characterized by regulatory reform, support for entrepreneurship, flexible labour markets and the nurturing of a skilled and educated workforce.

These initiatives are the tangible outcomes of a conscious strategy orchestrated at the UN under the leadership of Kofi Annan to make UN agencies the lead agents of a process in which the alleviation of poverty is to be achieved through the promotion of private enterprise. On this evidence, it is not that clear rules and norms are absent in the area of global 'anti-poverty' policy, but rather that the lead agencies producing them have been able to attach to the broad goal of poverty alleviation norms and rules shaped by the logic of global competitiveness. The transition engineered from the anti-poverty objectives of the Millennium Development Goals to the pro-enterprise prescriptions of the Monterrey Consensus is a perfect example.

## UNITED KINGDOM

While the global poverty policy arena has been shaped for the most part by the activity of international institutions rather than governments, the UK government under New Labour since 1997 has played a particularly prominent role in the promotion of entrepreneurship and competitiveness as the means of 'eliminating global poverty'. The early commitment of Blair's government to a pro-business orientation (Farnsworth, 2006) and to competitiveness in the global economy (Cammack, 2006a, p. 344) was matched from the start by a reform of foreign development and aid policies that evolved over a decade into a notable example of convergence club politics. This began with the 1997 and 2000 White Papers on Development (Cammack, 2001b, on which the following paragraphs draw), and ran through to the Africa Commission report of 2005 (Commission for Africa, 2005) and the third White Paper on Development, published in July 2006. As with other aspects of convergence club politics, the overall coherence of the policy stance promoted is not necessarily apparent at first sight, muddled as it is by the confused and short-lived claims to an 'ethical foreign policy' associated in particular with Robin Cook and Clare Short. But while the ethical foreign policy came and went, the Department for International Development (DFID) consistently promoted the policies espoused by the IMF and the World Bank and argued for the further extension of international monitoring and surveillance to ensure adherence to them. At the same time, the commitment of Gordon Brown as Chancellor of the Exchequer throughout the period to the promotion of competitiveness ran seamlessly into the UK's

contribution to the global politics of convergence, especially after Brown himself assumed the chair of the International Monetary and Financial Committee of the IMF on its creation in 1999 (Cammack, 2003, p. 49). These ties were further reinforced in the person of Sir Nicholas Stern, who moved from the EBRD to the World Bank, and from the World Bank to the UK Treasury, bringing with him the focus on creating 'better climates for investment' discussed above.

The White Papers of 1997 and 2000 were explicitly committed to global neoliberalism, with macroeconomic discipline guaranteed by strong central control over policy and locked into place through an independent central bank and a disciplinary framework imposed by the World Bank, the IMF and the WTO. At the same time, they called for and offered to lead a process of explicit coordination of the efforts of all international agencies in order to ensure the comprehensive imposition of this framework. Within it, echoing exactly the contemporaneous policy of the World Bank, the poor were to be 'freed from poverty' by being obliged to become workers or competing small producers within a thoroughly competitive global capitalist economy, while contributing further unpaid labour to community organizations and the provision of essential infrastructure.

The 1997 White Paper announced that 'the virtuous State has a key role to play in supporting economic arrangements which encourage human development, stimulate enterprise and saving and create the environment necessary to mobilise domestic resources and to attract foreign investment' (DFID, 1997, p. 12), and went on to call for encouragement for the private sector as the main source of economic growth, through the shaping of individual and social incentives:

Individuals, households, enterprises and communities need the capacity to take advantage of opportunities to initiate and participate in new economic activity, to be provided with the appropriate incentives to stimulate their efforts to pursue and sustain income-generating activities, and to be encouraged through targeted instruments that promote economic activity. (Ibid., p. 29)

Not surprisingly, given this orientation, the UK government pledged itself to work closely with the World Bank and the IMF. But it went further, to propose for itself a leading role in the promotion of convergence on these policies:

This is a White Paper which reflects Britain's unique place in the world and our opportunity to adopt a new international role. No other country combines membership of the Group of Seven industrialised countries, membership of the European Union, a permanent seat on the Security Council of the United Nations (UN) and membership of the Commonwealth. Our particular history places us on the fulcrum of global influence. (Ibid., p. 20)

From the very start, then, New Labour was an enthusiastic advocate of the politics of convergence, and it tied the strategy outlined in its successive White Papers (all of which, incidentally, have the main title *Eliminating World Poverty*) explicitly to the policy packages promoted by the World Bank and the IMF. Thus the 2000 White Paper largely reaffirmed the policy proposals of the first, while welcoming the codes and standards agreed internationally on data dissemination requirements, transparency in fiscal and monetary policy, financial supervision and corporate governance, and warning that ‘these codes and standards will only work if there is an effective surveillance mechanism to monitor their implementation, so that the public and investors are well informed and can have confidence in the information provided’ (DFID, 2000, p. 53). In that context, it took pride in its own role in the adoption of the new framework and urged its further extension:

At the meetings of the World Bank and the IMF in 1999, it was agreed, *at UK prompting*, that the support provided by the World Bank and the IMF to developing countries should be focused around debt reduction strategies. These would be drawn up by the developing country government in consultation with its civil society . . . We believe that the principle of a country-led poverty reduction strategy should apply to middle income countries and to other developing country regions too. (Ibid., p. 91, emphasis added)

In this spirit the White Paper concluded with an ambitious programme for the creation of an international system in which the UN, the IMF, the WTO, World Bank and the multilateral development banks, the G8, the OECD and the Commonwealth would all work together, guided by the World Bank’s Comprehensive Development Framework and the International Development Targets, to ensure that all countries in the global economy faced a unified international framework (ibid., pp. 92–101).

Following the passage of the International Development Act of 2002, the 2005 Commission for Africa report and the 2006 Development White Paper built on these foundations, comprehensively endorsing not only the convergence programme but also the full range of mechanisms assembled to guide its adoption. The Commission for Africa, dominated by African supporters of business, the World Bank and the IMF, and guided from the Treasury by its Director of Research, Sir Nicholas Stern, predictably identified the creation of better climates for investment as the key to African poverty alleviation and prosperity. As detailed elsewhere (Cammack, 2006a), it not only drew heavily on current World Bank policy advice, but also gave particular prominence to mechanisms to promote convergence being developed within Africa (with direct support from the G8 and the World Economic Forum, as well as the UK government itself). Chief among these was NEPAD (the New Partnership for African Development), created in 2001 to make

competitiveness and integration into the global economy the responsibility of African governments. Central to this in turn was the African Peer Review Mechanism, a mutual surveillance pact that would internalize to the region the parallel frameworks maintained by the international organizations (*ibid.*, pp. 339–40).

Against this background the 2006 White Paper (DFID, 2006) was able to deploy a well-rehearsed narrative, taking the Millennium Development Goals as a point of reference, then moving by way of the activity surrounding the Africa Commission report and the Make Poverty History campaign of the previous year to articulate one by one the central tenets of the politics of convergence: the centrality of states, suitably supported by World Bank and IMF-approved poverty reduction strategies, peer review mechanisms (such as the African Peer Review Mechanism), and the international community; the need to promote private enterprise through domestic reform and the ‘creativity and hard work of entrepreneurs and workers’ (*ibid.*, p. 58); and commitment to the common principles of macroeconomic stability, the removal of unnecessary barriers to business and the creation of a good climate for investment (as through the African Union/NEPAD-supported African Investment Climate Facility), investment in infrastructure through public–private partnership, private agricultural production and support for the private sector (*ibid.*, pp. 59–63).

The UK government since 1997 has been exceptional in the manner in which it has deployed the logic of competitiveness in both its domestic and its foreign economic policy, and in its close cooperation with international institutions in the promotion of convergence around policies favouring domestic and global reform supportive of private enterprise. Its trajectory over a decade from 1997 illustrates precisely the manner in which initiatives in the international arena have been coordinated, and tied into new mechanisms of oversight and mutual surveillance, in order to enforce a logic through which the issue of poverty is addressed from a single standpoint shared with the OECD, the World Bank and the UNDP.

## CONCLUSION

This chapter set out with three objectives: to describe the rules, norms and institutions that have emerged since 1990 in relation to the issue of poverty; to show how they embrace subnational, national and supranational levels, order relations between the state, civil society and the market, and incorporate horizontal networks at various levels; and to suggest that their objective is to reconstitute states around the world as part of a larger project of creating a competitive global economy.

The case-studies above have shown that there was increasing convergence among global elites during the 1990s on a set of policy prescriptions that were said to offer the solution to problems of both low productivity and sluggish growth in the developed world, and to poverty in the developing world. In the early years of the twenty-first century the OECD was promoting itself as a 'convergence club' whose lessons were available to all states in the world, while the UN had become the lead agency in promoting the policy package across the developing world. The normative framework through which convergence in global poverty policy operated was encapsulated in the Millennium Development Goals which, as their framers intended, have become the driving force behind poverty alleviation. Second, the goals had been tied, through the Monterrey Consensus and the UN World Summit of 2005, to a set of rules advocated by the OECD and the World Bank: the responsibility of states for ownership, implementation and legitimization of prescribed policies, and the need for macroeconomic stability, and a regulatory and institutional framework that enforces competition and promotes competitiveness, in relation to both capital and entrepreneurship, and workers and welfare and labour market reform. At the same time, national governments at the heart of the process (the UK under New Labour being the prime example) have adopted successive global frameworks as their point of reference (initially the IMF–World Bank disciplinary framework, and subsequently the MDGs), and urged them upon the developing world. Third, a whole array of institutions have been developed through which adherence to these norms and rules is sought, centred on surveys and reports on competitiveness conducted by the OECD, the World Economic Forum and the World Bank, and related mechanisms of surveillance, benchmarking and peer review. These are supplemented by a host of similar arrangements at regional level. NEPAD and the African Peer Review Mechanism, described above, are paralleled by other similar processes such as the EU's Lisbon Agenda, with its post-2005 focus on the reconstitution of states as agents of pro-competitiveness reform and the EU–IDB–OECD's Latin American Competition Forums, running annually since 2002 (Cammack, 2004b).

For an indication of the logic underlying these mechanisms, we may turn to the OECD, and the UK Treasury. Jean-Philippe Cotis argued, when presenting the OECD strategy in Spain, that 'product and capital markets are not open enough and therefore not integrated enough to generate *the right kind of competitive pressures*. This limits the scope for specialization, which brings efficiency gains and productivity improvements' (Cotis, 2004, p. 5); and in similar fashion, the UK Treasury document *The Case for Global Markets* (HM Treasury, 2006) calls in the middle of a general endorsement of competition for a step-change in the Lisbon Process:

Instead of simply reaching political agreements on timetables for liberalisation and market-opening legislation, Europe needs a process in which all sectors which fail to liberalise and open up to competition are subject to independent investigation and enforcement, *undertaken free from national political interference*. Where national practices are found to provide barriers to the Single Market, the necessary regulatory, structural and competition-law based remedies must be applied to drive up the levels of competition. (HM Treasury, 2006, p. 10, para. 39; emphasis added)

It is not surprising that the UK Chancellor who ceded control over the Bank of England should actively seek to circumscribe national sovereignty in this way. It reflects a commitment to a logic of global competitiveness, at the root of which is a positive desire to reinforce ‘the right kind of competitive pressures’ of which Cotis speaks. Institutions such as the OECD and the World Bank, and governments such as that of the UK, are committed above all to the reproduction of global capitalism, central to which are both the hegemony of capital over labour, and the subjection of capital and labour alike to the disciplines of competitiveness. The promotion of such competitiveness on a global scale is the price that must be paid if those disciplines are to operate effectively at a national level. This is the logic at the heart of global public policy in relation to poverty. And as noted at the outset, it is as coherent as the capitalism whose logic it reflects. In other words, governments and international organizations promote competitiveness because the character of the global capitalist system obliges them to do so. But in doing so they are digging their own graves, as the process, if ever completed, can only lead to competition without end, and not to global prosperity, but to universal immiserization.

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## 8. Globalization, governance and health

**Sarah Payne**

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### INTRODUCTION

The focus of this chapter is health in a global context – particularly the ways in which globalization affects health and the role played by global health governance in protecting health on a global scale. In recent decades globalization has speeded up, while patterns of health and health inequality, both between countries and within them, have changed. While some aspects of globalization offer the prospect of improvements in health, others increase exposure to health risks. Health governance has a role to play in global health, although the nature of that role has varied over time and the success of global health governance is unclear.

We begin with a brief account of recent global trends in health, and a discussion of definitions of globalization and of global health governance. This is followed by an exploration of the ways in which we might expect globalization to affect health and a more detailed look at the part played by global health governance in promoting health and protecting populations.

### HEALTH IN A GLOBAL PERSPECTIVE

In the last half of the twentieth century global life expectancy increased by nearly 20 years. More developed countries gained an average of nine years, while developing countries with high mortality gained 17, and developing countries with lower mortality gained 26 years (WHO, 2003; Leon and Walt, 2001). This represents a significant improvement worldwide, but there continues to be a health gap between richer and poorer countries. Over 1 billion people worldwide have experienced only slight gains in health and life expectancy since the 1950s (Beaglehole and McMichael, 1999), and in some countries mortality figures show little change or have got worse.

In the ten years between the publication of the first *World Health Report* in 1995 and the one in 2005, life expectancy at birth for both sexes increased

by more than five years in over 20 countries including, for example, Uganda, Vietnam and Morocco (WHO, 1995, 2005). In Bangladesh life expectancy improved by ten years while in Gambia the increase was 12 years. However, in the same decade 42 countries experienced a loss in life expectancy of between one and 25 years (WHO, 1995, 2005). The countries which experienced the greatest deterioration included Botswana, where life expectancy at birth for both sexes fell by 25 years over the ten-year period; Lesotho and Swaziland, where life expectancy fell by 23 years; and Zimbabwe where life expectancy fell by 19 years.

The countries with the most marked decreases in life expectancy are those with high levels of poverty and where HIV/AIDS is endemic: sub-Saharan Africa is more severely affected by HIV/AIDS than any other part of the world (Beaglehole and McMichael, 1999; WHO, 2003). Some have also experienced extended periods of conflict during the same decade. Countries with falling life expectancy have particularly high levels of child and maternal mortality which reflect the impact of poverty and poor nutrition on the health of women and children and the increased risks experienced by women with HIV/AIDS in pregnancy and childbirth, together with the health costs of unplanned pregnancies, a lack of reproductive rights, unsafe abortion, poor or non-existent healthcare during childbirth and during the postnatal period, and the prohibitive cost of services. In Africa, over a third of children now have a higher risk of dying compared with the early 1990s (WHO, 2003). Economic and social change has also brought deteriorations in health in other countries, especially those which made up the former Soviet Union. Between 1995 and 2002 life expectancy in the Russian Federation fell from 68 to 65, while the decline in Tajikistan was even more marked, from 71 to 64, illustrating the fragility of advancements in health in the face of dramatic social and economic change (WHO, 1995, 2004; Beaglehole and McMichael, 1999). Mortality among men increased particularly rapidly following the break up of the USSR, suggesting gender differences in the impact of socio-economic factors play a key part.

Alongside the continued gap between countries in health, there continues to be a gap in income and wealth. Twenty per cent of the world's population live in absolute poverty on less than \$1 a day, while 40 per cent of the world's population survive on under \$2 a day (UNDP, 2001). Health outcomes associated with such extreme poverty include high levels of mortality at all ages, and a greater risk of illness and disability. One consequence of poverty has been the re-emergence of diseases once thought eradicated and easily treatable with the right resources (Walt, 2000). Diarrhoea, pneumonia and malaria, for example, continue to take the lives of millions of children in Africa (WHO, 2003).

## DEFINING GLOBALIZATION

Neither globalization nor the potential threat to health posed by globalization are new. The discovery of the Americas by Europe in 1492 brought political, social and economic change to indigenous populations, while the introduction of new diseases, the use of force and firearms, and the seizure of land, all led to increased mortality among indigenous people (Walt, 2000). However the nature of globalization has changed: it has speeded up and takes place on a larger scale: distances are smaller, communication and travel are both faster and the spread of ideas, cultures and values takes place more quickly (Walt, 2000). Globalization has also intensified in recent years, following the reduction and removal of barriers to international trade and foreign direct investment (FDI). All of these changes carry implications for the ways in which globalization might impact on health and in particular which groups are most affected by such change.

Globalization is clearly complex and has been defined in various ways, but definitions largely focus on the political, economic and socio-cultural changes which follow globalization, and highlight the flow of information, goods, capital and investment and people across national boundaries (Lubbers and Koorevaar, 1999; Daulaire, 1999; Walt, 2000).

How might globalization affect health? Globalization can be both an opportunity for improvements in health and a threat to health (Berlinguer, 1999; Walt, 2000). Health gains as a result of globalization include improved life expectancy in populations where income growth increases access to basic necessities and key services including healthcare, social care and education, and improves access to information, knowledge and technology. However globalization may also bring adverse consequences for health, including poorer working conditions, exposure to unhealthy lifestyles and cross-border transmission of disease. Significantly the gains and the costs of globalization are unlikely to be evenly distributed, and poorer populations suffer most from adverse effects.

## DEFINING GLOBAL HEALTH GOVERNANCE

Globalization as a process, and the consequences it brings, has led to an increased necessity for global public health interventions (Barillas, 1999) – countries have to work with one another to share public health actions and information, particularly when there are outbreaks of disease, and there has been a growth in international legislation relating to health. These changes have led to new roles for a number of agencies, and there are now

a variety of transnational and international organizations dealing with global health issues such as the transmission of disease, health risks and healthcare.

Health governance refers to ‘the actions and means adopted by a society to organize itself in the promotion and protection of the health of its population’ (Dodgson et al., 2002). Global health governance thus describes those actions taken at all levels – local, national, regional and international – which are intended to safeguard health. The actions themselves may be pursued by NGOs, the public sector or private organizations. In recent years there has been increasing debate over the ways in which globalization presents specific challenges not only for health but also for health governance. It has been argued that earlier systems of international health governance (IHG) – for example intergovernmental cooperation to protect the health of shared populations – are no longer adequate in the face of an intensified form of globalization which increases both the number of risks to health and the speed at which such risks travel (Dodgson et al., 2002). Alternatively a new system of global health governance (GHG) which recognizes the social determinants of health and of health inequalities and which explicitly engages with these factors is seen as necessary.

The key actors in global health governance at the present time are the World Health Organization and the World Bank, although other organizations are also important, including programmes run within the United Nations system: the United Nations Development Programme (UNDP), United Nations International Children’s Fund (UNICEF), United Nations Population Fund (UNPFA) and the World Food Programme (Dodgson et al., 2002). In addition a number of global pressure groups – for example, the Global Alliance for Vaccines and Immunizations (GAVI), the Global Forum for Health Research, the Global Fund to Fight AIDS, malaria and tuberculosis (GFATM), and the Global Alliance for Improved Nutrition (GAIN) – have grown up, partly as a result of changes in communication, especially the Internet, but also in response to particular health threats.

Of these, the World Health Organization is one of the most prominent in the field of health governance. The WHO was established in 1948 and currently has 192 member states. WHO’s constitution sets out the well-known definition of health as comprising ‘a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity’, and outlines the organization’s objective as ‘the attainment by all peoples of the highest possible level of health’. In the 50 years or more since the WHO’s inception, the work it has carried out has varied and the role it plays in global health has faced criticism and challenge, as well as support. In the 21st century the WHO is seen by many as relatively ineffectual and

weak due to both internal politics (internal power struggles and lack of agreement on direction) and a shift in power to the World Bank and the International Monetary Fund, mirroring shifts in power in member states from the Minister of Health to the Minister of Finance following increasing privatization of healthcare and social care in the last years of the twentieth century (Berlinguer, 1999; Global Health Watch, 2005). Many see the WHO's main role as one of disseminating information, rather than leading policy. Between 1998 and 2003 the Director General, Dr Gro Harlem Brundtland, was credited with raising the organization's profile, while Dr Jong Wook Lee, who held the role from 2003 until his death in 2006, addressed issues around the eradication of polio and access to treatment especially for HIV/AIDS (Türmen, 1999). The priorities of the new Director General, Dr Margaret Chan, focus on health systems performance and health security as well as the internal organization of the WHO.

However, priorities for global health and for global health governance have been defined through a number of institutions rather than by the WHO alone – for example the United Nations' Millennium Development Goals adopted in 2000 include three goals related to health improvement: reductions in child mortality, improvements in mental health and a third goal specifically focused on reducing the toll of HIV/AIDS, malaria, tuberculosis and other communicable diseases.

Judgements about the success of global health governance are also linked with inequalities in the impact of globalization on health. Gender differences in globalization, for example, include both positive effects for women – employment opportunities and a broadening out of social networks – and costs of deepening inequalities and poverty which women are more vulnerable to due to sexual divisions of labour and inequity in access to resources. Women are also often the majority workforce in industries which are unregulated and unsafe, and are less able than men to afford healthcare in systems where there are user fees (Harcourt, 2001; Weisbrot et al., 2002; Doyal, 2002).

## THE SOCIAL DETERMINANTS OF HEALTH

In 2004 the WHO announced the creation of a Commission on Social Determinants of Health, to focus on the social and environmental causes of health inequality around the world and interventions which might reduce such inequality. The rest of this chapter explores some of the key social factors – rather than biological risk factors – shaping global health today and asks what part global health governance has played in responding to these.

## EMPLOYMENT AND OCCUPATIONAL HEALTH

Paid work is a key source of income and material resources, but it is also a source of inequality. For some, paid work is associated with ill-health and the risk of premature death, and the distribution of work-related health risks is affected by processes of globalization.

Under-reporting of deaths and health conditions due to paid work means that official data on occupational accidents and disease tends to understate the number of people affected. However, the International Labour Office estimates that around 2.2 million work-related deaths occur each year (ILO, 2005). There are a number of risks to health associated with paid work: accidental injury, the risk of violence and homicide, exposure to carcinogens and the musculoskeletal damage caused by poorly designed workspaces and repetitive tasks, for example. ILO data on work-related deaths show that the causes of such mortality vary between countries. For example workers in China and other Asian countries and in sub-Saharan Africa have greater risks of death due to work-related violence and accidents, and mortality due to respiratory disease is also high in China. In India and sub-Saharan Africa a high proportion of work-related mortality stems from communicable diseases, particularly malaria contracted as a result of paid work in infested areas and inadequate protection (ILO, 2005). These risks are not distributed equally among the employed populations but are more common among those working in low-status jobs, and in some occupations including agriculture, manufacturing and construction, in both developed and developing countries. Men make up the majority of those suffering work-related death; younger workers are most at risk of accidental death; while women suffer more from long-term chronic health problems arising from work.

It is notable that workers in developing countries are more likely to suffer occupational accidents and work-related ill-health than their counterparts in more developed countries (ILO, 2005). There are a number of reasons for this: safety equipment is less readily available, there are fewer employment regulations and rule enforcement is often weak with too few occupational health experts to carry out inspections (Frumkin, 1999). The hazard profile of workers in developing countries is also increased due to the labour-intensive nature of many processes, the long hours worked, and the fact that they spend more years in paid work. Rapidly industrializing countries in the South are now experiencing the kinds of fatal accidents – in construction and manufacturing, for example – that have been reduced in more established economies (ILO, 2005). The tropical climate in many developing countries poses an additional hazard for workers when combined with long hours, inadequate cooling systems and lack of air conditioning,

increasing the risk of heat exhaustion and accidents. In addition low levels of literacy mean that instruction manuals, guidance and safety regulations are less likely to be accessible, while poor nutritional status can also affect risks of accidents. Ergonomic factors and in particular machinery which was designed for workers in the developed world, with a larger stature, also increase the physical stress of some occupations and the risk of injury, while cultural factors such as fasting during daylight hours during Ramadan can again increase the risk of accidents (Frumkin, 1999).

Globalization has stimulated the emergence of free trade zones (FTZs) or export processing zones (EPZs), with particular consequences for employment and health. FTZs are areas established by national governments to promote investment by transnational companies, and involve the creation of manufacturing plants which bring employment for local populations (Frumkin, 1999). It is estimated that there are more than 5000 FTZs, and that 40 to 50 million people – mainly women – are employed in such zones (Global Health Watch, 2005). Free Trade Zones enjoy limited external control over their activities, particularly in relation to employment practices and conditions, and in relation to occupational health systems. This lack of regulation over employment conditions has serious implications for workers employed in FTZs, who are routinely exposed to a number of health hazards. Employees working with dangerous chemicals are often located in inadequately ventilated buildings, for example, and without protective equipment. Manufacturing plants are poorly built, and do not comply with standards on fire risk and evacuation. Working conditions and rest facilities are unsanitary and workers' rights to meal and toilet breaks are often ignored, with 12–18-hour days common (Frumkin, 1999; Theobald, 1999; Global Health Watch, 2005). The health risks endured by workers in such zones include both chronic conditions – eyesight problems, muscular disorders, physical stress, reproductive ill-health – and also increased risks of accidents, respiratory disease and cancer (Subramaniam, 1999; Frumkin, 1999). Research on the women's health in FTZs suggests they suffer further health risks from sexual harassment and abuse from male co-workers and superiors (Theobald, 1999).

Global governance in the area of occupational health however is weak. Many transnational companies do not have occupational health policies, and those companies which have adopted corporate codes of conduct stating that they adhere to standards of employment followed in the home (developed) country, often flout such codes in practice (Prieto-Carron, 2005). Studies have shown that workers often do not know of the existence of such codes, or fear reprisal, particularly loss of employment, if they report incidents of harassment or breaches of health and safety codes to management (Frumkin, 1999):

Whatever happens, the woman being harassed is not going to talk. She must be telling herself that I do not say anything about the boss because I would be fired and I will not have anywhere to work. (Prieto-Carron, 2005)

Economic liberalization in the latter half of the twentieth century led to removal of trade barriers and the use of free trade agreements to increase international trade. The most significant of these processes have been the General Agreement on Tariffs and Trade (GATT) – first signed in 1947 – and the World Trade Organization (WTO), established in 1995. However, these free trade agreements have failed to include occupational health and worker safety issues in their terms. Such issues relating to the protection of workers have been excluded on the basis that the requirement that companies should follow international standards on employee safety and health would be equal to trade restriction – and thus against the spirit and practice of free trade (Frumkin, 1999).

The Annual Conference of the International Labour Organization (ILO), a special United Nations agency founded in 1919, agrees a series of ‘Conventions and Recommendations’ relating to standards of basic labour rights including employment conditions. Over 175 countries are members of the ILO. In 2003 the ILO Conference delivered a paper outlining recommendations for a global strategy on occupational safety and health. The paper spelt out the ILO’s role in disseminating knowledge and supporting the work of national governments and organizations such as the World Bank and the WHO. Recommendations focused on systems of labour inspection, the development of new instruments to measure occupational health, the need for technical cooperation and the introduction of an annual event on occupational safety and work-related health: the World Day for Safety and Health at Work. However, while the ILO has drawn attention to both the uneven distribution of occupational health hazards and the need for monitoring and improvement, it remains largely without effective power to safeguard workers’ health. The Conventions and Recommendations drawn up in conference must be put to national governments by all member states – but do not have to be accepted, or acted upon. There is a supervisory body to oversee this process but commitment to the standards set by the ILO remains voluntary.

## THE MARKET AND HEALTH

A key feature of globalization has been the changing marketplace – and in particular the scale and volume of international trade. Changes in global markets also affect global health risks, and the adverse health consequences

of the increased marketing of high-fat, high-sugar foodstuffs, tobacco and alcohol are a key part of the global burden of ill-health in the twenty-first century. Obesity, for example, has been increasing in both developed and developing countries; in the US there has been a 74 per cent increase in obesity since 1991 (Lee, 2003). At the same time, food insecurity and under-nutrition remain major causes of ill-health and premature death around the world – at a time when more food than ever is being produced (Global Health Watch, 2005).

The globalization of the food industry and the increasing dominance of a few transnational corporations, combined with the intensive marketing of highly processed food, plays a key part in the nutrition transition. All along the food supply chain production has consolidated and the dominant transnational corporations increasingly control the production of food from start to finish. Companies such as Coca-Cola, Kraft Foods, Monsanto and McDonald's hold key positions in the global food economy and exert their power in numerous ways (Lee, 2003).

Food producers enjoy the benefits of subsidies in developed countries, particularly in the US and the EU, and this encourages the overproduction of food in richer countries while making it harder for less developed countries to compete. Declining investment in agriculture and reduced yields from home-grown crops then further increases the dependency of developing countries on imported foodstuffs.

Global changes in diet also adversely affect health; the increasingly urbanized population in developing countries, without the opportunity to produce their own food, rely more and more on processed food which is high in saturated fat, low in nutritional value and which is heavily sold to them through advertising and marketing campaigns. Similarly, the tobacco market is a global market and the production of tobacco products is dominated by four transnational corporations, including Philip Morris and British American Tobacco which between them account for nearly one-third of world sales (Lee, 2003). The tobacco industry markets tobacco products to new users in developing countries to compensate for declining numbers of smokers in the developed world, through practices which include free cigarettes to those employed in the production process, sponsorship of community activities including beauty pageants and sporting events, and large-scale advertising campaigns.

In both food and tobacco there have been various attempts to control production, marketing and sales, with varying degrees of success. Two key players in terms of global health governance in relation to food standards and diet are the WHO and the United Nations Food and Agriculture Organization (FAO). The framework within which these organizations – particularly the FAO – operate is one which embraces the relationship

between the public and private sectors. The FAO, for example, aims to foster private investment and sees the role of the private market in food security as necessary and positive. However, in practice, the part played by industry has been less positive. In 2002 the WHO outlined a global strategy on diet, physical activity and health which focused on the impact of poor diet and lack of activity on key non-communicable diseases, and the WHO, together with the FAO, later published a technical report on diet, nutrition and health (WHO/FAO, 2003). This report formed the focus of strong resistance from the global sugar industry, which disputed the scientific basis of the evidence and put pressure on national governments, particularly in the US, to withdraw funding from the WHO unless the report was retracted. Although the report stood, the struggle illustrated the food industry's ability to mount opposition to policy which is not in its interests.

The WHO and the FAO also established the Codex Alimentarius Commission in 1961. The commission is a body which aims to establish international food standards covering both the content of foods and how foodstuffs are labelled. However, the membership of key working groups inside the commission is dominated by representatives from the food industry while many of those on government delegations also come from an industry background (Global Health Watch, 2005).

Transnational corporations also aim to influence global health research through their involvement in global bodies such as the World Sugar Research Organisation, which is made up of sugar producers, processors and marketers, and in the International Life Sciences Institute which is funded by the food industry in order to 'further the understanding of scientific issues relating to nutrition, food safety, toxicology, risk assessment, and the environment' (<http://www.ilsa.org>, accessed 3/6/05).

With tobacco, the key attempt to alter the balance of power and oppose the production and sale of tobacco products has been with the WHO Framework Convention on Tobacco Control (FCTC). The Framework, which came into effect in 2005, is legally binding for those countries who endorsed it. The FCTC requires signed-up countries to ban all forms of tobacco advertising, sponsorship and marketing, and to protect their public health policy from tobacco industry influence. However, the only sanction available if countries break their agreement is that of being identified as failing to act on the FCTC; there is no enforcement agency (Global Health Watch, 2005). As a result those aspects of the agreement most difficult for NGOs and others to monitor – the influence of the tobacco industry for example in setting the policy agenda – may result in this being a further example of weak rather than strong global health governance.

The effects of trade liberalization, increased foreign direct investment and the consolidation of the market are also significant in the pharmaceutical industry. There are wide variations between countries in access to essential medicines and in how much is spent on pharmaceuticals. In 2003, the annual drugs expenditure per capita in the US was \$728 for example, compared with \$125 in Mexico and \$112 in Turkey (OECD, 2005). Average per capita expenditure on medicines in high-income countries is 100 times higher than that in low-income countries (WHO, 2004). The US makes up 5 per cent of the world's population but consumes 42 per cent of medicines, while 72 per cent of the world's population, in countries with the most disease and the greatest need, consume only 13 per cent of all drugs (Global Health Watch, 2005). Thus one-third of the world's population do not have access to basic medicines (Oxfam, 2001) while in some countries the proportion of the population without access is even higher: in Burundi, Angola, Sudan and Nigeria, for example, more than four-fifths of the population do not have access to basic medicines (UNDP, 2001). While a significant proportion of the world's population do not have access to essential medicines, many of those in developing countries who do have access receive poor-quality medicines, or the wrong ones, or take them wrongly as a result of inadequate regulation of medicines, poor labelling or inappropriate interventions (Subramaniam, 1999; Walt, 2000). For example, quinacrine is an anti-malarial drug which has been promoted as a means of chemical sterilization of women in India, Vietnam and Indonesia. The drug is inserted in the woman's uterus to form a scar which seals the Fallopian tubes, and is non-reversible. Over 31 000 women were sterilized using this drug between 1989 and 1993, despite the fact that it had not been tested for this purpose and that the safety of the intervention was unknown (Subramaniam, 1999). Initial data on quinacrine sterilization suggested that it was not wholly safe, and the practice was associated with both fatalities and increased risks of cancer among women (Visvanathan, 1999). While it was viewed as a cost-effective means of sterilization in poorer countries in the absence of alternative methods, women's health movements have criticized the use of quinacrine for this purpose and have questioned the emphasis given to cost rather than safety and long-term health effects. In addition, there is concern that quinacrine is being tested as a means of sterilization on women in poor and developing countries prior to its use in more developed parts of the world. Research has yet to demonstrate conclusively that this is a safe procedure, although interestingly quinacrine is now being promoted as a form of sterilization in the US (see for example <http://drwhitney.com>).

The pharmaceutical industry is also heavily concentrated, with the top ten pharmaceutical corporations accounting for over half of all sales worldwide (Mirza, 1999). As a result, decisions taken by these few companies about

which diseases to research, the costs of essential drugs and the distribution of pharmaceutical products have significant effects on the health prospects of millions. The health of people in developing countries is compromised not only by the unaffordability of essential medicines but also by the failure of the pharmaceutical industry to research diseases which are unprofitable. The Global Forum for Health Research has estimated that less than 10 per cent of research funding worldwide is directed towards health problems of developing countries despite the fact that these countries account for more than 90 per cent of the world's health problems. This '10/90 gap' carries significant consequences for the achievement of the Millennium Development Goals ([www.globalforumhealth.org](http://www.globalforumhealth.org)). So-called 'orphan' or neglected diseases are not researched by the pharmaceutical industry either because the disease is too rare or because those primarily affected by the disease are unlikely to have the resources to buy treatment, particularly when most people with the condition live in developing countries (WHO, 2004). In both cases the costs of developing the drugs are seen as uneconomic by the industry (Walt, 2000; Wabwire-Mangen and Wamuyu Maina, 1999).

In recent years, for example, investment by the pharmaceutical industry in the development of new antimicrobials has been reduced, and little money is invested by the drugs companies in research on tropical diseases, while at the same time drug resistance for these conditions is growing (Beaglehole and McMichael, 1999; Henry and Lexchin, 2002). This increased drug resistance to diseases like malaria, HIV/AIDS and tuberculosis partly reflects the high relative cost of medications in poorer countries which means people cannot complete a full course (Wabwire-Mangen and Wamuyu Maina, 1999).

Global health governance in terms of the pharmaceutical industry is also relatively weak. For example, the WHO's Essential Drugs and Medicines strategy (<http://www.who.int/medicines>) has four key objectives: 'strengthening national medicines policy; improving access to essential medicines; improving the quality and safety of medicines; and promoting their rational use'. The WHO has no regulatory power of its own, and the WHO strategy focuses on capacity-building through training and support to countries in developing their own drugs policy, regulations and in the development of supply mechanisms, rather than more direct challenges to the industry.

Access to essential medicines at affordable prices is also affected by international regulations relating to patenting and intellectual property rights. Patented drugs and intellectual property rights are protected by the World Trade Organization's agreements known as Trade Related Intellectual Property Rights (TRIPs) which enforce tight regulations on the development and manufacture of drugs, and which prevent low-income countries from developing cheaper alternatives to existing drugs. These restrictions

benefit richer countries rather than poorer ones: countries in the industrialized North hold 97 per cent of all pharmaceutical patents, while 80 per cent of those patents which are granted in developing countries belong to residents of industrialized richer countries (Medact, 2004). Although essential drugs have been excluded from these restrictions and the agreements recognize the need for differential pricing of essential drugs such as contraceptives and anti-malarials, the definition of 'essential drugs' is narrow and does not cover, for example, newer drugs to treat HIV/AIDS. The implications of such controls for developing countries are serious, involving not only the high cost of treatment but also the increased flow of funds from poorer countries to richer ones, and reduced employment opportunities because manufacture of necessary drugs is not allowed.

In May 2005, for example, as part of their obligation under World Trade Organization rules, the Indian government approved legislation to permit the granting of 20-year patents without putting in place safeguards to allow the production of cheaper generic equivalents (MSF Access, 2005). This is likely to have a serious impact on health, particularly amongst poorer groups, in a country where two-thirds of the population do not have affordable access to essential drugs (UNDP, 2001). Although the WTO has introduced some flexibility for developing countries to manufacture generic medicines under a temporary waiver, the reality is that such countries face political and economic pressure from various directions including the pharmaceutical industry and governments in the developed world which limit opportunities for such production.

One of the ways in which drugs companies have responded to criticisms of their failure to supply low-cost drugs to poorer countries, or to allow such countries to produce generic versions of essential medicines, has been through donations of medicine. However, these have largely taken place on terms set by the companies themselves and have been censured as opportunities for the pharmaceutical industry to offload inappropriate and out-of-date medicines whilst gaining approval for their apparent philanthropy (Henry and Lexchin, 2002). The WHO has drawn up guidelines for drug donations which include the requirement that such gifts are of essential drugs and with a shelf-life of at least 12 months following arrival – but research suggests these guidelines are not uniformly followed (Henry and Lexchin, 2002).

## GLOBAL PATTERNS OF DISEASE TRANSMISSION

Globalization increases the cross-border flow of goods, people and ideas, all of which may affect the transmission of disease (Türmen, 1999). Thus one

of the most important health effects of globalization is that risks become globalized – the ‘microbial unification’ of the world (Berlinguer, 1999) – as the movement of people and goods leads to more people being exposed to communicable diseases and contaminated food products (Türmen, 1999; Walt, 2000; Drager et al., 2001). Recent examples of global health risks following the cross-border transmission of disease include the 2002–03 outbreak and spread of Severe Acute Respiratory Syndrome (SARS) which accounted for more than 700 deaths and which had a fatality rate of under 10 per cent. SARS caused major concern worldwide partly because of the speed with which it spread from poorer countries to the developed world via international business and tourist travel, and partly because the disease is not fully understood. More recently the World Health Organization and national governments have identified Avian Influenza, first reported in Vietnam and Thailand, as a global health threat. Influenza pandemics follow a recurring pattern, and while the last serious outbreak in 1918–19 was responsible for millions of deaths worldwide, current fears over Avian flu reflect concern both that the next pandemic is overdue and that globalization may mean the virus spreads more rapidly than before, leading to even more deaths. Cross-border flows of both people and livestock, particularly poultry and other birds in the case of Avian flu, between neighbouring countries and also across continents, not only increase the risk of transmission but also mean that contagion is likely to be well established before governments and international organizations are alerted to the presence of the disease.

HIV/AIDS is also a major global health burden: an estimated 35–46 million people are currently living with HIV/AIDS and more than 20 million people have already died from the disease (WHO, 2004). While many influences affect the transmission of HIV/AIDS, one which is important in the context of globalization is the link with trade, travel and migration (Weisbrot et al., 2002). For example, HIV/AIDS infections are particularly high in the Rakai district of Uganda which is a major transit point for heavy commercial drivers travelling across the region (Wabwire-Mangen and Wamuyu Maina, 1999).

The movement of people, whether due to tourism and business or through migration of labour, affects health in many other ways (Barillas, 1999). Economic migration and the international movement of workers is an important consequence of globalization, economic stress and instability. For example, migrant workers, most of whom are women, have moved from the Philippines, Indonesia and Sri Lanka to Malaysia, Korea, Thailand and Japan to take up jobs in expanding industries in those countries, or to take up service work for the better-paid native population. The employment they find is unregulated and unprotected, low paid, and largely does not include access to medical services, while the health of such

workers is further threatened by the stress of migration and of their undocumented and often illegal existence (Subramaniam, 1999). Such movement of people adds to pressure on local resources, including water and food, clean water, housing and sanitation as slums develop (Türmen, 1999; Global Health Watch, 2005). Similarly, a number of threats to health are found in overcrowded refugee camps, resulting from pressures on water supplies, sanitation, housing and food, combined with the health burden caused by stress, anxiety and insecurity.

The major source of health governance in relation to the international spread of disease comes from the International Health Regulations (IHR) established in 1969 following earlier regulations set up by the WHO. Although there have been minor modifications to the IHR in 1973 and 1981, these regulations have more recently been subject to a thorough revision. The 1969 IHR required all WHO member states to notify the WHO of all cases of cholera, plague and yellow fever. The regulations also covered guidance for international travel – for example, rules for disinfecting transport and health documents required by travellers from infected areas. In 2003 the World Health Assembly established a working group to consider revisions to the IHR. The revisions extend the requirement of notification beyond three diseases to include all ‘public health emergencies of international concern’ (<http://www.who.int/csr/ihr/en>). The revisions include criteria to determine whether a public health event should be notified to the WHO, including whether an event is serious, unexpected and threatens to spread. The aim of these revisions is to improve the speed and appropriateness of responses to emerging situations which threaten global health, but it is important to note that while the IHR cover all WHO member states, members have the right to reject them or to make reservations – as with other examples of health governance, it relies on national government choosing to follow the rules.

Further health governance in relation to the spread of disease comes from a sub-committee of the WTO: the Committee on Sanitary and Phytosanitary Measures (SPS). All WTO members are also members of the SPS committee which aims to prevent harm to public health from food or other risks, and to promote common standards. However, the WTO’s objectives – to enable the flow of trade – and the need not to restrict trade shapes the focus of SPS activities.

## INDUSTRIALIZATION, GLOBALIZATION AND HEALTH

Globalization has been accompanied by rapid industrialization and urbanization in developing countries, with various costs to health. Some of

these – relating to employment and occupational health and changing diets and patterns of consumption – have already been touched upon. However, there are further ways in which these changes may affect health.

Industrialization means changing systems of production leading to increased urbanization with a greater proportion of the population involved in industrial production and fewer working in agriculture. Industrialization and economic growth may increase the proportion of the population who are able to meet their basic needs through improved material resources, and so may lead to improved health status. However, there are adverse effects associated particularly with rapid urbanization, including the spread of disease due to overcrowding and poor sanitation, combined with an infrastructure which is inadequate for the needs of the growing population and which cannot deliver clean water, for example, as well as increased consumption of processed food, tobacco and alcohol and decreased levels of physical activity (Wabwire-Mangen and Wamuyu Maina, 1999).

Environmental degradation can also follow industrialization, and this too changes health risks. In addition to the immediate consequences of a changing environment – the loss of sources of firewood and clean water, when forest is cleared to build manufacturing plants, for example – there are further risks to health through the introduction of diseases previously unknown to local people. Deforestation can put new populations at risk of diseases such as malaria because immunity is only built up slowly over time following prolonged exposure to sources of infection (Wabwire-Mangen and Wamuyu Maina, 1999). In addition, some populations are threatened by new forms of environmental degradation following the growing commerce in the cross-border disposal of hazardous waste – from richer countries to poorer ones, and within countries to the poorest areas (Drager et al., 2001).

Environmental degradation and pollution carries most consequences for those whose homes are closest to the source, or those who work long hours in poor-quality and hazardous environments. Increased exposure to water-borne disease, for example, following environmental change, impacts particularly on women's health because in most societies it is women's responsibility to collect water (Harcourt, 2001).

These shifting patterns of risk and adverse consequences for health following globalization are not evenly distributed but fall more heavily on poorer groups. In both Europe in the eighteenth and nineteenth centuries and in developing countries at the end of the twentieth century and the beginning of this one, the adverse health effects of industrialization, urbanization and environmental degradation are more significant for poorer groups (Steckel, 2001; Lee, 1999). Their risks are greater because they are

less mobile and cannot retreat as the wealthier classes can in the face of disease, and because their poorer diet and living conditions, including housing and sanitation, leave them vulnerable to opportunistic infection.

Health is also affected by recession and economic crisis, which are more common following industrialization and a greater reliance on a global market, while national governments have less ability to control their country's economic stability. Recession affects health through rising levels of unemployment, reductions in wages, and economic restructuring and health sector reforms imposed by donor countries in aid and debt relief packages. But health can also be affected in other ways – economic crisis, for example, is associated with an increased use of alcohol, and associated increases in levels of violence against women, in rape and sexual abuse (Subramaniam, 1999). Women's health in poorer countries may also be particularly affected during economic recession due to their poorer health and nutrition status combined with their longer working hours and lower pay (Harcourt, 2001). Economic recession combined with enforced migration carries further health costs including mental illness, alcoholism, high levels of stress, and for women again sexual and physical violence (Kerimova et al., 2003).

## ECONOMIC RESTRUCTURING AND HEALTH SECTOR REFORM

Economic restructuring associated with globalization has also brought consequences for the health of populations, particularly those in developing countries. Structural adjustment programmes pursued as a condition of loans have had the effect of deepening recession and increasing inequalities within countries. US aid to poorer countries has typically been associated with pressure for economic liberalization and privatization of welfare services including healthcare (Ollila, 2005). The World Bank and the International Monetary Fund (IMF) have attached conditions to loans which include the introduction of higher interest rates and tighter credit policies, combined with a reduction in public sector expenditure, and privatization of public enterprises. As part of these conditions, countries have necessarily pursued health sector reforms comprising of the privatization of a range of health services, the introduction of a mixture of public and private providers, the introduction of user fees, and the removal of government subsidies (Weisbrot et al., 2002). Health sector reform has thus been a key aspect of structural adjustment but it has also brought significant implications for the health of populations within countries undergoing such change – particularly the poorest sector of the population.

The introduction of user fees alongside the privatization of healthcare affects access to services and also increases the risks of poverty because household resources are diverted away from basic needs towards the purchase of vital healthcare and treatment. User fees – the payment made by patients at the point of contact with healthcare services – were seen as a key element in health sector reform by the World Bank and others, on the basis that the revenues produced could increase efficiency and equity, help move care from more expensive in-patient hospital treatment towards primary care, and help target demand. However, as a recent Save the Children report comments, user fees fail to meet these objectives (Save the Children, 2005): user fees generate relatively little revenue while being expensive to collect, access is less, not more, equitable because exemption systems generally fail, those who cannot afford care delay treatment for fear of charges, and there has not been a decreased demand for non-essential care. Instead, user fees lead to less demand from those who are poor, despite their health problems, whilst those who do use care suffer from the ‘catastrophic costs’ (p. 2) of serious illness, including increasing levels of debt among those who can least afford it.

Women’s use of healthcare is particularly affected by the introduction of user fees because of their restricted access to shared household finances and also because more women are poor (Subramaniam, 1999; Paolisso and Leslie, 1995; Harcourt, 2001). For example when user fees were introduced in China, Vietnam, Thailand and Malaysia, women’s access to healthcare was more restricted than that of men, and women’s use of healthcare deteriorated (Subramaniam, 1999). Similarly, in sub-Saharan Africa the introduction of user charges for healthcare was accompanied by a reduction in the number of assisted deliveries and an increase in maternal deaths (Harcourt, 2001).

In Zambia, health sector reform, including the decentralization of services, the promotion of primary care and the introduction of user fees, led to problems associated with increasing levels of bureaucracy, lack of shared knowledge, and consequent unsustainability of some services which impacted on women and poorer groups in particular. For example, pregnant women and women with sexually transmitted diseases were exempt from user fees, but as many women did not know that, they failed to seek treatment and their health difficulties continued or worsened (Nanda, 1999).

Globalization has also led to an increasing international trade in health products including knowledge and medical technology, encouraged by e-medicine or telemedicine, and also in healthcare workers (Barillas, 1999). However, the trade in health services is increasing at a particularly fast rate and there has been a migration of trained healthcare workers, at all levels,

from developing countries to the developed world where earnings are higher. Within countries, the increasing role of private suppliers in health-care has drawn healthcare workers away from the state sector and has further depleted the number of trained professionals available to the public sector and increased the risk of a tiered health service (Global Health Watch, 2005). In addition, public sector providers must pay more in order to compete with richer countries and this also has an impact on costs of healthcare for many (Drager et al., 2001).

Although the General Agreement on Trade in Services (GATS) imposes some general obligations on member states in relation to health workers, these are inadequate to prevent this movement of workers – particularly internally – and it has been left to individual countries and medical ‘trade unions’ within countries to set limits on the employment of workers from poorer countries. The WHO has what is described as observer status at the World Trade Organization but has little scope for raising such issues – health is viewed by trade officials as a non-trade issue which renders it outside trade negotiations and allows continued movement of healthcare workers despite GATS (Dodgson et al., 2002).

## CONCLUSION: THE FAILURE OF GOVERNANCE?

Globalization has affected the part played by social determinants of health in numerous ways. However while various international organizations play a part in global health governance, the impact that these have made on the negative aspects of globalization has been limited by various factors, but in particular by their location – either actual or ideological – within a framework which supports and promotes economic and trade liberalization and protects the interests of the developed world and mature economies.

There is a growing critique of the way global organizations focus on the problems that threaten the health and security of developed countries, and deliver solutions which are those of the developed world – in particular solutions which emphasize the four ‘E’s’ – economics, effectiveness, efficiency and evidence (Ollila, 2005). Aid focuses on containing the spread of infectious disease, or on programmes to limit population growth, whilst other problems are relatively untouched (Ollila, 2005). Globalization has changed the role of national state governments, and increased the power of transnationals, and this affects the potential for global systems of health governance and the accountability of institutions (Walt, 2000). Many of the players in organizations with the potential for global health governance are drawn from the industry itself (Graham Dukes, 2002). Despite a growing consensus on the need for global governance in health, and despite the ‘proliferation’ in actors,

little has been achieved to date in terms of making this real. For many, the WHO is central to the solution, but needs to be strengthened: the WHO 'must have the constitutional capability to ensure agenda coherence in global health . . . and be able to strengthen its convening capabilities. WHO should be able to ensure transparency and accountability in global health governance and play a brokering role in relation to the health impacts of policies of other agencies' (Kickbusch and Payne, 2004, p. 14). This strengthened role could include greater use of international law, for example, but would also require revised perspectives on the part of nation states as well as other global players – the World Bank for example.

The health impacts of globalization are varied, and may be both positive and negative. But these gains and costs are distributed unequally both across the world and within countries: globalization has had unequal effects on health with the greatest impact being felt by those who have least. The adverse effects of globalization increase the need for effective global health governance which can address access to health services and health-promoting resources, and challenge the power of transnational companies, as well as highlighting the damage caused by other aspects of the globalization process. However, despite the growth of a variety of global actors and pressure groups, and an emerging consensus on the need for systems of health governance, such systems remain as yet underdeveloped and underpowered, in comparison with transnational corporations and international organizations with non-health agendas.

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# 9. Globalization, governance and the housing market

**Ray Forrest**

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## INTRODUCTION

Changes in housing provision and housing finance both reflect and require new forms of governance. Governance, for the purposes of this chapter, refers to the vertical and horizontal configuration of institutions and agencies which are directly or indirectly involved in the regulation and provision of housing finance. By 'housing market' we are referring in the main to the purchase of dwellings by individuals or households for home ownership or investment.

Most contemporary commentaries on housing tend to be nationally oriented and to explore and analyse shifts in government policies which have encouraged particular forms and patterns of provision. For example, the decline of private renting or the growth of mortgaged home ownership may be attributed in great part to changes in national subsidy and taxation regimes as well as cultural and other factors. Cross-national studies of trends in housing provision typically explore the extent to which there has been convergence or divergence in housing policy and provision and to seek explanations in the broader literature on the nature and evolution of welfare states and welfare regimes. For example, do countries with more market-oriented housing systems display a more general pattern of market orientation? Can we understand the nature of national housing markets in terms of the more fundamental character of particular welfare states? How far do more privatized and marketized housing systems reflect and act upon a more pervasive ideology of market-based individualism? (For a summary and development of these arguments see Kurz and Blossfeld, 2004.)

These kinds of analyses, however, whether national or cross-national, tend to be essentially state-centred, despite longstanding arguments put forward by Ball and others (Ball, 1986; Ball and Harloe, 1990) that structures of housing provision need to take account of a wide range of actors and institutions in the housing sphere. This is not to suggest that the major players in the construction or financial sectors have been neglected in these

analyses but that the housing and housing policy-oriented literature has focused disproportionately on a restricted area of policy space – namely, the balance between direct and indirect intervention by governments, national and local, in housing provision.

We live, however, in a world in which the role of national governments in housing is changing. Two particular issues are relevant here. First, there has been a retreat from direct state provision which has been paralleled by the growth of individual home ownership and, in some cases, a modest revival of private renting. Second, more market-oriented housing systems sit within a wider context of global financial integration and global competition. In the ever-expanding literature on globalization, it is the scale and velocity of financial flows around the globe which are among the least contested features of this new global age. Investment in real estate is a significant part of this global financial system. Zhu (2003), for example, notes that ‘real estate lending is one of the most important components of bank loans. In most developed countries it accounts for one third, sometimes even more than half, of total bank loans’ (p. 16).

The relationship between national governments and their national housing systems has therefore changed in important ways. The reduction, sometimes substantial, of direct housing provision has arguably diminished state capacities to respond as effectively as in the past to the shifting housing needs and demands of populations. There is now greater reliance on indirect and regulatory interventions to facilitate market-based forms of provision. It follows from this that housing systems which are increasingly dependent on private institutions with regard to mortgage finance are inevitably more intimately connected to the global economy and potentially more vulnerable to economic and political turbulence beyond national boundaries. The property you or I may purchase, to live in or as an investment, is thus inextricably part of global big business.

Over the last ten to fifteen years a geographically widespread property boom has been fuelled by a combination of low interest rates, rising real incomes (for some) and less attractive investment opportunities in other sectors. With riskier stock markets and concerns over the future value and security of pension funds, both individuals and institutions have turned increasingly to a property sector which, with some notable exceptions such as Japan and Germany, has seen generally inflating asset values over the last decade. Referring to this ‘global house price boom’, *The Economist* (2005) estimated that ‘the total value of residential property in developed economies rose by more than \$30 trillion over the past five years, to over \$70 trillion, an increase equivalent to 100% of those countries’ combined GDPs’ (p. 73).

Although it may appear therefore as a parochial transaction, there is a complex and diffuse institutional architecture determining how much we

can borrow, at what interest rate and for how long. Moreover, the origins of the money we borrow and who actually bears the risk if we default have also become less transparent. Trade in mortgage asset portfolios means that high street lenders are more likely to be part of an investment chain locked into the international capital market. Indeed, if we default, or alternatively repay early, we could be part of an aggregate effect which ultimately impacts on the value of our pension fund.

This chapter is about this changing housing market context for both households and institutions. It focuses particularly on home ownership as the dominant tenure form. Initially, it discusses the discursive shift in governance debates in the housing sector. It goes on to outline the significance of the housing sector for the global economy. The chapter then discusses the regulatory and institutional framework which is evolving to manage this volatile sector.

## GLOBALIZATION, NEOLIBERALISM, RISK AND THE HOUSING MARKET

Before focusing in more detail on the housing sector, it is appropriate to provide a broader framework in which to situate this discussion. It has already been stressed that investment in real estate, residential and commercial, represents a significant part of bank lending and therefore of global investment flows. Housing provision has become more market-based and these transformations in the housing sector are symptomatic of a contemporary globalization shaped by the imperatives of free market capitalism. Processes of deregulation, re-regulation, privatization and financial liberalization, and the changing role of government in public and social policy, reflect an ideological and policy shift in the interests of corporate capitalism. It is in the financial sphere where these changes have been most evident with the development of globally integrated financial markets and significant increases in cross-border financial flows.

Put simply, there is a lot more capital swilling around and the growing numbers of households in market-based housing systems combined with pervasive house price inflation have made a significant contribution to this process. Wade (2006) observes that the post-Bretton Woods financial system has seen a massive increase in world liquidity associated with the free movement of private capital, the proliferation of financial organizations and the US current account deficit. Wade makes the point that whilst much attention, particularly among anti-globalization activists, is focused on institutions such as the IMF and the World Bank, it is the operation of private pensions funds and insurance companies which has much greater

impact on the world economy. 'Insurance companies of developed countries have assets of roughly \$14 trillion. Pension funds of developed countries have roughly \$13 trillion. By way of comparison, total World Bank lending over its entire existence is below \$1 trillion' (p. 117).

Wade argues that this 'surge of liquidity' is 'an inherent source of instability in the world economy' in the sense that financial markets as opposed to product markets are subject to bouts of speculative frenzy or irrational pessimism. These aspects of financial markets are nicely captured in Vines's (2000) account of trader behaviour during the Asian financial crisis. News that the Thai government had finally succumbed to speculative pressures on its currency (which was the key moment in triggering a wider financial crisis) provoked a rapid offloading of investments.

Unsure, individual traders are almost certain to get on the phone to their colleagues. They tend to talk in hyperbole. Snap judgements are the common currency of their exchanges. They work themselves into something just short of a frenzy. In the middle of this frenzy what is known as 'market sentiment' is created. It is sometimes spoken of as though it were the product of mature reflection, but this is rarely the case. For a start many of those creating market sentiment are far from mature in years and often extremely immature in their level of excitability. (p. 19)

The relevance of these observations to the concerns of this chapter is straightforward enough. A less stable financial system creates greater risks for both institutions and households. Asset deflation or inflation, interest rate changes, investment flows into and out of real estate (occasioned perhaps by booms and busts in the stock market) impact on the financial health of the banking sector and on individual households. Real estate sectors are typically centre-stage of financial crises, as was the case in Asia in the late 1990s. Institutional insolvency due to loans collateralized against falling real estate investments and negative equity may be the result. As Zhu (2003) notes: 'Banks tend to underestimate the default probability of property-related loans in a real estate boom for various reasons, including poor risk management practices, poor data and perverse incentives linked to the safety net.' He continues: 'Another worrisome situation occurs when one bank or a particular type of financial institution has extremely high concentration in the real estate sector, as exemplified by the US thrift institutions and Japanese "jusen". This concentration of property-related risk turned out to be very dangerous in both cases. The collapse of property prices easily dragged down these specialised institutions, and generated systemic risk for the whole financial system' (p. 17).

Past experience of such systemic shocks, the expansion of mortgage finance and the widening spectrum of populations drawn into market-based

housing provision has thus necessitated much greater attention to internal and external monitoring and regulation of lending and accounting practices of banks and other financial institutions. Here, discussions of governance in relation to the housing market become inevitably embedded in a broader and more complex debate about global financial governance and the integrity and status of geographic borders (Sassen, 2005). Cerny (2005), for example, refers to an international financial system which is 'becoming more and more multi-level and structurally complex' (p. 36). He continues: 'In what is an increasingly uneven process of pluralizing the politics of finance, it empowers a range of actors operating within and through overlapping and intertwined financial "fiefdoms"', thereby not only promoting neoliberalism but also creating spaces for distinctive responses and varieties of neoliberalism' (p. 37). A point made forcefully by Cerny is that the contemporary global financial system is characterized not by deregulation but increasing pro-market re-regulation. The hegemony of neoliberal financial restructuring does not involve a deregulated free-for-all – quite the contrary. 'Although reactions are always filtered through different domestic political and social systems, especially where those systems are well-embedded and accepted by mass publics as well as elites, the "safety and soundness" of financial systems have become the bottom line of contemporary politics in the developing world as well as in the developed world' (p. 45).

Others have argued that the current phase of the reshaping of the global financial system can be seen as a universalizing, top-down process which actually allows decreasing space for responses shaped by local factors and institutions: less room for domestic variations of neoliberalism. Best (2003), for example, sees references to a 'new financial architecture' and 'transparency' as part of a normative discourse which offers a thin technical disguise for 'a radically new kind of embedded liberalism – one that seeks to stabilise financial liberalisation by imposing new domestic norms and institutions, effectively embedding finance from the top down' (p. 373). Earlier she suggests that whilst a 'plurality of liberalisms' was encouraged and facilitated with the earlier post-war system, 'advocates of the new financial architecture seek to embed a singular global liberalism by imposing a set of Western "universal" financial norms and institutions' (p. 364).

The need for more robust governance structures involving greater scrutiny and regulation of lending practices is often presented as consumer protection but is driven primarily by the need to reduce institutional risk – a need given greater urgency because of rising instability and unpredictability in the natural environment. The rapid pace of urbanization and rural–urban migration has a strong association with coastal developments which are themselves increasingly vulnerable to the consequences of climate change. Investment risk in the real estate sector has thus been heightened by

more adverse weather conditions. Referring to the rising costs of insurance claims, Berz (1999) states that: 'There is absolutely no doubt that this increase in losses is due to a large, if not overwhelming extent, to mounting economic values and insured liabilities in heavily exposed metropolitan areas. In addition, natural catastrophes have shown time and again that the susceptibility of building and infrastructure has increased rather than decreased in spite of tighter building codes and technological advancement' (p. 285). Swiss Re's Sigma Report on natural disasters and human catastrophes (2006) refers to the 'continuing upward trend in both categories' and observes that: 'In 2005 property insurers worldwide registered catastrophe-related claims of \$83 billion – a new dimension' (pp. 4–5). It is thus not surprising that participants at the 2006 International Union of Housing Finance Congress were invited to 'participate in discussion on topics like the repercussions of global warming and natural disasters on housing finance' (see <http://congress.housingfinance.org>).

We live therefore in times where major financial institutions have more capital invested in real estate, where more individual households have invested in dwellings and where the risks to those investments are at least less certain if not increasing. General confidence in the global financial system is therefore closely linked to confidence in the housing sector. A systemic failure which generated substantial negative equity and institutional failure would be likely to send shock waves throughout the global economy.

## GOVERNANCE AND HOUSING PROVISION

Until relatively recently, references to housing governance would have been primarily about domestic and social policy issues. Whilst housing in most societies has been produced, if not always distributed, via the market, the housing policy debate has generally pivoted around aspects of access, inequality and the extent of direct or indirect state intervention. Moreover, the discursive shift from references to housing management and state provision to housing governance has generally been conducted within the confines of national housing policies – albeit against a more general backdrop of anti-statism and neoliberalism. With few exceptions, the prescription for housing reform or modernization has been a concoction of privatization, marketization, de- or re-regulation and institutional fragmentation. Providers have become enablers and tenants have become customers. National and local governments in circumstances of monopoly or near monopoly provision have given way to more private and quasi-private agencies and institutions. These prescriptions to address the perceived failures of state housing provision, particularly in relation to fiscal burdens,

housing quality and consumer sovereignty, have been instigated at different levels. Whereas it is national, regional and local governments which have been at the forefront of these institutional and political transformations in the core capitalist countries, it is the global financial institutions such as the International Monetary Fund and the World Bank which have been the most visible actors shaping housing reforms in the transitional societies of the former Soviet Union or in poorer developing countries.

Whatever the context, housing has been at the forefront of the so-called 'modernization' project. Selling state housing to sitting tenants, introducing market actors into the management of state housing, marketizing state rental systems and reducing the overall role of direct government provision in the housing market have become familiar and pervasive policy tools of governments across a wide range of societies. Moreover, housing marketization and privatization have often preceded and been regarded as a prerequisite for more sweeping social and economic transformations – most notably in relation to China and the former Soviet Union.

These shifts in the housing policy environment can be traced back for at least a quarter of a century. Few would disagree that the Thatcherism of the early 1980s had a wide influence on policy discourse and policy direction. For example, Oizumi's (2006) account of Japan's housing transformations refers to a 'developmentalist strategy [which] was strengthened by the introduction of privatisation and deregulation policies during the 1980s when the form of neo-liberalism represented by Thatcher and Reagan expanded its influence more internationally'. But whatever the international extent of that influence it is evident that, as we move into the twenty-first century, housing provision is now more thoroughly embedded in market processes and that since the late 1970s the dominant direction of change has been towards higher levels of individual home ownership. While there have been some exceptions such as in Finland and Denmark which have recorded modest falls in home ownership levels, the neoliberal turn in the housing policies of the core capitalist countries, post-communist housing privatizations in Eastern bloc countries, Chinese housing reforms and the general economic ascendance of East Asia have pushed market provision in housing decisively upwards. This trend combined with globalized financialization has pushed the governance debate in the housing sphere beyond providing rental housing and managing tenant populations. These developments require an acknowledgement of other and often less visible institutions and regulatory bodies which sit outside the normal purview of housing policy debate.

Domestically, we have seen national governments transfer increasing amounts of responsibility for housing provision for low-income groups to a range of institutions. As suggested above, it is in this area where most of

the discussion of housing governance has occurred. But for majorities, the debate has a very different complexion and relates to assumptions about their personal asset worth, pension plans and consumption decisions. These assumptions, however, are made in a very uncertain environment where industry experts and the global players who shape the extent and nature of that uncertainty admit to the apparent unknowability of what the future holds. Alan Greenspan, the former Chairman of the US Federal Reserve, has remarked: 'House prices, however, like those of many other assets, are difficult to predict, and movements in those prices can be of macroeconomic significance' (Greenspan, 2005). And writing in 1997, Roger Bootle, then Chief Economist of the HSBC Group, asked: 'Will house prices ever go up again?' (Bootle, 1997). Bootle's general message was that in an era of low inflation, the economic fundamentals had changed. Both lenders and borrowers required greater caution to avoid overexposure to debt. But few lessons seem to have been learnt. Indeed, from 1972 to 2006 nominal house prices have risen in England and Wales by some 160 per cent and both lenders and borrowers have embarked on a new spending spree.

## MANAGING THE UNMANAGEABLE?

The housing market is thus unpredictable and uncertain but of enormous significance for individual households and for the global economy. Housing policy, as welfare policy, remains understandably focused on issues of homelessness, slumification and the problems of those unable to access housing via the market. This is more visible terrain in discussions of partnerships, the public-private mix and new forms of governance. It is about managing the casualties of neoliberalism. But in housing the main business of capitalism is actually elsewhere: in a world of financial flows to and from households and between institutions and in the regulatory framework set up to manage the risks associated with the ever-expanding investment in the residential sphere.

Although we remain in early 2007 in the midst of a pervasive house price boom there is a strong current of caution if not pessimism about future housing market trajectories (see, for example, Talbott, 2003). Current levels of house price inflation appear unsustainable. Therefore, some price adjustment seems inevitable. What goes up will come down. It is just a matter of when and with what consequences. Moreover, there is evidence that the housing market has become more volatile (Kennedy and Andersen, 1994). Stephens (2003) has suggested that this greater volatility is partly at least the product of market liberalization. He observes that: 'The social and

economic significance of high levels of owner-occupation is increased by the framework of a liberalized financial system. The housing market tends to be more volatile in financially deregulated countries, with periodic house price booms and busts' (p. 4). Fallis (1995) similarly argued that the former stability of national housing finance systems has been compromised by these developments. For example, lending practices in deregulated environments have often involved higher loan-to-value ratios and thus higher risk exposure for both households and institutions.

Specific examples of an apparent increase in price volatility include Japan with house price rises of around 75 per cent between 1985 and 1990 and a fall of around 40 per cent since thereafter. In Finland prices rose by more than one-half from 1986 to 1989 and then fell by more than 40 per cent over the next four years (OECD, 2000). Most recently it was the Asian Financial Crisis which produced the most dramatic collapse in residential property values. In Thailand, after 1997, some condominium prices fell by up to 50 per cent (Kritayanavaj, 2002). Seoul's house price index fell from 103.5 in 1997 to 89.8 in 1998 (Blankenship, 2002) and in Hong Kong and Singapore residential prices fell by 50 and 37 per cent respectively. *The Economist's* (2005) assessment of the current global house price boom suggested that it is more likely to be followed by a serious adjustment because of the particular circumstances in which the price inflation has occurred:

Indeed, a drop in nominal prices is today more likely than after previous booms for three reasons: homes are more overvalued; inflation is much lower; and many more people have been buying houses as an investment. If house prices stop rising or start to fall, owner-occupiers will largely stay put, but over-exposed investors are more likely to sell, especially if rents do not cover their interest payments. House prices will not collapse overnight like stock markets – a slow puncture is more likely. But over the next five years, several countries are likely to experience price falls of 20% or more. (pp. 74–5)

Shifting demographics (as well as the major environmental concerns referred to earlier) also produce new market dynamics and new uncertainties for both supply and demand in home ownership sectors. Many major economies face shrinking populations and significant societal ageing. Baby boom generations have flowed across the life course during a period of economic expansion producing strong and shifting demands for home ownership. In some countries the cohorts which are following are both smaller and more differentiated in their income and employment prospects. Factors such as longer periods in full-time education and the rising costs and debts associated with this development are also important issues in this context.

## THE HOUSING MARKET IN THE GLOBAL ECONOMY

From some vantage points it would appear that the health of the global economy is finely balanced on the unpredictable undulations of the residential property market and on the spending and savings behaviour of individual home owners. Again *The Economist* (2005) points to the significance of rising residential property values in sustaining consumer spending:

It is surely no coincidence that Japan and Germany, the two countries where house prices have fallen for most of the past decade, have had the weakest growth in consumer spending of all developed economies over that period. Americans who believe that house prices can only go up and pose no risk to their economy would be well advised to look overseas. (p. 75)

Nationally and globally, the interaction between housing markets and the wider macro economy has become a major preoccupation of economists. This is understandable given the scale of investment involved and the implications for consumer spending and GDP of serious house price inflation or deflation. The 2004 IMF *World Economic Outlook* also refers to 'the global house price boom' with apparently synchronized and unusually high house price rises across many industrial countries. Moreover, its analysis suggests that the explanation for house price rises nationally lies to varying degrees with global factors rather than country-specific or idiosyncratic factors: 'Specifically, a large share (about 40 per cent on average) of house price movements is due to global factors, which reflect global co-movements in interest rates, economic activity, and other macroeconomic variables, which in turn result from common underlying shocks.' It continues: 'A key implication of this finding is that just as the upswing in house prices has been a global phenomenon, it is likely that any downturn would also be highly synchronised, with corresponding implications for global economic activity' (p. 71). Such concerns were of course brought to the fore with the onset and aftermath of the Asian Financial Crisis in which collapsing property markets were deeply implicated (Herring and Wachter, 1998; Henderson, 1999).

The interconnections between consumer spending, savings, and house price and house wealth effects are acknowledged as significant and complex, and remain somewhat puzzling (see, for example, Farlow 2005 for a detailed discussion). The global significance of these interactions pivots around the US economy. The Bank for International Settlements Annual Report for 2002 (BIS, 2002), for example, emphasized the surprising strength of household spending across Organisation for Economic Co-operation and Development (OECD) countries in general during the 2001 downturn and pointed to rising real estate values and cheaper borrowing

as a key part of the explanation. As regards the USA economy, the report comments that 'rapid house price inflation, allied with increased mortgage refinancing, significantly cushioned the negative effects of a declining stock market, the deterioration of the labour market and the shock to confidence following the September 11 attacks' (p. 21). Deep and Domanski (2002) observe that: 'Mortgage refinancing seems to have played a significant role in keeping US consumption unusually buoyant through the recent downturn. Assuming that 54% of refinanced mortgages generated a net cash payout and that the full median appreciation of property refinanced in 2001 of \$25 000 was cashed out, one arrives at an estimate of \$150 billion of discretionary cash flow from household equity extraction' (p. 3). Similarly, Brenner (2004) calculated that cash-outs, second mortgages and other housing related spending 'accounted, in total, for no less than two-thirds of [US] GDP growth between 2000 and the first half of 2003' (p. 81). Essentially, the equity or borrowing capacity represented by residential property has grown in significance globally and can be deployed to substantial and unpredictable economic effect.

Moreover, those households with spare capital or borrowing capacity seem increasingly likely to invest in more real estate. Countries such as the UK and the US have seen a substantial expansion of second home ownership for both investment and lifestyle enhancement. Government policies in the UK have specifically encouraged 'buy-to-let' as a means of expanding the privately rented sector. Rising affluence among those in the right skills sectors with appreciating primary residences has enabled further investment in property, fuelled by less attractive rates of return in stocks and shares and a concern to create more reliable income streams for retirement. A study by the National Association of Realtors (NAR, 2005) found that 23 per cent of American houses bought in 2004 were for investment rather than for owner-occupation. A further 13 per cent were bought as second homes. Investing in 'bricks and mortar' has a new contemporary ring although the investment seems to be increasingly someone else's bricks and mortar.

Robert Schiller, sees this kind of development as a logical means of risk-spreading by individual owners and has recently launched a new venture in futures on house prices in ten US cities:

A fundamental principle of financial theory – 'diversification' or 'risk spreading' – implies that interest in the new contracts will be high. People and businesses in New York, for example, are overexposed to their local real estate risks, so they should reduce this risk by selling New York home price futures. People in Tokyo will assume some of this risk by purchasing New York home price futures if the price is right. The New Yorkers still live in their own homes, but now they have spread their investment risk worldwide. (Schiller, 2006)

## NEW TIMES

Housing markets remain predominantly local and national in terms of their essential make-up in the sense that national governments continue to exert a strong influence in such areas as taxation policies, price controls, land use and construction controls and regulations and policies to encourage savings. Also, households continue to shop locally or regionally for mortgages with a high degree of consumer resistance to borrowing from unfamiliar institutions. References to globalization and integrated financial markets should therefore be used cautiously as regards implying the degree to which there is convergence in regulatory and governance arrangements and in the nature of mortgage intermediaries. Stephens (2003), for example, suggests that:

Evidence from the European Single Market, combines with the *a priori* observation that terms of mortgage products are based on non-financial matters, such as the nature of valuation and foreclosure systems. Since these are nationally (and sometimes even sub-nationally) based, increased globalisation of finance should not be expected to lead to rapid convergence. This is the key tension that arises from the most mobile factor meeting the least mobile factor in the mortgage instrument. (p. 1025)

Nevertheless, it is undeniable that the economic forces which are shaping local housing markets are increasingly supranational. The direct influence on local housing markets through state provision has generally diminished and private sector lenders have become larger, less specialized and increasingly embedded in international capital markets. The competitive pressures on the mortgage industry have impacted on local and regional providers in terms of pricing and product range. The most visible consequence of this process is that home owners now confront mortgage markets with an ever-expanding array of financial products offering varying interest rates, loan repayment terms and different financial risks. In newer and expanding markets with more first-time buyers the choice available may be particularly bewildering with a higher risk of making inappropriate choices. Borrowers now require a greater degree of financial sophistication in understanding the terminology and implications of capped, tracker and discounted mortgages, fixed rate or variable, negative amortization, mortgage insurance policies, equity release and drawdown schemes. Most critically, borrowers need to understand that cheap money now may involve later painful adjustments. The US market has, for example, seen the introduction of 50-year mortgage repayment products and a marked increase in negative amortization and interest-only mortgages:

Interest-only mortgages are all the rage, along with so-called 'negative amortisation loans' (the buyer pays less than the interest due and the unpaid principal

and interest is added on to the loan). After an initial period, payments surge as principal repayment kicks in. In California, over 60 per cent of all new mortgages this year are interest-only or negative-amortisation, up from 8 per cent in 2002. The national figure is one-third. The new loans are essentially a gamble that prices will continue to rise rapidly, allowing the borrower to sell the home at a profit or refinance before any principal has to be repaid. (*The Economist*, 2005, p. 74)

A working paper from the Committee on the Global Financial System (CGFS, 2006) refers to the introduction of these 'innovative financial products' in a number of countries. Referring to option adjustable rate mortgages (option ARMs) and other similar products it observes that: 'An attractive feature for the borrower is the low minimum payment in the first year, which may allow the borrower to buy a more costly house or use the monthly payment savings for other purposes.' However, these kinds of mortgages typically have mechanisms for adjusting payments every five to ten years to ensure that they are fully amortizing and have limits on loan-to-value ratios. 'Both these clauses may result in a significant increase in the payments required to service the loan' (p. 11).

For lenders, the pressures to expand and maintain mortgage business in more competitive markets has also drawn in more vulnerable households. Sub-prime lending, the financial sector euphemism for lending to households with lower credit rating, lower incomes and poorer credit histories, has expanded. This has increased the risk of bad debt and increased the need for government-backed mortgage insurance to facilitate the securitization of asset portfolios. The increasing involvement of state guarantees in this sphere is an important aspect of the shifting role of government in the housing sector. Whilst neoliberal ideology suggests the need for the state to leave the stage to allow the unfettered development of market forces in the cause of a more efficient and competitive housing finance system, the reality is more nuanced. Dymski and Isenberg (1998) argue that the financial restructuring of the mortgage market has been intimately and inextricably associated with a growth rather than a diminution of government activity. The insolvencies among savings and loan institutions in the US in the 1980s required government guarantees to restore confidence. This development triggered further changes in the nature and supply of mortgage finance:

Expanded government underwriting of mortgage sales led to the rapid growth of mortgage securitization, which in turn provided the new sources of credit supply needed to replace lost thrift lending capacity. Increased mortgage securitization, in turn, required increased government (and private) underwriting of mortgage sales and the use of standardized mortgage eligibility criteria in lieu of the earlier system of 'relationship' lending. (p. 225)

Thus, governments have been active participants in the financial restructuring of the housing sector.

This changing financial environment requires greater institutional attention to risk management to protect investors and to maintain general confidence in residential lending. There is a greater need to monitor and regulate institutional lending, but with a strong market orientation. Institutions, households and indeed nation states are subjected to more extensive assessment of their risk profiles. As regards the central focus of this chapter, it is in the negotiation of mortgage finance that individuals come face to face with the new reality of global finance. The purchase of a home to live in is one of the most deeply personal transactions, whilst at the time enmeshing individuals or households in a credit system shaped by the new neoliberal global financial regime. In this context, Langley (2005) emphasizes that perspectives which merely assert the virtual and abstract nature of global financial governance neglect the 'social relations and practices' which both shape and are shaped by contemporary financial globalization. There are more financial institutions chasing potential mortgagees. At the same time, the expansion of mortgage lending increases the risks of default. 'On the one hand, those market institutions that stand to profit from an expansion in everyday credit practices would appear likely to benefit from a deepening of credit relations to include those previously excluded from, for instance, consumer credit. On the other hand, however, such a deepening of credit relations is impeded as the previously excluded are deemed to be too "risky" and unlikely to meet any new obligations' (Langley, 2005, p. 93).

## MANAGING THE UNMANAGEABLE?

In constructing a different perspective on housing market governance we can envisage a layering and intertwining of institutional connections at different spatial scales – from the individual home owners to those global financial institutions setting frameworks and guidelines (see Figure 9.1 for an indicative list). These governance structures involve an intermingling of regulatory and monitoring activities of various types within and between different scales: international, national, regional and local. The regulatory controls may relate to: land use planning mechanisms such as residential zoning or greenbelt policies at local and regional levels; regulations concerning building materials and environmental standards which in the European situation would be a mix of European Union, national and local measures; and measures to control and minimize financial risks filtering down from the macroeconomic strategic planning of Basel II (the new

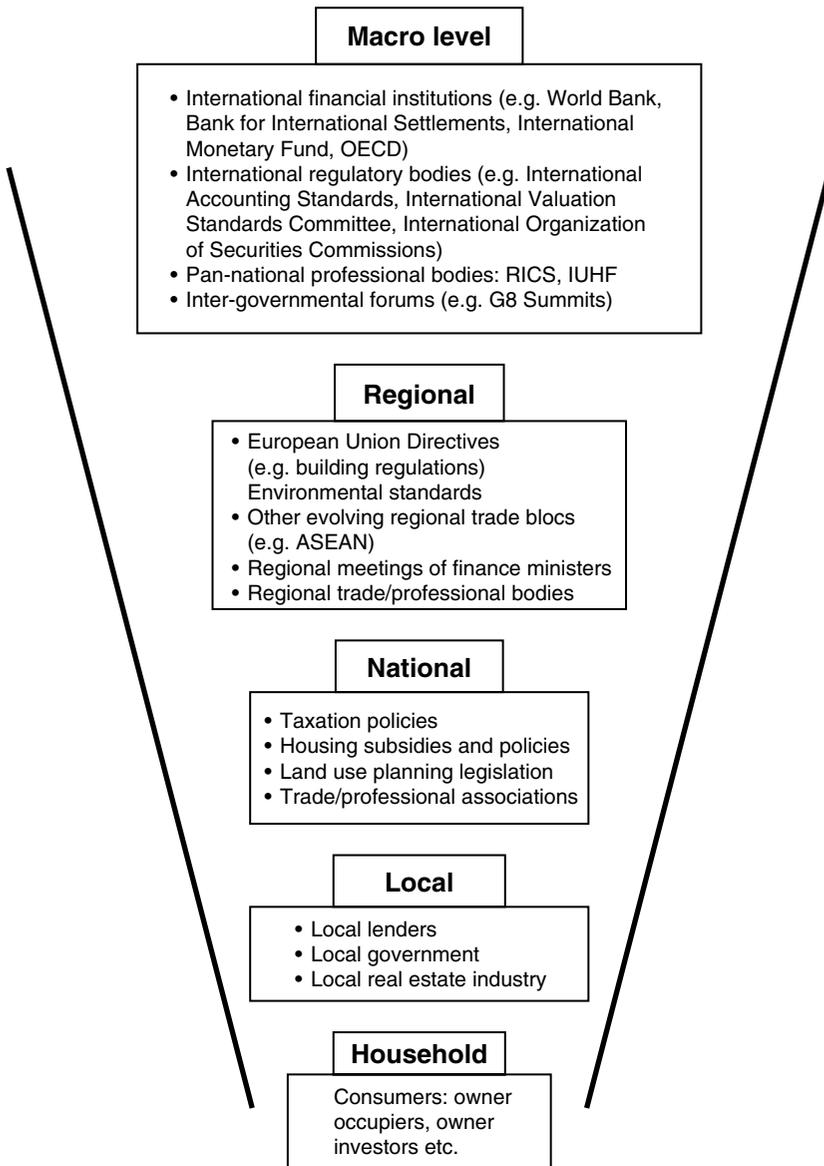


Figure 9.1 Governance and the housing market

international capital framework) to the specific lending policies of particular lending institutions in particular countries.

All this is not to suggest, however, an uncomplicated top-down hierarchy of power and influence or one in which the local and the global are at opposite and mutually exclusive ends of the spatial scale. As Sassen (2005) emphasizes: 'processes that do not necessarily scale at the global level as such can be part of globalisation' (p. 527). Referring to 'encounters' between the global and national or subnational processes and practices, she suggests that such an encounter 'can be a highly charged event with multiple, individual, institutional and/or structured contestations, victories and retreats on each side. Or it can be a highly specialised insertion, noticeable directly only within that specialised domain, as might be the case with some of the new standards in finance and accounting' (p. 528). In other words, the boundaries between the global and the local are ambiguous and variable. In relation to the structures of housing market governance it may involve highly visible top-down interventions from the IMF or the World Bank concerning the state of a particular national housing market, or it may more typically involve these 'highly specialized insertions' which more thoroughly embed local housing finance norms and practices within global rules and procedures.

Where properties are built, the form they take, the quality of the materials, how much they cost and the loan criteria including interest rates and loan terms are shaped therefore by a combination of global and national and subnational processes. And the evolving architecture of housing market governance is driven in part by the tension between extending the global marketplace of commodified financing of housing consumption and the inherent risks of extending lending to a wider range of consumers.

A number of interconnected global players such as the Bank for International Settlements and the International Organization of Securities Commissions (IOSCO) provide the overall framework for the governance of the housing finance market. The Bank for International Settlements (BIS) does not have enforceable, legal powers but shapes the global financial order through its committee system. These committees include the Basel Committee on Banking Supervision and the Committee on the Global Financial System, referred to earlier. Seabrooke (2006) observes that the BIS 'is the proverbial "IT staff" of the global economy. Whilst other international financial institutions are highly visible, the BIS remains mostly out of the public eye while it weaves a set of rules, norms and decision-making procedures that establish governance structures for both public and private international banks' (p. 141).

Other key organizations of relevance to housing finance governance are the International Valuation Standards Committee (IVSC) founded in 1981 and the International Accounting Standards Committee Board (IASB)

founded in 1973. The IVSC is a non-governmental organization (NGO) member of the UN with links to the World Bank, OECD and the International Federation of Accountants. The IASB is a privately financed organization set up originally through an agreement across ten national accountancy bodies. Both organizations are part of this broader project to create regulatory structures and rules appropriate to a global financial regime. Thus, to return to an earlier point, the global influences on local and regional housing markets are not simply those of increased competitiveness but involve the introduction of new and evolving international regulatory norms and procedures. For example, these involve how real assets such as dwellings are valued, how their value is recorded in institutional accounts, and accountancy rules as regards assets and liabilities in relation to securitization. The significance of this should not be underestimated. Kemeny (2004), in an article in *Business Times Online*, referred to the '3000 plus page tome' which constitutes the new International Financial Reporting Standards. It 'will have landed on the desks of an estimated 7000 listed companies and will have to be read by hundreds, if not thousands, of staff'. The goal, she continues, 'is to create one single set of accounting standards that can be applied anywhere in the world, saving millions for firms with more than one listing and allowing investors to compare the performance of businesses across geographic boundaries for the first time'.

Sir David Tweedie, Chair of IASB, set out some of the background to the development of these internationally recognized accountancy standards in a speech to the US Senate Committee on Banking, Housing and Urban Affairs in 2002. 'The IASB's objective was to work towards a single set of high quality international reporting standards, produced in the private sector under principles of transparency, open meetings, and full due process.' There were also some very specific concerns driving these developments: namely, the collapse of Enron and what it represented in terms of corporate corruption. As Tweedie concluded at the time: 'We who are on the outside learn a little more every day, but it still remains to be seen whether the financial reporting that preceded Enron's collapse was a result of flawed accounting standards, incorrect application of existing standards, auditing mistakes, or plain deceit' (2002, p. 13).

All this is not to suggest that the major financial institutions with large residential property portfolios are on the verge of Enron-type implosion, but financial scandals have occurred in the past in relation to lax (or occasionally unscrupulous) lending practices and asset valuations. Moreover, various commentators have expressed their concerns about the adequacy of existing and evolving regulatory measures to cope with a more complex set of risks to the financial system. Zhu (2003) makes particular reference to 'real estate price dynamics' and states that: 'They pose important challenges

for risk management, financial regulation and policy design. These issues may not be fully resolved in the future, mainly because of the complexity of the market and varieties of market functioning' (p. 19). In a more general analysis of the new financial architecture, Kapstein (2006) points to a paradox which 'lies at the heart of the contemporary risk environment, the combination – whether poison or elixir – of increasing bank consolidation on the one hand and risk atomization on the other' (p. 10). Risk atomization is the trend towards the downloading of risks to other firms and individual households by large financial institutions. Kapstein remarks that their 'absorptive capacity has yet to be severely tested' (p. v). His concern with the consolidation lies with various factors. Risks may increase because large financial institutions may enjoy a 'too big to fail premium' in the sense that there may be a belief that governments would step in in the event of impending crisis; that in large organizations governance diseconomies can arise and unethical or poor management may go undetected; that consolidation may not lead to a diversification of risks. With regard to the latter, Kapstein offers a particularly relevant example: 'Take for example, the Basel II Accord, which adopts a lower risk weighting for mortgages than for other types of loan. Imagine a "Basel II" bank decides to specialize in mortgage lending and acquires other firms in this market segment; it would then be greatly exposed to a generalized collapse of house prices' (p. 11).

There also continue to be major concerns about China's financial institutions and the global ramifications of an asset bubble burst in that country (Studwell, 2003; Nolan, 2004). Nolan (2004) comments that the Chinese government's initiation of major reforms following a series of financial scandals in Guangdong Province revealed 'shocking evidence about the state of corporate governance in China's main banks. In the course of the clean-up of the country's financial institutions, huge problems were found from the bottom to the top of the country's financial system' (p. 52).

Securitization also raises the need for greater transparency as regard assets and liabilities. Referring back to Tweedie's speech to the US Senate, he remarked that:

Under existing accounting standards in many jurisdictions, a company which transfers assets (like loan or credit-card balances) through securitisation transaction recognises the transaction as a sale and removes the amounts from the balance sheet. Some securitisations are appropriately accounted for as sales, but many continue to expose the transferor to many of the significant risks and rewards inherent in the transferred assets. (2002, p. 10)

In other words, there needs to be greater transparency in relation to who is going to carry the can in the event of significant default or a collapse in property values.

This returns us to the issue of valuation. How much is a property worth and how far can that be standardized to ensure that the value of residential assets and associated loan portfolios translate internationally? This may be of little direct interest to an individual household (although at the micro level it does have a real impact in terms of dwelling valuations) but is clearly a matter of some importance to institutional investors. The development of international, recognized valuation standards is directly associated with the Basel II Accord on Financial Reporting emanating from the Basel Committee for Banking Supervision. In the Accord the importance of consistent real estate valuation is recognized as an essential ingredient of any measures designed to enable comparison of the strength of different financial institutions (see 'Foreword', IVSC, 2006). Echoing Stephen's (2003) earlier remarks, valuation practices have been subject to considerable variation reflecting differences in cultures and in associated differences in lending and foreclosure practices. Ndungu et al. (2002) nicely summarize the subjective and culturally bound nature of valuation procedures:

It is important to appreciate the fact that valuation and appraisal is not practised in a vacuum. It is subject to national legal, economic, political and cultural systems. These systems vary from country to country. The valuers/appraisers go through different educational systems which are largely determined at national levels . . . Languages, societal norms and cultures give rise to differing definitions and perceptions of values. (p. 3)

In a more globally integrated financial world, however, this is clearly not good enough. We have to move towards internationally agreed procedures in relation to what properties or indeed any other tradeable commodity is worth. The IVSC (2006) sees the introduction of international standards as a major step in conflict avoidance and essential to facilitate cross-border transactions. More pertinently, it refers to their (IVS) contribution to 'viability of the international property market by promoting transparency in financial reporting as well as the reliability of valuations performed to secure loans and mortgages, for transactions involving transfer of ownership and for settlements in litigation or tax matters' (p. 7).

There is insufficient space in this chapter to deal with these and related organizations in more detail. Special emphasis has been given to them because their activities are directly related to debates around globalization and the internationalization of property transactions and professional practices. Moreover, they are rarely mentioned in the discussions of housing governance.

Beneath these organizations sit a panoply of more familiar institutions. These would include professional bodies associated with surveying or mortgage finance which typically have national, regional (for example,

European) or international organizations. For example, mortgage lenders have a UK presence as the Council of Mortgage Lenders, there is also a European Mortgage Federation, and the International Union of Housing Finance has a core group of banking and housing finance trade associations from 25 countries. It is perhaps noteworthy that its 26th World Congress in Vancouver in 2006 had two keynote addresses on 'Housing bubbles and bubble markets' and 'Natural disasters and housing finance'.

An increasingly important regulatory framework in Europe is constituted by the raft of European Union Directives and other statutory measures and voluntary agreements concerning such issues as building standards, environmental audits, the construction industry and mortgage guarantees. Whilst housing as such is outside the competence of the European Union, these measures impact directly on housing design and thus construction and purchase costs and are becoming more significant with rising concerns about environmental sustainability and energy conservation. The European Union constitutes a layer of governance which does not currently exist in other regions of the world. However, in any national context, the location, planning and construction of residential developments will be affected by a combination of national legislation and regulatory frameworks and local by-laws and practices.

In market-driven systems the key issue is the availability and cost of housing finance. As regards the governance of mortgage lending, new regulatory measures in the governance of risk (which is the primary global concern encapsulated in Basel II) translate to the local level via government and quasi-government agencies. In the UK, for example, the Financial Services Agency (FSA) is an independent non-governmental body, given statutory powers by the Financial Services and Markets Act 2000. It is responsible to the Treasury and ultimately Parliament. It is an FSA requirement that lenders lend responsibly and responsible lending is framed by the new Basel Accord (global level) implemented by the European Union (regional level) via the Capital Requirement Directive (CRD). These institutional and governance developments inevitably vary according to national policy and institutional histories, but they will impact in similar ways in relation to local institutional restructuring and the borrowing experience of consumers. Responsible lending involves closer scrutiny of customers' ability to pay. This involves greater use of affordability models and increasing use of automatic credit scoring techniques and computer-based valuation procedures. New technology and the ever-expanding amount of information available on individuals on databases enables greater differentiation of risk profiles. These assessments encompass credit histories, tax liabilities, utility bills, outstanding credit commitments as well as expenses such as child care, child maintenance and schooling. High-quality

borrowers, first-time buyers and sub-prime buyers (that is, low quality) are scored and 'stress-tested' according to varying criteria creating greater market segmentation in lending practices and thus risk exposure for institutions. Applicants for loans, especially the 'high-quality' candidates, can be rapidly processed through these automated systems. For example, a recent survey of UK lenders found that 38 per cent make a decision to lend in principle within five minutes of receiving the relevant information from the applicant or the intermediary (see Van Dijk and Garga, 2006).

Easier access to mortgage finance combined with the growth in home ownership and rising property values has also produced spiralling levels of debt exposure for households. This is a global phenomenon although its extent varies from country to country according to local variations in lending practices, housing tenure structures, price trajectories and legislative and fiscal frameworks. For example, between 1992 and 2002 mortgage debt as a percentage of GDP grew from 43 per cent to 87 per cent in the Netherlands, from 45 per cent to 58 per cent in the US and from 53 per cent to 64 per cent in the UK (Zhang, 2006, p. 2). And as emphasized earlier, the rise in property values has been of considerable importance in sustaining consumer demand worldwide. A significant fall in residential property values or a sharp rise in interest rates therefore have the potential to be highly destabilizing, locally or globally. So far, this has not occurred and although debt levels continue to rise financial institutions appear to be relatively relaxed about this development, mainly because low interest rates, rising real incomes and rising asset values mean that the majority of households appear to be able to service these higher debts. Alan Greenspan has commented that: 'short of a period of appreciable overall economic weakness, households, with the exception of some highly leveraged sub prime borrowers, do not appear to be faced with significant financial strain. With interest rates low, debt service costs for households have been essentially stable for the past few years' (Greenspan, 2005). An assessment of the UK situation offers a similarly optimistic scenario (see Zhang, 2006). However, there are less optimistic views (for example, *The Economist*, 2005). A recent analysis of US house price trends claimed that: 'Seventy-one metro areas, accounting for 39 per cent of all single family housing value, were deemed to be extremely over-valued at that time. That represents an increase from 64 markets, and 36 percent of all single family market value, during the fourth quarter' (Global Insight/National City Corporation, 2006, p. 3).

This takes us back to where we came in. There may be increasingly sophisticated methods for risk assessment in mortgage lending and increasingly integrated and standardized regulatory guidelines, frameworks and institutions which link local housing markets to the global economy. However, any reading of the technical, analytical or more populist commentaries on the

state of the housing market create a strong impression of unmanageability, wishful thinking and an essential unpredictability and uncertainty about future prospects. The extent and novelty of the new risks associated with more market-driven forms of housing provision are recognized and are reflected in the governance structures described here. In this new world, housing market governance is becoming more global because the risks to institutions and to households are growing should an economic downturn be occasioned by major conflict, natural catastrophe or some other destabilizing political or economic event or set of circumstances. With such an occurrence, which some see as inevitable, national governments are likely to have to play a central role as they do in other sectors in mediating between financial systems which owe little national allegiance and the local casualties, both households and institutions.

## CONCLUDING COMMENTS

There is nothing novel about an intertwining of the local and the global in the framing of rules and practices which shape local housing markets. Most of the key global institutions have been in existence for over fifty years. What is novel is an apparent increased drive to internationalize and universalize rules and practices in relation to asset valuation and accountancy. Two interconnected factors are particularly relevant to these developments in relation to housing: risk proliferation and (to slightly adapt Sassen's phraseology) 'liquification'. Risk proliferation associated with price volatility, environmental change and changing borrower profiles requires more scrutiny and regulation to ensure robust lending practices and adequate capital reserves. Liquification takes two forms: the conversion by households of stored equity to facilitate general consumption and the various processes which enable dwellings or loans to become tradeable financial instruments in the global economy. Financial liberalization acts to extend relentlessly these liquification processes which in turn increase investment risks.

The experience of the Asian Financial Crisis and, prior to that, the rapid descent of the Japanese economy, highlighted the dangers of overlending on overinflated property values. The rise and international significance of the Chinese economy and continuing concerns about the probity of its banking sector have given further priority to the development of global regulatory practices and norms. At the household level (and intimately connected with these evolving global norms for risk assessment and management), technology coupled with a greater array of individual-level data enables more automatic and differentiated credit rating of individuals and households. One consequence of this is a more varied experience by con-

sumers in terms of the cost and availability of funding and in the degree to which they are protected from this higher risk environment.

The housing market and the money flows associated with it occupy an important position in terms of national and international financial stability. Whilst the dwellings themselves are immobile, the financial flows which lubricate local property markets are increasingly mobile. For most households their dwelling is their primary asset, and for most governments the state of the residential property market is an important bellwether of underlying consumer confidence. House price inflation may create affordability difficulties for those seeking to enter home ownership but for existing owners rising property values are a key ingredient of the 'feel-good' factor. Conversely, a price bust throws a pervasive shadow of gloom over consumers and the wider economy. The extent to which current property values are robust or vulnerable to economic shocks which could drive them sharply downward has become more significant in the context of ageing populations, rising levels of home ownership, volatile stock markets, uncertainties over pensions funds and environmental change. Moreover, the consumption-oriented culture of corporate capitalism is fuelled in great part by the increasing ease with which property owners can 'liquify' their dwellings – more consumer durables, cars, air travel and other activities which contribute in turn to the environmental consequences which pose an increasing threat to property values and market stability.

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## 10. The rise of non-state actors in security governance

**Elke Krahmnn**

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### INTRODUCTION

National and international security has been traditionally conceived of in terms of interstate relations. Globalization is in the process of changing this. The growing interconnectedness of peoples across the globe is contributing to the rise of new transnational security threats such as civil wars and the resultant refugee flows, global terrorism, organized crime and the proliferation of small arms and weapons of mass destruction (Gordenker and Weiss, 1996; Zangl and Zürn, 1999). The ability of the state to combat these threats within the context of national policies is challenged by their transnational nature. Moreover, the financial resources of states to address simultaneously the diversity of security concerns, which emerged after the end of the Cold War, have been limited. Public spending on defence has been cut back due to popular demand for a peace dividend, while budgetary pressures on defence have been rising due to the increasing cost of military research and development. Consequently states are increasingly looking towards non-state actors, such as international organizations, non-governmental organizations (NGOs) and private companies, to help them provide for national and international security. Non-state actors can do so in multiple ways. They can operate more easily across national borders, they have particular expertise in dealing with non-traditional security issues and they can draw on formal and informal networks with other actors.

This chapter argues that the increasing fragmentation of security policymaking among state and non-state actors can be understood as a shift from government to governance in security. It argues that the security sector thus follows the trends which have been outlined in the first part of this book. In the following, this chapter is structured in four parts. The first part provides a brief introduction to the concept of security governance. The second part examines how this concept can help to analyse the growing role of three types of non-state actors in the making and

implementation of security policies: international organizations, NGOs and private companies. But the shift from government to security governance is not without problems. The third part of the chapter contends that in addition to questions of accountability and control, which are raised by the growing role of private security providers, governance is not necessarily more efficient or effective than centralized government. The chapter concludes by arguing that the growing role of private security providers needs to go hand in hand with the development of principles of good governance in the sector.

## SECURITY GOVERNANCE

To understand the emergence of security governance, it is first necessary to specify what is meant by the two concepts of 'security' and 'governance'. The meaning of 'security' has been widely contested with the rise of new security threats such as transnational crime, terrorism, nuclear proliferation and infectious diseases in the wake of globalization. On the one hand are authors who propose broadening the concept of security from the state to individuals and from military to non-military threats (Ullman, 1983; Rothschild, 1995); on the other are those who believe that this would undermine the theoretical utility of the concept (Walt, 1991; Krause and Williams, 1997). The empirical evidence for the changing nature of contemporary security threats, however, is indisputable. Even before the end of the Cold War, transnational security threats had replaced interstate wars as the predominant security concerns in most regions around the globe. In 1999, for instance, about 32 000 individuals were killed in interstate wars, but more than 900 people were killed through terrorist attacks, an estimated 39 000 were killed in civil conflicts and no less than 2.8 million were killed by AIDS. The changing balance between international and domestic conflicts is illustrated by the data provided by the Swedish Peace Research Institute (SIPRI). Between 1991 and 2004, SIPRI recorded on average 25 major conflicts, that is conflicts with a death toll above 1000, per year of which never more than two were interstate wars.<sup>1</sup> Statistically it means that 96 per cent of contemporary major conflicts are internal wars.

To meet the new security challenges which follow increasing globalization, governments have expanded their security functions. However, limited resources, lack of expertise in non-military areas of security and divergent interests among key states are facilitating the fragmentation of security policymaking. In addition to national governments a growing number of non-state actors such as international organizations, non-governmental organizations and private companies deal with conflict management and

*Table 10.1 Government and governance as ideal types*

Dimensions	Government ←————→ Governance	
Geographical scope	National Subnational	National Subnational Regional Global Transnational
Functional scope	Several issue areas	Single issue areas
Distribution of resources	Centralized	Dispersed
Interests	Common	Differentiated
Norms	Sovereignty Command+control Redistribution	Limited sovereignty Self-government Market
Decision-making	Hierarchical Consensus Formal equality	Horizontal Negotiation Inequality
Implementation	Centralized Authoritative Coercive	Fragmented Self-enforced Voluntary

prevention today. The fragmented but overlapping networks which structure the collaboration among the growing number of public and private security providers are grasped by the concept of governance. While ‘government’ as an ideal type can be conceived of as policymaking which centralizes political control within the state and its agencies, ‘governance’ can be defined as policymaking which is fragmented among state and non-state actors and characterized by the absence of an overarching political authority (Czempiel, 1992; Gordenker and Weiss, 1996). Governance specifically appears to be defined by the fragmentation of policymaking in seven dimensions: geography, function, distribution of resources, interests, norms, decision-making and implementation (Krahmann, 2003a; Krahmann, 2003b). See Table 10.1 for a comparison of government and governance.

Geographical fragmentation takes three forms in particular: downward to local agencies, upwards to regional or global organizations and sideways to private actors. Functional fragmentation involves the regulation of different issue areas by multiple and separate authorities, including public and private actors. Resource fragmentation entails the dispersion of policymaking and implementation capabilities among public and private actors who have to coordinate their efforts in order to resolve common problems. Interest fragmentation derives from the heterogeneous and sometimes conflicting interests of public and private actors. Normative ‘fragmentation’ is characterized

by the rise of neoliberalism and the new public management, which favour the reduced state, self-government and the marketization of social relations over centralized public policies. Finally, fragmentation in the making and implementation of policies involves the emergence of horizontal networks among public and private actors. Decision-making within these networks proceeds through negotiation and the formal and informal acceptance of structural inequality, for instance through weighted voting procedures, and policies are implemented in a decentralized, self-enforced and voluntary fashion.

The following sections suggests that the growing roles of international organizations, NGOs, defence corporations and private military companies can be understood as part of a shift from government to governance in security. To illustrate this argument, the chapter examines each set of actors in turn before discussing the problems which can arise from this transformation.

## INTERNATIONAL ORGANIZATIONS

International organizations have become key actors in the provision of national and international security over the past decades. The United Nations in particular has expanded its contribution to global security governance by stepping up the number of its peacekeeping operations from five before the end of the Cold War to 11 between 1990 and 2005. The North Atlantic Treaty Organisation (NATO) and the Conference for Security and Co-operation in Europe, now the Organization for Security and Co-operation in Europe (OSCE), have found new roles by expanding the scope of their security functions to areas such as the 'war on terrorism', international peacekeeping, refugee resettlement and the promotion of civil society. The European Union is expanding its defence capabilities and is defining an increasing array of concerns in terms of security, including immigration and development aid. Regional and subregional organizations such as the African Union and the Association of South East Asian Nations (ASEAN) are taking an active role in the management of security in the developing world.

Although the end of the Cold War has provided increased opportunities for international organizations to engage in regional and global security, the growing role of supranational actors in addressing contemporary security concerns can be viewed as part of a long-term trend from government to governance in response to globalization and the associated proliferation of transnational security threats. The growing role of international organizations in contemporary security is at once a consequence and a contributing

factor to the differentiation of security in terms of geography, resources, function, interests, norms, decision-making and implementation.

The changing geography of security contributes to the growing role of international organizations due to the shift away from the state as the main object and subject of security, that is, from the preservation of state borders and its role as the primary security provider. Since many of the new security threats, such as terrorism, transnational crime and infectious diseases, are global the ability of nation states to address them unilaterally is limited. Only by cooperating can states effectively fight transnational security concerns. International organizations permit and structure such cooperation. They overcome the territorial boundedness of the national security state by creating new transnational security communities. At the same time international organizations seem to favour regional differentiation which contributes to the geographical fragmentation of security governance. Few international organizations are truly global and the 1990s have witnessed the formation of numerous subregional bodies, such as the Council of the Baltic Sea States, the Stability Pact of South-Eastern Europe or the Visegrad Group in Europe and the East African Community in Africa in response to local security concerns.

The proliferation of international organizations in security governance also appears to be linked to increasing functional differentiation. Although many organizations have expanded their remit since the end of the Cold War to include non-traditional aspects of security, attempts to avoid competition and duplication among these organizations are leading to specialization. Within the transatlantic region an emerging division of labour sees NATO providing peace enforcement, the EU taking over peacekeeping and the OSCE concentrating on conflict prevention and mediation. In Africa, global organizations such as the UN offer legitimacy and logistic support for regional peacekeeping forces provided by the African Union and the Economic Community of West African States (ECOWAS) (Knight, 1996). In addition, international and transnational institutions which address specific security threats such as terrorism, crime, human trafficking or money laundering have been strengthened (EU, 2005).

International organizations allow states to pool their resources for the management of transnational security threats. However, since many states favour different organizations and since international organizations develop their own resources and expertise, the proliferation of international organizations facilitates the dispersion of capabilities among multiple actors in security governance. One way to prevent further fragmentation of already limited resources has been the 'double-hatting' of national military contingents assigned by member states to NATO and the European Security and Defence Policy. But differences about burden-sharing hamper

efforts to provide security as a global collective good through multilateral organizations.

International organizations not only have independent resources and knowledge, but also their own interests in the making and implementation of security policies. Partly, these interests are determined by the member states and their policy preferences; partly they derive from the specific aims and culture of an international organization. Since the unifying threat of nuclear annihilation which dominated the Cold War has been replaced by multiple and differentiated subnational, national and transnational security concerns such as terrorism, transnational crime and human rights abuses, the interests of member states have also become more diverse. International organizations such as NATO and the EU have responded to the differentiation of security interests by adjusting their internal structures to permit flexible 'coalitions of the willing' for localized operations involving only selected member states. Most international interventions of the post-Cold War era such as in the former Yugoslavia, Afghanistan and Congo have been conducted by such coalitions. At the same time, international organizations such as the OSCE have become more institutionalized with independent secretariats and staff. Directed by their own mandates, staff influence not only policy decisions, but also and to a large degree the implementation of organizational policies.

The growing role of international organizations in national and international security builds on the transformation of the norm of state sovereignty which is increasingly subordinated to 'human security' concerns. This normative shift has allowed international organizations such as NATO to intervene in Kosovo in order to stop and prevent the human rights abuses of a sovereign state against its own citizens. The weakening of the norm of state sovereignty in security matters is further reflected in the adoption of non-consensual decision-making procedures within international organizations such as consensus-minus-one or two within the OSCE and qualified voting within the EU's Common Foreign and Security Policy. In addition, the norm of self-government has encouraged the creation of regional and sub-regional organizations in order to manage local security issues. It rests on the neoliberal idea that self-government is not only a more efficient, but also a more effective form of policymaking.

Finally, the proliferation of international organizations is part of the fragmentation of the decision-making and implementation of security policies. On the one hand, states are creating and using multiple and diverse international organizations to pursue their own security interests, thus contributing to the growing complexity of decision-making and policy implementation in security governance. On the other hand, international organizations are establishing new networks with state and non-state actors

in response to the complex and transnational security concerns that dominate today's security agendas. As demonstrated by recent interventions, cooperation and coordination among these actors is characterized by horizontal negotiation and voluntary compliance. International organizations like the UN and the OSCE may provide the mandate and legitimacy for such operations, but they typically lack the authority to control and coordinate the myriad of state agencies, NGOs and private security companies engaged on the ground.

It follows that the growing role of international organizations in contemporary security policymaking does not represent the formation of a global system of collective security provision. Rather the shift from government to governance suggests that international organizations are but one type of actor in an increasingly complex network of public and private security providers.

## NON-GOVERNMENTAL ORGANIZATIONS

Non-governmental organizations form perhaps the largest group of non-state actors engaged in contemporary security. They include multilateral associations such as the International Federation of the Red Cross and Red Crescent Societies, international bodies such as Médecins sans Frontières, and national NGOs such as the American Refugee Committee. Some of these organizations deal with traditional security concerns such as the banning and removing of landmines and the monitoring of armaments proliferation. However with the rise of non-traditional security threats the expertise and capabilities of development and human rights NGOs have become more important in security governance. The scope of the non-governmental contribution to security has increased progressively in conflicts such as in the former Yugoslavia, East Timor, Afghanistan and Sudan. In 2003, more than 60 major American and international NGOs operated in the Balkans.<sup>2</sup> Together with local NGOs as well as those based in other countries, the number of NGOs in Kosovo alone was estimated at 250. Similarly, in Afghanistan, there were nearly 200 international and almost 300 local NGOs providing humanitarian relief in 2005. The services provided by NGOs in these regions range from food aid, shelter, refugee camps and demining to the removal of unexploded ordnance, disarmament and reintegration of ex-combatants (ACBAR, 2005). The reasons and consequences of the growing involvement of NGOs in the provision of contemporary security are complex. However, the concept of security governance can help to understand them as a result of the fragmentation of policymaking between state and non-state actors along the seven dimensions outlined above.

Globalization and the associated geographical transformation of security contributes to the growing role of NGOs because of their willingness and ability to operate across national boundaries. Although it can be argued that governments in industrialized nations have increasingly accepted a responsibility for the safeguarding of human security abroad, the example of Yugoslavia shows that a large proportion of the humanitarian work in international interventions is carried out by NGOs (Cooley and Ron, 2002; Minear et al., 2000). Moreover, where industrialized nations fail to intervene because their security is not directly affected as in Sudan, NGOs and international organizations are frequently the only available security providers for the local population. One reason for their engagement is that NGOs not only have an explicitly transnational mission and operate on the basis of need rather than geographical proximity, but they can also draw on global or regional networks through national members' associations and local offices (ICRC, 1995).

Differences in the expertise of NGOs and state actors facilitate the differentiation of security functions among public and private actors. Since governments are challenged by the growing cost of an expanding security agenda, while at the same time faced with a slowing world economy and demands for a peace dividend, they are frequently happy to delegate non-traditional security functions to NGOs. NGOs have been operating in these areas for some time and thus relieve states of the need to acquire the necessary functional resources themselves at high cost and short notice. In the former Yugoslavia, which was the first of the new complex emergencies in Europe in the post-Cold War era, a division of labour was thus established between NATO, the United Nations and NGOs with the military taking on policing functions and providing logistics and infrastructure, while humanitarian agencies channelled the flood of refugees and organized refugee camps.

The division of security policy functions among public and private actors is strengthened by the fragmentation of the resources and expertise required for the provision of international security. Today, the budgets of the main NGOs can compare with those of major donor countries, such as the United States (US). While US aid for Kosovo approximated \$10 million in 2002 (USAID, 2002), Mercy US distributed over \$2 million in food, shelter and clothing to refugees in Kosovo and Albania, and World Vision allocated \$11.3 million for shelter and building reconstruction (InterAction, 2002). In Sudan, the \$12.4 million budget of the United Nations High Commissioner of Refugees was in fact lower than that of the US charity Catholic Relief Services of \$24 million annually (InterAction, 2003). This development is exacerbated by the fact that many states prefer to outsource security functions to national NGOs rather than collectively

to provide security or aid through international organizations. The United States Agency for International Development, for instance, has implemented its humanitarian assistance programme in Kosovo through 12 US-based NGOs and contractors, but only one international organization and five local NGOs (USAID, 2002). Even within Kosovo national military contingents maintained separate resource structures. As a consequence refugee camps varied considerably in their standards ranging from 'five-star' air-conditioned tents provided by the United Arab Emirates to modest shelters provided by the Turkish contingent (Minear et al., 2000).

The fragmentation of resources among public and private actors is partly a consequence of the widespread perception of diverging security interests among states, in particular between Europe and the US and between developed and developing countries. When states are unwilling to compromise or unable to agree on common security policies within the United Nations or other international organizations, NGOs are an alternative means for implementing security policies abroad. Moreover, NGOs contribute to the differentiation of security interests by pursuing their own agendas. These agendas can range from the selective provision of security to specific ethnic or religious groups, to political programmes.<sup>3</sup>

Finally, the growing role of NGOs in security governance is associated with a change in the making and implementation of security policies. Due to the differentiation of functions, resources and interests among an increasing number of public and private actors with no unifying authority, decisions are primarily taken through horizontal arrangements which emphasize negotiation among actors with significant differences in capabilities and influence. The failure of the United Nations to establish itself as a clear lead agency among the multitude of governmental and non-governmental actors in Kosovo exemplified this system. The Kosovo case also illustrates the imbalance in power which defines decision-making in security governance. In spite of their growing role NGOs remain much less influential than governments in defining national and international security policies. Since many NGOs depend on Western governments for funding, they are also limited in their ability to criticize governmental policies (Cooley and Ron, 2002).

Fragmented and self-enforced implementation of security policies and divergent public and private standards are some of the consequences of the shift towards security governance. While many NGOs subscribe to best practices promoted by the 'Code of conduct for the International Red Cross and Red Crescent movement and NGOs in disaster relief' (ICRC, 1995), notably the distribution of aid without adverse distinction of any kind and the direction of resources to those most in need, separate Kosovo Force (KFOR) contingents maintained their own national standards and at times

entered into direct competition with each other and NGOs (Minear et al., 2000).

In sum, the growing involvement of NGOs in security appears to be a result of globalization and the adoption of a neoliberal ideology which are promoting the shift from government to governance. This shift is actively facilitated by governments in North America and Europe as well as by international organizations such as the World Bank. However, the fragmentation of security policymaking among public actors and NGOs generates additional impetus for the differentiation of political authority through the agency of NGOs operating in their own interests and according to their own standards.

## DEFENCE CORPORATIONS AND PRIVATE MILITARY COMPANIES

The last group of non-state actors that are part of the transformation towards security governance are defence corporations and private military companies, that is, companies that provide military services. Today private firms provide all possible forms of military hardware and services ranging from fighter jets to military logistics for international interventions such as in Iraq. Few areas are exempt from the trend towards the privatization of previously national armaments companies or the outsourcing of military services to commercial contractors. Industrialized countries such as the United Kingdom and the United States have been at the forefront of this development (Edmonds, 1998; Lovering, 1998). However, the reduced interest of the superpowers in regional conflicts in Africa and Asia has led to a growing demand for private security firms in the developing world (Brooks, 2000; Singer, 2003).

The expansion of the security industry is part of the emergence of security governance. In terms of geography the privatization of national defence companies and the proliferation of private military service providers has led to the rise of international and multinational corporations, which increasingly operate across national boundaries. In the United States, where most defence companies have traditionally been private, the Clinton government encouraged the merger of existing companies to achieve higher economies of scale in the first half of the 1990s (Markusen, 2000). The effect was the creation of military giants such as Lockheed Martin, Boeing, Raytheon and Northrop Grumman. In Europe, the merger of the French SOGÉADE, the Spanish SEPI and the German Daimler-Chrysler created in 2001 EADS, the largest European armaments corporation after the British BAE Systems. The global restructuring of the industry has been strengthened by the fact

that privatized defence and military companies have been much more aggressive and successful in pursuing transnational mergers, joint ventures and partnerships than their nationalized predecessors (Lovering, 1998; James, 2000). Moreover private companies are increasingly focusing on the global rather than national markets. In particular they cater to demands for equipment and services from the developing world, which has increased after military support from the two superpowers was cut back at the end of the Cold War.

In addition the reshaping of the security industry has involved a functional differentiation between armaments production and other technologies, and between military and non-military service providers. Contrary to expectations that the consolidation of defence companies in a small number of large corporations and the growing relevance of dual-use technologies for military equipment would lead to the diversification of production lines, most defence companies have sold off non-military assets and further specialized in weapons production (Markusen, 2000; Bitzinger, 1994). Moreover, through mergers between military technology and service companies such as between MPRI-L-3 Communications, Vinnell-Northrop Gumman and DynCorp-CSC companies are now combining military equipment and services. The result is a division of labour between public and private actors as could be observed in international interventions in the former Yugoslavia and Iraq. In these interventions state armed forces focus on combat, while weapons procurement, logistics, training and other services are outsourced to private companies, humanitarian aid and conflict management is delivered by NGOs, and overall coordination and legitimacy is provided by international organizations such as the United Nations, NATO or the European Union.

Another characteristic of the growth of the private defence and military service sector has been the fragmentation of resources among public and private security providers. National governments increasingly rely upon the private sector for weapons procurement and military support services. This dependence does not only include national companies, but also multinational and foreign corporations. The above-mentioned development towards greater functional specialization rather than diversification exacerbates resource fragmentation among multiple actors. Governments as well as private defence companies are increasingly buying off-the-shelf commercial components, such as electronics and computer technology, from the civilian sector across the world. In addition, they are outsourcing non-combat functions such as logistics, training and interrogation to private contractors (Isenberg, 2004; Krahmman, 2005).

The shifting balance between public and private actors in the defence sector directly affects the interests represented in security governance. Since

privatized defence and military service companies are first and foremost accountable to their shareholders rather than national governments, the new millennium has seen the rise of the profit motive as a determinant of national and international security provision. Decreasing competition due to the consolidation of the industry has allowed large private companies to exploit their position in contracts with governments either by increasing charges once long-term contracts on military equipment had been signed or by overcharging national armed forces (GAO, 2000; GAO, 2004). Another conflict of interest arises from the imperative of a private defence industry to design military equipment for which there is a sufficiently large and sustainable demand. National military requirements are likely to take a second place behind the demands of larger, foreign buyers. The French Air Force, for instance, had to compromise on the specifications for its fighter jet design in order to meet the interest of Middle Eastern customers (Markusen, 2000). Finally, there has been growing pressure from the defence industry for a reduction in weapons export controls which would allow them to access new markets, whereas the military service sector has benefited from the continued lack of national and international regulation outside the United States and South Africa.

The normative shift towards neoliberalism which identifies the market as a legitimate supply mechanism for public services plays a crucial role in the growth of the private security sector. It goes hand in hand with the acceptance of limited national sovereignty. While during the Cold War national autonomy in terms of a viable defence industry was perceived as the equivalent of national sovereignty (Bitzinger, 1994), today interdependence in defence procurement has become the norm. The French example is illustrative of a transformation in which the policy of independence has given way to calls for a common European procurement policy (Serfati, 2000). In addition, the shift from public command-and-control structures towards the self-government of the defence sector can be noted in the growing independence of military companies in designing major armaments projects. Whereas during the Cold War the development of large projects, such as fighter jets and tanks, was controlled by national governments, today defence companies are much more involved in the design of arms for which there is a national and international market.

The transformation of the defence industry and the proliferation of private military companies also affect the decision-making process in the security sector. In contrast to the hierarchical structures which dominated nationalized defence industries during the Cold War, the private military industry has become an independent actor in security decision-making. Military technology and services are provided on the basis of public contracts and negotiations in which private firms have an advantage in terms of

information and expertise. Moreover, the new public management favours public–private partnerships in which firms are encouraged to provide active input into the making and implementation of defence projects.

## GOVERNANCE FAILURE

While the growing involvement of non-state actors in security governance helps to lower the pressures on the state, it has also been linked to a number of governance failures (Taulbee, 2000; Zarate, 1998). This section suggests that the framework for the analysis of the shift from government to governance proposed at the beginning of this chapter can help to explain some of these problems. Specifically, it argues that governance failures can arise when a shift from government to governance in some dimensions is not reflected by congruent changes in the other dimensions. This can lead to two types of governance failures: normative and practical. Normative failures can arise when changes in the policy process are not consistent with prevailing norms and beliefs. Practical failures can emerge from a mismatch between governmental and governance arrangements in terms of geography, function, resource distribution, decision-making and policy implementation. The following paragraphs specifically discuss four types of governance failure: lack of transparency and accountability, loss of control, insufficient coordination and decreased efficiency.

Decreased transparency and accountability are among the most frequently noted normative problems with the growing role of non-state actors in national and international security (Howe, 1998; Lovering, 1998; Edmonds, 1998). One way in which the emergence of security governance is challenging established norms and decision-making arrangements is with the dissolution of state sovereignty and clear lines of responsibility. While under governmental arrangements political responsibility explicitly rests with the legislative and executive, in governance it is distributed among a multiplicity of public and private actors. Since these actors cooperate in the making and implementation of security policies, no single actor can be held accountable for the outcomes of this process.

In addition, governments, international organizations, NGOs, armaments corporations and private military companies are accountable to different agents. Governments are answerable to their electorates, international organizations to their members, NGOs to their donors and the recipients of their aid or services, and armaments corporations and private military companies to their shareholders and customers. Only the former three are in some sense accountable to the general public and hence under the scrutiny of parliamentary inquiries and the media. Although private armaments and security

companies make some data available to shareholders, detailed information on where armaments and services are sold and for what purpose are not published for a broader audience (Markusen, 2000).

The loss of public control over security policy is another normative governance failure which can be explained by the trend towards governance arrangements (Zarate, 1998). Specifically, reduced state control over security policies appears to be one result of the progressive privatization and globalization of the security sector and the consequent fragmentation of security policymaking. However, while the fragmentation of political authority among multiple actors is not synonymous with governance failure in sectors such as the environment, it is perceived as a problem in security because the loss of public oversight contradicts established norms according to which the provision of security is the domain of the sovereign nation state. Additional problems arise from the fact that the interests of non-state security actors are not necessarily congruent with those of the state or the public.

The loss of governmental control over security governance primarily appears to be due to two developments: the ability of private security actors to evade public control and the changing balance of power between state and non-state actors. The globalization of NGOs, armaments corporations and private military companies has contributed to both. It has enabled NGOs and private military companies to exploit the lack of international regimes which could regulate international interventions by private actors. The absence of suitable national and international controls is due to the relatively recent and exponential growth of NGOs and private security firms which only began in the 1990s. Government and international organizations have only caught up with this development in the last few years (Nossal, 2001; Taulbee, 2000; Zarate, 1998). Even where national and international controls have been developed during the Cold War period, as in the armaments sector, firms can use international partnerships, joint ventures and transnational mergers to circumvent national regulation and to enter foreign markets (Lovering, 1998; Bitzinger, 1994).

In addition, the ability of governments to control non-state security actors has been reduced by changes in the relative power of each. Since governments increasingly outsource security functions to international organizations, NGOs, private armaments corporations and private military companies, the latter become more and more influential in the making and implementation of security policies. The expertise and information advantage of these actors also helps them to influence governmental security policies. Moreover, modern outsourcing procedures frequently grant private actors more freedom in how they implement governmental policies in a bid for greater efficiency.

Finally, the consolidation of the private armaments and military service industry in a decreasing number of firms has reduced the ability of governments to choose between competing producers and security service providers. These large and often multinational companies are in a strong position to define the terms of their contracts and to influence governmental security policymaking by taking a more active role in the definition of threats, the development of weapons and the supply of security services.

In addition to the normative questions raised by the transformation from government to governance, a number of practical issues have emerged in recent years which affect security governance. Lack of coordination among public and private security providers is one of these practical governance failures and is caused by the fragmentation of security policymaking in terms of geography, function and resource distribution. It can be explained by the fact that governments and international organizations have been slow to adapt their security policymaking and implementation processes to the growing role of NGOs, armaments corporations and private military companies. The result has been a mismatch between the degree to which non-state actors have the geographical reach, functional expertise and practical resources on the one hand, and are involved in the decision-making and implementation process on the other.

In particular, coordination failures in security governance arise from three factors. The first is a lack of institutional structures which ensure sufficient communication and coordination among governments, international organizations, NGOs and private security firms. Recent international interventions as in the former Yugoslavia were thus hampered by the initial failure of the military to establish clear lines of communication with the multiplicity of NGOs on the ground.

A second factor is differences in the interests of governments, diverse international organizations, NGOs, armaments companies and private security firms. These differences mean that congruence and compatibility in the making and implementation of security policies cannot be assumed. Conversely, structures or processes are needed to coordinate policies and to resolve the negative effects of divergent interests. Illustrative of the coordination problems which can arise from the divergent interests of public and private security actors is the complaint among NGOs in Kosovo that the KFOR military forces stationed in the region to support the humanitarian mission did not share important information because it was regarded as classified (Minear et al., 2000).

Finally, coordination problems among governments, international organizations, NGOs and private military companies are compounded by different organizational cultures. The hierarchical organization of governmental agencies, in particular of the military, and private companies

frequently finds it difficult to collaborate with the more flexible and horizontal organization of NGOs. Moreover, while governmental and intergovernmental institutions primarily rely on formal channels of communication, private security actors frequently use personal and informal networks to coordinate their operations.

A second practical governance failure is decreased efficiency in the making and provision of security. It is especially interesting that efficiency can be a problem in security governance because the introduction of governance mechanisms, such as privatization and market principles, is commonly justified by the neoliberal argument that private actors can provide goods and services more cost-efficiently than public actors. However, if viewed within the context of other forms of governance failure, it is little surprising. Loss of control and lack of coordination explain why emerging governance arrangements might be less efficient than established governmental systems. In particular, the framework proposed in this chapter suggests that the mismatch between the fragmentation of security policymaking in terms of geography, function, resource distribution and interests on the one hand, and governmental decision-making and implementation arrangements on the other, contributes to these inefficiencies.

The fragmentation of security policymaking among actors from different countries specialized in the provision of different goods and services and having different capabilities and expertise requires greater coordination effort than centralized services. In particular, the differentiation of security policymaking among a large number of public and private actors can decrease efficiency due to duplication and lack of collaboration. For instance, in 2002 InterAction listed no less than 23 major American and international NGOs providing disaster and emergency relief in Kosovo, 19 offering healthcare and 26 engaged in teaching and education. Although most NGOs concentrated their efforts in particular regions, duplication did occur and in some cases even led to competition among NGOs for refugees.

Another factor contributing to low efficiency is the differences in the interests of public and private actors which are not sufficiently resolved by existing decision-making arrangements. While governments as donors and contractors have an interest in the most efficient provision of security, NGOs might be more concerned with maintaining a certain standard of their work. Public and private interests differ even more in the case of armaments companies and private security firms whose primary imperative are profits. In Kosovo, the American security contractor Kellogg, Brown & Root was noted for overproviding and overcharging the US armed forces for certain services – a problem which has reoccurred at an even greater scale during the intervention in Iraq (Isenberg, 2004; GAO, 2004).

Similarly, armaments corporations can exploit the consolidation of the industry to increase the cost of weapons procurement as governments are lacking alternative offers. In the United States, where the consolidation of the private armaments industry has most progressed, often not more than three companies can compete for a government contract. Moreover, since the government has a keen interest in ensuring the survival of a viable defence industrial base, bids often go not to those companies which make the best offer, but to those which are most in need of new contracts.

## CONCLUSION

This chapter has attempted to examine how we can understand the growing role of non-state actors in security and what its implications are. It has suggested that the concept of security governance can provide a useful framework for addressing these questions. In particular, this chapter has argued that the proliferation of non-state actors in contemporary security provision can be understood in terms of a shift from government to governance. Characteristic of this development is the progressive fragmentation of political authority among public and private actors in geography, function, resource distribution, interests, norms, decision-making and implementation.

Using the resulting framework for its analysis, this chapter has suggested that the growing influence of non-state security actors, such as international organizations, NGOs, defence corporations and private military companies, can be interpreted both as a result of the shift from government to governance in security and as a contributing factor to this development. On the one hand governmental policies which favour the privatization and outsourcing of security services facilitate the growth of the private security industry and the division of security functions in terms of geography, function, decision-making and implementation; on the other hand the proliferation of private security actors exacerbates the progressive differentiation of resources, interests and norms in national and international security.

The proposed framework further argued that the governance failures which result from the fragmentation of security policymaking among public and private actors can be explained by differences in the degree to which governance has replaced government across the seven dimensions. In particular, it has contended that these differences contribute to two types of governance failures: normative and practical. Normative failures can be linked to the persistence of governmental principles and beliefs in the interest and normative dimension as governance arrangements increasingly define the geographical, function and resource dimensions. Practical failures can be

understood as the result of governmental modes of decision-making and implementation in international security which do not fully take into account the growing dispersion of policymaking capabilities in the geographical and functional dimension. Specifically, this chapter has analysed four types of governance failure in national and international security: a lack of transparency and accountability as well as a loss of governmental control over security policy as normative problems, and coordination and efficiency as practical issues.

While the framework outlined in the first part of this chapter cannot directly answer how these governance failures might be resolved, it suggests that the emergence of security governance in security can be compared with other policy sectors such as health and education and thus learn from their experiences. Of particular relevance are examples of 'good governance', that is, mechanisms and processes which can be used to address or prevent governance failure. A number of such mechanisms have already been proposed within the defence sector and in other comparable sectors, such as policing, including the establishment of minimum standards of transparency and accountability through sectoral self-regulation (South, 1988); the establishment of best practice in the drawing up of contracts with private security providers (GAO, 2005); and liaison between public and private security actors (Greene et al., 1995).

However, normative governance failures cannot be effectively resolved by mechanisms relying on governance principles because these failures are due to persistent beliefs in the superiority of public security provision in terms of transparency, accountability and control. Only increased state control, for example through regulation, can address these issues in the absence of normative change. However, both governance and governmental mechanisms can be successful in improving practical governance failures, such as coordination and efficiency. The implications for the governance of international security are that any effective approach towards raising the standard of transparency, accountability, control, coordination and efficiency will have to take into account these differences which can also be found in security governance.

## NOTES

1. This counts each conflict per year even if the conflict was continuous.
2. See 'NGOs in the Balkans', at <http://call.army.mil/fmso/ngos/organisations.html>.
3. The Islamic African Relief Agency (IARA-USA) for instance 'arranged for the local purchase of approximately US\$13 000 in sheep and cows in Albania for the Muslim holiday, Eid al-Adha' as part of its humanitarian aid in the Balkans. See 'NGOs in the Balkans', at <http://call.army.mil/fmso/ngos/organisations.html>.

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# 11. Globalization, governance and the UK's domestic 'war on terror'

**Christina Pantazis and Simon Pemberton**

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## INTRODUCTION

In recent years there has been a slow, but increasing, acknowledgement that the twin issues of globalization and governance are manifestly related to the production of crime and developments within criminal justice (see Barak, 2001; Nelken, 2004). Globalization is perceived as fomenting conditions which facilitate the proliferation and development of new forms of crime, particularly those occurring across international boundaries and requiring global or cross-border interventions. Thus, there is now an emerging body of literature on illegal migration (Friman, 2004), human trafficking (Fukuda-Parr, 2003; Pratt, 2004), state-corporate crime (Whyte, 2003), state crime (Green and Ward, 2004), social harms (Tombs and Hillyard, 2004; Gilbert and Russell, 2002) and terrorism (Hess, 2003). The increasing global governance of criminal justice is also gaining significant attention from academics. Some are focusing on comparative criminal justice systems emphasizing similar and contrasting models across different jurisdictions (Pakes, 2003; Cavadino and Dignan, 2006). Others are examining the multilayered nature of criminal justice policymaking, highlighting the tensions between nation states and regional structures of governance (Edwards and Hughes, 2005). A growing number of academics have begun analysing the transfer of policies and practices in criminal justice (Nellis, 2000; Jones and Newburn, 2002; Newburn, 2002; Jones and Newburn, 2006), the global travel of crime policies (Karstedt, 2002; Sparks and Newburn, 2002), and policy convergence and crime control (Jones and Newburn, 2002; Pakes, 2003; Muncie, 2005).

The growing awareness of 'policy transfer' in the academic literature has been encouraged by the apparent increase in the incidence of transfer of public policy, particularly from the United States to the UK (Dolowitz et al., 2000; Daguerre and Taylor-Gooby, 2004), where policy transfer has been defined as a 'process in which knowledge about policies, administrative arrangements, institutions and ideas in one political setting (past or

present) is used in the development of policies, administrative arrangements, institutions and ideas in another political setting' (Dolowitz and Marsh, 2000, p. 5). It is considered a generic framework encompassing a range of related concepts such as lesson-drawing, convergence, emulation and harmonization (see, for example, Bennett, 1991; Dolowitz and Marsh, 1996; Stone, 1999). The UK political science literature has examined instances of policy transfer from the US to the UK by looking at specific examples of public policy (for example, Welfare-to-Work, the Child Support Agency) but, notwithstanding the recent work by criminologists, criminal justice policies have tended to be overlooked.

Within criminology it is possible to decipher two broad approaches, which have sought to understand how crime policies travel across territorial boundaries. One approach, that can be categorized as broadly structural in terms of emphasizing either the impact of economic interests (Christie, 1993) or cultural influences (Wacquant, 1999; Garland, 2001), has focused on the increasingly punitive styles and systems of punishment in the UK. Structural approaches tend to lack detailed empirical specificity; there is inevitably a tension between broad structural approaches and small case-study approaches, a point that is recognized by theorists such as Garland (2001). The second approach, which relies on small case-studies, focuses on analyses prioritizing the importance of policy actors and their agency within the policy process (Jones and Newburn, 2002; Newburn, 2002). Related to this strand is work that emphasizes the primacy of local governance networks and local policy and political actors within the context of an increasingly interconnected world (Tonry, 1999; Melossi, 2004).

The prioritization of agency over structure is often justified on the basis that 'economic forces, social structures and cultural sensibilities do not lobby for penal innovations, frame legislation, press sentences or vote in elections, people do' (Jones and Newburn, 2004, p. 127). However, our contention is that the emphasis on agency tends to underplay the significance of structural tendencies that shape and constrain the decisions of policy actors and networks. Analyses of the processes of policy transfer should, therefore, seek to locate micro-level decision-making within broader structural accounts. A second, but related, issue is that the small case-study literature often neglects the role of multilayered forms of governance in explaining the process of policy transfer. An inevitable outcome of this is that the impact of supranational and regional government bodies on national policymaking is often inadequately theorized in discussions of the policy transfer process.

The purpose of this chapter is to bring together a range of disparate literatures in order to examine two key questions: first, how have the UK's policies on counter-terrorism developed in the context of the multilayered

nature of governance? Second, what role has the policy transfer process played in shaping such developments? In addressing these questions, we hope to provide an understanding of the extent to which the nation state (in this case, the UK) is able to shape its own criminal justice policies within the context of emerging and divergent forms of global governance (see Kennett's Chapter 1). Since terrorism can be viewed as a global issue requiring international and regional cooperation, the 'war on terror' provides a useful illustration to examine modern forms of governance with linkages between national, regional and supranational policy actors and institutions. However, as will be demonstrated, the 'war on terror' – certainly within the UK context – also illuminates the local historical specificities through which global and regional policy initiatives are mediated.

The remainder of the chapter is divided into three sections. The first describes the main developments in UK domestic counter-terrorist policies since 2000, but especially since 9/11, and then proceeds to trace historical continuities between current measures and previous state responses to political violence in Northern Ireland. The second section examines the role and influence of supranational and regional organizations, as well as nation states – specifically, the US – which have impacted on the development of UK policy. The third section provides an explanation of UK counter-terrorist policy by attempting to locate the role of individual actors and networks within a broader political economy approach. We attempt to illuminate how UK policy has been shaped, determined and framed in the way it has. In doing so, we address why certain counter-terrorist policies have travelled whereas others have not.

## THE 'WAR ON TERROR': UK DOMESTIC COUNTER-TERRORIST MEASURES

Although Britain has a long history in tackling political violence through its involvement in Northern Ireland, counter-terrorism now plays a much more prominent role in the government's policy agenda. The government's initial major legislative response to the perceived new threat of international terrorism was the Terrorism Act 2000.<sup>1</sup> Peirce (in Fekete, 2001, p. 97) describes it as 'probably the most far reaching criminal legislation that there has ever been in terms of the scope and breadth of its definitions and its potential to affect far more people than previous anti-terrorism acts'. Replacing the previous temporary legislation (Prevention of Terrorism Act 1974 and its subsequent amendments) dealing with Northern Ireland, the Terrorism Act 2000 applies equally across the UK<sup>2</sup> and criminalizes any action or threat of action against a person or property or electronic system

with the purpose of advancing a political, religious or ideological cause. As well as providing an all-encompassing definition of terrorism, the Act enhances police powers of stop-and-search and detention, and proscribes a number of international organizations (including a number of organizations which have been described as liberation groups such as the Tamil Tigers and the Kurdistan Workers' Party) (Fenwick, 2002). Anyone or anything associated with those organizations can now be criminalized. In addition to the 14 organizations in Northern Ireland that are proscribed under previous legislation, the Terrorism Act (TA) 2000 proscribed 21 groups in 2001, four in 2002, 15 in October 2005, and since then a further four. The total number of proscribed international groups under the Act is currently 44 (Home Office, 2006). The vast majority of proscribed groups are Islamic.

Within less than one year of the TA 2000 being introduced, and in response to the events of 9/11, the UK government decided that its counter-terrorist measures were inadequate despite the view of many that the nature of the TA was both expansive and draconian. The government introduced the Anti-Terrorism, Crime and Security Act (ACTSA) 2001, to build upon the Terrorism Act 2000. Concern was expressed, at the time, at the speed with which the bill was passed by Parliament. Lustgarten (2004), for example, discusses the limitations of democratic scrutiny, noting that MPs had just 16 hours to consider the statute which contained 129 sections and eight schedules. The only effective scrutiny of the bill took place in the House of Lords where 70 amendments were made, although they were later reversed in the House of Commons (Thomas, 2002). The major sticking point was the new power of the Home Secretary to detain indefinitely without trial foreign nationals suspected of terrorist activity.<sup>3</sup> This power was finally enshrined in Part IV of the Act, but only at a sacrifice. In order to maintain compatibility with the European Convention on Human Rights (ECHR), which Britain had incorporated into its domestic legislation through the Human Rights Act 1998, the UK had to derogate from Article 5 which protects the right to liberty and security of the person. It was only able to do this by declaring that the state faced a 'public emergency threatening the life of the nation' (Article 15).

Part IV attracted significant criticism from lawyers who argued that detention without trial is fundamentally at odds with human rights norms (Fenwick, 2002). The human rights lawyer Louise Christian (2004) went further by claiming that Britain now had its own Guantanamo Bay, pointing out that the US's experiment at Guantanamo Bay, in which captors from the Afghanistan war are held indefinitely without charge, served to legitimize oppression across the world.

Opposition to Part IV led to a series of legal challenges that culminated in a final defeat for the government in December 2004 when an 8–1 majority of

Law Lords held that the indefinite detention of non-UK suspects was unlawful under the ECHR (Legal Action, 2005). The Home Secretary's powers were found to be incompatible with Articles 5 and 14 relating to the right to liberty and the right to freedom from discrimination, respectively.<sup>4</sup> The government's response to this legal setback was to replace Part IV of the ATCSA with the Prevention of Terrorism Act (PTA) 2005. Individuals (whether UK nationals or non-UK nationals) suspected of posing a risk to terrorism, who cannot be taken to court, can now be given control orders. These place restrictions on the individual's movement, communication and association through curfew, tagging and surveillance. Although individuals are no longer held in custody, the indefinite and restrictive nature of these orders means that human rights principles continue to be undermined.

The fragility of Britain's internal security was exposed with the London bombings in July 2005. The immediate policy impact of the attacks was to hasten the introduction of further counter-terrorist measures that the government had said it was committed to introducing during the passage of the PTA 2005. The Terrorism Act 2006 introduced new criminal offences such as acts preparatory to terrorism, the encouragement of terrorism either directly or indirectly including the glorification of terrorism, disseminating radical written material, and attending terrorist training camps. The TA 2006 also amended the TA 2000 so that terrorism suspects can be held for up to 28 days rather than 14 days.<sup>5</sup>

Following the July bombings, the government concluded Memoranda of Understanding with Jordan and Libya on the deportation and exclusion of individuals regarded as fostering hatred and advocating violence. The Immigration, Asylum and Nationality Act 2006 was introduced, containing provisions which allow the government to withdraw UK citizenship from immigrants with dual citizenship who 'seriously prejudice' national security interests. Furthermore, significant changes have been made to the process of gaining UK citizenship. These include requiring people to attend a citizenship ceremony, swearing allegiance to the country, and necessitate a rudimentary grasp of the English language. In addition to reviewing the threshold for the acquisition of British citizenship, the government is also looking at ways to increase the integration of Muslim communities in Britain. Faith schools and even women's dress, for example in terms of the right to wear the *niqab*,<sup>6</sup> have been targeted as issues for public discussion.<sup>7</sup> These recent changes add credence to the view that we are currently witnessing the securitization of migration, in which the migration phenomenon is increasingly identified with issues related to risk and security (Ibrahim, 2005).

This section has described the recent reforms introduced by the government in its attempt to respond to the perceived growing threat of domestic

and international terrorism. According to Lustgarten (2004, p. 9): 'Britain now has the most comprehensive, and in some respects most draconian, legislation directed against "terrorism" anywhere in the world, certainly in Europe.' Within these new security arrangements the fragility of human rights has been exposed. Yet, the dilemma between security and human rights in public policy is not a new one for the government, as Britain's past involvement in Northern Ireland demonstrates.

## THE LEGACY OF NORTHERN IRELAND

Discussion of recent counter-terrorist policy developments cannot be decoupled from the British state's longer involvement in suppressing the violent resistance of the Irish Republican Army (IRA) and other Irish groups to Britain's occupation of Northern Ireland. The legacy of Irish political violence and the state's response provides not only a historical context for understanding current approaches, but also reveals a strong continuity in policy. The starkest example of this can be observed in relation to the Terrorism Act 2000 which made permanent many of the powers in the successive Prevention of Terrorism (Temporary Provisions) Acts 1974–89, introduced originally to deal with Irish political violence. Hence, a number of writers point out that the expanded police powers granted by the 2000 Act are now being used disproportionately against Asian men who have replaced the Irish as the new 'suspect community' (Statewatch, 2003; Hillyard, 2005; Pantazis and Pemberton, 2006). Police arrest and interrogation powers granted under the Prevention of Terrorism Act, which were exposed by Hillyard (1993) as being used primarily to collect information on Catholics rather than to charge and prosecute, is analogous to the situation affecting Asians and Muslims today. For example, whilst more than 110 000 stops and searches have been made since 2001 under the Terrorism Act 2000, only 1 per cent of these have resulted in arrests (and even then, the majority of the arrests are unrelated to terrorist activities) (Pantazis and Pemberton, 2006).

There are other aspects of recent reforms which have parallels with legislation and policies introduced to deal with Irish political violence. Similarity can be drawn in relation to the urgent circumstances, which led to and facilitated the introduction of the ATCSA 2001 and the PTA 1974. The 9/11 attacks provided the justification for the ATCSA whilst the immediate impetus for 1974 legislation was the Birmingham pub bombings which killed 21 people and injured a further 180. Furthermore the controversial Part IV provisions of the ATCSA, which allowed for the indefinite detention of foreign nationals without charge, was reminiscent of internment

introduced at various times to deal with Irish political violence (Hillyard, 2005). Haubrich (2003, p. 23) writes: 'seen in this legal-historical context, the provisions of the 2001 Act seem to be very much a seamless (yet hardly insignificant) continuation of a string of liberty-curtailing anti-terrorism measures that had been legislated previously'. Hillyard (2005, p. 1) has made a similar point arguing that many of the new provisions contained in the Terrorism Act 2006, such as the right to hold suspects for 28 days, 'have been tried before in some form in Ireland'.

Hillyard (2005) also draws a point of comparison between the shoot-to-kill policy for suicide bombers, exposed following the deadly shooting of the Brazilian Jean Charles de Menezes by London Metropolitan Police officers in July 2005, and the shoot-to-kill policy that targeted the IRA and other Republicans during the Irish conflict. However, whereas the police openly acknowledge that there is a shoot-to-kill policy in operation against suicide bombers (BBC, 2005), the 'shoot-to-kill policy used against Republicans continues to be denied by the British state' (Bowcott, 2007).

It is no strange coincidence that the current counter-terrorist reforms have their origins in strategies previously introduced to deal with Irish political violence. Hillyard (1987) has long argued that powers introduced to deal with Irish 'terrorism' and employed in the North of Ireland were later normalized in the rest of the UK, for example, in the context of the increasing militarization of the police, the increasing centralization of policy, and expansion in police powers. However in a retort to Hillyard's (1985) 'Lessons from Ireland', Mulcahy (2005) explains that the impact of the Irish conflict manifested itself in other ways and he also emphasizes the positive (as well as the negative) lessons that can be understood from an examination of the Northern Ireland conflict.

The next section extends the discussion on the development of UK counter-terrorist policy by examining the influence of supranational organizations such as the United Nations Security Council (UNSC) and the European Union, as well as other nation states, in particular the US – but noting also, however, the UK's own influence on these bodies.

## THE MULTILAYERED NATURE OF POLICYMAKING

### **Supranational Institutions: The United Nations Security Council**

As the only universal global body with a mandate to ensure peace and security, the UN has been at the forefront of international efforts to tackle terrorism (Dhanapala, 2005). The Security Council, which is entrusted with

this specific responsibility (under Article 24 of the UN Charter), has been the primary channel for enforcing the UN's counter-terrorism strategy (Graham, 2005). Within less than one month following the events of 9/11, the influential Resolution 1373 was passed by the UNSC.<sup>8</sup> Introduced under Chapter VII of the UN Charter, it comprises of measures involving a commitment to: combat the funding of terrorist groups; undermine rather than support terrorist action; and increase cross-border intelligence sharing and cooperation. The responsibilities imposed by Resolution 1373, which are binding on all member states, are wide ranging with a requirement to: 'deny terrorists financial support; deny them safe haven, sustenance or support; share information on planned attacks; cooperate in investigation and prosecution; criminalize "active and passive assistance" for terrorism in domestic law; and join all relevant conventions' (Graham, 2005, p. 48). Furthermore, Paragraph 6 created the Counter-Terrorism Committee (CTC) with a specific responsibility to monitor member states' implementation of the Resolution. The UK representative to the UN, Sir Jeremy Greenstock, originally headed this but as Dhanapala (2005) notes, this was a departure from the normal convention that permanent members of the Security Council (SC) do not chair SC committees. The CTC was conceived as playing a pivotal role in energizing states and organizations so that they respond quickly and fully to the threat of terrorism. However, in the light of continuing terror attacks following the establishment of the CTC the US adopted a critical position, urging the CTC to adopt a much more proactive role in monitoring implementation of member states' counter-terrorism action plans (see, for example, Negroponte, 2004).

Dhanapala (2005) argues that the speed with which Resolution 1373 was introduced reflects the permanent members' domination of the Security Council's decision-making and represents what he terms an 'aggressive mode since all P5 members, to a greater or lesser degree, had their own domestic and foreign policy reasons for providing the Security Council with powers to pursue terrorists' (Dhanapala, 2005, p. 18). Therefore it is not surprising that the influence of the SC upon the UN policy agenda caused concern amongst some member states who had hoped to discuss and formulate the UN's policy response to 9/11 within the General Assembly. Further disquiet was expressed about the human rights implications of Resolution 1373. Mary Robinson, the then High Commissioner on Human Rights, initially addressed the UNSC over her concerns relating to the powers and obligations contained in Resolution 1373 and urged them to incorporate a human rights perspective into the CTC (Fitzpatrick, 2003). By 2005 human rights concerns were still seen as largely peripheral to the CTC's strategy and, in June, following a meeting of Special Rapporteurs, human rights experts, chairs of human rights treaty bodies,

and the UN Commission on Human Rights, a joint statement was released condemning the increasing number of laws, policies and practices post-9/11 which 'affect negatively the enjoyment of virtually all human rights' (Dhanapala, 2005, p. 22).

Resolution 1373 had an immediate and profound impact on the development of the UK's counter-terrorist policies. According to Fenwick (2002), the UK government argued that Resolution 1373 acknowledged the threat of international terrorism and demanded states take appropriate action. As a close political ally to the US, the government claimed that the UK faced a real and direct threat from international terrorism following the events of 9/11. It declared a state of 'public emergency', making possible the UK's derogation from the ECHR with regard to Part IV of the ATCSA 2001. The government successfully argued that derogation was necessary due to the presence of foreign nationals within the UK who were threatening the safety of the British public. Bonner (2002) also observes the influence of 1373 on the UK's policy of asset freezing in the wake of 9/11. In fact, only 17 days after Resolution 1373 was passed, Gordon Brown, the then Chancellor of the Exchequer, announced to the House of Commons that the government had frozen the bank accounts and assets of a number of organizations and individuals 'in line with UN Security Council resolutions' (Bonner, 2002, p. 502).

The impact of Resolution 1373 has been mediated not only through national governments, but also regionally through the European Union. Thus, 1373 was utilized by the European Union to justify many of the measures proposed after 9/11 (Brouwer, 2002). Further discussion of this is offered below; however, at this stage it is important to emphasize the need to be critical of overstating the influence of the UNSC as a separate entity. Indeed, identifying the unique policymaking influence of the UNSC is difficult precisely because of the close overlap in membership between the UNSC and the Group of Eight (G8): four of the G8 members (Britain, France, Russia, US) constitute the four of the five UNSC permanent members who have the right to veto resolutions. Thus, in this context it is noteworthy that Resolution 1373 was similar to the earlier G8's 'Action Plan to Combat the Financing of Terrorism', which sought to increase intelligence sharing and gathering at an international level (Dubois, 2002).

### **Regional: The European Union**

At the regional level of policy-making, the European Union has been significant in formulating responses to counter-terrorism. Although a flurry of activity had already begun in relation to cross-border policing and the criminal law, the events of 9/11 dramatically accelerated the process of

EU reform (Peers, 2003). Gregory (2005) notes that lacking its 'own resources', the EU has to depend upon member states for the implementation of most EU response measures. In this way, he argues that the EU's response to 9/11 is best characterized as performing a 'governance' function, regulating and homogenizing member states' counter-terrorism responses.

With this in mind the EU appears to have two forms of influence over member states' counter-terrorism agendas: first, through the development of common positions – statements that define the approach of the Union to a specific issue; second, through the development of common legal instruments and policies addressing specific security problems, for example, illegal immigration, information sharing and so on. Jimeno-Bulnes (2004) notes that legal instruments to fight terrorism have been introduced by all three pillars of the EU. Under the First Pillar<sup>9</sup> (or European Community Law), Council Regulation (EC) No. 2580/2001 provides measures to combat terrorism; for example, the freezing of funds, financial assets and economic resources belonging to any terrorist individual or organization, and provides a duty on all financial institutions to provide information about the accounts of the same individuals. Council Regulation (EC) No. 881/2002 extends those requirements to persons and groups connected with Osama bin Laden, Al-Qaida and the Taliban. Under the Second Pillar (or Common Foreign and Security Policy), there have been a number of counter-terrorist provisions relating to common positions. These include most notably CCP 2001/930/CFSP/27.12.01 which includes the agreement to respond to those involved in terrorism through the freezing of funds, denial of safe havens and prevention of terrorist acts, and the proscription of terrorist groups and persons (CCP 2001/931/CFSP/ 27.12.01). Most measures aimed at combating counter-terrorism, however, come under the Third Pillar (or Justice and Home Affairs), where there have been a number of framework decisions including: Council Framework Decision (2002/475/JHA/13.6.02) which provides a definition of terrorist offences and terrorist groups (similar to CCP/2001/931/CFSP), and contains a range of minimum penalties for terrorist offences; and Council Framework Decision (2003/48/JHA/19.12.02) which provides explicit measures for increased judicial and police cooperation, including mechanisms for intelligence sharing. The EU has additionally implemented a number of procedural measures, including: Council Framework Decision (2002/584/JHA/13.6.02) which established the European Arrest Warrant; and the Council Framework Decision (2002/465/JHA) which provided the framework for joint investigation teams from member states into cross-border terrorist activities.

Whilst these EU measures have had a significant impact on strengthening member states' counter-terrorism machinery through the obligations

which they impose, the EU has also provided a human rights discourse which has challenged the excesses of the 'war on terror'. Warbrick (2004), for example, points out that the ECHR places terrorist suspects within the sphere of the law – as opposed to the shady areas of the US constitution in the case of the Guantanamo detainees. This led, as we observed previously, to the legal challenges to Part IV of the ATCSA. Gearty (2005), however, makes a number of observations regarding the less obvious influences of the ECHR/Human Rights Act 1998 upon counter-terrorist policies. For example, in relation to the passage of the Terrorism Act 2000 the statutory power to detain for seven days without charge was replaced with a system of judicial review which is triggered after the fourth day of detention, and the proposed process of proscription of terrorist groups was redrafted to include effective mechanisms of appeal for groups against the Home Secretary's decision. Furthermore, in the context of the ATCSA, Gearty (*ibid.*) argues that the HRA 1998 facilitated a series of other challenges to the powers contained within the Act. Similarly, the Joint Committee on Human Rights – the scrutiny body which reviews parliamentary bills' compliance with the HRA – would not have existed without the HRA.

In explaining the EU response to counter-terrorism, it is important to observe some of the key external influences upon its policy agenda. First, the EU agenda itself has been affected by the obligations of its member states under international law and UN conventions. We have already observed the substantive regulations that have been introduced by the EU, but as Jimeno-Bulnes (2004, p. 245) notes: 'all of them are adopted, more or less' as implementing UNSC Resolutions 1373 (2001) and 1390 (2002).<sup>10</sup> Peers (2003) makes a similar point, arguing how a number of the EU measures developed in the wake of 9/11, such as policies to tackle money laundering, are built upon pre-existing international treaties. He describes (2003, p. 234) international counter-terrorism agreements as creating a 'patchwork of jurisdictional rules', whereas EU framework decisions have created a body of 'unified . . . mandatory rules'. Second, and, more controversially, is the position of the US, which has often been referred to as the EU's '16th member' due to the influence it has exerted at times on the EU's assorted policy fora (Lodge, 2004).<sup>11</sup> In the context of the development of counter-terrorism measures, this is evidenced by the presence of US officials at policy meetings taking place under Justice and Home Affairs (*ibid.*). Moreover, after 9/11, a common feature of the response under all the three pillars of the EU was the 'interaction' with the US policy agenda (Gregory, 2005). A tangible demonstration of this 'interaction' was President Bush's letter to EU President Romano Prodi on 16 October 2001 outlining 40 counter-terrorism responses necessary for the EU to aid the US in its 'war on terror' (*ibid.*), although in fact many of these measures

were already included in the 'action plan' agreed by the European Council on 21 September 2001 (Dubois, 2002). Moreover, 'policy synchronization' between the EU and US can be illustrated through the matching of organizations and individuals on EU and US lists that are subject to financial freezing orders. Gregory (2005, p. 115) also notes close engagement between Europol and the FBI through, for example, 'secondments to the FBI and, more controversially, sending information files to the US before the establishment of any formal data exchange agreement'. Channels of communication have also become further cemented. Since August 2002, there has been a European liaison office in Washington, DC (ibid.), whilst in 2005 the United States established a full-time attaché from the Department of Homeland Security (DHS) to the EU. Tom Ridge, US Secretary of Homeland Security, announced that: 'this new position is not only symbolic of our commitment to increased cooperation, but, by having a direct link between the Secretary and negotiating partners across Europe, it will allow for constant communication on an operational level' (Statewatch, 2005).

The pressure of particular member states has also internally exercised influence on EU policy. Along with the US, the UK has also played a prominent role in shaping the EU's response to 9/11. As a close ally of the US in the 'war on terror', the UK has promoted a specific agenda from within the EU. In the wake of 9/11 the UK exerted considerable pressure within the EU to accelerate the normal timescale for introducing measures, when Home Secretary David Blunkett infamously urged the other member states 'to get on with it' in adopting the proposals on the definition of terrorist organizations, offences and the European Arrest Warrant (*Guardian*, 2001). It is worth noting that prior to 2001 the UK was one of only four of the 15 EU member states with a definition of 'terrorist acts', and it should not be a surprise that there are similarities between the definition of terrorist organizations and offences in the EU and those adopted in the Terrorism Act 2000. The UK is also a member of the self-styled G6 – a group of EU interior ministers from Italy, France, Germany, Poland and Spain, set up in 2003 by David Blunkett and his French counterpart to develop an EU-wide response to terrorism (*Guardian*, 2006).

### **Nation States: The Influence of the United States**

Britain's specific historical legacy with respect to Northern Ireland has meant that the government can present itself as a model for dealing with the global 'war on terror' (Campbell and Connelly, 2003). It is also the case, however, that the UK has been willing to learn from the experiences of other countries. For example, the government has openly admitted that the

Metropolitan Police's shoot-to-kill policy against suicide bombers was based on the policy developed by the Israeli security services to deal with Palestinian suicide bombers (*The Times*, 2005). However, of all countries, the US in particular has been seen as a regular exporter of public policy to the UK and there are obvious, and regularly drawn, policy parallels between the US and the UK since 9/11.

In terms of domestic counter-terrorism, there are some observable similarities in the strategies pursued by the US and the UK prior to, and post, 9/11. Prior to 9/11 the definition of terrorism embodied in the UK's Lloyd Report, which fed into the Terrorism Act 2000, was 'modelled on the working definition used by the FBI' (Statewatch cited in Kelman, 2003). Consequently there exists a congruence between the US and the UK lists of proscribed groups. The US Department of State under the Anti-terrorism and Effective Death Penalty Act of 1996 proscribed 30 terrorist groups in 1997. Of the 14 groups originally proscribed by the Home Secretary when the Terrorism Act 2000 was enacted, ten were on the 2001 list drawn up by the US. Whilst the number of proscribed organizations on both lists have grown since then, to date, the US and UK lists share a striking resemblance in terms of the groups they contain.

Following 9/11, parallels in policy can be found between the US Patriot Act and the UK ATCSA 2001. The US Patriot Act was processed through the Senate and House of Representatives with considerable haste in the days after 9/11; it was introduced on 2 October and became law upon 26 October 2001 (Thomas, 2002). The Patriot Act created a new crime of domestic terrorism and allowed for the designation of any international or domestic group as terrorist by the Secretary of State. It introduced a host of new state powers in relation to the interception of communications (email, voicemail); use of surveillance technology such as wiretaps and surveillance; the easing of restrictions on foreign intelligence investigations; the regulation of financial institutions, new money laundering crimes and the forfeiting of property relating to terrorist groups; and provides security services access to medical, financial, business and educational records. It also contains the power to detain indefinitely immigrants and other non-citizens, where the Attorney-General has 'reasonable grounds to believe' in the detainee's involvement in terrorism. The UK's ATCSA was introduced to Parliament on 12 November and received Royal Assent by 14 December 2001. There are a number of provisions within the Patriot Act that the ATCSA does not contain, such as the foreign intelligence investigation provisions, and the crime of domestic terrorism (the UK already had such a definition; see the Terrorism Act 2000). The ATCSA, however, contains similar provisions against money laundering (Parts I and II), access to records (Part III), powers to indefinitely

detain non-citizens (Part IV), and the retention of communications data (Part XI). As Jimeno-Bulnes (2004, p. 241) notes, Parts III and IV in particular, 'are reminiscent of the emergency legislation introduced in the USA Patriot Act'.

Following 9/11, cooperation between the two countries was also firmly established. In particular, Britain's experience in fighting 'terrorism' in Northern Ireland meant that it could offer advice to the US on its counter-terrorist strategy (Campbell and Connolly, 2003). Britain also played a pivotal role in assisting the US with intelligence about the 9/11 attackers. Partnership working between the US and the UK was consolidated in 2003 with the setting up of a joint working group – the Joint Contact Group on Homeland Security – involving officials from the Homeland Security Department and the Home Office. In making this announcement, Home Secretary David Blunkett stated: 'instead of just sharing best practice, they're [Homeland Security Department and the Home Office] actually working on that best practice, learning from each other and being able to develop the very similar approaches which are necessary to protect our population' (US Department of Homeland Security, 2003). Since then Tom Ridge, Secretary for Homeland Security, has described the Joint Contact Group as providing the driving force behind the security accomplishments achieved so far between the US and the UK. In acknowledging this close working arrangement, he claimed:

no partnership is stronger than that between Britain and the United States. In nearly every field of human endeavour, we are bound together by our common interests, common goals and mutual respect. We share a vital and valuable trust built over decades – in truth centuries – of relying on each other as allies and friends. (Ridge, 2005)

Nevertheless, US–UK relations have not always been as smooth as presented by the proclamations of Tom Ridge. David Blunkett, on numerous occasions, was known to have clashed with his US counterpart Tom Ridge over decisions in counter-terrorist strategy (Elliot, 2004; Norton-Taylor, 2004).

## THE UK'S DOMESTIC COUNTER-TERRORIST MEASURES: EXPLAINING POLICY TRANSFER

The preceding discussion examined the influence of national, regional and supranational governance on the UK's response to domestic counter-terrorism. However, it was also observed that these influences were not unidirectional; the UK is able to exert influence beyond its own territorial

space and therefore influence the policies of these regional and supranational bodies. Although the 'hollowing of the state' thesis (Jessop, 2004) suggests that nation states are losing their power and sovereignty both downwards (to organizations) and upwards to supranational institutions and multinational corporations, the UK's position in the global political and economic hierarchy and its special relationship with the US means it is able to influence the mechanisms of supra and regional governance. Whilst the global nature of terror networks which Britain now faces (compared to the previous localized forms of Irish political violence) has necessitated involvement in multilevel coordinated responses, this does not mean that Britain has become less able to determine its own domestic security response. Following Jessop (2004) we argue that precisely because of the process of 'hollowing out', the British state has rearticulated its role and functions in the securitization of its own territorial space and beyond. The UK's membership of the G8 and the UNSC, and its position as one of the original members of the European Economic Community, means that it is able to determine and shape security agendas across the multilayered institutions of governance. Consequently, in the context of policy transfer Britain is as likely to be an exporter of ideas, policies and practices as it is to be a recipient of such initiatives. The UK has an advantage as an exporter in this context, not simply because of its 'special relationship' with the US, but also because it has established policy kudos in this field. The UK, due to its long history in colonial counter-insurgency and its more recent response to Irish political violence, has facilitated its reputation as a model for others to follow or at least that it has expertise that can be drawn upon.

Notwithstanding the argument that the UK is, and does, shape international agendas and policies on counter-terrorism, it is important to concede that membership to regional and supranational institutions means that the UK's own domestic policies may be influenced, but also bound, by external bodies, treaties and conventions. At one end of the policy transfer continuum, this is evidenced not only in relation to common ideological goals but also in terms of the introduction of UN Resolutions and EU Directives which are compulsory for all member states. Whilst this captures the process of policy harmonization, there is also a voluntary aspect to the transfer of policy where countries opt to borrow policies which are deemed to be successful. The UK's incorporation of the US's proscribed lists might be seen in this context, for example.

An inherent feature of the multilayered nature of governance is the selection of certain policies over others. The UK government has adopted specific policies or chosen to interpret Directives in particular ways. In doing so it has necessarily chosen to forego other policy options. This selective

process of policy transfer is inculcated within wider power relations. Understanding the operation of power within this context necessitates a consideration of a number of questions, including: Who are the key actors in the design and implementation of policy (for example, politicians, civil servants, senior police officers, security consultants)? What policy networks are seeking to influence the decision-making process? Which ideas have currency? What material and ideological interests are affecting the development of policy? Within a Foucauldian sense, however, it is also imperative to consider those actors and issues silenced or removed from the policy agenda (Foucault, 1982).

Our attempt to explain the transfer of policies in relation to counter-terrorism begins with the structural, focusing on the prevailing ideology of the 'war on terror'. Many commentators argue that the 'war on terror' has now replaced the Cold War as the principal conflict of our times, where 'Islamic fanaticism' is presented as the greatest threat to liberal democracies. In this new security environment, the perception of security held by Western states has been undermined by both the proliferation in international terrorist organizations and the increase in international terrorist activity. A number of scholars (Hoffman, 1998; Lacquer, 1999; Lesser et al., 1999; Gurr and Cole, 2000; Howard and Sawyer, 2006) specifically use the term 'new terrorism', 'which involves different actors, motivations, aims, tactics and actions, compared to the "old" concept of terrorism used in the mid twentieth century' (Spencer, 2006, p. 2). The new terrorists are inspired by religious extremism and ethnic separatism (rather than political or ideological causes) and are not 'susceptible to traditional diplomacy or military deterrence' (Howard and Sawyer, 2006). They present a heightened threat to security because of the availability of weapons of mass destruction (Laqueur, 1999). Although Spencer (2006) argues that this distinction between old and new is an artificial one, the 'new terrorism' has justified a new response to terrorism by governments:

The idea of the 'new terrorist' . . . creates the rationale for a new precautionary principle: a strategy that excuses the most extreme responses from state agencies and from the wider body politic. The new terrorism, since it is a ubiquitous threat, requires a ubiquitous response, most closely seen in the rapid expansion of anti terror policing resources and new policing powers and their use against Muslims, asylum seekers and protestors . . . it is a response that legitimates the targeting of groups that are tangentially associated with terrorists, whether this is translated into criminalisation, racial harassment, or violent victimisation. (Burnett and Whyte, 2005, p. 7)

The UK's counter-terrorism strategy has fully embraced the notion and logic of the 'new terrorism'. This (coercive) approach was encapsulated by Tony Blair (2005) in the immediate aftermath of 7/7 when he attempted to

justify the new measures contained in the Terrorism Act 2006 by stating: 'let no one be in any doubt. The rules of the game are changing.' Blair's acceptance that the UK had now entered a new and precarious security environment inevitably foreclosed the possibility of alternative approaches to the current threat of violence. Previous approaches eventually used in Northern Ireland, which involved negotiating a political solution with Sinn Féin, have been discarded in favour of policies strengthening the power of the state's counter-terrorism apparatus (see Rolston, 2002). Similarly, policies to tackle the economic and political alienation of Muslim communities (which some argue might lead to the reduction of radicalization) have also been marginal in policy discussions (Pantazis and Pemberton, 2006). We speculate that the UK government is more receptive to ideas and policies from other jurisdictions which cohere with their existing coercive approach.

The ideology of the 'new terrorism' has accommodated powerful economic interests. It has been argued that since the demise of the Cold War the military-industrial complex has sought to secure new markets, primarily within the expansion of the criminal justice system (Christie, 1993; Lily and Knepper, 1993). Within the new security landscape, the 'war on terror' has provided the impetus for the new security-industrial complex – an offshoot of the military-industrial complex (Hayes, 2006). Private companies have provided a litany of technologies of control including restraint systems, firearms, surveillance, location tracking, biometric identification, forensics, DNA profiling, risk assessments and satellite monitoring. Hayes (2006) provides detailed evidence demonstrating that eight multinational corporations (including Europe's leading arms companies, Europe's leading IT companies, and a number of research institutions and think tanks linked to the defence industry such as the Rand Corporation), are involved in the 'Group of Personalities' (GoP) set up to oversee the development of the EU Security Research Programme (ESRP). According to Hayes (2006, p. 3) this 'gives profit-making corporations an official status in the EU, shaping not just security research but security policy'.

Global corporate involvement in UK domestic security has not yet been formalized to this extent. However, there is certainly evidence of corporate expansion in the sphere of security. For example, Securicor and Group 4 are involved in the monitoring of control orders at an estimated cost to the Home Office of between £100 000 and £250 000 per year (Travis and White, 2005).<sup>12</sup> Although assessing the impact of corporate lobbying is difficult, there is evidence to suggest that the state has initiated partnership working with corporations in the 'war on terror'. Speaking at an anti-terror technology conference for businesses in October 2006, former Home Secretary John Reid called for the establishment of a security innovation

taskforce composed of public and private-sector organizations and stated that close public–private partnerships would ‘enable the state to promote the security of citizens’. This could be illustrative of the ‘hollowed’ state seeking to responsabilize other (private) organizations in order to provide security. However, our contention is that when powerful private interests are invited by government to play an increased role in the delivery of services – including security – it becomes difficult to dismantle or reverse policy directions. Moreover, once an interest is established, private companies inevitably seek to expand their markets. The implication for policy transfer is that private companies will seek to support and lobby for policies that expand their opportunities for market growth.

As well as corporate bodies, global and national policy networks are playing an increasingly powerful role in shaping and making policy in the context of the state being hollowed out. Policy networks operate as ‘institutional filters’ which serve to shape policy agendas: ‘while policy networks affect policy outcomes, filter broad macro trends and provide a structure within which the actions of individuals take place, these relationships are two way’ (Hudson and Lowe, 2004, p. 137). Civil servants, senior police officers, security agencies, pressure groups and think tanks constitute the policy network that fashion the security agenda. Although previous security policy networks would have been enmeshed within Britain’s experience of Irish political violence, an Anglo-US policy network has developed to influence the current policy agenda. At the centre of this network is the RAND Corporation, a non-profit-making think tank, arguably the most important for the US military–industrial complex (Burnett and Whyte, 2005). It has unparalleled access to senior politicians in the Bush administration and, consequently, has emerged not only ‘to stimulate and provide ideas for policy development, but to effectively act as an influential prestigious voice in the American military–industrial lobby’ (ibid.: 8). The influence of RAND extends to British academia (ibid.), seen most clearly in relation to the Centre for Studies in Terrorism and Political Violence (CSTPV) at the University of St Andrews, which was founded in 1994 by the current Vice-President of RAND Bruce Hoffman. Professor Paul Wilkinson leads CSTPV, which has successfully presented itself as the UK’s leading research centre on terrorism. Furthermore, Wilkinson is considered to be the most authoritative figure on domestic and international terrorism. His influence, for example, can be seen in relation to his report *Inquiry into Legislation Against Terrorism* (Wilkinson, 1996) which led directly to the creation of the Terrorism Act 2000.

At the sidelines of this policy network are numerous human rights organizations and bodies such as the prominent UK-based Liberty, but also the Institute of Race Relations, and the Campaign Against Criminalising

Communities (CAMPACC); international groups such as Amnesty International and Statewatch; as well as the UN Special Rapporteurs on Human Rights. The recent legislative frenzy, and its subsequent implications for human rights, has provided these bodies and organizations with a new and determined impetus. At the same time, however, there have been changes to the legislative process through the creation of the Human Rights Act 1998 which have facilitated the influence of human rights organizations in scrutinizing and, therefore, shaping domestic security policy. Thus, the Review Committees on the operation of the Terrorism Act 2000 and the Anti-Terrorism, Crime and Securities Act 2001, led by Lord Carlile and Lord Newton respectively, have received expert advice from a number of human rights organizations. Liberty and Amnesty International were particularly vociferous in their campaign against the indefinite detention powers granted to the Home Secretary under Part IV of the ACTSA, a policy which had its direct origins in the US Patriot Act 2001. This is a good example of a policy which has travelled from the US to UK, but which has been subsequently challenged by human rights organizations.

There have also been a number of influential political actors who have driven the current UK security agenda. A recurring theme within the chapter has been the conflict between the discourses of securitization and human rights at all levels of governance systems since 9/11. Arguably prominent actors within the British government have actively attempted to prioritize security over human rights concerns. For example, David Blunkett as Home Secretary deliberately presented the government's counter-terrorist measures as a trade-off between security and human rights. In the now infamous speech made prior to the announcement of the UK's state of emergency and its subsequent derogation from the ECHR, Blunkett stated: 'we could live in a world which is airy fairy, libertarian, where everyone does precisely what they like and we believe the best of everybody and then they destroy us' (cited in Hillyard, 2002, p. 107). As Hillyard (2002) notes, Blunkett's populist approach served to undermine the concerns human rights activists and organizations had over the derogation but which were later shared by the Law Lords in their ruling upon Part IV of ATCSA. Scraton (2002) observes that senior members of New Labour, through a 'politics of morality', have carefully managed political objections to the 'war on terror'. In particular, Blair has excelled at presenting the inherently moral nature of the 'war on terror' and consequently the moral weakness of those who have questioned the validity of these policy developments. The 'politics of morality' have functioned to neutralize or limit the impact of human rights challenges which have been raised by civil society. These sentiments echo comments made by President Bush in his defence of the Patriot Act and other measures taken in the name of homeland security.

## CONCLUSION

At least four general points can be drawn from our analysis in response to the questions set earlier in the chapter. First, recent counter-terrorism policy in the UK has not developed in a vacuum; there has been direct policy transfer between other nations (such as the US and Israel) and the UK, whilst UK policies have also been harmonized with EU and UN initiatives. These developments, particularly the latter, would seem to suggest that the British state has lost some capacity to determine its security agenda. However, our second point is that the UK, because of its position in the global political-economic elite, is able to direct policy from these institutions. This is through its role as a permanent member of the UN Security Council and its membership of the G8, for example. Consequently, many of the policies emerging from these bodies, which are mandatory for member states, have actually been initiated or influenced by the UK. The UK has established credibility in this policy field due to its long history in colonial counter-insurgency and more recently its experience of Irish political violence. Thus it has developed a reputation as a model for others to follow, enabling other governments to draw upon the UK's experience and knowledge in tackling the 'new terrorism'. The UK is, therefore, as likely to be an architect of its own policy initiatives or an exporter of these ideas, as a recipient of policy. Our third point is that this exchange of policies is taking place within a paradigm which emphasizes coercive responses (hence the focus on the 'war on terror'). This process is occurring at all levels of policymaking, from the national level right through to the supranational. This has been at the expense of political dialogue and public policies. Simultaneously, this 'war' against terrorism has increasingly exposed the fragility of human rights of 'suspect' communities. Our final point is that the development of recent policies is being guided by wider structural forces (both ideological and economic) which underpin the decision-making of policy actors. However, policy actors are not passive agents in this process: they guide, influence and determine responses. In this way, policymaking has to be seen as a dialectic relationship between macro and micro processes.

## NOTES

1. Peirce in Fekete (2001) argues that the 2000 ACT made 'visible what has been happening more covertly over the past few years'. Amendments made to the Prevention of Terrorism Act in 1995 and other legislation established according to Peirce 'an almost unprecedented jurisdiction in British courts over offences planned or committed abroad'.

2. According to Fenwick (2002) under Part VII of the Terrorism Act 2000 the government retains for five years a number of different powers with respect to Northern Ireland and to mainland Britain.
3. Fenwick (2002) argues that the dilemma faced by the government in relation to foreign terrorist suspects is that they cannot be placed on trial because either the evidence is too sensitive or because of the high standard of proof required, but neither can they be extradited or deported to their country of origin if there are grounds to think they may experience torture or inhuman and degrading treatment. This would violate Article 3 of the ECHR.
4. Part IV of the Act was found to be discriminatory as it only applied to foreign nationals (that is, not to British citizens), and that it was disproportionate to the threat from terrorism (Home Office, 2005).
5. The Bill's original provision was that the police should be able to detain suspects for up to 90 days but opposition from Conservatives, Liberals and some Labour MPs led to the compromise position of 28 days.
6. The government led by MP Jack Straw and then the Prime Minister Tony Blair argued in October 2006 that a full veil worn by some Muslim women was 'a mark of separation'.
7. Although many would claim that the government's approach on integration is divisive and leading to vilification of the Muslim community.
8. Resolution 1373 was the most seminal counter-terrorism resolution passed by the Security Council. For the complete list of resolutions, see [www.un.org/terrorism/sc.htm](http://www.un.org/terrorism/sc.htm).
9. Gregory (2005, p. 110) notes that in the First Pillar 'obligations may be laid upon member states under community law, which has supremacy over the laws of member states. Under the "second and third pillars", such obligations arise out of a mixture of treaty law provisions and their associated policy instruments such as Joint Actions and Framework Decisions. The latter are binding upon member states as to the outcome but allow flexibility in the way the outcome is to be achieved.'
10. SC Resolution 1390 requires all UN member states to: (1) freeze the funds and other financial assets or economic resources of those listed; (2) prevent the entry into or the transit through their territories of those listed (unless they are citizens of that state); (3) Prevent the 'direct or indirect supply, sale and transfer' to those listed 'of arms and related materiel of all types including weapons and ammunition, military vehicles and equipment, paramilitary equipment' and 'technical advice, assistance, or training related to military activities'. SC Resolution 1390 also reaffirms the broader anti-terrorism commitments in SC Resolution 1373 (28 September 2001) under which 'states' are obliged to refrain from 'providing any form of support, active or passive' to 'entities or persons involved in terrorist acts'. UN member states must also 'deny safe haven' to terrorists, criminalise fundraising and 'afford one another the greatest measure of assistance in connection with criminal investigations or criminal proceedings relating to the financing or support of terrorist acts'.
11. Nevertheless, there are notable differences between the US and Europe over the question of human rights. Fitzpatrick (2003, p. 261) notes that: 'US excesses . . . and differing views on human rights . . . have created strains in transatlantic relationships'. European concerns over the implications for human rights of the 'war on terror' were evidenced in the Council of Europe's July 2002 guidance to member states on protecting human rights in the fight against terrorism. These tensions could be due to a number of factors, but primarily the European tradition of rights and political focus upon multilateral rather than unilateral responses to the 'war on terror' would seem to be important.
12. Other sectors have recently diversified into the provision of security. For example, the accountancy firm KPMG is now offering forensic accountancy services (including the secondment of staff) to the Assets Recovery Agency – the agency responsible for the disruption of criminal enterprises through the recovery of criminal assets (Assets Recovery Agency, 2005). These forensic services are contributing to a small but significant turnover for KPMG (KPMG, 2005).

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