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DISCUSSION PAPER

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Henk Overbeek

This paper is based on presentations made to a HWWA Roundtable Discussion and to a roundtable discussion at the Institute for Migration and Ethnic Studies at the University of Amsterdam entitled **Towards a New International Migration Regime**, held on 23 January 2001 and 30 January 2001 respectively, at the occasion of the publication of the new book edited by Bimal Ghosh (Ghosh 2001). The author is grateful to the participants in these discussions for their stimulating remarks.

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Abstract

Neo-liberal globalisation has primarily entailed the liberalisation of trade and capital flows, but largely ignored the issue of labour mobility. Most literature on the political economy of globalisation likewise ignores global labour mobility. This paper first asks how globalisation affects human mobility. The conclusion is that globalisation integrates the world population into the global labour market in three principal ways: through accelerated commodification of labour power, through the integration via transnational production of national and regional labour markets, and by various (sometimes new) forms of international labour mobility. Regulation of the global economy is increasingly informalised and privatised, argues the paper. This trend is also noticeable in the governance of migration flows. The emerging de facto international regime for the regulation of migration is at the same time restrictive (to curb undesirable forms of migration and strengthen state control) and liberal (to enhance the deregulation and liberalisation of the global economy). This emerging form of governance largely lacks democratic legitimacy. In the final section the paper argues that a new, democratic, multilateral regime for the regulation of migration flows must be set up which can reflect the interests not just of governments and transnational capital, but those of migrants and the populations at large as well.

Zusammenfassung

Neoliberale Globalisierung hat bisher die Liberalisierung von Handel und Kapitalflüsse impliziert, aber die Frage der Arbeitsmobilität weitgehend ignoriert. Die meisten Verhandlungen über die politische Ökonomie der Globalisierung haben ebenso die internationale Mobilität von Arbeit negiert. Dieses Arbeitspapier fängt an mit der Frage nach den Effekten von Globalisierung auf Mobilität von Personen. Die Schlussfolgerung ist dass Globalisierung die Weltbevölkerung in einen weltweiten Arbeitsmarkt integriert auf drei Weisen: durch beschleunigte *commodification* (?) der Arbeitskraft, durch Integration (über transnationale Produktion) von nationale und regionale Arbeitsmärkte, und durch verschiedene (manchmal neue) Formen internationaler Arbeitsmobilität. Regulierung der Weltwirtschaft wird zunehmend informell und privatisiert, und diesen Trend lässt sich auch bemerken bei der Regulierung von Migrationsflüsse. Das entstehende Regime für internationale Migration ist zugleich restriktiv (um unerwünschte Migrationsformen entgegen zu gehen und die Kontrolle des Staates zu stärken) und liberal (um die Deregulierung und Liberalisierung der Weltwirtschaft zu ergänzen). Dieses Regime entbehrt demokratische Legitimität. In den letzten Abschnitt wird argumentiert dass ein neues, demokratisches, multilaterales Regime für die Regulation von internationalen Migrationen errichtet werden soll, das sowohl die Interessen von Regierungen und Großunternehmen als auch die Interessen von Aus- und Einwanderer und betroffene Bevölkerungen repräsentieren kann.

JEL Classification: D30, D63, P5

Keywords: Globalisation, Global Governance, Migration, International Migration Policy, Multilateralism, Neoliberalism

Introduction

Globalisation is a socio-political project involving the worldwide application of *laissez-faire* principles. Yet, the principles of *laissez-faire* are unevenly applied to different categories of commodities in the global political economy today. The zeal with which the free movement of goods is pursued through the World Trade Organisation, or the free movement of capital promoted by the International Monetary Fund, is contrasted by the hostility of most governments and international organisations towards the free movement of labour.

A closer look at the real nature of the globalisation project will reveal that this paradox entails no contradiction. After all, the globalisation project is about the freedom of capital to maximise its accumulation potential, not about libertarian ideals.

Secondly, the paper investigates the emerging global and regional regulatory structures whose purpose it is to accommodate capital's freedom to accumulate as far as it concerns the movement of labour. It will be argued that these new modes of governance are characterized by their informal and disciplinary nature, thus demonstrating the severely negative implications for democratic accountability of those involved in policy-making.

The final argument of the paper will be that there is a contradiction between untrammelled *commodification* on the one hand and *emancipation* from bondage and deprivation on the other. To prevent the regulation of global migration from privileging deeper commodification over emancipation, transparency and accountability in the institutional set-up are indispensable. The paper advocates consensual multi-lateralism instead of *de facto* bi-lateralism.

1. Neo-liberal globalisation and mobility

Neo-liberal globalisation is both process and project. While it is important to emphasise the role of agency in globalisation it is equally important to understand the process of structural transformation involved. Globalisation is a dialectical phenomenon simultaneously circumscribed by agency and structure mutually constitutive of each other, or to borrow Robert Cox's phrase, a *historical structure* (Cox 1981). Viewed in this way globalisation consists in the dialectic between the expansion of market relations on the one hand, and the pursuit of economic liberalism on the other. In its late

20th – early 21st century manifestation globalisation is reaching new highs, or should we say new depths.

Globalisation entails a qualitative transformation in the political, economic, cultural, strategic and technological worlds around us of which I mention three elements: the compression of time and space, the rise of a market-oriented neo-liberal politico-economic order, and the transition in world politics from the bi-polar Cold War order of system rivalry to the present unipolar NATO-American order.

The essential moving factor of this process is the expansion of “the market”: ever more people, countries and regions are incorporated into the global market economy (expansion as geographic widening), and more and more spheres and dimensions of human existence are invaded by market relations and subordinated to the pursuit of private profit (expansion as deepening).

This deepening commodification takes place through three interrelated processes, namely the transnationalisation of production, the globalisation of financial markets, and the tendential emergence of a global labour market. The first two aspects of what is commonly called globalisation are abundantly documented in much of the globalisation literature. These aspects, although by no means beyond dispute, need not be addressed here. For the purposes of this contribution it is more relevant to focus on the third element.

In their path-breaking study of the new international division of labour (NIDL) of the 1970s the German researchers Fröbel, Heinrichs and Kreye observed an accelerating relocation of labour intensive production processes from the older industrial economies to low wage countries in Asia and Latin America. Three preconditions made this relocation drive possible: the existence of a sheer inexhaustible reservoir of cheap labour in large parts of the Third World, new production technologies making it possible to separate the labour intensive parts of the production process from the capital intensive parts, and new transport and communication technologies facilitating the co-ordination of dispersed production and assembly establishments. The authors concluded that "the conjuncture of these three conditions (...) has created a single world market for labour power, a true world-wide industrial reserve army, and a single world market for production sites." (Fröbel c.s. 1977, 30; author's translation). Crucial for this argument is that as a consequence of the rapid development of new communication and information technology foreign direct investment became a functional alternative not

only to trade but also to labour migration. (Mobility of capital can substitute for the mobility of goods and labour power).

In the core of the global system, in the OECD countries, globalisation has transformed the economy from a Fordist model (with mass production and mass consumption sustained by one or another form of welfare state) into a model of flexible accumulation (with lean production and just-in-time delivery supported by a competition state). This has had the fundamental consequence for the labour market of establishing a "core-periphery" structure *within* the advanced capitalist economies (Cox 1987), reflected particularly in the "peripheralisation" of labour in the global cities (cf. Harris 1995, Sassen 1995). One element of this has been the re-emergence of domestic labour, another the re-appearance of sweatshop production in the garment industry:

"There exists within New York, the global city, a substantial growing segment of the labor force whose conditions of production resemble those of the labor force in the Third World. (...) Sweatshops in New York are the logical consequence of the global restructuring of production in the garment industry and the consequent competition for jobs between segments of the global reserve of labor." (Ross and Trachte 1983: 416).

These developments go hand in hand with, and are enhanced by, a neo-liberal offensive of deregulation, liberalisation, and flexibilisation. While undermining the bargaining power of organised labour and helping to depress wage demands, it simultaneously creates and/or reinforces the demand for various forms of unskilled and semi-skilled labour, employed under increasingly precarious conditions (Cox 1987; Sassen 1996b; Castells 1998). Undocumented immigration is quite functional from this perspective. The employment of undocumented foreign labour has thus in many cases become a condition for the continued existence of small and medium size firms, creating a substantial economic interest in continued (illegal) immigration (Brochmann 1993: 119-120; also Papademetriou 1994, 27).

In more peripheral areas of the world (e.g. Africa, Eastern Europe, Central America), the two most important changes since the mid-seventies (often interacting) have been the debt crisis and the ensuing imposition of structural adjustment policies, and the end of the Cold War. The Structural Adjustment Programs of the IMF and the World Bank, and the withdrawal of military and economic assistance by the superpowers, both resulted in a substantial reduction of external sources of finance available for

redistribution by the state. In many cases this seriously affected the ability of governments to co-opt rivalling elites into the power structure resulting in serious social and political crises, economic disasters, and regime change or state collapse. These complex processes largely explain the surge in forced movements of people since the mid-seventies across the globe, in search of protection and in search of a new and better life (cf. Cohen/Deng 1998; Loescher 1993; UNHCR 1997; Zolberg et. al. 1989). In other cases, governments of third world countries have turned to other sources of external income and have become intricately involved in the business of promoting outward migration of skilled workers and professionals. Through workers' remittances the inflow of hard currency is thus increased. Worldwide, remittances have surpassed development aid as a source of foreign exchange. In 1995, worldwide remittances ran to \$ 70 bn; in the same year, development aid total ran to \$ 66 bn. (World Bank 1997). India and Egypt are two examples of countries in which the government has taken an active role in this trade. In the 1970s the Egyptian government "planned to expand the output of teachers in order to supply 14,000 of them to the oil-producing countries" (Harris 1995, 151). The Indian government recently announced plans to spend \$650 m to double India's current annual output of 100,000 IT graduates by 2002, and reach 500,000 by 2005 (*Far Eastern Economic Review* 9 Nov. 2000).¹

These developments in various parts of the world show that globalisation indeed integrates an increasing proportion of the world population directly into capitalist labour markets, and locks national and regional labour markets into an integrated global labour market. The mechanisms that effect this are of three kinds.

First we witness various forms of commodification of labour power which was not previously bought and sold on 'free' labour markets. We can think of three forms in particular:

- incorporation of previously disconnected areas (primarily former 'socialist' economies, but also the remaining pre-capitalist societies on the outskirts of the modern world) into the capitalist world market;
- continuing proletarianisation of the world's population through urbanisation and the disintegration of subsistence economies in the Third World and through increasing labour market participation in the industrial economies;

1 Remittances in India indeed cover more than half of the negative balance of international trade. At the same time, India has illiteracy rates of some 35% for men and over 60% for women (World Bank 1997).

- privatisation of economic activities within capitalist societies previously organised outside the market.

Second nationally or regionally bounded labour markets are increasingly integrated by the internationalisation of production. The importance of this new form of internationalisation as contrasted with the earlier phases of globalisation in which commercial capital and money capital moved across borders can not be overstated. Whereas money capital imposes an abstract and indirect discipline on labour, foreign direct investment (FDI) directly reproduces capitalist relations of production *within* the host countries (Poulantzas 1974).² Transnational production has indeed become by far the most important engine of accumulation in the global economy, as is confirmed by a few key statistics:

- After a slowdown in the early 1990s, direct investments were growing explosively in the closing years of the century. As a consequence the share of foreign investment inflows in world gross fixed capital formation has grown rapidly, from 1.1 % in 1960 via 2.0 % in 1980 to 7.4% in 1997 (UNCTAD 1994, 1998).
- By 1997 total assets of foreign affiliates of transnational corporations (TNCs) stood at \$ 12.6 trillion. Sales by foreign subsidiaries reached \$ 9.5 trillion (UNCTAD 1998, 2). In addition to FDI, through strategic alliances and other non-equity arrangements transnational corporations gain control over assets and markets that are not measured in the statistics.
- In 1960 world-wide sales by foreign affiliates of TNCs were smaller than world exports, but in 1997 they stood at 148 % of world exports (UNCTAD 1998, 2).
- One third of world exports are exports of foreign affiliates (ibid, p. 6).
- Transnational corporations have a strong impact on the shape of the world economy: "... they organize the production process internationally: by placing their affiliates world-wide under common governance systems, they interweave production activities located in different countries, create an international intra-firm division of labour and, in the process, internalise a range of international transactions that would otherwise have taken place in the market." (UNCTAD 1994, 9).
- The rapid expansion of FDI is increasingly tied up with the explosive increase in mergers and acquisitions (M&As) in the world. The total value of cross-border

2 Financial globalisation, i.e. the emergence and growth of global financial markets, is identified by many as the hallmark of globalisation. From the perspective of the overall transnationalisation of the circuits of productive capital, the role of global finance is in a sense secondary, namely to keep the system together and to lock the spatially dispersed sites of production and accumulation into one global system. We will therefore not discuss this here.

M&As in 1997 was approximately \$342 billion (up from less than \$100 bn. in 1992), representing 58 % of FDI flows (UNCTAD 1998, 19-20).

- Cross-border M&As are mostly concentrated within the developed world, thus reinforcing tremendously the process of *transnationalisation*, the rapidly intensifying interpenetration of the economies (capital markets but also labour markets) of the OECD countries.

Third, nationally or regionally bounded labour markets are further integrated by increased international labour mobility in its various forms:

- the spread of transnational corporations brings with it increased international mobility of top and intermediate level managers and executives;
- the internationalisation of services (engineering, advertising, software development) creates increased international mobility of technical and commercial experts;
- the combination of more restrictive immigration policies and labour market flexibilisation and deregulation in the OECD countries creates increased opportunities for illegal immigration (increasingly through the intervention of organised crime);
- the economic and political crisis of the state in many Third World countries and the resulting intensification of social and ethnic conflicts swell the ranks of international refugee movements and the outward flow of migrant workers.

With the tendential formation of a global labour market and the increased labour mobility it implies, the question of the international regulation of that mobility has gradually become a more prominent issue on the international agenda. Before we can turn to a discussion of the emerging framework for the regulation of global migration, however, we must briefly address some general issues of global governance in the neo-liberal age.

2. Globalisation and governance

Changes in production organisation and location have been accompanied by attempts at the political and ideological levels to create more transnational forms of governance. The key elements of the emerging structure of global governance can be summarised as follows (see Cox 1987; Gill 1995; McMichael 1996):

1. emerging consensus among policy makers favouring market-based over state-managed solutions;
2. centralised management of the global economy by the G-7 states;
3. implementation and surveillance by multilateral agencies such as the World Bank, the IMF and the WTO.

The key development in this respect is the reconfiguration of the state. State forms and functions are being transformed under the impact of, but in turn itself furthering, globalisation. Global restructuring leads to (or implies) the creation of additional formal and informal structures of authority and sovereignty besides and beyond the state. With globalisation and the progression of the neo-liberal ideology, there has also been a strengthening of (quasi-) authoritarian structures and practices, and an assault on established forms of progressive or left popular participation. In the core areas of the world economy this discipline appears in the shape of 'voluntary' programs of competitive deregulation and austerity which are codified and 'constitutionalised' in such arrangements as the EMU stability pact or the WTO liberalisation regime.

In peripheral areas the discipline of the market is often externally imposed through the financial power exercised by the IMF and the World Bank, which was tremendously intensified after the debt crisis of the 1980s.

In the context of globalisation the functions of the state dealing with transnational processes are increasingly performed transnationally by a variety of state-, inter-state and non-state institutions. The state is no longer the proverbial Westphalian nation-state in which sovereignty and territoriality are exclusively combined. Indeed, the 'unbundling' of sovereignty and territoriality (Ruggie 1993, p. 165) makes it possible for governments to circumvent the need to account for the international agreements they conclude in their own national parliaments. It has also created a greater space for social forces outside the state to become involved in new forms of regulation. The boundaries between public and private regulation and between national and international relations are becoming increasingly blurred, and policy formation in international contexts is increasingly *informalised*, opening up the channels of governance to non-governmental organisations of various kinds. In a reference to the manifestation of this tendency in the area of migration policy, Saskia Sassen observed that "we are seeing a *de facto* transnationalizing of immigration policy" in which there is "a displacement of government functions on to non-governmental or quasi-governmental institutions and

criteria for legitimacy" (Sassen 1996a, 1, 24). It is to this particular area of global governance that we now turn.

3. The Emergence of a Neo-Liberal Framework for the Management of Mobility

In the post-war order, international labour migration was hardly regulated. This provided a sharp contrast with the regulatory framework for financial relations (IMF, BIS) and for international trade (GATT). To be sure, there are international organisations that are concerned one way or another with the international mobility of people, such as the *International Labour Organisation* (ILO), the *International Organisation for Migration* (IOM) and of course the *UN High Commissioner for Refugees* (UNHCR). However, the regime they form (if we may call it that) has been far weaker than the financial and trade regimes. Several explanations are possible for this state of affairs. For one, as is often observed in the migration literature, the sovereign state is assumed to be unwilling to relinquish control over who crosses its borders: "Since the development of the modern state from the fifteenth century onward, governments have regarded control over their borders as the core of sovereignty" (Weiner 1995, 9). The argument does not convince, because state sovereignty has never been absolute, nor is this an argument that would apply exclusively to migration as opposed to other cross-border traffic such as trade. A second possible explanation is the modest scale of international migration in the twentieth century. The United Nations estimated the world's foreign-born population for 1995 at 125 million or about 2 % of the world's population (UN/IOM 1996). Finally, during the post-1945 decades of 'embedded liberalism' foreign labour was available in surplus quantities and as a consequence states did not need to compete for scarce sources when organizing their recruitment schemes in the 1960s and 1970s (Zolberg 1991, 309, 313-4).

With the effects of globalisation on the mobility of people becoming stronger the call for an effective international migration regime also gained strength (see for a survey Ghosh 2000). Four effects stand out:

- the growth of asylum migration to the OECD countries
- the growing demand for cheap unskilled labour, the growth of illegal labour immigration and the increasing involvement of organised crime with smuggling people across borders

- the shortage of highly skilled labour in the OECD in sectors such as ICT
- the increased mobility of upper level managers in TNCs.

As a result two seemingly contradictory tendencies are visible in the ongoing policy discussions, namely the effort to control and reduce asylum migration and illegal migration and the call (especially since the mid-1990s) to liberalise forms of migration that are deemed economically desirable. To understand better how this contradiction translates into regulation, we must briefly analyse the interface between the various forms of factor mobility in the global economy, especially in the Americas and in Europe.

The idea of mobility is as we have seen usually associated with the movement of capital more than of people. In the Americas, some twenty bilateral agreements have been signed since 1990 that serve to liberalise trade and investment between South, Central and North American countries. Here the emphasis is primarily on the subordination of migration management to the needs of capital. In Europe, the significance of arrangements facilitating the mobility of capital within the region (primarily the completion of the Single Market and the flexibilisation of labour markets) has overshadowed the number of initiatives which European capital developed in peripheral economies. Nevertheless, in the framework of increasing co-operation and economic aid, the EU has signed a series of Accession and Association Agreements with countries of Central and Eastern Europe, with the Mediterranean countries, and with the remaining states of the former Soviet Union. These agreements all have in common a number of regulations with respect to the freedom of movement of people in so far as this movement is connected to capital mobility. Freedom of establishment, freedom to migrate in order to set up business as self-employed individuals, and non-discrimination (national treatment) of legally established firms, workers, and their families (cf. Niessen and Mochel 1999) are the key elements.³ These rules about national treatment for investments and labour tend to have repercussions on labour markets, on industrial policies, and on judicial systems. The movement of capital requires some mobility of people as well, for labour market purposes, but also for access to land and to markets. Especially relevant here is the movement of professionals and business people whose professions are related to trade in services. Their movement is encoded in bilateral or trilateral treaties, regional agreements (NAFTA, EEA), and global agreements (GATS) (see Ghosh 1997, OECD SOPEMI 1998).

3 Note that 'national treatment' is also one of the founding principles in the aborted Multilateral Agreement on Investment (MAI) and in the GATS.

In addition to the formal arrangements the European states (East and West) have developed a parallel system of informal consultations on migration issues, the so-called Budapest Group.⁴ The origins of the Budapest Process go back to the events leading up to fall of the Berlin Wall in 1989 and the disintegration of the Soviet Union. The primary objective of the consultations was to discuss “measures for checking illegal migration from and through Central and Eastern Europe.” Much emphasis was put on the need to strengthen the surveillance of borders, the conclusion of re-admission agreements and the harmonisation of visa policies. Technological and financial aid was promised. During follow-up meetings, the themes that would dominate subsequent conferences became clear: criminalisation of trafficking and improvement of police forces and border controls; imposition of carrier sanctions on airlines; exchange of information; conclusion of re-admission agreements; financial assistance to the Central and East European countries [who were in reality the targets of these measures given their deficient or totally absent relevant legislation and policies]. The *Statutory Meeting of the Budapest Group* (December 1993) reconfirmed these objectives and decided that the Group would exist of senior officials from all participating states, making the Budapest group into the only pan-European discussion forum for these issues. The issue of visa ‘approximation’ was taken up at a special meeting in Portoroz (Slovenia) in September 1998. The harmonisation of visa policies is to be achieved by the Central and East European states aligning their policies with those of the EU member states. In recent years the Budapest Group has also set up an elaborate monitoring system to keep track of the progress with the implementation of agreed measures, thus acquiring a very real influence over national policy-making.

In the Americas most of the regional integration processes ignore or sidetrack the question of the movement of people. This is the case with MERCOSUR, with NAFTA as well as with the series of bilateral treaties on free trade in the region. Yet, despite limited state regulations, labour migration represented a significant dimension of trans-border economic activities, controlled mostly by the private sectors. The Puebla

4 By 1997 the Group encompassed 36 European states (including among the republics of the former Soviet Union the three Baltic states, Belarus, Ukraine, Moldova and the Russian Federation), Australia, Canada, the United States, as well as the Central European Initiative, the Council of Europe, the European Union Council Secretariat, the European Commission, the Intergovernmental Consultations on Asylum, Refugee and Migration Policies (IGC), the ICMPD (functioning as the Secretariat of the Budapest Group), the International Organisation for Migration (IOM), Interpol, the United Nations High Commissioner for Refugees (UNHCR), the International Civil Aviation Organisation, and the United Nations Commission on Crime Prevention. For more information as well as sources on the work of the Budapest Group, and also of the Puebla Process, the reader is referred to Pellerin and Overbeek 2001.

Process, which started in 1996 under the name Regional Conference on Migration (RCM), marks a significant step in the regionalisation trend in migration control.⁵ Officially the direct trigger of the RCM was the Population Conference in Cairo in 1994, but it was also linked to the plans for the Free Trade Area of the Americas (FTAA), which is to extend the liberalisation of national economies to Central and South America. The immediate initiative for the Puebla Process came from Mexico, a country facing important pressures from both its Northern partners, particularly the United States, to control the flows of people crossing the border, and from its southern neighbours in the form of transit migration. The RCM's Plan of Action, adopted in 1997 during its second annual meeting in Panama, focused on information gathering as well as on five areas of activities: 1) the formulation of migration policies (both emigration and immigration) that would respond to the commitments of the Conference; 2) migration and development; 3) combating migrant trafficking; 4) collaboration for the return of extra-regional migrants; and 5) human rights. Most of the work of the RCM has been devoted, since then, to the combating of migrant trafficking while the area of activity that received the least attention was the formulation of harmonised migration policies. Yet, paradoxically, some form of co-ordination of these policies does take place, but indirectly, notably through the promotion by the RCM of trans-border and labour market co-operation schemes.

There is obviously a clear analogy between Puebla Process and the Budapest Process in terms of which issues are central to their work. They share in particular the emphasis on the co-ordination of visa and migration policy, on the combating of illegal trafficking and in the promotion of a system of re-admission agreements. These informal modes of governance fulfil very specific functions. They first of all serve as channels for communication between policy-makers, experts, and interested third parties. This is especially important for those countries (e.g. several of the CIS countries) whose officials have little or no direct contact with their counterparts in the OECD world. Beyond that they further serve to socialise the officials, experts and policy-makers of peripheral states into the existing epistemic communities in the migration field within the OECD, and they help to moor the policy reforms desired by the OECD partners within the associated states: migration policies deemed desirable by the OECD partners

5 The Puebla process involved the participation of ten countries of Central and North America (Belize, Canada, Costa Rica, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama and the United States). A few countries and international organisations were invited as observers: Colombia, the Dominican Republic, Ecuador, Jamaica and Peru, as well as Economic Commission for Latin America (ECLA), the United Nations High Commissioner for Refugees (UNHCR) and the International Organisation for Migration (IOM).

are thus locked in within the dependent states. Finally, in the case of the relationship between the European Union and a number of the Central and East European states involved, the Budapest Process is clearly complementary to the ongoing accession process and prepares the ground, in the area of the regulation of people's mobility, for ultimate full membership of the EU.

These neo-liberal forms of mobility controls will not disappear with political changes in countries at the receiving end. Because of their inclusion into regional frameworks of integration, these mechanisms become *locked in* and it would be extremely costly, both economically and politically, not to respect them (Gill 1998). Accordingly, states become more accountable to external than to internal forces. States are made responsible for maintaining the direction or the orientation taken by the regional system, and to upholding the principles or social purpose of the agreements signed. Both 'Processes' have developed mechanisms to strengthen these tendencies and to monitor the compliance of the participating states. Particular emphasis is placed in both contexts on the selective criminalisation of migration.

In fact, the selective criminalisation of specific forms of migration and the privileged treatment of other types of mobility is functional not only in the context of proliferating neo-liberal labour market reforms, but also in the context of redrawing the boundaries of the regions concerned. Both in the case of the Americas and in the case of Europe, we observe the restructuring of regional hierarchies. Certain countries or regions are gradually integrated into the OECD heartland (Mexico, Central Europe, possibly in the long run Turkey). These countries are themselves becoming destination countries for migrants from the outer layers of the emerging new regional geo-hierarchies (just as a decade ago the Southern European countries made the transition from migrant sending to migrant receiving countries against the background of their integration into the hegemonic structures of the West). Other countries are recast in the role of dependent (semi-)peripheries, whose migrant workers are admitted to the heartland countries only on the strictest conditions, and who are themselves burdened with the task of policing their borders with the external world whose people can only come in as illegal migrants (and in decreasing measure as asylum seekers) (cf. van Buuren 1999).⁶

6 Of course this process of regional hierarchisation intersects with processes of geo-strategic rivalry being played out partly in the same region, such as NATO intervention in Kosovo, the involvement of several Western interests in the Caucasus, and most recently the entry of Western forces in Central Asia through the war in Afghanistan.

Let us summarise this section. Neo-liberal restructuring of the global economy involves both the deepening and widening of market relations and the transformation of governance structures. Labour has a specific role in this process: because international labour migration is only one way in which global capital can access the emerging global labour market, the emerging global regime for labour involves both the disciplining of labour and the selective freeing of the mobility of labour. There is clearly a tension between regulating migration under the auspices of global neo-liberalism on the one hand, and upholding the values of democratic governance on the other. When we turn to discuss the contours of a possible new comprehensive framework for the regulation of global migration in the next section, we shall therefore emphasise the importance of democratic multi-lateralism as a safeguard against downward harmonisation through disciplinary neo-liberal policy competition.

4. Implications for a future multilateral agreement on migration

We have, in the preceding analysis, argued that the contemporary migration issues must be viewed against the backdrop of globalisation. Likewise, if we want to speculate on the contours of a future international migration regime, let us first look at the implications of globalisation for such an enterprise.

First, unless an effort is made to address the underlying causes especially of all forms of involuntary migration, any effort to create an international migration convention will inevitably result in the codification of the existing extremely restrictive immigration practices of most of the countries of destination. The ‘international community’ (this often abused eulogism) must address the structural inequities in the global political economy producing and/or reproducing poverty among two-thirds of the world’s population (such as unequal exchange, the dumping of agricultural surpluses, etc.). It should also look very critically at the global arms trade that fuels many of the refugee-producing conflicts around the globe. Especially where arms trade and neo-colonial political interference with (if not initiation of) regional and local conflicts by major powers coincide, the results have been disastrous.

Second, the particular character of globalisation as process of deepening commodification and as project of privileging the market over public regulation suggests that in order to be democratic and responsive to the needs of all people, certain fundamental principles must underlie any regulatory project. It is first of crucial

importance that the trend to further commodification is reversed and that essential spheres of human life are wholly or partly de-commodified. This implies also that we must re-assert the primacy of *public* governance as opposed to the market-led governance which neo-liberalism advocates for those areas where the interests of capital predominate. Finally, these new forms of public governance of global processes must provide for democratic decision-making and grass-roots participation, not just at the national and inter-national levels but also in transnational settings. At the national level, the institutions to implement democratic control and popular participation exist, at least in principle if not everywhere in practice, in the form of political parties, parliaments, and legal systems. At the inter-national level, we have the institutions and practices of traditional diplomacy, including the framework of the United Nations system, to guarantee the representation of all 'sovereign' states in the process. Notwithstanding the many shortcomings of the UN, it should be obvious that the UN is preferable as a framework for worldwide agreements to other frameworks. This is so whether these are international but with representation based on economic strength (such as the IMF or the WTO) or whether they are bi-lateral and skewed towards the strongest economic power (as in the bilateral negotiations between the European Union and the individual candidate-members on their terms of entry). At the trans-national level, finally, there exist as yet no structures for securing transparency and accountability. These will have to be developed, not to replace existing channels for public participation but to ensure that representative democracy can be extended to those sites of governance where existing institutions do not reach.

In such a new, democratic, multilateral context, we might envisage the creation of a comprehensive *International Migration Framework Convention*. The purpose of this Convention is to set forth and guarantee the general principles governing the regulation of transnational migrations, to ensure a sufficient degree of co-ordination between regional and national migration regimes, and to deal with those migratory movements that cannot be covered in a regional setting. There are three major components in such a regime.

1. The *institutional framework* to be developed at the world (and regional) level must be democratic, i.e. transparent and responsive to the needs of migrants as well as to those of the participating states. The organisational forms for such an enterprise are still to be developed; they will need to find a balance between facilitating grass roots participation and democratic representation which is often lacking in the literature

singing the praises of 'global civil society' and of transnational non-governmental organisations (NGOs).

2. The *asylum and refugee framework* providing the basis for the existing international refugee regime (i.e. the 1951 Geneva Convention and the 1967 New York Protocol) must be amended to take account of the changed nature of international refugee movements. Here the proposals put forward by Zolberg, Suhrke and Aguayo (1989) may serve as a starting point. They propose to introduce as the central principle "the immediacy and degree of life-threatening violence" (p. 270) in order to afford protection to the 'victims' on an equal footing with the more common subjects of present asylum law, the 'activists' and the 'targets'. The asylum policies of the OECD countries deserve special mention here: these tend to produce 'illegal immigrants' in large numbers through the practice of denying official status to asylum seekers who cannot be returned to their countries of origin because of humanitarian concerns.
3. An equivalent *framework for voluntary migration* (permanent and temporary) must be created in which states undertake to bring their national and regional immigration policies in accordance with an internationally negotiated set of minimum criteria formulated to safeguard the interests of migrants as well as the interests of the signatory states. The existing provisions of ILO Conventions and the GATS should be incorporated into such a framework, or replaced by it where they conflict with the fundamental principles set out above. One important principle to be obeyed here is that the legal position of long term residents must be improved. Both the return of migrants to their home countries and their effective integration into the host society are obstructed by their insecure status (i.e. by the difficulty in many host countries of obtaining full membership in the welfare state and by the difficulties they encounter upon return to their home country). These problems could be substantially reduced for instance by expanding the possibilities for dual citizenship or by allowing re-immigration with full retention of rights in case of failed return migration.

On the basis of such comprehensive set of principles, *Regional Migration Conventions* can then create the institutional and operational settings for their practical implementation. It is plausible that only in regional settings will it be possible to develop effective instruments to deal with such undesirable developments as the increasing role of organised crime in the trafficking of people (and drugs and arms). As with the Prohibition in the 1930s, an exclusively repressive policy only raises the price of the prohibited good (in this case access to the labour markets of the OECD countries)

without substantially reducing the flow. These regional regimes might be expected, depending on specific circumstances, to incorporate regional development, educational and employment initiatives, preferential trade agreements, effective measures against trafficking in people, agreements on the re-admission of illegal migrants, arrangements for temporary labour migration, quota for permanent immigration, return migration schemes, and improvement of the legal position of migrants in host countries. An integral and comprehensive approach is essential. If certain elements, such as temporary labour provisions, are realised in isolation from the other elements and principles, such schemes are bound to serve only the interests of the employers looking for cheap workers. Public governance of these processes must guarantee the balance between the various elements of the Conventions.

This chapter has put forward that there is a possibly irreconcilable tension between *commodification* on the one hand and *emancipation* and deprivation on the other. The present trend in the global economy is to privilege private market forces over public regulation. We are presently on the threshold of global initiatives to shift this balance even further, especially with respect to the management of global migration flows. This paper maintains that the answer cannot be a return to strictly national forms of migration control, and should not be a complete capitulation to market-driven regulation of migration. Polanyi's 'double movement' (Polanyi 1957) is now, more than ever, operative at the global level, and this implies that we must actively develop global forms of social protection (complementing, not replacing national forms) to counter the destructive effects of deepening commodification. Resisting the subordination of international labour markets to the neo-liberal regimes of the WTO (via GATS and MAI) must be an integral component of the struggle for a more democratic global economic order.

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