

**‘No Representation Without Taxation’:  
A Sceptical Look at the Case for Global Civil Society**

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Civil society has traditionally been understood as separate from the state, and distinct from the military. It is a concept which came to particular prominence after the numerous popular movements which helped bring an end to communism, and this has endeared it to some social theorists and political leaders.<sup>1</sup>

Civil society thus tends to be seen by its political champions as fundamentally democratic in nature (although many scholarly observers are somewhat more sceptical). Non-governmental organisations (NGOs), seen as representatives of civil society, have been granted access to the deliberations of many international organisations and treaty processes, have been granted rights of participation in the OECD, and are now demanding entrée to the World Trade Organisation. This demand for access has met with support from a Clinton administration in the United States, flushed with enthusiasm over the role of civil society in the democratisation of Eastern Europe and responding to demands from environmental groups and labour unions concerned that trade liberalisation will lead (respectively) to an environmental ‘race to the bottom’ and the loss of US jobs to ‘underpaid’ Nike workers in Vietnam.

Some advocates of an enhanced role for civil society see its emergence as reflecting a supposed ‘fading away’ of the anarchy of states in Realist views of international relations, and its replacement by a different type of norm-governed global system rooted in the global capitalist consumer culture. This is exacerbated by what is seen as an inability of states to deal with certain problems, leading to attempts by non-state actors to address them, and the growth of new forms of social identity which challenge the hegemony of statist world politics.<sup>2</sup>

Civil society therefore is seen as existing in ‘new political spaces’, other than those delimited by the nation-state system, delineated by networks of economic, social and cultural relations, and occupied by conscious associations of actors in physically separated locations who link themselves together in networks for particular political and social purposes. These networks of civil society interact with states and governments, but they extend themselves across state borders and are not constrained by the state system itself.<sup>3</sup>

This transnational dimension makes many uneasy with the notion of *global* civil society. Willetts, for example, has noted that we take it for granted that interest groups will be effective influencing national policy, but ‘we seem to be strangely reluctant to accept that the same process occurs in multilateral diplomatic forums.’<sup>4</sup> The difference which matters would appear to be that the members of domestic interest groups are subject to the obligations of citizenship, and the groups themselves are subject to the laws of the host nation. Groups taken to represent civil society arouse the same sense of unease which transnational corporations do: they are often unaccountable, sometimes because of deliberate strategies on their part to avoid accountability.<sup>5</sup> Greenpeace International, for example, *is* a transnational corporation. It is legally a private company (with supporters rather than members) which controls local branches by licensing the use of its brand name. It has used the complexities of international corporate law to avoid accountability for its actions.<sup>6</sup>

The view that civil society represents democratic views in global society is therefore one which reflects great scepticism about the ability of states to provide democratic governance, and which places considerable faith in the representativeness of groups existing in civil society. This paper will suggest that there are good reasons for being less sanguine about the abilities of international governance regimes than this idealistic view would have us believe, and that there are serious questions about whether we should accept uncritically NGOs as representing grass-roots democratic values which are suppressed by national governments. It will suggest that there are serious questions about the accountability of some NGOs, which are currently enjoying something approaching the rights of 'global citizens' but which are not bound by the corresponding duties which normally accompany citizenship at the level of the nation state.

This suggests that, with both environmental protection and labour standards, there is a case to be made that, if civil society *is* to be represented, greater credence should be given to groups which arise in the society where the impact of their actions will be felt. In other words, the case for NGO activity is strongest where 'democratic blockage' prevents the fair negotiation of environmental or labour outcomes. NGO activity which seeks to impose outcomes on states — including changing states' stances in international negotiating processes — in the absence of democratic blockage amounts to representation without taxation, in that NGOs do not have to live with any negative consequences of their intervention.

While the discussion here will focus on campaigns for trade bans as one extreme of possible outcomes of NGO activity, it is readily acknowledged that less stringent actions are possible. It is also acknowledged that there is a case to be made for the bringing of international pressure when the activities of countries are producing transboundary harm rather than harm within their own borders. But many of the complaints of ENGOs relate to environmental or labour issues which are within nation states, with their only international dimension being related to international competitiveness. This paper cannot address all such nuances; it will restrict itself to setting out some 'parameters of legitimacy' for the paradigm case.

### **Global Civil Society**

The anti-statist flavour of much of the writing on civil society reflects the fact that the groups generally taken to comprise civil society are those which champion issues such as environment, human rights, and the rights of indigenous people — groups which tend to lack the 'privileged position' which Lindblom attributed to business groups in politics.<sup>7</sup> The groups in civil society not only tend to make moral claims rather than interest-based claims, they have few other weapons in their arsenal besides moral claims. They tend to be what Lipsky<sup>8</sup> once termed 'relatively powerless groups', which create the bargaining resources they lack by engaging in protest activity. Many of them have succeeded in this to such an extent that they should perhaps no longer be regarded as relatively powerless.

The 'privileged position of business' at the national level stems from three factors: its supposed superior ability to raise resources; the fact that governments frequently must access the expertise which business possesses in order to develop workable, implementable policies; and (perhaps most significantly) the structural power it enjoys. This arises from the fact that governments depend for their fiscal existence upon the continued viability of business, which makes them more attentive to the views of business than they are to the views of other groups in society. Sub-national governments are often especially vulnerable to fears of industrial relocation, and so environmental groups frequently make appeals to national governments and, when these fail, to international organisations. Thus, as Walker puts it, "The state is read as the problem and global civil society is read out as the solution."<sup>9</sup>

The 'privileged position of business' does not, however, translate well to the international level. International organisations do not depend directly upon the profitability of business and are indifferent as to its location. They are not directly responsible for the implementation of multilateral agreements (that is left to nation states) and do not depend on business expertise. International organisations are thus less dependent on business groups than are national governments.<sup>10</sup>

NGOs, on the other hand, can assist international organisations address their capacity deficit. International treaty secretariats are small and poorly resourced. International organisations are frequently poorly resourced, with UNEP's annual core budget substantially smaller than that of the major environment NGOs (such as WWF or Greenpeace). But, significantly, NGOs can perform functions that international organisations frequently cannot. For example, the United Nations Charter prohibits UN organisations from engaging in the domestic politics of member states, so they cannot lobby at the domestic level in support of treaty negotiations. But NGOs can — and do — perform such functions.<sup>11</sup>

And at the international level, NGOs possess considerable ability to mobilise resources and can equal or surpass the level of resourcing enjoyed by business groups. To give one example, the chemical industry committed an impressive \$65m over five years to counter Greenpeace's Chlorine Campaign, yet this only matched the level of expenditure of Greenpeace on its toxics campaign. Perhaps because the circumstances are less propitious for business at the international level, its preparedness to commit resources at this level is limited, while many of the groups considered to be representative of constitute civil society can boast a larger 'campaign chest'.

But NGO actions at the international level do not always target national governments or international organisations. As Wapner points out, much NGO activity seeks to alter the conduct of industry or individuals in civil society rather than to exert pressure on states.<sup>12</sup> In cases such as Nigeria or Myanmar, human rights campaigns have targeted corporations trading in such countries as a means of exerting pressure on non-democratic governments immune to international opinion.<sup>13</sup>

Such interventions in the affairs of states and corporations operating in accordance with the law depend for their legitimacy upon some strong moral claim. As Walker puts it, 'Many attempts to think about social movements without the constraints of the territorial state tend to draw on some universalising discourse . . .'.<sup>14</sup> That discourse is frequently one of 'world citizenship'. Historian Paul Kennedy, for example, has suggested that we are all members of a 'world citizenry',<sup>15</sup> an argument which finds enthusiastic endorsement by participants in the Pugwash Conferences on Science and World Affairs.<sup>16</sup> Anthony Giddens has also claimed that for the first time in history we can speak of universal values, including human rights and species preservation.<sup>17</sup> The UN Declaration on Human Rights and the ILO Conventions are important sources of such norms, all the more legitimate because they have the backing of international law. The claim for universality for norms related to species preservation would appear to be weaker, however.

Norms can constrain actions and even reconstruct national interests. Sociological institutionalist theorists predict similarities in behaviour caused by a common global culture where Realism or Liberalism would expect differences in behaviour by differently situated actors with different interests.<sup>18</sup> They claim their research 'provides powerful evidence of global cultural homogenization.'<sup>19</sup> Global cultural norms may make similar behavioural claims on dissimilar actors.<sup>20</sup> But, the power of such claims would appear to be stronger at some stages of the international policy process than others.<sup>21</sup>

Norms, independent of material considerations, are an important factor in determining states' policies.<sup>22</sup> Klotz claims that a global norm of racial equality played a crucial role in reconstituting US interests, allowing it to favour sanctions against South Africa in the mid-1980s, despite these going against its material structural interests. Yet the key to this change was the passage of the Comprehensive Anti-Apartheid Act of 1986, a domestic event which reflected the coming of age of African-American politics and its long-standing linkages (dating back to the civil rights era) with liberation politics in South Africa. This was the triumph of a *domestic* norm which was shared internationally, but by no means universally, reconstituting US national interests so that they moved beyond mere economic interests such as the defence of access to minerals. (Klotz also fails to distinguish short-run and long-run interests: acceding to a norms-based decision to introduce sanctions can also be seen to serve the longer-run interest of securing on-going access to minerals).

There is little argument with the proposition that norms can reconstitute interests, but what is problematic is whether they can develop into shared *global* norms. Norms such as citizenship, racial equality, human rights, progress are common enough in western culture but they receive at least different emphasis in different societies. Norms relating to the environment, for example, are not universally shared in different societies, or within societies.<sup>23</sup> Indeed, environmental norms do not appear capable of producing unanimity *among* environmentalists.<sup>24</sup> As Walker has noted, 'Whatever the rhetorical and tactical appeal of a women's movement, or an environmental movement, in the singular, it is an appeal that cannot disguise the differences and even intolerances among such movements.'<sup>25</sup>

Ecocentric values do not carry much promise of unity, particularly since modern ecological science tells us nature is about change and perturbation and cannot tell us at what stage we should seek to stop change processes.<sup>26</sup> I might happen to value nature conservation and the preservation of endangered species, but I am acutely aware of the fact that that norm is not universally shared; indeed it might be dangerous to assume that such problems can be solved by seeking normative unity, rather than negotiating differences. Thus Greenpeace's claim to act on behalf of a 'law of nature' higher than human laws can never be other than hollow rhetoric. Walker has pointed out that to act in relation to 'the environment' is to act in the name of allegedly 'natural' forces that refuse to acknowledge the boundaries of states, but 'exactly what it means to speak of the environment, or to act in the name of nature, or . . . who has the authority to act in the name of rainforests and dolphins, is more difficult to specify.'<sup>27</sup>

Norms are not likely to be shared universally, but they can be shared sufficiently widely to exert pressure on a global basis. How representative such campaigns can be claimed to be is highly problematic. The ease of global communications provided by the internet has made it relatively easy to organise coordinated international campaigns, but just as the technology also facilitates the coordination of soccer hooliganism, we need to consider critically whether campaigns made possible by such communications should be granted legitimacy in national and international politics and, if so, under what conditions.

The issue might seem trivial when we are considering NGOs such as Amnesty International, but should we grant the same legitimacy to 'People's Global Action', the organisers of the 'Carnival Against Capitalism' riot in the City of London on 18 June 1999? This was part of a coordinated action in 43 countries which saw Leader of Her Majesty's Loyal Opposition Kim Beasley hit with a cream pie in Australia. PGA needed little popular support, but was apparently financed by an heir to the Vestey fortune (whose revulsion by capitalism has yet to extend to him renouncing his inheritance)<sup>28</sup> and organised by a number of articulate members of the English public school/Oxbridge elite.<sup>29</sup> Organising direct action is not difficult with modest financial backing and organisational skills. We might not be willing to grant legitimacy to such activists as a welcome part of civil society, but what about another member of the English aristocracy, Lord Melchett, as he led 30 Greenpeace activists in destroying an experimental genetically modified crop? Why should there be an acceptance of the destruction of private property by Greenpeace which would not be extended to the destruction of Greenpeace property by the French secret service?<sup>30</sup>

There is thus a need to look sceptically at the activities of groups representing civil society and examine the legitimacy of their actions. The focus in the limited space here will be on their actions aimed at imposing trade bans and actions such as the 'social tariffs' proposed by US labour unions. These are probably the strongest actions they advocate, and while it is acknowledged that lesser actions are less extreme, we can at least set some boundaries to their legitimacy at the margin.

### **Constituting Civil Society**

This critical discussion of groups commonly taken to constitute civil society raises the issue of the how civil society should be constituted in a political sense.

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If we adhere to a Realist view of international politics as anarchical, this would not matter, of course, but if we are to talk of ‘world citizenship’ as analogous to citizenship at the level of the nation state, then we must remember that citizenship carries with it not just rights of participation, but also corresponding duties — such as that to serve the state militarily or to pay taxes.<sup>31</sup> To be granted rights of participation carries with it the duty to pay taxes and to be ‘taxed’ by the outcome of the political process. To expect representation without taxation is equally unfair as being subjected to taxation without representation.

If accepted, this point has important consequences, because there is considerable scope in global civil society to engage in political activity which will impose ‘taxes’ on those who do not necessarily participate in the decision process but not on those who do. Indeed, trade bans might actually *advantage* some interests. We can therefore pose the question: ‘Under what circumstances should we grant legitimacy to NGO campaigns for trade bans and restrictions on a country?’

Some might question whether there is any such circumstance, but I think there is at least one which has some normative justification and it is indicated by a model of NGO activity which does not have an explicitly normative purpose. Keck and Sikkink developed what they call a ‘boomerang’ model to describe the way NGOs *actually* function, but it provides a useful *prescriptive* model of how NGOs *ought* to act.<sup>32</sup>

In the ‘boomerang’ model, a group seeking to protect human rights, the environment, indigenous people or whatever encounters ‘democratic blockage’ — or is denied effective participation in politics. The group then appeals to an NGO in a democratic nation which brings pressure to bear either directly on the non-democratic government, and economic actor with investments in that nation or on its own government, seeking to exert pressure on the non-democratic government. Action by NGOs in other countries thus can have a democratic basis when it is undertaken at the instigation of a group confronted by ‘democratic blockage’.

This is what gave legitimacy to the campaign in democratic nations for trade and sporting sanctions against South Africa. The black majority was denied the rights of participation which normally accompany citizenship; it was represented by the ANC, which enjoyed sufficient support to be able to claim to represent the suppressed majority; and the ANC called for sanctions and was willing to accept the consequences which flowed from them. When campaigns for trade bans do not satisfy these conditions of democratic blockage, a clearly representative organisation and a request for sanctions to be imposed, they have much less claim to legitimacy. Bans and sanctions are such blunt instruments that we should be highly suspicious of calls for their imposition on some nation when these conditions are not satisfied.

International prohibition regimes usually prove to be particularly ineffective in suppressing activities which require limited and readily available resources, require no particular expertise to commit, can be readily concealed, which are unlikely to be reported to authorities, and for which consumer demand is substantial, resilient, and not readily met by substitute activities or products.<sup>33</sup> Nadelmann notes that global prohibition regimes have usually represented the desire and capacity of European nations or the US to impose its norms on the rest of the world.<sup>34</sup> Nadelmann points to some of the dangers of moving to increasingly prohibitory and increasingly punitive approaches in global environmental regimes. One is that the violators will evolve from the legitimate corporations able to contend with civil fines and ‘white collar’ charges ‘to entirely criminal organisations and individuals willing to assume greater risks in return for greater profits.’<sup>35</sup> But Global prohibition regimes are driven by a sense of evil and are likely to pay little heed to costs and consequences: ‘like crusades, they are instigated and pursued even when alternative approaches appear less costly and more effective.’<sup>36</sup>

The problem is that normative political campaigns rarely succeed on their merits. There is intense competition on the political agenda, not just between norms-based campaigns and economic issues, but between normative campaigns. More often than not, those which succeed in persuading national governments to impose sanctions on others are reinforced by economic interests with which they coincide. They become what Yandle has termed ‘Baptist and Bootlegger’ coalitions.<sup>37</sup> Norms emerge and are

promoted because they reflect both the economic and security interests and the moral interests and emotional dispositions of dominant members of international society. They are promoted by both states and transnational moral entrepreneurs who lobby governments and mobilise popular opinion and political support at home and abroad.<sup>38</sup>

Those campaigns which succeed in prompting national governments to impose trade sanctions are therefore likely to be those which are motivated at least in part by protectionist impulses which are provided with a convenient moral cloak. For this reason, the legitimacy of any trade sanction must depend crucially upon the consent of a significant number of those who will suffer the consequences. There should, in other words, be no representation without 'taxation': only those who will suffer the consequences of trade bans should be granted legitimate representation in the process of deciding to impose them — at least if we are contemplating doing so out of a sense of justice. We can reinforce this point by examining the basis for bans.

### **The Costs and Benefits of Trade Bans**

The economic argument against trade bans on the basis of labour standards suggests that workers are paid less because their productivity is lower than that of workers in developed countries. If this holds, the way to increase wage rates in developing countries is to encourage the investment in both physical and human capital which will improve productivity. Trade sanctions will be counterproductive under these circumstances, because they will *discourage* capital investment by lowering the return on capital.

Similarly, pollution control is more likely to be supported politically and invested in economically if it is not discouraged by trade bans. Pollution is tolerated in economically impoverished societies in order to develop, just as current consumption is foregone in order to invest the capital necessary for growth. Environmental degradation is less likely to be tolerated in affluent societies, although policy responsiveness is likely to require either particularly enlightened economic and political elites or the existence of the democratic institutions which will allow their propensity to tolerate pollution to be challenged. We would do well to remember that support for environmental policy in western industrialised countries rests on these twin pillars of affluence and liberal democracy.

But willingness to accept pollution is not the only reason for disparities in environmental standards. Prevailing environmental conditions vary, meaning that there is greater capacity to absorb pollution without producing harmful effects. Some nations therefore possess what is effectively an advantageous resource endowment and enjoy a competitive advantage not held by more heavily polluted countries.

This point is fundamental to the trade and environment issue, and applies equally to Third World countries and countries such as Australia which are less populated and polluted than Europe. If there were to be a genuinely level playing field and a sense of environmental justice, it should involve the setting of standards for *ambient* levels of pollution, but these might be set so low that they reflected the relatively clean environments of less polluted nations, and thus impose substantial costs on more industrialised nations. The 'level playing field' argument can thus be advanced to destroy the advantage of nations which is the fundamental rationale for trade. As such, it can be seen to have the potential to disadvantage developing countries, which might be less polluted — although many of them have been all too willing to trade environmental quality for accelerated development, so the effect might not be substantial.

The experience in the United States has been that environmental standards have advantaged polluted areas at the expense of less-industrialised states, and large firms and capital-intensive industry at the expense of smaller plants and firms.<sup>39</sup> Some firms actually gain profits from the tightening of air pollution regulations, and such regulation serves the interests of both environmentalists and some industrialists.

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One corollary to the 'level playing field' argument is the fear that the necessity for consensus in international decision-making will result in a 'lowest common denominator' approach to international environmental policy. When combined with the feared relocation of industry to 'pollution havens', this suggests a 'race to the bottom'. But while the theory is superficially appealing, the evidence for the 'pollution haven' argument is at best mixed, and a 'race to the bottom' is far from inevitable.<sup>40</sup>

Indeed, Pearson has argued that 'Making either ambient or emission/effluent standards uniform worldwide would neither equalise the international competitive position of countries nor be economically efficient'.<sup>41</sup> The costs of meeting either kind of standards depend upon local environmental factors and factors of production, which vary from one place to the next. Uniform standards 'would not equalise international competitive positions, even if that were desirable'.<sup>42</sup> But benefits also vary from one location to the next, and Pearson argues that 'Uniformity of ambient standards in the face of differences in benefits would be uneconomic and inefficient'.<sup>43</sup> Instead, he argues that ambient standards should be established on the basis of a local calculus of benefits and costs. Emission and effluent standards should then be set on the basis of minimising the cost of meeting the ambient standards.

There are two separate hypotheses comprising the theory of industrial relocation: the industrial-flight hypothesis and the pollution haven hypothesis. The industrial-flight hypothesis involves three mechanisms: pollution control costs driving up capital costs; social blockage of new plant making siting new facilities more difficult; and regulations directly limiting the range of products that can be manufactured and the types of inputs and production processes that can be used.<sup>44</sup> There is little empirical evidence to support these theories, except in three categories.

First, manufacturers of some highly toxic, dangerous or carcinogenic products for which substitutes have not been developed or where technologies have not been adapted to meet US standards (for example, asbestos, arsenic trioxide, benzidine-based dyes, some pesticides and a few other known carcinogenic chemicals). Second, there has been some dispersion of basic mineral processing industries such as copper, zinc, and lead processing, although this has been enhanced by other factors such as the changing availability of raw materials and requirements for processing within the country they are mined. Finally, some 'intermediate' organic chemicals needed for the manufacture of other chemicals.<sup>45</sup>

Industries susceptible to industrial flight appear to be those with sluggish growth in domestic demand with high compliance costs, a separation between the risks of consumption and those of production, a social restriction on sites, inelastic demand for product (or lack of substitutes), production that is more labour-intensive than capital-intensive and low shipping costs.<sup>46</sup>

The costs of complying with environmental standards in the US have been estimated at less than 2 percent of the costs of production for most industries — simply not sufficient to induce relocation when considered in the context of other factors of production, such as labour, capital, transport and land.

Similarly, with labour standards what is important is whether the parties have the right to negotiate fairly, rather than whether the outcome of the process is considered fair by another observer. While we can frequently agree on moral judgments, we must always be careful how we apply them. There are dangers of acting counterproductively and of appearing hypocritical.

We can agree, for example, that the use of child should be condemned. But what should we do about the many countries where it exists? Should we organise boycotts of the fruits of such labour? This is a morally appealing option, but it might have catastrophic effects, since the earnings of children in many developing countries form an important part of family income. If our boycott succeeds, we might do little more than protect the children from exploitation only to condemn them to even greater poverty. (Such boycotts are also likely to be more effective when they reinforce protectionist urges in importing countries).

While it is certainly preferable that children do not engage in paid employment, it is difficult to consider the issue in isolation from the prevailing social conditions — not just the plight of the child's family, but also whether the presence or absence of educational opportunities means that working is depriving the child of other opportunities. Meaningful development assistance is likely to address such contextual factors as poverty and educational opportunity, rather than simply consider child labour in isolation. Besides, we are likely to appear hypocritical if we condemn child labour in developing countries while permitting it in our own, by allowing children to undertake paper rounds or holiday jobs. (Making the obvious defence that they are generally not forced to work in order to eke out an existence simply rather reinforces the point!)

Much the same complications arise with labour standards for adults. It is not for us in the West to judge whether a particular rate of pay is unfair and should form the basis of some trade restriction; the rate of pay in *any* developing country will appear miserly when expressed in US dollars or Euros and removed from the context of the local economy. Low labour costs are one of the few advantages such economies possess, so we must be exceptionally cautious about any suggestion that they not be permitted to take advantage of them.

The real question of fairness concerns not what the rate of pay is, but whether it has been negotiated fairly. In other words, do the parties to wage negotiations enjoy the freedom to conclude contractual arrangements as relatively free agents? There are, of course, degrees of freedom, but it would seem that our right to intervene in circumstances where wage outcomes have been negotiated with an acceptable degree of freedom is highly questionable.

Intervention by NGOs would thus appear both to be dangerous in a practical sense and to enjoy a relatively weak moral justification unless there is 'democratic blockage'. It is very weak indeed in the case of liberal democracies, and even in non-democratic regimes we are still faced with the dilemma of the economic impact of restrictions on trade upon those whom we wish to assist. What right do we have to decide that the impact of trade sanctions on the population of Myanmar or Nigeria is justified by the likely result of our efforts?

This trade-off is best made by those who have to live with the consequences, as is clear when we consider the case of sanctions being applied to South Africa. Trade and sporting sanctions could clearly be justified in the case of South Africa under apartheid because the majority of the population was disenfranchised, but was represented by an organisation with a high degree of legitimacy (the ANC) which supported the sanctions. This case fits almost perfectly Keck and Sikkink's 'boomerang theory' of NGO action, and the sanctions against South Africa enjoyed considerable legitimacy.

There is thus a stronger case for legitimacy for international campaigns targeting either Nigeria directly or Shell as a participating transnational corporation than there was for the international campaign which succeeded in blocking a port development by P & O Ports in India in 1998. India might not be the perfect democracy, but it is a democracy after all, and the international campaign that denied millions of Indian citizens the benefits of infrastructure development chosen by their government institutions was highly dubious.

Similar principles would appear to apply to other policy issues, such as attempts to harmonise policy outcomes. Many have sought to go beyond harmonisation of *processes* and have pushed for coordinated policy measures, where 'coordination' refers to 'policy adjustment by international prescription, laying down a specific policy obligation for states rather than a principle to which their individually shaped policies must conform.'<sup>47</sup> Such attempts at harmonised international standards are far from trade-neutral in their implications, and possibly in their intentions. There is a need for caution about creating trade distortions even when the existence of transboundary issues calls for international policy responses.

David Pearce has argued that those seeking to advance environmental reasons for restricting international trade must pass three tests. They must show that environmental degradation is actually brought about by

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freer trade and not some other factor, and that it has a higher value than the costs of restricting trade. Second, they must show that production-related damage is a legitimate feature of an importing nation's welfare equation. Finally, they must show that restriction of trade is the most cost-effective way of changing the product or process to remove the externality.<sup>48</sup> Pearce concludes that environmentalists have a case which should be heard, though he doubts that it is a strong case.

The weakness of the case would appear to be that it depends upon the value system of the international busybody. Pearce might be correct in arguing that '*economically* the losses in well-being from production externalities are just as concrete as the welfare losses from consumption externalities.<sup>49</sup> But so too are the welfare losses we might suffer from our valuations of income inequality in the United States, or female circumcision in Islamic societies. Similarly, many of our behaviours are likely to offend the citizens of other nations. There is the world of difference between problems affecting the global commons or causing damage of a transboundary nature (which justify some interference with the activities of sovereign nations) and those affecting the environment (or labour standards) within the boundaries of that state which might cause a vicarious welfare loss in another. As Jackson has pointed out, we might impose import restrictions on products from factories where employers fail to provide prayer breaks or operate their plants on a Sunday!<sup>50</sup>

### **Conclusion**

This is not to suggest that we should cease to be good global citizens who continue to argue against human rights abuses, oppression of ethnic minorities, cruel treatment of animals or degradation of the environment. But there are moral limits to the extent to which we should be preaching to others, especially when our own house is some way short of being in order, and there are practical limits also to what we can achieve.

The use of trade restrictions to alter national behaviour on a full range of such issues is likely to result in a costly and distorted world trading system. And if we combine this focus on the shortcomings of nations with the practical need to prioritise, we should be wary that we have some way to go in achieving good environmental outcomes at the domestic level (since no nation can yet claim to have put in place the last word in environmental regulation) and that the task of achieving good outcomes through multilateral environmental agreements (MEAs) for global commons issues is daunting enough. Trying to solve the domestic environmental problems of other nations is difficult to justify as a priority unless they seek our assistance, since this will divert scarce political resources away from policy-making at the domestic level and that of MEAs.

The key question in the matter of production and process methods (PPMs) is why one country should seek to impose its own PPMs on another. In responding to the climate change issue, a nation can achieve such results with a mixture of measures including energy conservation, reforestation, cessation of forest clearing, harnessing as an energy source methane from coal seams or oilfields (or municipal garbage), switching from coal to gas or nuclear power, or some combination of such measures according to their varying national circumstances. It is likely that the state in question is best-equipped to select such measures. Such variations in national circumstances form the very basis of trade and the search for innovative ways of meeting constraints of various kinds drives the very process of adaptation (both technological and institutional) which is necessary for achieving better environmental outcomes at least cost to other human values. Seeking to dictate any particular PPM to a state limits the basis for trade and could well stifle desirable innovation. It is for this reason that the drive towards regulation on the basis of PPMs is viewed with considerable suspicion by trade experts.

The case for a positive role for global civil society appears strongest when there is a clear case of democratic blockage; it appears weakest where there is neither democratic blockage nor transboundary harm. The dangers of granting legitimacy to global civil society when these conditions are not satisfied are substantial. They are all too likely to empower and provide a moralistic cloak to rent-seeking actions

by economic interests and, perhaps worse still, undermine the capacity of nations to develop the democratic institutions upon which both good environmental and labour outcomes depend.<sup>51</sup>

This suggests that on both environment and labour rights issues there is a need for caution over the access which should be granted to those representing civil society. NGOs not only are not required to live with the consequences of actions they might wish to see imposed on others, but they also inhabit a world without opportunity costs. As single-issue groups, they can campaign hard for a particular outcome without having to confront the consequences of that outcome for other values.

In this they are quite different from national governments, which are accountable to their citizens (some less than others) for the decisions they make in both the domestic and international arenas. This is arguably what has made the GATT/WTO such an effective international institution compared with the many MEAs which grant participation not just to parties, but to NGOs: the contracting parties in the WTO system make decisions they are bound by and must live with; there are no participants who can escape the consequences of WTO decisions.

This paper has provided some reasons why there should be caution about any moves in the Millenium Round to make the WTO more like MEAs by granting significant avenues of participation to non-parties. Perhaps the absence of such participation has been a key component of the success of the trade agreements, and if we are interested in building more effective international regimes, perhaps we should be making MEAs more like the WTO (rather than *vice versa*) and circumscribing the representation of civil society to channel it primarily through nation states.

This would mean seeking effective participation by democratic, national environmental groups such as the Australian Conservation Foundation in the development of national positions, rather than granting participation by unaccountable private companies such as Greenpeace in the WTO. Greenpeace is not 'taxed' by the results of its actions, and there are strong democratic reasons for suggesting there should be no representation without taxation.

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<sup>1</sup> See Anthony J. N. Judge, 'NGOs and Civil Society: Some Realities and Distortions—the Challenge of of "Necessary-to-Governance Organisations" (NGOs).' Paper presented to a Seminar on State and Society at the Russian Public Policy Center (Moscow, 6-8 December 1994).

<sup>2</sup> Ronnie D. Lipschutz, 'Reconstructing World Politics: The Emergence of Global Civil Society' *Millenium: Journal of International Studies* 21 (1992): 389-420; p392.

<sup>3</sup> Lipschutz, 'Reconstructing World Politics'; p393

<sup>4</sup> Peter Willetts, 'The United Nations as a Political System' in Paul Taylor and A.J.R. Groom (eds) *International Institutions at Work*. London, Pinter, 1988; p29.

<sup>5</sup> See, for example, Volker Bornschieer and Hanspeter Stamm, 'Transnational Corporations' in Alberto Martinelli and Neil J. Smelser (eds) *Economy and Society: Overviews in Economic Sociology*, (London, Sage, 1990).

<sup>6</sup> Greenpeace succeeded in avoiding responsibility in a case in the Norwegian courts relating to action against an oil rig in January 1994, when individuals were convicted individually, but the court could not find a clear relationship between the individuals and Greenpeace as an organisation, with the court noting that Greenpeace appeared to have devised a complicated corporate structure in order to make it difficult for it to be held to account. In March 1995, however, Greenpeace was convicted after arguing unsuccessfully that, while an action had been led by a Stichting Greenpeace Netherlands director, he did so as a private individual — despite using vessels owned by Greenpeace subsidiary companies Stichting Marine Services, Stichting Oxygen and Stichting Sirius.

<sup>7</sup> Charles E. Lindblom, *Politics and Markets*, New York, Basic Books, 1977.

<sup>8</sup> Michael Lipsky, 'Protest as a Political Resource', *American Political Science Review* 62 (1968) 1144-58.

<sup>9</sup> R.B.J. Walker, 'Social Movements/World Politics' *Millenium: Journal of International Studies* 23 (1994): 669-700; p696.

- <sup>10</sup> David L. Levy and Daniel Egan, 'Capital Contests: National and Transnational Channels of Corporate Influence on the Climate Change Negotiations' *Politics and Society* 26 (1998) 337-361.
- <sup>11</sup> See Aynsley Kellow, *International Toxic Risk Management: Ideals, Interests and Implementation*. Cambridge, Cambridge University Press, 1999.
- <sup>12</sup> Paul Wapner, 'Politics Beyond the State: Environmental Activism and World Civic Politics' *World Politics* 47 (1995) 311-40.
- <sup>13</sup> Kenneth A. Rodman, "'Think Globally, Punish Locally": Nonstate Actors, Multinational Corporations, and Human Rights Sanctions' *Ethics and International Affairs* 12 (1998): 19-41.
- <sup>14</sup> R.B.J. Walker, 'Social Movements/World Politics'; p689.
- <sup>15</sup> Paul Kennedy, *Preparing for the Twenty-First Century*. New York, Random House, 1993; p341.
- <sup>16</sup> Joseph Rotblat (ed) *World Citizenship: Allegiance to Humanity*. London, Macmillan, 1997.
- <sup>17</sup> Anthony Giddens, *Beyond left and right: the future of radical politics*. (Cambridge: Polity Press, 1994), p20.
- <sup>18</sup> Martha Finnemore, 'Norms, culture, and world politics: insights from sociology's institutionalism' *International Organization* 50 (325-47).
- <sup>19</sup> Finnemore, 'Norms, culture, and world politics'; p328.
- <sup>20</sup> Finnemore, 'Norms, culture, and world politics'; p334.
- <sup>21</sup> See Kenneth Hanf and Arild Underdal, 'Domesticating International Commitments: Linking National and International Decision-Making' in Arild Underdal (ed) *The Politics of International Environmental Management*. (Dordrecht, Kluwer, 1998).
- <sup>22</sup> Audie Klotz, 'Norms reconstituting interests: global racial equality and U.S. sanctions against South Africa' *International Organization* 49 (1995): 451-78.
- <sup>23</sup> Depak Lal, 'Eco-fundamentalism' *International Affairs* 71 (1995) 515-528.
- <sup>24</sup> Pekka Jokinen and Keijo Koskinen, 'Unity in environmental discourse? The role of decision makers, experts and citizens in developing Finnish environmental policy' *Policy and Politics* 26 (1998): 55-70.
- <sup>25</sup> R.B.J. Walker, 'Social Movements/World Politics'; p699.
- <sup>26</sup> See: P.S. White and S.T.A. Pickett (eds) *The Ecology of Natural Disturbance and Patch Dynamics*. Orlando, Academic Press, 1995; D. Worster, *The Wealth of Nature*. Oxford, Oxford University Press, 1993; D.B. Botkin, *Discordant Harmonies*. Oxford, Oxford University Press, 1990; Budiansky, Stephen *Nature's Keepers: The New Science of Nature Management*, (New York, The Free Press, 1995). For a recent approach to international environmental politics which assumes that ecocentric values *can* derive prescriptions from ecological science, see Eric Laferrière, 'Emancipating International Relations Theory: An Ecological Perspective' *Millennium: Journal of International Studies* 25 (1996): 53-75.
- <sup>27</sup> R.B.J. Walker, 'Social Movements/World Politics'; p675.
- <sup>28</sup> See 'Vestey heir "backed city protest"' *The Times* 10 August 1999. I am grateful to my colleague David Martin Jones for drawing my attention to this example.
- <sup>29</sup> See 'He was educated at Cheltenham College where fees are £13,000 a year and got a degree from Oxford University. . . and now he is an anarchist intent on destroying the City' *The Sunday Times* 27 June 1999.
- <sup>30</sup> See 'Peer arrested after raid on GM crop' *The Times* 27 July 1999.
- <sup>31</sup> I am grateful to Baogang He for suggesting this point, and for numerous helpful comments on an earlier draft.
- <sup>32</sup> Margaret E. Keck and Kathryn Sikkink, *Activists Beyond Borders: Advocacy Networks in International Politics*. Ithaca, Cornell University Press, 1998.
- <sup>33</sup> Ethan A. Nadelmann, 'Global prohibition regimes: the evolution of norms in international society' *International Organization* 44(1990): 479-526; p486.
- <sup>34</sup> Nadelmann, 'Global prohibition regimes'; p511.
- <sup>35</sup> Nadelmann, 'Global prohibition regimes'; p523..
- <sup>36</sup> Nadelmann, 'Global prohibition regimes', p525.
- <sup>37</sup> Bruce Yandle, *The Political Limits of Environmental Regulation*, New York, Quorum Books, 1989.
- <sup>38</sup> Nadelmann, 'Global prohibition regimes'; p524.
- <sup>39</sup> Yandle, *Political Limits of Environmental Regulation*; p87.

<sup>40</sup>Gordon L. Clark, 'Global Competition and Environmental Regulation: Is the "Race to the Bottom" Inevitable?' in Robyn Eckersley, ed, *Markets, The State and the Environment*, Melbourne, Macmillan, 1995.

<sup>41</sup>Charles S. Pearson, *Down to Business: Multinational Corporations, the Environment and Development*, Washington, World Resources Institute, 1985; p44.

<sup>42</sup>Pearson, *Down to Business*, p45.

<sup>43</sup>Pearson, *Down to Business*, p45.

<sup>44</sup>H. Jeffrey Leonard, *Pollution and the Struggle for World Product: Multinational Corporations, Environment, and International Comparative Advantage*. Cambridge, Cambridge University Press, 1988; pp64-68.

<sup>45</sup>Leonard, *Pollution*: p111.

<sup>46</sup>Leonard, *Pollution*; p114.

<sup>47</sup>R.J. Harrison and Stuart Mungall, 'Harmonisation' in Paul Taylor and A.J.R. Groom, *International Organisation: A Conceptual Approach*, London, Frances Pinter, 1978; p169.

<sup>48</sup>David Pearce, 'The Greening of the GATT: Some Economic Considerations' in James Cameron, Paul Demaret and Damien Geradin (eds) *Trade and the Environment: The Search for Balance*. London, Cameron May, 1994; pp34-5.

<sup>49</sup>Pearce, 'The Greening of the GATT'; p35.

<sup>50</sup>John H. Jackson, 'Greening the Gatt: Trade Rules and Environmental Policy' in James Cameron, Paul Demaret and Damien Geradin (eds) *Trade and the Environment: The Search for Balance*. (London, Cameron May, 1994); p44.

<sup>51</sup> See Paul Shrivastava, 'Democratic Control of Technological Risks in Developing Countries' *Ecological Economics* 14 (1995) 195-208.