THEMATIC REPORTS

Waking up to the true story of tax

In November and December 2008 heads of state and of government from around the world will attend a United Nations-sponsored conference in Doha, Qatar, to discuss financing for development. Tax is the big new issue. Powerful financial interests, notably from Britain and the United States, are lobbying against reforms in international taxation. Non-governmental organizations and individuals concerned with poverty around the world must engage fast, and decisively, to help ensure success.

Nicholas Shaxson
John Christensen
Tax Justice Network

Historical background

Near the end of the Second World War the economists John Maynard Keynes from Britain and Harry Dexter White from the United States sketched how the world's financial architecture would emerge from the ashes of conflict. Their work led to the Bretton Woods agreements in July 1944, and the creation of the World Bank and the International Monetary Fund (IMF).

Keynes and White were especially worried about capital flight out of Europe: if wealth was drained out of these countries, it would further destabilize the shattered European nations and possibly turn them towards the Soviet bloc. They knew well how difficult it would be to control capital flows across national borders, and they addressed this with a further proposal: transparency. They wanted the governments of countries receiving flight capital (such as the United States) to share information automatically with those European (and other) governments suffering the capital flight, so that the sending countries could 'see' the wealth their citizens had sent abroad. This would not only allow weak countries to tax their citizens' income appropriately, but it would also remove one of the great incentives for capital flight. Secrecy lets wealthy citizens and corporations shift their wealth outside the reach of taxation and escape their responsibilities to the democratic societies from which their wealth is derived.

The US financial community lobbied hard against transparency, and in the final IMF Articles of Agreement, Keynes' and White's proposals were watered down. International co-operation between countries was now no longer 'required', but merely 'permitted'. The impact of this successful lobbying went far beyond Europe, and it has since had nothing less than catastrophic consequences for ordinary people around the world, both in rich and poor countries.

Today very few countries benefit from information exchange treaties, and the limited number that do exchange information do it only 'on request'. As John Christensen and David Spencer of the Tax Justice Network argued recently in the *Financial Times*: "In other words, you must know what you are looking for before you request it. This is shockingly inadequate. We need the *automatic* exchange of tax information between jurisdictions, and all developing countries must be included."

> We can no longer focus so strongly on aid, without bringing tax into the core of the debate. Aid provides benefits, but perhaps its biggest drawback is that it makes governments and other recipients accountable to (and dependent on) donors, not citizens.

The scale of what has been unleashed is becoming clear. The World Bank reports that USD 1-1.6 *trillion* of illicit money crosses borders each year, about *half* (USD 500-800 billion) from developing and transitional economies. That compares to just USD 100 billion in foreign aid provided annually by all the Organization for Economic Co-operation and Development (OECD) countries to the world's poorest nations. Secrecy and low (or zero) taxes are the central incentives prompting illicit capital flows. International transparency in cross-border financial flows is clearly one of the most important global issues of our time. It is remarkable that the international development community has paid so little attention to these issues for so long.

If secrecy were removed, and capital taxed properly, it would transform the economies and public finances of developing (and rich) nations, and go a long way towards preventing elites from enriching themselves at the expense of ordinary citizens.

The road to Doha

There are currently no global, multilateral agreements or bodies that let developing countries know what income their residents' overseas assets earn in places like the United States, United Kingdom, Switzerland, Luxembourg, Singapore or anywhere else, and that help them recover the taxes owed on that income.

The Doha conference from 29 November to 2 December 2008 (not to be confused with the Doha negotiations for a global trade deal under the auspices of the World Trade Organization) has the potential to lay the groundwork for putting right what Keynes and White were prevented from achieving – notably automatic exchange of tax and other information between countries, on a global, multilateral basis.

This is certainly not impossible: such a scheme already exists on a regional level within Europe: countries within the EU scheme automatically exchange information between each other regarding the incomes of each others' residents, allowing proper taxes to be paid.

However, the EU scheme contains loopholes. Although some are being fixed, one big gap is that Europeans wishing to hide their money from taxation still can simply deposit their money elsewhere – in Singapore, for instance. The solution requires this scheme to be applied on a global basis – and especially including developing nations.

Furthermore, more transparency is needed in other important aspects. About 60% of world trade consists of internal transfers within multinational companies, and the prices at which the internal transfers are recorded are manipulated by these companies to minimize their tax liabilities.

Raymond Baker, a world authority on illicit financial flows and author of the ground-breaking book *Capitalism's Achilles Heel*, estimates that mispricing and abusive transfer pricing alone (as these practices are known) are worth USD 500-750 billion annually. Tackling this is a complex task, and requires international co-operation; one of the simplest approaches would involve *country-by-country reporting*.

Country-by-country reporting is necessary since international regulations and accounting standards currently do not require multinationals to break down and publish their payments, profits and taxes for each jurisdiction they operate. Instead, they are allowed to scoop up data from several countries and put them into one number reflecting, say, a region ('Africa', for example). This makes it impossible for outsiders – be it individuals wishing to hold their rulers accountable for secretive payments from multinationals, or national tax authorities wanting to know if they are being cheated – to unpick the data for each country. We need rules that make multinationals publish this data automatically.

The preparations for Doha

No single measure can eliminate the problems associated with the fault lines in international taxation, and no country can achieve meaningful change alone. International co-operation between nations is the key.

The OECD, in the late 1990s, seriously attempted to build a coalition of developed countries to act together to require transparency in international banking. After some initial successes, however, the efforts foundered, partly because the United States defected following the 2000 election, when George W. Bush became president.

What is more, an indelible problem for the OECD is being a regional institution – a so-called rich-man's club – that lacks the legitimacy to establish international norms applicable to all countries. There is one organization, however, with legitimacy to speak for the global community: the United Nations (UN). The Doha meeting it will host this year is a perfect chance for it to step up to the plate.

The UN has already laid solid foundations for addressing tax at Doha with the 2001 Report by the High-Level Panel on Financing for Development (also known as the Zedillo Report, after Chairman Ernesto Zedillo, former President of Mexico). That report called for tax information to be shared on a multilateral basis, and for countries to be given technical assistance in tax administration and tax information sharing so as to allow flight capital to be taxed.

As financial interests again lobbied against change, it stalled; then, in 2002, the UN convened a meeting of heads of state at Monterrey, Mexico, to discuss plans for financing development in the developing world. The resulting Monterrey Consensus pushed the issue forward, and today it acts as a foundation document on many matters, including tax policy for development.

At the subsequent 2005 World Summit the UN resolved "to support efforts to reduce capital flight and [to support] measures to curb the illicit transfer of funds." Then, in December 2007, the UN General Assembly resolved to hold the Follow-up International Conference on Financing for Development to Review the Implementation of the Monterrey Consensus – the official title for the Doha meeting this year.

Tax is the next big thing

Tax, under the theme "Mobilizing domestic financial resources for development", is one of six Doha conference chapters. But tax, and the closely related subject of international financial transparency, is so important that it must be at the centre of the Doha debates and outcomes.

People are beginning to wake up to the sheer scale of the financial resources drained out of some of the world's poorest countries. Astonishing new research from the University of Massachusets, Amherst, analyzing capital flight from 40 African countries, estimates:

> Real capital flight over the 35-year period amounted to about USD 420 billion (in 2004 dollars) for the 40 countries as a whole. Including imputed interest earnings, the accumulated stock of capital flight was about USD 607 billion as of end-2004.

Nearly all the money that flows out of Africa as capital flight stays out. Compare this figure to these countries' total external debt in 2004, which amounted to USD 227 billion. Indebted African countries have been forced to undertake painful economic adjustments and devote their scarce foreign exchange to debt-service payments while, at the same time, they have experienced massive outflows of private capital towards Western financial centres. These private assets surpass the continent's foreign liabilities, ironically making sub-Saharan Africa a 'net creditor' to the rest of the world.

> We are now seeing signs that world opinion is fast turning in support of action against the world's tax cheats and those who help them. As Mike McIntyre puts it: "A code of conduct can help create a climate of opinion where tax cheats cannot successfully pose as refugees from oppressive government but instead are seen for what they are – selfish, self-absorbed people who undermine good government and help keep two-thirds of the world locked in poverty."

There is one absolutely crucial difference between the assets and the liabilities: the private external assets belong to narrow and wealthy elites, while public external debts are borne by the people through their governments. Even worse, this capital flight flows, almost exclusively, into the world's secrecy jurisdictions. This not only encourages tax evasion, draining African nations of investment capital and billions of dollars of lost state tax revenues that must be replaced with aid, but encourages and fosters all sorts of nefarious activities – such as corruption. For those worried about the African debts and governance issues, this is the hidden side of the coin. Research like this should be a wake-up call.

The secrecy jurisdictions include not only the traditional tax havens of lore like the Cayman Islands, Jersey and Switzerland, but also the world's largest financial centres – especially New York and London. In May 2008 Reuters reported that former Liberian president Charles Taylor, whose forces routinely used mutilation and rape as weapons of war, stashed large quantities of money in a US bank – which apparently took his money happily and did not ask questions. This happens routinely.

However not everyone in America likes this. In May 2008, US Senators Barack Obama, Carl Levin and Norm Coleman in May introduced a bill trying to restrict financial secrecy in the United States. As Levin said:

> Each year, the States allow persons to form nearly two million corporations and limited liability companies (LLCs) in this country without knowing – or even asking – who the beneficial owners are behind those corporations. Right now, a person forming a US corporation or LLC provides less information to the State than is required to open a bank account or obtain a driver's license. Criminals are exploiting this weakness in our State incorporation practices. They are forming new US corporations and LLCs, and using these entities to commit crimes ranging from terrorism to drug trafficking, money laundering, tax evasion, financial fraud, and corruption (…) our law enforcement officials have too often had to stand silent when asked by their counterparts in other countries for information about who owns a US corporation committing crimes in their jurisdictions.
>
> The reality is that the United States is as bad as any offshore jurisdiction when it comes to responding to those requests.

Much of the money flowing into the United States comes, of course, from developing countries.

Britain has a similar effect, though it uses slightly different mechanisms. It is adept at using its offshore Crown Dependencies (like Jersey or Guernsey) and its Overseas Territories (like Cayman or Bermuda) as tentacles of the main London financial markets, using these to scoop up money from around the world. Both the United States and the United Kingdom run large fiscal and trade deficits; and by shrouding financial inflows in secrecy, and failing to tax them (and share the proceeds with the victim countries), they help attract inflows that finance these deficits. Britain's and America's efforts to look generous as aid contributors, while taking much larger volumes of dirty money under the table, look somewhat cynical.

Not just how much money is raised, but how money is raised

The scale of financial flows out of developing countries helps explain why tax is so crucial to them. Yet there is another dimension, which may be equally important. Tax, and especially direct taxation (as opposed to indirect taxes like VAT or import tariffs), is a powerful force for improving governance.

This is another emerging discipline in the field of international development. A new book, *Taxation and State-Building in Developing Countries: Capacity and Consent*, edited by Deborah Bräutigam, Odd-Helge Fjeldstad and Mick Moore, explains how tax

> (…) is the new frontier for those concerned with state-building in developing countries. The political importance of taxation extends beyond the raising of revenue (…) taxation may play the 'central' role in building and sustaining the power of states, and shaping their ties to society. The state-building role of taxation can be seen in two principal areas: the rise of a social contract based on bargaining around tax, and the institution-building stimulus provided by the revenue imperative. Progress in the first area may foster representative democracy. Progress in the second area strengthens state capacity. Both have the potential to bolster the legitimacy of the state and enhance accountability between the state and its citizens.

We can no longer focus so strongly on aid, without bringing tax into the core of the debate. Aid provides benefits, but perhaps its biggest drawback is that it makes governments and other recipients accountable to (and dependent on) donors, not citizens. Tax is different: tax is the most accountable, and sustainable, source of financing for development: it makes states accountable to its citizens, not donors. It mitigates aid dependency. As the Kenya Revenue Authority puts it, "Pay your taxes, and set your country free." Students of European and American history, familiar with the famous term "no taxation without representation" have long known this. For some reason, its relevance is only now starting to filter into the field of development. As Deborah Bräutigam explained in a recent paper:[1]

> Discussions on taxation's potential contributions to state-building are largely absent from the practical concerns of the aid community, which tends to focus on increasing aid (or cutting expenditures) rather than on raising revenues. The state-building role of taxation should be a far more central issue for those concerned with the problem of collapsed states, weak governments, and the lack of democracy across the developing world (…) high levels of aid can create incentives for donors and governments that make it more difficult to build a more capable and responsive state.

Participants and observers to the Doha conference risk spending too much time focusing on *how much* money is raised by taxation, and not enough on *how* that revenue is raised. Much more research must be done, including on the impact of international tax issues, tax havens and loopholes on developing countries' tax systems and the way they raise revenue.

The UN Tax Committee

Britain and the United States, in league with some of the world's other tax havens, have led the fight against improved transparency. The UN – and specifically the UN Tax Committee[2] – is one of the little-known forums where this struggle is being played out. This committee is a key player feeding input into the Doha conference, and it contains a mix of representatives from developed and developing nations. But unfortunately too many of the 'developing nations' representatives, as well as those from wealthy countries, are in fact tax havens, including Barbados, the Bahamas, Switzerland, the United Kingdom, and Ireland. While developing-nation tax havens like Barbados or Cayman are eager to preserve their revenues, comparing their populations (45,000 in the case of Caymans, for example) with that of other populations afflicted by tax havens (over 600 million, in Africa's case) must be the basis for judging where our priorities lie on tax havens.

Civil society urgently needs to take notice of this committee and its activities, and the broader context in which it is embedded, and to work hard to make sure that its voice is heard. Before now, civil society has been all but absent, allowing powerful vested interests to drive and distort the agenda.

Urgent: a code of conduct is needed

There are several crucial areas in which the UN, and the Doha meeting in particular, can help foster progress, with the potential to do at least as much good as all foreign aid combined. All of these areas need strong support from global civil society.

One area that will be profoundly important is the idea of a UN Code of Conduct on tax. In November 2006, the UN Tax Committee took a first step by voting to approve the principle that a Code of Conduct should be drawn up for co-operation on controlling capital flight and international tax evasion (which is, by definition, illegal) and tax avoidance (which is technically legal but, by definition, goes against the wishes of elected parliaments). It has asked the US tax expert Michael McIntyre to work on this. Nothing like this has ever been done before.

To have maximum impact, a Code of Conduct should be adopted by the UN General Assembly. But a series of steps are needed first – technical steps within the UN system, where powerful tax haven interests will attempt to twist the outcomes towards their own ends. Civil society needs to be vigilant in monitoring progress, and must complain loudly when things go wrong. The Doha meeting will play an important role in this. Things are already moving fast – and the time to act and engage is now.

Even adoption by the General Assembly will not be enough. It must also be promoted vigorously, once adopted, by signatory governments and also by private actors and members of civil society.

Codes of conduct are sometimes referred to as 'soft law' because they do not provide for explicit methods of enforcement. They are aspirational, not operational. They seek to mobilize public opinion (or at least the opinion of relevant actors); and they work through persuasion, not legal force.

For years, countries have treated international tax evasion and abusive tax avoidance with benign neglect. We are now seeing signs that world opinion is fast turning in support of action against the world's tax cheats and those who help them. As Mike McIntyre puts it: "A code of conduct can help create a climate of opinion where tax cheats cannot successfully pose as refugees from oppressive government but instead are seen for what they are – selfish, self-absorbed people who undermine good government and help keep two-thirds of the world locked in poverty."

Other crucial areas to address

In September 2007, the Tax Justice Network presented 18 recommendations to the UN Tax Committee, including the following:

- Ask the IMF to include in its Reports on the Observance of Standards and Codes whether a jurisdiction that is a financial centre provides adequate information to foreign partners and looks at issues such as bank secrecy in tax matters and effective exchange of information.
- Consider if capital flight (and the resulting tax evasion) should constitute acts of corruption under the UN Convention Against Corruption – and all parties to it, including tax evaders, intermediaries who facilitate tax evasion, and the financial centres that handle and receive tax-evading funds.
- Consider capital flight and tax evasion as money laundering under the relevant conventions and institutions – such as the IMF's Financial Action Task Force.

> "…the accumulated stock of capital flight [out of Africa] was about USD 607 billion as of end-2004." Compare this figure to these countries' total external debt in 2004, which amounted to USD 227 billion. Indebted African countries have experienced massive outflows of private capital towards Western financial centres that surpass the continent's foreign liabilities, ironically making sub-Saharan Africa a 'net creditor' to the rest of the world.

- The IMF, the World Bank and the OECD should work together with financial centres to help developing countries tackle capital flight and lost taxes.

All these measures need to be tackled not just before and during the Doha process, but far into the future. International financial reform takes many years.

The mood is changing

Change has been blocked until now: the vested interests have been too strong, and civil society has been all but asleep on international taxation. Nevertheless, the global mood is turning. One reason is that there now exist civil society groups – notably the Tax Justice Network and Global Financial Integrity – that can provide high-level analysis and advice to help others to engage.

Also, in contrast to most issues on the 'development' agenda, the harm provoked by tax havens and abusive international taxation is felt not only in the developing world, but also in the wealthiest nations. For this reason, political action unites a diverse group of people with shared interests.

Events in financial markets are also now prompting change. A financial deregulation process that began in the 1970s provided the oxygen allowing secrecy jurisdictions and the abusive tax practices they facilitate to flourish and metastasize through the global financial architecture. The credit crisis that began in 2007 has shattered confidence in the self-regulating powers of markets, and thrown deregulation into reverse, ushering in a period where international co-operation is now actively being pushed at a high level. As Lawrence Summers, a former US Treasury Secretary, said in May 2008:

> There has been a race to the bottom in the taxation of corporate income as nations lower their rates to entice business to issue more debt and invest in their jurisdictions. Closely related is the problem of tax havens that seek to lure wealthy citizens with promises that they can avoid paying taxes altogether on large parts of their fortunes. It might be inevitable that globalization leads to some increases in inequality; it is not necessary that it also compromise the possibility of progressive taxation. The US should take the lead in promoting global co-operation in the international tax arena.

1 "Taxation and Governance in Africa", available at: <www.aei.org/publications/pubID.27798/pub_detail.asp>.

2 Its full title is the Committee of Experts on International Cooperation in Tax Matters.

The Stop Tax Haven Abuse Act introduced recently by US presidential candidate Barack Obama, in partnership with a Democrat and a Republican Senator, amid a flurry of newspaper investigations into the tax-dodging activities of private defence contractors, is sharply changing the political mood in the United States.

Europe, notwithstanding spoilers in its midst like Austria, Belgium, Britain, Luxembourg and Switzerland, will be a somewhat willing partner. Revelations from a paid whistleblower about secret accounts held by many wealthy Europeans in Liechtenstein have helped spur a new political will to tackle the problem of tax havens and tax abuse.

In Britain and the Netherlands, newspaper articles are now prompting parliamentary debates about whether democratic societies should accept aggressive tax avoidance by retail giants or by banana companies and others, or whether Britain's 'domicile' rule allowing the wealthiest members of British society to escape much of their tax bills, can be tolerated. Trade Unions in Britain are now aggressively starting to push tax justice onto the agenda. A Norwegian-led task force, supported by civil society, is starting to target capital flight and tax evasion. The Tax Justice Network and the Washington-based Global Financial Integrity Program are now undertaking a new multi-year research project, funded by the Ford Foundation, which will for the first time properly expose and describe the full extent of global infrastructure of secrecy jurisdictions.

Many of the world's tax havens, particularly the British-linked ones, emerged or spread their wings as part of the process of decolonization, as Britain's overseas empire crumbled after the Second World War and Britain looked for ways to fill the gaps. The time has come now to start clearing up these relics.

An awakening in civil society, particularly in Europe, about the pernicious and very powerful role of tax havens in development, is now starting to get underway at last. The Doha process needs to be instrumental in broadening this awakening. ■

Further reading

Tax Justice Network: <www.taxjustice.net>.

Tax Justice blog: <taxjustice.blogspot.com/>.

Tax Justice Focus, First quarter 2008, The Doha Edition: <www.taxjustice.net/cms/upload/pdf/TJF_4-1_Doha.pdf>.

UN Financing for Development web site: <www.un.org/esa/ffd/>.

For general tax analysis: <www.taxresearch.org.uk/Blog/>.

The EU's legal and financial structure: implications for basic human rights

The objective of the European Commission's development policy is poverty eradication. Since 1992, respect for democratic principles, human rights and the rule of law have been included as essential elements in all agreements with third countries or regional groupings. At the same time, the global trend towards liberalisation and deregulation, which is also at the centre of the Union's development cooperation, is not evaluated in terms of its impact on poverty eradication. This results in aid to social sectors and basic human rights – such as education, health and women's empowerment – being neglected and underfunded.

Mirjam van Reisen
EEPA
Simon Stocker[1]
Eurostep

The overarching objective of the European Commission's (EC) development policy is poverty eradication, with an outspoken focus on the Millennium Development Goals (MDGs) and human rights. The definition of human rights can be very broad. Within development cooperation, it involves aspects such as social, political, economic and women's rights as well as governance and local ownership. However, in its broadest sense, it can be seen as the right not to live in poverty: wherever there is poverty, there are multiple violations of the rights and dignity of human beings.

Although the EC agrees with this concept in theory, several analyses point to a lack of consistency between the approach used and the stated objective: with its focus on the promotion of European competitiveness abroad, the European Union (EU) is using aid to support a trend towards liberalisation and deregulation. This may be at the root of negative trends in poverty: recent reports show that despite high economic growth in most of the 49 Least Developed Countries, the number of people living in poverty is increasing.[2]

The budget, the priorities and the instruments used by the EU for its development assistance all have an impact on the promotion of human rights – directly or indirectly. When assessing the EC's different budget instruments, it becomes apparent that they fail to promote basic human rights in a number of areas.[3]

Financing structure

The EC currently manages around one fifth of the EU's Official Development Assistance (ODA). For the period 2007 to 2013, the aid to developing countries managed by the EC will total approximately EUR 52 billion.

At present, three main legal instruments provide the basis for the EU's funding of its cooperation with developing countries: the European Development Fund (EDF), the European Neighbourhood Partnership Instrument (ENPI) and the Development Cooperation Instrument (DCI).

The EDF constitutes the principal funding instrument for the EU's development cooperation with African, Caribbean and Pacific (ACP) countries. It provides the resources for the Cotonou Agreement and covers development cooperation, political dialogue and trade. The EDF is not part of the EU's regular budget and is financed separately by direct payments from the EU's Member States. For the period 2008-2013, the 10th EDF amounts to approximately EUR 22.6 billion.

The ENPI is the financial instrument for countries covered by the European Neighbourhood Policy (ENP). The ENP is responsible for the EU's cooperation with neighbouring countries to the south and east.

The DCI, created in 2006, covers developing countries not included in the other two instruments – principally countries in Asia and Latin America. The DCI also covers the financing of a set of thematic programmes applicable to developing countries in all parts of the world.

One of the key objectives in the establishment of the DCI in 2007 was to implant the EU's development policy as the principal policy framework for the EU's cooperation with all developing countries. The provisions of the Union's Treaties set out the broad objectives for this policy, the principal being the eradication of poverty. Addressing gender inequality is stated to be fundamental to achieving this objective. An emphasis is also given to prioritising investment in the provision of social services as a fundamental basis for development. This was underlined with the inclusion of a requirement for at least 20% of the EC's aid to be used for this purpose. Over the period 2007-2013 approximately EUR 16.9 billion will be disbursed under the DCI.[4]

Programming priorities at the national and regional level

In the context of the EC's external cooperation, programming is an essential decision-making process aimed at defining the EC strategy for countries receiving external assistance. The resulting strategy, which is laid down in country strategy papers (CSPs), regional strategy papers (RSPs) and thematic programmes, should reflect the EU's policies and fundamental principles. Moreover, the decision-making process for these strategy papers should involve consultation with both the government and civil society organisations in the partner countries, as well as with EU Member States and other donors. Unfortunately, there is no strategy for the systematic involvement of civil society in such consultation processes, to ensure their involvement in policy-setting and implementation at country level.

The EC's principal instruments for the promotion of human rights in development cooperation are support systems for technical guidance in implementation. For instance, the EC contributes to the promotion of basic social and human rights in its development aid by developing toolkits and programming guidelines on mainstreaming issues such as health, HIV/AIDS and gender equality, and by preparing National (NIPs) and Regional (RIPs) Indicative Programmes as well as Financing Agreements that include strong indicators on social issues.

However, little real progress has been made in systematically implementing these guidelines. Indicators in the Indicative Programmes and Financing Agreements, which set out the financial contribution to each partner country, often fail to include gender equality, poverty and hunger comprehensively.

Unfortunately, this is too often the result of the priorities set out in the strategy programmes not being agreed with the comprehensive involvement of the partner governments. There is a lack of involvement of national parliaments, as well as a lack of consultation of civil society in partner countries. A comparison of the nationally produced Poverty Reduction Strategy Papers (PRSPs) with the EU CSPs shows that the priorities often differ substantially.[5] There is evidence that social sector departments of ACP governments are often not included in the process of preparation of the CSPs, while other departments, such as on trade and transport, are consulted regularly and extensively. Such evidence would suggest that in reality only parts of governments of developing countries decide the priority sectors. In that sense, the principle of ownership, agreed in the Paris Declaration, to which the EC pays ample lip service, is largely ignored in practice. This results in

1 The authors are grateful to Ann-Charlotte Sallmann for her collaboration.

2 UNCTAD, "Growth, Poverty and the Terms of Development Partnership", Least Developed Countries Report 2008, New York and Geneva 2008.

3 Eurostep, "Europe's global responsibility", Briefing paper, Brussels, February 2008.

4 *Ibid.*

5 Alliance2015,"The EC's response to HIV&AIDS: Lost between ownership, division of labour and mainstreaming", editor: EEPA, Brussels, October 2007.

aid to social sectors and basic human rights – such as education, health and women empowerment – being neglected and underfunded.

In the implementation of the latest financing period 2007-2013, priority has been given to areas such as transport, infrastructure and trade. While the country programmes for Asia and Latin America reflect an attempt to comply with the stated objective of contributing to basic social rights, this is not the case for the ACP countries. Despite international studies concluding that Africa is furthest away from achieving the MDGs, provisional information on 70 draft ACP-EU CSPs shows that health has been included as a priority for just eight countries, and education for nine.[6]

When it comes to governance, the criteria used for deciding on additional incentive financing relate as much to issues rooted in the EU's own interests – such as migration, counterterrorism, and trade liberalisation – as to the universally agreed core concepts of democratic governance, public finance management and the promotion of human rights.[7] Equally, while the liberalisation of procurement is often specifically agreed as a condition in financing agreements for General Budget Support programmes, funding to, for instance, the strengthening of democratic institutions remains largely underfunded.

In the current RSPs, priority is given to support for trade at the expense of other regional programmes, despite assurances that aid for trade measures would come as additional funding to compensate for estimated losses under the EU's trade arrangements with partner countries. In the regional programmes with groups of ACP countries, there appears to be very little place for the inclusion of focal sectors other than activities related to the Economic Partnership Agreements (EPAs) currently negotiated between the EC and the ACP. This not only undermines the continuation of cooperation activities undertaken under previous EDFs, it also diverts resources away from other development objectives. The promise that support to trade for the necessary adjustment to the EPAs be financed separately from, and in addition to the current 10th EDF, has not been fulfilled as yet.

Budget support

The EC has committed itself to the ambitious target of channelling 50% of government-to-government assistance through country systems, i.e. offering General and Sector Budget Support. NGOs have different views on the benefits of budget support, but generally approve the idea of guaranteeing long-term predictable financing for recurrent costs such as salaries for teachers and health workers. However, using budget support requires carefully selected indicators.

In November 2005, the European Commissioner for Development and Humanitarian Aid, Louis Michel, assured representatives of the Alliance2015 Stop Child Labour campaign that the EC would never provide budget support to partner countries that are not committed to tackling child labour. However, none of the financing agreements analysed for this study included any indicators on child labour.[8]

Similarly, despite the EC's stated commitment to the promotion of gender equality and sexual and reproductive health and rights, research conducted in autumn 2007 showed that indicators on these issues are almost entirely absent from the EC's financing agreements with its partner countries.[9]

The budget support programmes are inconsistent regarding conditionalities. Although the EC has made moves towards outcome-based conditionality, as a response to the failure of past policy conditionalities, it still requires the recipient country to have an agreement with the International Monetary Fund (IMF), and thus to be bound by IMF policy conditions. A second problem is the inconsistency between the stated aim of European Community development cooperation, which is 'poverty reduction and eradication', and the impact of IMF programmes that often include policy prescriptions which undermine poverty reduction strategies. For example, by imposing stringent targets for inflation and reserve levels the budgetary space for government spending on social sectors is reduced.[10]

Economic Partnership Agreements (EPAs)

EPAs are trade arrangements being negotiated between the EU as a whole and groups of ACP countries. The EC, mandated by the Member States to handle the negotiations, views aid and trade as being closely linked.

For the ACP countries, the scope for negotiating EPAs was embodied in the Cotonou Agreement. The trade negotiations have been subject to great controversy and heated debate. Many consider the EPAs to pose a threat, not only to government revenue, local producers and industries, food sovereignty, essential public services, and the regional integration of African countries, but also to the right and capacity of African countries to develop their economies according to the needs of their people and their own national, regional and continental priorities.

The pressure for ACP countries to drop their tariffs under the EPAs will remove the only protection that African governments can offer their own farmers, as they cannot subsidise due to conditionalities on loans and aid. The rules concerning market access, tariffs and subsidies severely limit the government's ability to protect domestic agricultural production, where women are predominant. Within the context of current gender relations in Africa and past experiences in trade liberalisation, it is clear that women end up paying the costs of social welfare issues for their families and communities.[11]

Due to substantial criticism during the negotiations, the EU promised to provide aid for trade to support the adjustment costs of the EPAs, once they are in place. Although the importance of such compensation is beyond question, it is still to be seen how this will be provided.[12]

In 2007, the EC indicated that it would increase its funding of EPA-related support activities by reallocating funds under various RIPs in support of those activities. There is concern that this will reduce the amount of funding under the RIPs for other activities, notably support for social sectors, and that, given its link to the EPA negotiations, it will only be available to those ACP countries which sign trade agreements with the EU.

The Treaty of Lisbon: the way forward

When, as part of the preparations for the current financial perspectives, the legal instruments governing the use of the EU's funding were revised, significant moves were made towards ensuring that the EU's development cooperation was implemented as part of a global development policy.

NGOs that have followed the initiatives to amend the EU Treaties since the Council's 2002 launch of the process that ended up in the Lisbon Treaty have consistently argued that the EU's development policy and its objectives should define the framework for the EU's relations with all developing countries (as defined by the OECD/DAC), without any regional discrimination.

The EU's development policy has become central to the regulations covering the use of EU development funds in Asia and Latin America in particular, and to a lesser extent in countries of the southern Mediterranean, southern Caucuses and Eastern Europe covered by the European Neighbourhood Policy. As a result, there has been an increased consistency in the implementation of EU development policy towards all parts of the developing world.[13]

To advance on the provisions in the new Treaty – which still needs to be ratified – it is seen as vital that the EDF should also be brought within the framework of the EU's overall budget. This will allow for proper democratic scrutiny, and will ensure a policy focused on poverty eradication without regional discrimination. In its role as one of the co-legislators for establishing the revised legal instruments, the EP ensures that the funds provided through the DCI must finance legitimate development activities. The EP's powers should be extended to cover the ACP regions, to ensure full democratic scrutiny and the identification of any gaps in the EU's promotion of the right not to live in poverty. ■

6 Eurostep, "Democratic scrutiny of EU aid: Benchmarks for scrutiny of the joint EU programme to ACP countries", Briefing paper, Brussels, September 2007.

7 EEPA, "Administering aid differently: A review of the European Commission's general budget support", EEPA occasional report, Brussels, March 2008.

8 Alliance2015, "The European Commission's commitment to education and the elimination of child labour", p. 37, editor: EEPA, Brussels 2007.

9 EEPA "Gender and Sexual and Reproductive Health indicators in the EU Development Aid", briefing paper 8, Brussels, December 2007. Eurostep, International Women's Day: "Time to indicate progress towards gender justice Gender Equality Indicators in EU Development Cooperation Strategy", position paper, Brussels, March 2008.

10 See footnote 7.

11 ACORD, (2006) "EPAs, an assault on Africa's food sovereignty: - Why a gender and women's rights analysis is important for Africa", January 2007.

12 EEPA, "The development cooperation aspects of EU trade negotiations with developing countries", briefing paper, Brussels, October 2007.

13 See footnote 3.

Liberalization curtails social and economic rights in the Arab region

The Arab region has been trying to cope with the rules of global governance, currently moulded by economic globalization and the trade liberalization model. Arab countries face the dilemma of responding either to economic and social rights or to political and civil rights, disregarding the fact that both sets of rights are entangled. Furthermore, while the sponsors of liberalization argue that freer trade leads to democratization, the opposite is happening in the Arab region: liberalization thwarts democracy.

Kinda Mohamadieh[1]
Arab NGO Network for Development

Global governance and its incidence on regional and national policymaking

Some critics stress that decision-making does not take place any longer at the nation-state level and, thus, promote a retreat in the state's role and institutions. Yet, others see that the globalization process has only repositioned the state, which has to play a stronger role in stabilizing and balancing policies towards social justice purposes, while corporate and profit-led capitalism takes on bigger roles in policy shaping (Rodrik 1998, Dervis 2005). This is not new; it has been long debated between the socialist and capitalist schools. While both agree on the need for some form of a state, the main question remains what kind of state is needed: one that protects capital, instigates policies that maximize growth and allows its concentration in the hands of a few, or one that conducts efficient policies, addresses equality and equity, and secures social and economic rights for all.

What goes beyond dispute is that the current arrangements result in a power shift involving the state, international institutions and non-governmental groups, including civil society[2] and market actors. This in turn reduces the capability of the state to allow for democratic processes and spaces. Such democratic deficit weakens democracy within our own countries (Stiglitz 2006, Soros 1998) and reduces the margin for national decision-making and citizens' participation.

In this paper we will be analyzing the impacts of contemporary economic globalization on development-related notions. In the first section, we will consider the limitations set on people's freedoms and rights by studying how economic globalization, and its trade liberalization mechanisms, affects human rights and the discourse on democratization.

In the second section, we will be studying the impact of this on the region, highlighting how Arab countries are faced with the dilemma of responding either to economic and social rights or to political and civil rights. We will also try to explain, through specifically looking at the human rights breaches resulting from the trade liberalization policies, how national policymaking is affected by the global economic architecture. Finally, the paper sheds some light on the economic and social reforms needed in the region.

Economic globalization, development discourse and people's freedoms and rights

The international trade system, which came to represent the engine of current economic globalization, has been instituting new forms of legislation and relations in and among states through institutions, policies, and legal agreements developed at the multilateral, regional, and bilateral levels. These agreements reach beyond trade in goods, into areas that have a direct impact on peoples' rights, living standards and cultural norms. These accords are boosting the role of markets and profit-oriented policies in shaping the world and the way people live. Accordingly, as they bring about new power systems, they require new spaces for democratic participation, both at the national and global level.

The dominant development discourse adopted by international institutions and most developed countries today promotes a limited role for the state, a freer hand for the market, prioritization of trade liberalization, privatization, and generation of higher income and wealth.

Proponents of such a neoliberal approach claim that these profit-oriented policies bring about democracy, good governance, and global norms of policy conduct. Moreover, they regard the policy-takeover by international institutions as a cure to the self-interest, corruption and lack of democratic political systems in developing countries.

Opponents to these doctrines, on their part, consider that neoliberalism introduces new problems, aggravates existing ones (Grabel 2002) and increases the levels of inequality and poverty (Chang and Grabel 2004, Atkinson 2002, Krugman 2002). For economic globalization, led by neoliberal policies that are set by the Industrial North, have often bypassed local democratic institutions and proved to be economically counterproductive and devastating to the so-called developing nations[3]. In the same line, some note that neoliberalism instigates a system in which groups, that as a result of these policies become economically disenfranchised, lack the political power to secure compensation from the government (DeMartino 2000). Moreover, such doctrines tend to limit both development discourse and state policy-making tools through the imposition of a single economic recipe for development, which not necessarily responds to national needs and priorities. Accordingly, this type of globalization tends to boost the demand for 'social protection' while at the same time thinning the capacity of the state to provide it.[4]

For that matter, Amartya Sen[5] reminds us that the process of social transformations and the value of the freedoms induced in such process hold priority over mere income growth, the latter being the focus of the neoliberal development discourse (See Sen, Amartya: *Development as Freedom, Markets and Freedoms,* and *Markets and the Freedom to Choose*). Sen underscores how important it for people to have freedom of choice and the ability to decide what to work on, how to produce, and what to consume. Benjamin Freidman (2005) notes that the value of the rising standards of living should not be limited to economic improvements, since it is expected to press forward the political and social institutions of any society towards more openness and democracy. The main question under contemporary global governance is whether the choice and freedom that Sen prioritizes, and the democracy that Freidman refers to, can be secured under the current global financial architecture or if, on the contrary, the latter is reinforcing an undemocratic layer of governance

1 Kinda Mohamadieh is Programme Manager at the Arab NGO Network for Development (ANND: <www.annd.org>). The paper has benefited from extensive feedback and input from ANND's Executive Director, Mr. Ziad Abdel Samad.

2 Civil society actors, as referred in this paper, cover various forms of non-state, non-market, and non-familial actors, including social movements, non-governmental organizations, trade unions, media and research groups.

3 Bjonnes, Roar. "Economic Democracy, World Government, and Globalization", available at: <www.proutworld.org/wg/ecodemwglob.htm>.

4 Cheru, Fantu (2002). "Economics and Human Rights: Making Globalization Work for Human Development". American University.

5 In *Development as Freedom*, Sen defines development in terms of human capabilities: the freedom to lead a life of well-being – freedoms that include the acquisition of sufficient food, freedom from disease and ill-treatment, access to education, freedom from unemployment. The concerns of development are ultimately about what people can or cannot do: whether they are well-nourished, whether they can read and write, whether they can escape avoidable illness, whether they can live long. Perceived in these terms, development is a broad process of social transformation, the elimination of poverty, the reduction of unemployment and inequality, rising levels of schooling and literacy. [Taken from "Globalization and Its Contradictions; Democracy and Development in the Sub-Continent", Veena Thadani, New York University, paper presented at the British International Studies Conference, University College Cork, December 2006].

that, lacking space for manoeuvre, ends-up limiting choices and rights at the national level.

Economic globalization and human rights

Everyone agrees that the underlying assumptions of economic globalization contradict those of international human rights. While UN human rights instruments assume core governmental responsibility towards fulfilling these rights, economic globalization calls governments to give away many of their responsibilities. Consequently, governments find themselves in a very paradoxical situation where, as Samir Naim-Ahmed has stressed, they are decision takers rather than decision makers.[6]

According to international law, human rights have primacy over other international laws and obligations, including those associated with economic and trade agreements. Moreover, our governments have a legal obligation to translate into policies the human rights conventions they sign, both at the international and national level. Governments have the responsibility to respect, protect, and fulfil human rights commitments.

However, Arab governments are being tied to a very different set of global rules that often violate human rights, pressed forward by institutions such as the World Trade Organization (WTO), multilateral and bilateral free trade agreements, and international financial institutions.

Trade agreements, for instance, have direct bearing today on main economic, social, and cultural rights, including the right to participation, food, health, education, and employment. These rights have to be considered not only within a country but also beyond national borders; this means that a country's ability to secure these rights should not be curtailed. Moreover, the International Covenant on Economic, Social, and Cultural Rights (ICESCR) requires a policy margin for governments to implement human rights commitments. For example, governments need revenues to instigate policies to sustain these rights, and an industrial policy to support its producers to be competitive in the international market. However, today's trade agreements obligations will make it cumbersome for them to do that.

Within this context, poor and politically weak governments are presented with the choice of either honouring human rights accords or complying with the commands of international economic institutions. They often prefer to violate human rights and face complaints or, at worst, international investigation rather than being cut off of millions of dollars in aid in case they reject trade and economic agreements.[7]

6 Naim-Ahmed, Samir (2007). "Human Rights and Globalization", available at: <countercurrents.org>.

7 Shultz, Jim (2003). "Economic Globalization vs. Human Rights: Lessons From The Bolivian Water Revolt", available at: <www.fntg.org/news/index.php?op=read&articleid=651>.

On the implementation level, there exists a significant gap between the policy communities leading the economic and trade agendas in our countries and those leading the human rights agendas. Trade ministers and ambassadors do not mingle with the social affairs and other ministers that look after human rights obligations. Moreover, trade negotiators do not take human rights into consideration when discussing trade agreements, although their governments are bound by the conventions they are party to. In fact, they lack the understanding of what economic and social rights are required under international law. Differences between these two realms are not only institutional but also cultural; trade negotiators and human rights advocates and lawyers have different perspectives on what is at stake. Economists see that economic growth in the short-term will lead to progressive improvements regarding rights in the long-term, while human rights advocates see that short-term economic growth should not be prioritized at the expense of human rights commitments.[8] Accordingly, the problematic triggered for the short, medium, and long term by the international trade system is not being addressed in a constructive and comprehensive way.

Moreover, it remains difficult for governments to bring into play their human rights legal obligations in their trade negotiations. One of the main reasons for this difficulty is that there is no institutionalized policy forum where the relationship between trade and human rights can be addressed. The global system does not provide for a systematic dialogue on human rights and development issues between international organizations, for instance between the WTO and the International Labour Organization (ILO) or the UN.

Economic globalization, trade liberalization, and democracy

However, several researches argue for the interrelation between democratization and trade liberalization; and many voices promote economic globalization and its trade liberalization agenda as a core factor for democratization, as well as an indicator of it.

Such line of thinking notes that since the mid 1980's developing countries have rushed to adopt free trade, while concurrently there has been a global movement toward democracy.[9] This took place after the 1960s and 1970s witnessed the preference of import-substitution policies by most developing countries. Many claim that under such policies, the groups that gained most tended to be powerful supporters of the political leaders. Changing trade policies, it was believed, would inflict severe costs on the regime's main backers.[10]

8 This section is based on a presentation by Olivier de Schutter from the International Federation for Human Rights, entitled "Trade and Human Rights: Challenges and Opportunities", presented at the regional workshop on the role of civil society organizations in trade-related advocacy, organized by ANND, August 2007.

9 Milner, Helen and Kubota, Keiko (2005). "Why the Move to Free Trade? Democracy and Trade Policy in the Developing Countries" in *International Organization*, Vol. 59, issue 01, p. 107-143.

Accordingly, these researches maintain that democratization and trade liberalization have structural inter-linkages. Democratization opens up new avenues of support for freer trade as it reduces the ability of governments to use trade barriers as a strategy for garnering political support. Moreover, democratization, which implies an increase in the electorate's size, induces the adoption of trade policies that more adequately promote the welfare of consumers/voters at large, this implying trade liberalization[11] and the assumption that trade liberalization promotes the welfare of consumers.

However, experience tells that trade liberalization does not necessarily lead to increasing the welfare of consumers nor allows for the protection of their basic rights, including the right to access basic services such as health, education, housing, water and electricity. Moreover, the experience in developing countries does not indicate that the change in trade policy and liberalization of the economy based on export substitution models made a difference regarding re-distribution of wealth and resources.

But, contrary to this approach, it should be noted that real and substantive democracy, one that enhances people's participation – including multiple stakeholders and constituencies from the middle and low income classes – might lead to opposition and call for limitations on trade liberalization policies. This is due to the fact that trade liberalization has been led by corporate priorities and has been concentrating wealth in the hands of the few, while marginalizing the rights of middle and low income groups. In this line, the adoption of a democratic system may actually contradict the tendencies towards economic liberalization.

In this sense, it could be stated that policies on economic liberalization not necessarily lead to open and democratic societies. The Arab region, for instance, shows the contrary: while many of its countries have taken steps to liberalize unilaterally their trade policies, most of them still witness concentration of wealth in the hands of a few, whom often tend to be the same people controlling the political processes or holding strong connections to the regimes in power.

10 *Ibid.*

11 *Ibid.*

Social and economic rights versus political and civil rights

In the Arab region, both the contemporary global economic architecture and the global governance frameworks described above have significantly influenced social and economic policymaking processes and institution building. Although significant changes were introduced to the economic models adopted throughout the region, most of the Arab states have failed transitioning to democracy and are still dominated by undemocratic and autocratic regimes. Within this context, the region clearly combines a strong state role, dominating political spheres and limiting the space for civil society, with a relatively weak role of the small and medium private sector and an intensifying economic reform process – led according to the dominant global economic approaches and recipes.

It is worth noting that the geo-strategic importance of the region, and the abundance of natural resources within it, have often attracted global and hegemonic economic interests. One of the factors that intensified the focus on the region is the fact that, in the post colonial era, most Arab states adopted "anti imperialistic" foreign policies. In fact, Nasserite Egypt was one of the leaders of the Bandung process (1955) and the non-alignment bloc.[12] Moreover, countries like Algeria played a key role in the rise of the G77 and promoting the discourse on development within the UN.

In the Arab countries, the state has played a leadership role in economic and social affairs; during the sixties, the ruling groups that came into power adopted a leftist, socialist ideology and agenda that promised economic well being and social justice. In these early days, after the national liberation struggle, Arab countries, like other developing countries, were more enthusiastic towards institutionalizing social and economic rights within their national legislations and constitutions than political and civil rights. While the former were in tune with the welfare state system that was the norm in the region, the political and civil rights threatened with loss of control over power. Accordingly, Arab states exerted a tight rule and repressed political and civil freedoms.

Consequently, during the seventies, and consistent with the states' failure to provide with a successful institutional build up for the respect of political and civil rights, a public outcry came to the forefront demanding reform and change. This happened at the expense of economic and social rights, whose importance was minimized at the time. At the same time, responding to the Arab countries political

> Trade agreements, for instance, have direct bearing today on main economic, social, and cultural rights, including the right to participation, food, health, education, and employment.

stance, Western governments, as well as the international financial institutions, played an active role in promoting initiatives for change in the region.

Since the beginning of the nineties, the Western strategy towards the region took on a revised and more focused approach, resulting from world geopolitical changes. These strategies – intensified after the 11 September events – found expression in several political, economic, and social initiatives, starting with the introduction of the structural adjustment strategies by the World Bank (WB) and International Monetary Fund (IMF), which took place during the late seventies and the eighties. This was followed by the Euro-Mediterranean partnership (Barcelona process), the Broader Middle East project, and endless proposals by international financial institutions. Such proposals were presented as reforms that tackle the basic economic and social structures of the region.[13] Indeed, foreign reform initiatives came aligned, either directly or indirectly, with economic liberalization agendas, while national and regional initiatives took a passive-acceptance stand from the mainstream neo-liberal recipes proposed within such agendas.

The changing role of the state in the development process

In the aftermath of the colonial era, the region achieved significant growth and economic and social progress. In its report "Labour, Growth, and Governance in the MENA region" the WB notes that the development model adopted by the Arab countries during that period depended on a comprehensive role played by the state as provider of social services, including education, housing, health, and food subsidies. The WB notes that during this period the Arab countries were able to achieve significant progress in social development.

The role of the states started to shrink in the seventies and eighties, while liberalization of the economy and trade was undertaken as part of the structural adjustment programmes advised by the WB and the IMF. This period witnessed started the de-construction of the existing social contract between state and citizens in the Arab countries. Moreover, during this period, the Arab countries were shifting from state-led economies and import-substitution growth policies to more export-substitution approaches. As noted above, this transition took place under repressive regimes that dropped the goals of development and liberation[14] and were more concerned with securing the continuity of their grip on power.

Today, the region sees development paralyzed. The socio-economic crisis includes lack of growth, unemployment, imbalance among productive sectors, and deteriorated indices of income and wealth distribution. The economic structures suffer from low productivity, lack of diversity, and scarcity of investments in productive sectors. The situation is further aggravated by the unbalanced distribution of wealth among the region's countries: some are among the richest countries of the world (such as the United Arab Emirates) and some (Somalia, for instance) among the poorest.

Also, countries in the Arab region face a deteriorating level of education, especially in rural areas, and a feeble connection between the curricula and the production needs, as well as the labour market needs. The expanded access to education, one of the most important achievements in the era of national independence, has not been complemented by the required modernization of the educational system. As for health schemes and social safety nets, they remain restricted to specific classes, embedded in complex bureaucratic procedures and providing poor services.[15]

Moreover, as a consequence of globalization and its intersecting position among three continents (Asia, Africa, and Europe) the Arab region is witnessing a dramatic transformation in patterns of work and production. This, according to the Arab Labour Organization (ALO),[16] is producing higher figures of unemployment, especially among the educated youth and women, as well as aggravating the lack of social protection for national and expatriate work forces, in a region that needs to create some 100 million jobs over the next 20 years.[17]

In describing this situation, the ILO Director-General Juan Somavía notes that "more and more, the fundamental issues of freedom of association and collective bargaining are being seen not just as ends in themselves, but also as means to harness growth and equity". Somavía stresses that "this current model of globalization is not delivering for ordinary people…disparities are growing, discontent rising, and enemies of human security in every society are fanning the flames of discord."[18]

12 Abou Chakra, Sanaa (2007). "Establishing Democracy in the Arab Region: A Comparative Approach to International and Regional Initiatives (Political, Economic and Social)", a document prepared for ANND.

13 Milner and Kubota, *op. cit.*

14 *Ibid.*

15 This section is based on research and analysis provided in Milner and Kubota, *op. cit.*

16 Notes by Ahmad Mohammad Luqman, Director-General of the Arab Labour Organization (ALO), Geneva (ILO News) – The ALO and ILO conference.

17 Refer to figures by ILO and ALO.

18 Notes by ILO Director-General Juan Somavía, addressing the 35th Session of the Arab Labour Conference in Sharm el Sheikh, Egypt, <www.ilo.org/global/About_the_ILO/Media_and_public_information/I-News/lang--en/WCMS_090684/index.htm>.

What do the foreign reform initiatives convey to the region?

Within this context, much of today's reform proposals stem from the economic interests of those developed countries involved in the region and reflect the hegemony of the neoliberal, corporate-centred approach they support. These recipes have promoted a reform process that limits the role of the public sector and pushes towards more dependence on trade and investment as means for achieving fast economic growth and creating jobs.[19] However, these reforms are not complemented by reforms or changes in the other spheres. This limits the ability of trickling down to the people the economic benefits.

According to its supporters, globalization is supposed to create new spaces for people's participation; consequently, autocratic regimes would be less able to survive. However, the crude reality exposes the shortcomings of such theory: under the region's autocracies, be it monarchies or single party systems, or countries ruled by military juntas, the new educated elites have become a marginalized group that suffers from limited horizons for social ascent, monopolization of decision-making by closed inheritance processes, backward political representation formulas, as well as flagrant breaches of human rights and public and private liberties.[20] Even worse, the autocratic regimes are being reinforced through economic liberalization, which offers them more controlling powers through economic tools. As the concentration of wealth in the hand of few has been sustained and increasing, often these few are the same people controlling political power as well.

Today, economic globalization has become the process setting the political scenario and instruments of participation at the global, regional, and national fronts.[21] This context tends to limit the discussion of development as economic growth rather than human development and democracy as formal/procedural democracy rather than substantial democracy,[22] which includes economic empowerment of the majority and the disenfranchised poor.[23]

But the economic reforms and policy approaches that our countries are currently adopting do not provide for increased political choices; on the contrary they increase political tensions and misrepresentation: they enhance procedural rather than substantive democracy. In fact, the people in several Arab countries have been living under emergency law for decades; other states still violate human rights on a daily basis. Contrary to the alleged defence of democracy advocated by foreign players, in reality they seem to favour authoritarian rule in the region in order to have the aggressive neoliberal agenda of changes implemented, while marginalizing the rights of the people. This, in turn, seems to validate the theory asserting that authoritarian governments are more capable of initiating and sustaining major economic reforms.[24]

ARAB COUNTRIES AND THE UDHR

Most Arab countries recognize the Universal Bill of Rights, including the Universal Declaration of Human Rights (UDHR) and the International Covenant on Social, Economic and Cultural Rights. The UDHR integrates the comprehensiveness and non-divisibility of all rights, whether economic, social, cultural, political and civil.

However, in the last decades, the UDHR have been increasingly challenged, both globally and in the region, by the promotion and prioritization of the "war on terror", the rise of ideologies promoting the supremacy of a particular culture and the artificial division between social, economic and cultural rights from political and civil rights. To this, another disruptive factor must be added: the problematic of national sovereignty vis-à-vis the debate on who is responsible for implementing the UDHR (states, civil society, or the international community).

Ziad Abdel Samad. Presentation in the event of the 60th anniversary of the Universal Declaration of Human Rights (Arab NGO Network for Development).

Trade liberalization resulting in direct breaches of citizen's rights

In 2005-2006, the average applied tariff on industrial products in the region ranged between 24-26% in countries like Tunisia, Djibouti and Morocco, 18-20% in Algeria, Egypt, and Sudan, 10-12% in Jordan and Mauritania, and 5-7% in Lebanon, Yemen, and the Gulf countries. The average tariff applied on agricultural products ranges between 23% and 65%. These tariffs, often inferior to the average applied in other developing countries, indicate the degree and extent that liberalization has undergone in the region.[25]

Qualified Industrial Zones agreement

The inadequate economic liberalization policies adopted today are not limited to zeroing policy space in the countries were they are implemented; the trade agreements developed and signed within this context directly contravene human rights of their populations.

For instance, preceding the bilateral free trade agreement between the two countries (2001), Jordan and the United States signed the Qualified Industrial Zones (QIZ) agreement. The QIZ requires that 11% of Jordanian industrial inputs come from Israel, unduly associating the US economic policy in the region with American support for Israel, even before reaching a political agreement about the rights of the Palestinian people. Thus, normalizing relations with Israel becomes a process independent of the political negotiations towards finding a just solution for the Palestinian-Israeli conflict.

Yet, besides that geopolitical problem, the deregulation associated with the agreement leads to direct violations of labour laws and rights, including low wages, unfavourable employment conditions, lack of health insurance, abusive working hours, violation of the right to adequate work, deregulation of personnel dismissal, lack of training and of skill acquisition.

Mostly foreign owned companies – mainly Asian – occupy Jordan's QIZs, where 60% of their some 60,000 workers are foreign-born.[26] Thousands of foreign and Jordanian workers, mostly women from rural Jordanian areas, are employed under unfavourable conditions in the premises, producing

19 World Bank (2003). *Trade, Investment, and Development in the Middle East and North Africa: Engaging the World.*

20 Milner and Kubota, *op. cit.*

21 Yasseen, Sayed (2008). "End of Representative Democracy". Appearing in *An-Nahar* Lebanese newspaper, 24 April 2008.

22 Substantive democracy is a form of democracy that functions in the interest of the governed and is manifested by equal participation of all groups in society in the political process. This type of democracy can also be referred to as a functional democracy. Procedural democracy is a state system that has in place the relevant forms of democracy but is not actually managed democratically; accordingly the people or citizens of the state have less influence. This type of democracy assumes that the electoral process is at the core of the authority placed in elected officials and ensures that all procedures of elections are duly complied with (or at least appear so). It could be described as a democracy (i.e., people voting for representatives) wherein only the basic structures and institutions are in place.

23 Milner and Kubota, *op. cit.*

24 *Ibid.*

25 These numbers are extracted from unpublished research material developed by the United Nations Development Programme in the Arab region.

26 Yerkey, Gary G. (2006). "Bilateral Agreements: Jordan Cracks Down on Firms Exploiting Foreign Workers in Violation of Trade Pact". Bureau of National Affairs. Available online at: <www.nlcnet.org/article.php?id=70>.

for multinationals like Wal-Mart, Gloria Vanderbilt, Target and Kohl's.

Tens of thousands of the foreign guest workers, mostly from Bangladesh, China, India and Sri Lanka had their passports confiscated upon arriving in Jordan and forced to work up to 109 hours a week.[27] Some of them were trapped in involuntary servitude, raped by plant managers and forced to work 24, 38 and even 72-hour shifts. In some cases, workers asking for their proper wages were imprisoned.

In a factory called Al Safa, which was sewing garments for Gloria Vanderbilt, a young woman hung herself after being raped by a manager. Workers were paid an average wage of two cents an hour. Moreover, they were slapped, kicked, punched and hit with sticks and belts.[28]

After the National Labor Committee, a workers' advocacy group based in New York,[29] reported and exposed these violations, foreign employees from companies implicated in labour rights violations were transferred to their home countries or to other companies.[30]

Also Egypt has signed a QIZ. This agreement sometimes presents the basis for signing a bilateral free trade agreement (FTA) with the US. At present, the US has bilateral FTAs in the Arab region with Jordan (2001), Morocco (2005), Bahrain (2006), and Oman (2006). The FTAs pressed forward by the US in turn have proven to reduce the policy space available for national decision-making, as they impose much stricter liberalization terms on the services sector than agreements within the WTO. The FTAs oblige countries to liberalize every service sector included in the agreement, thus opening them to privatization.[31] As a result, many Arab countries have given up the ability to regulate the equal access of citizens to basic services such as education, health services, water, and others.

27 "US government asked to investigate allegations, Jordan rocked by abuse claims", 5 May 2006, available online at: <www.emergingtextiles.com/?q=art&s=060505Jmark&r=free&n=1>.

28 Kernaghan, Charles (2006). "U.S. Jordan Free Trade Agreement Descends Into Human Trafficking & Involuntary Servitude; Tens of Thousands of Guest Workers Held in Involuntary Servitude". National Labour Committee.

29 National Labour Committee website: <www.nlcnet.org/index.php>.

30 "QIZ workers relocated following investigations". *Jordan Times*, 5 July 2006.

31 By the negative list approach to negotiations countries choose which services they are not going to negotiate on, while all other services will be included in the agreement; whereas the positive list approach implies countries specifically designate which services will be included in the agreement, while the undesignated remain out it.

GLOBALIZATION AND SOCIAL DESTITUTION

"Neoliberalism and the promise of material salvation are intensely refuted by the simultaneous presence of grotesque concentrations of wealth and privilege on the one hand, and an unprecedented scale of poverty, squalor, inequality and marginalization on the other. Above all, globalization exposes vast populations in virtually all parts of the world to a relentless market rationality, furthering already existing disparities and deepening social destitution."

Mustapha Kamal Pasha, 1999: 180-181.[1]

1 Thadani, Veena (2006). "Globalization and Its Contradictions; Democracy and Development in the Sub-Continent". New York University, paper presented at the British International Studies Conference, University College Cork.

The Euro-Mediterranean Partnership

Also, in the context of the Euro-Mediterranean Partnership launched within the Barcelona process, eight Arab countries[32] have signed association trade agreements with the European Union (EU) towards achieving a Euro-Mediterranean Free Trade Area (EMFTA) by 2010. Although they are framed as a supposedly comprehensive partnership aiming at development, peace and security in the Northern and Southern basin of the Mediterranean, these agreements lack any consideration to social and economic rights. A report by the Euro-Mediterranean Human Rights Network (Byrne and Shamas, 2002) revealed an almost complete absence of methodological thinking, within the EU and Euro-Mediterranean institutions, on the question of economic and social rights and their role in the overall construct of the agreements.[33] Even when human rights are included within the scope of the partnership, this is oriented towards political and civil rights. However, the lack of parallel advances in terms of economic and social rights might render consideration to civil and political rights as a formality devoid of substance.[34]

32 Arab countries who signed an association agreement with the EU include Lebanon, Egypt, Jordan, Palestinian Authority, Morocco, Tunisia, and Algeria. Syria's agreement with the EU is still pending.

33 Martin, Ivan, Byrne, Iain and Schade-Poul, Marc (2004). "Economic and Social Rights in the Euro-Mediterranean Partnerhsip". Universidad Carlos III of Madrid, Spain; Human Rights Centre, Essex University, Euro-Mediterranean Human Rights Network.

34 *Ibid.*

In general, no impact assessment studies of these agreements are undertaken, neither before nor after their signature. The EU commissioned the single assessment of sustainability of the EMFTA carried out until today, to look at the implications of removal of tariff and non-tariff barriers on industrial products, agriculture, services and south-south trade liberalization. The study indicated that significant social challenges would arise from the liberalization of trade between the EU and Mediterranean Partner Countries (MPCs), specifically in the short and medium terms.

The study also stresses that the MPCs will harm the achievement of the Millennium Development Goals, noting "significant adverse effects on Goals one (poverty), two (education) and four and five (health) and mixed effects for Goal seven (environment)". The potential adverse impacts relate to the loss in tariff revenues, occurring mainly because of the liberalization of industrial products, this worsened by the effects coming from the other components of the EMFTA scenario. "Without effective mitigation, some of the short term effects may continue into the long term", the study explains. According to the study, the MPCs will experience "a significant rise in unemployment, a fall in wage rates, and significant loss in government revenues in some countries, with potential for consequent social impacts through reduced expenditure on health, education and social support programmes". Furthermore, the liberalization process is expected to lead to "greater vulnerability of poor households to fluctuations in world market prices for basic foods and adverse effects on the status, living standards and health of rural women, associated with accelerated conversion from traditional to commercial agriculture."

Yet, even though such adverse implications have been foreseen, policy is still being developed in the same direction. It looks like the countries and policies involved are not open to discussion.

What kind of economic and social reforms does the region need?

The Arab region lacks clear and transparent national socio-economic reform agendas. Often, the political challenges are used as excuses to marshal laws interrupting the national political processes. The regimes in power have failed to address the pressing socio-economic problems that the region faces and the economic reforms implemented mainly respond to requirements by major international institutions and developed partner countries that not necessarily serve the local needs and priorities.

The Alexandria Declaration, one of the leading declarations on reform in the region, and the only comprehensive civil society initiative for reform, resulted from the conference of Arab civil society held in Alexandria, Egypt, in March 2004.[35] The Declaration[36] asserts that key aspects for any reform process to be undertaken in the region are not being taken into account, such as the controversies regarding the orientation of the economic system, the new definition of role of the state, the relationship between the state and the market and the social dimensions of development.

As stressed in the Declaration, there is a necessity to address poverty in its comprehensive and multiple dimensions, including social and political marginalization, lack of participation, and constrained opportunities for upward mobility. The signatories of the declaration believe that economic growth alone is not a sufficient instrument for poverty reduction. Therefore, they call for the adoption of a closer implementation timeframe to fight poverty in conformity with the United Nations' Millennium Declaration.

In addition, employment represents a major problem. The declaration proposes enhancing the development of medium and small enterprises funding programmes, empowering women to participate in the national work force, and reviewing the current economic policies from a full-employment perspective. Creating jobs and reducing unemployment remains the main development challenge the region faces. The unemployment rate has been increasing since the mid 1980s, and now averages over 15% of the labour force, by official figures. Actual unemployment is probably much higher.

For that reason, it is imperative to review the economic and social policies in the region and its inter-relation with political and civil rights and well-being. Arab civil society and private (business) sector institutions can make significant contributions to the economic reform. These contributions must be achieved through participation in priority setting and by working in implementation hand in hand with governments. ■

35 This conference was organized by the Alexandria Bibliotheque and the League of Arab States in partnership with the Arab Business Council. The latter was established in 2003 and serves as the advisory body to the World Economic Forum on its Arab World strategy. The Arab Competitiveness Report for 2005, produced by the World Economic Forum, <www.weforum.org>, which tackled economic reform proposals in the Arab countries, talked about the needed reforms in the public sector institutions and labour markets, governance and competitiveness, structural reforms, investment climate, and private sector role, foreign direct investment, cooperation relations and liberalization policies, government expenditure and liquidity, as well as women's role.

36 Check the declaration at: <www.bibalex.org/arf/en/Files/Document.pdf>.

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