

Below is an archived copy of the articles that featured in IAS' first ever magazine issue, published online in November 2004. The IAS committee would like to thank everyone who started the journal and are trying to expand it. Special thanks to Gaston Dolle, Journal Editor (2004-2005)

Interview Transcript - 27th October '04

Robert Habib: Why did you choose to become an academic?

Dr Eric Herring: I became an academic because in the early 1980's with the Reagan/Brezhnev Cold War there seemed to be a real prospect of nuclear war. The nuclear issue dominated everyone's lives and it seemed to me that there was a major question we faced, which is, should we have nuclear weapons, and if we should have them in what way? There seemed to me on the one hand a state without nuclear weapons was at a decisive disadvantage in comparison with a state that did have them, and yet on the other hand in real crises, nuclear weapons didn't actually seem to give that big an advantage to the nuclear weapon possessor.

I found that to be a really important question that I just couldn't answer for myself, and I wanted to know more about that. I'd always been active in politics and it seemed to me that it combined the two things that mattered to me; something that was politically relevant and something that was important to me. The thing about active party politics is I really disliked it. I think it's an extremely dishonest activity and it's one I find a bit repulsive. I was much more into pressure group politics like CND and so on but even then I didn't find it that satisfying in that all the campaigning which I could do I didn't really enjoy. What I enjoyed more was the intellectual exploration so what I do now as an academic is explore things and then offer that information to campaigners.

RH: Would you say that the global situation now, having changed dramatically since 9/11, with the prominence of a right wing US administration could see a flux of students being encouraged to take politics more seriously again?

EH: I wouldn't accept any of that whatsoever actually. First of all there has been no dramatic change since September 11th. There is an increased emphasis on the so called 'war on terror', but none of that is actually particularly new. In the early 1980's the Reagan administration had a 'war on terror'. They explicitly said that we're dropping Carter's emphasis on human rights and that we have to put human rights second top defeating the terrorists. So this is not new and nothing fundamental has changed in world politics since September 11th. The only big change is really that the United States for the first time has been struck in its homeland by terrorists from abroad, but there has been no fundamental change in the structure of world politics. As far as student interest – will it get them interested in politics – it is true there is an increasing interest in world politics but I think that is due to a much deeper trend, the fact that societies, for better or for worse, are becoming much more globally interconnected. It's actually incredibly hard to understand anything without understanding the processes of integration and fragmentation that characterise the contemporary world, and that is really where the interest really lies. Also I think there's an element of idealism among young people, that they would like to do something positive in this world if they could find a way in which they could do it. I think that is an area where the study of world politics is very can be quite satisfying. It's really noticeable that students, when they say they want to do an MSc in International Relations give their reasons as 'I'd love to go and work for an N.G.O., I'd love to go and do something positive.' So I think that's much more about what is going on.

RH: What would you say to any students considering going down the academic route?

EH: I would say the first thing you need to do is to read a magnificent book by a guy called Jeff Schmidt called 'Disciplined Minds'. It's really important that you understand the politics of the academic profession. It is possible, if you have your guard up and you understand how it works, to carve out a space to serve positive social values. The academic profession is like any other, it's principally a hierarchy that exists to serve the *status quo* and in order to advance within academia, and the easiest way forward is simply to adopt the values, objectives and outlook of the hierarchy in order to advance within it. So if you actually have ideals, in order to pursue them, you have to engage in a process of intellectual and political self defense to be able to pursue them with any effectiveness. It is possible to do so, but you really have to understand that most of academic work is alienated, in the sense that most of what you do as an academic is not something that you believe in, but you feel that you have to do it to get by. You've got to really work hard to defend any kind of space to do any socially valuable work. Most academics wouldn't see it that way; most would argue that they're freely choosing to pursue their research agenda that they have. It's a myth of the autonomy of the academic. My whole department, probably plenty of people will see themselves that way, but it's not coincidence that most people freely chose the things that happen not to challenge the *status quo*. I don't think that's a coincidence. (these last 2 sentences aren't quite right?)

RH: Moving on to your academic interests, does the acceptance of the Eastern Bloc into the E.U. have any major implications and will we see a shift eastwards?

EH: Well the major shift is that those societies are being reordered into a particular standard pattern, broadly speaking in which it's not that there's going to be a conflict with them, it's that they're being socialized and structured into a relationship in which the parameters of social choice are being quite narrowly constrained so that neo-Liberalism is quite important, but equally so are subsidies to existing status quo interests. The E.U. is fundamentally a mechanism to give money to subsidize agricultural production. It used to be mainly in France and Germany and it is now increasingly in these other states. That's what the E.U. is financially, but it's equally also more broadly an instrument of a particular view of society that is dominated by welfare for capital plus neo-Liberalism. There's another battle in there to have more progressive social values within the E.U., and these Eastern countries are bringing some of those values to a head. The extent to which they will manage to achieve that within the E.U. is very hard to tell, but it seems to me that that is the essence of the political struggle within the E.U.

RH: Moving on to Iraq, would you say that it has any long term significance on the effectiveness of the United Nations?

EH: It helps to think about what one means by the United Nations. The United Nations is a number of things. First of all it is an instrument of member states and as such, some states manage to use it quite effectively. Some states disregard it like the US has whenever it's not been convenient. The second thing the United Nations is an international Secretariat with specialised agencies that seek to promote certain values. Those values are in some respects contradictory to the unilateralist, neo-Liberal ones pursued by the United States, but I wouldn't draw that

line too sharply. Finally there are these global, cosmopolitan values that exist in the U.N. charter itself. The United States is in many ways acting contrary to those values of the U.N. charter in the way that it has violated fundamental human rights in Iraq, very consistently in the way it's conducted the occupation and the war it's fighting there. So the impact of Iraq on the U.N. is very big, and it says a lot about what the future of the U.N. is about. But the United States is in deep trouble in Iraq. It's going to have severe problems there and is looking to the U.N. to try and find its way out. But in the end the U.N. can't provide that.

RH: Would you say Islamic fundamentalism is a prickly, long-term issue that will require delicate thought, or can you see Bush's 'war terror' succeeding?

EH: Well I think it helps to separate those two things. First of all, the role of Islamic fundamentalism in world politics is not a monolithic one. If one can get down to the question of what it's about, it's the question of what the relationship between Islam and the system of government should be, and specifically should the state impose Islamic rule or should people be allowed to run their own personal lives in an Islamic manner. Where should one's society go along that spectrum? There are deep divides within Iran, Iraq, Sunni and Shia communities, but there is still a basic question which is whether Islamic law should be imposed on entire societies. I think those who take that view, in that sense, are worth calling fundamentalists, and I think theirs is a very dangerous project because when you impose Islamic rule, you'll have to do so coercively. You linked it to terrorism and it is important not to do so because a lot of those who are terrorists, although they refer to Islam, it doesn't mean they represent Islam, and that is a very different thing.

The United States is not conducting a war on terror; they are not spending their time trying to reduce the amount of terror in world politics. They are allied with many terrorist states. Russia is a terrorist state in Chechnya. Egypt, Jordan, Syria and Columbia all terrorize their own populations and the US is lining itself up with those states. It is itself a terrorist state. It conducts itself in Iraq in ways which terrify, literally, many Iraqis. The United States has a system of shipping people around the world and to have them tortured and disposed of secretly. The United States has a name for it; they call it 'extraordinary rendition'. But it is a terrorist state in a lot of its actions and therefore is not conducting a war on terror, but against those who would use terror against the United States and also many of those who wouldn't but who are political opponents of the United States. So there is no war on terror.

RH: Linking that to the situation in Israel, how significant is the influence of the west on securing peace between Israel and the Palestinian Authority?

EH: The United States in particular is a decisive actor on behalf of Israel. Israel exists financially only because of the billions of American tax dollar subsidies, and the political cover that the United States provides. The notion that the United States is somehow an honest broker between the Palestinian Authority and Israel is complete nonsense. The United States has picked and backed its side, and has done pretty consistently. The leverage is there to be used to restrain Israel should it ever be desired but the desire is certainly not there. Israel is being backed and is an extremely violent terrorist state which kills civilians at a rate way beyond the terrorists that attack it. It is simply not acceptable, even if attacked by terrorists, to respond in a terrorist way. It's also worth pointing out that a lot of Israel's so called responses are just as much initiations as anything. The United States, a terrorist state itself, is choosing to back Israel, which is a very large scale terrorist state that locks up thousands of people without trial and so on. That's the issue there, the U.S. backs Israel.

RH: And is that a substantial hindrance to achieving peace?

EH: It makes it impossible because the United States has said that Israel can carry on this way indefinitely and can do so with American tax dollars. Of course it can also do so with British weapons and ammunition. Palestinians are being shot with British bullets.

RH: Yet I seem to remember Jack Straw being refused an audience with Sharon, so while Palestinians are being shot with British bullets Britain has no influence in the area. Would you agree to that?

EH: I would agree that they have very little influence, but what is interesting is that Britain is not allowed any kind of criticism whatsoever in this relationship and Britain just accepts this. What Britain provides is political cover indirectly for Israel because it provides political cover for the United States. It means the United States can say 'we are not isolated in the world, because we have Britain.' That is one of the consistent roles that Britain is playing. I know American diplomats and I know that it matters a lot to them to symbolically not be totally on their own. They can always talk about a coalition because there is Britain.

RH: Finally, what major themes do you see running through the course of the next few decades?

EH: By measure of importance in the world, as opposed to whether or not they will necessarily dominate the political agenda, the first is global warming because it is going to have profound influences on economies and societies around the world whether we like it or not. The second is what underlies the essence of survival for most people in this world, which is their own poverty. If you are poor, you are dead by forty or forty three in the poorest countries. To be alive is a prerequisite for everything else. In the richer countries you live twice as long. Me personally, I'm forty three. In western Africa on average I would be dead. I would be this old man who has died already. That is an unbelievable place to be in the twenty first century. The next thing will be political repression, whether or not people are going to have their personal and social freedoms. There is economic freedom, and then also personal and social freedoms. I think those have got to be the biggest themes, those ought to be the biggest themes. That all links to the fundamental question 'is the way we organise ourselves as human beings sustainable in this current fashion?' Can Capitalism find some way passed all these problems or do we have to think about different kinds of social organisation? There are increasing social movements around the world that are thinking creatively about these things, and that's a very positive sign.

The European Social Forum

By Lakshmi Eassey

According to the European Social Forum (ESF) website (esf2004.net) "The European Social Forum is part of a global movement for radical social and political change united in the belief that Another World is Possible," and furthermore it is "a regional offshoot of the World Social Forum (WSF), initiated in Porto Alegre, Brazil in 2001 as a counter-summit to the annual World Economic Forum (WEF)." The first two forums were organised in Florence (2002) and Paris (2003). The ESF website also claims that it "is not supposed to be a political conference or rally. It is instead a largely self-organised space where your group, organisation, or activist network is invited to define the overall themes of the event and hold seminars and workshops in conjunction with others across Europe with the aim of making fruitful connections for the future." (<http://esf2004.net>).

The European Social Forum is a meeting of trade unionists, politicians and average citizens gathered to oppose war, racism and corporate power. This year's forum was concerned with a myriad of issues ranging from trade unionists in Colombia to issues of institutionalized racism. Among the better-known speakers at this year's forum were George Galloway, former Labour MP who now heads the anti-war Respect coalition and Aleida Guevara, daughter of Che Guevara the Marxist Revolutionary.

In conjunction with this year's forum held in London, there was a march on the final day, the theme being "Bush Out, Troops Out". The demonstration, organized by Stop the War Coalition, CND and MAB began around 1pm on 17 of October in Russell square and culminated in Trafalgar Square, with a rally and concert. The march was a massive attempt to "Stop Bush and Blair's War." It was also the culmination of the European Social Forum, which took place in the preceding days with workshops discussions and films. The Anti-war demonstration flooded the streets of London; Organisers estimated between 65,000 and 75,000 while police said there were between 15,000 and 20,000.

Signs such as "Troops out," and "Blair must go" were only some of the slogans on protest signs and shouted by the demonstrators. Among other placards were "World's No. 1 Terrorist" over a photo of President Bush as well as an array of homemade signs and chants such as "Tony is Tory, he wears a Tory hat, and when he sees a hospital he says I'm selling that" and "George Bush – terrorist, Tony Blair – terrorist!"

The anger of citizens from all over the world was felt as the march approached number 10 Downing Street, Tony Blair's political residence, as marchers slowed to a halt and began shouting "liar" and "that's not what democracy looks like (pointing to the building), this is what democracy looks like (pointing to the march)."

Paul Bigley, brother of Kenneth Bigley, a recently executed hostage in Iraq, voiced his support for the protest saying, "The more people raise their voices, the safer we will all be," (according to cbc online news staff www.cbc.ca/story/world/national/2004/10/17/Londonprotest_041017.html). He did not actually participate in the march but said: "For Ken's sake and for the sake of everyone in Iraq I ask you to make your feelings known to our government, to protest and to join the demonstration." Also among protestors were parents of British soldiers who had been killed in Iraq, as well as students from across Europe. Although the focus of the march was the condemnation of the war waged in Iraq and U.S. foreign policy, there were also chants such as "Victory to Intifada" in hopes of Palestinian liberation as well as signs denouncing the proposed Israeli wall.

According to Lindsey German, spokeswoman for the Stop The War Coalition as interviewed on Sky television "most people feel that until this illegal occupation is ended, there will not be peace in Iraq,"(Kelland, K., www.reuters.co.uk; 2004). Protesters were also quoted as saying they wished to send a message to voters in the U.S. before the November 2nd elections.

Although overall the forum and demonstration seemed to go smoothly, there was a protest statement by the volunteer translators' group the Babels made up of 500 linguists who provided their services for the event, claiming many of their Turkish and Kurdish speakers had been refused entry into Britain to work at the event.

Nearly 5,000 delegates were said to have slept in the Millennium Dome, thanks to Mayor Ken Livingstone. However, Livingstone was the one of the targets in a half hour tirade in which nearly 200 anarchists took the stage to condemn the organization of the ESF. (See 'True Democracy' C Campbell).

On a personal note, I may not be stereo-typical gun-toting, religious American without a passport but I am an American nonetheless, and because I support peaceful movements of people mobilising to let their governments and the world know what the opinions of the people are, I support the ideals of the ESF and I was happy to be marching alongside demonstrators. The ESF and the Sunday demonstration were an amazing experience of European culture and though I may not agree with everyone's views on all of the individual issues such as what to do in places such as Palestine and Iraq it was an inspiring environment to be among so many people who truly believe 'another world is possible'.

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True Democracy?

By Christian Campbell

The main Plenary of Saturdays ESF, held in the main hall of Alexander Palace, was billed as a meeting on how to stop fascism and the far right in Europe. The speakers were to include Weyman Bennet of Unite Against Fascism, and Ken Livingstone.

Shortly after Bennet announced the start to the plenary a bloc of around 100-200 black clad activists stormed the palace security, then took to the stage. The speakers table was kicked over, and the delegates forced off stage.

After this spectacle the general feeling among the audience was one of confusion. Some cries from the crowd of 'off, off, off' and 'let them speak' were heard. A huge banner was unfurled on stage proclaiming 'KENS PARTY-WAR PARTY' another said 'ESF-Another world is for sale'.

A bustling crowd held centre stage, a hand held mic passed freely between this crowd which gave forth blazoning speech's claiming that this action had been taken against the exclusionism and corruption of the ESF leadership.

Further to this they claimed that corporate sponsorship (The Guardian was the ESF's media partner whilst the anarchist affiliated Indy media was excluded) and minimum wage employment of bar staff at the bar constituted collusion with capitalists and 'enemies of the class'. They spoke of 'grass roots democratic action' and 'unity against police brutality'.

This action lasted for thirty minutes mostly with the support of the crowd, (apart from the notable exception of frustrated comrades), especially to points such as the over representation of the SWP at the ESF, the lack of free accommodation and high ticket prices which excluded many from the event. One of the young women claimed that their forced entrance to the event was a symbolic act against high entrance fees.

Unfortunately during the initial rush on stage by the activists the chair of the plenary had his mobile phone and address book stolen. When Bennet tried to voice his opinion he was violently hushed up and assaulted by the Anarchists.

The commotion ended with the Anarchists marching offstage and provoking the police outside. The following day they made their way to the march where one of the group managed to infiltrate the front line of the official march and have an eye to eye stand off with the Marxist academic Alex Callinicos which he subsequently lost and slunk away. The next day 12 of the members were arrested. They consequently blamed the Socialist Workers Party for excluding them from the ESF and co-operating with the police to keep the event under control.

So is this the face of true democracy - beating up a black guy at an anti fascist meeting?

ASYLUM IN THE UK: THE THREAT PERCEPTION OF ASYLUM SEEKERS

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Editor's Note: The article analyses a controversial domestic issue and it is more than ever in good time, regarding the current two-day meeting in Luxemburg of the European Union justice and interior ministers, who discuss future policy on immigration and security. The EU is divided over a common asylum system and whether to set up a common border guard, but David Blunkett made it clear that UK opposes plans to have EU states jointly patrol the bloc's external borders.

Introduction

Immigration, in the form of asylum seekers and refugees, is a popular political topic in the UK. There is a lot (mostly negative) said about the asylum seekers, the asylum application process and the apparent failures of it. Most of what is said seems based on weak arguments and, at best, a refusal to accept change, at worst, a form of xenophobia. With this in mind, if one takes a step back from the emotive arguments put forward so frequently by the national newspapers and televised media and looks at the actual impact of asylum seekers from a rational point of view, the results can be very enlightening.

Immigration has been a concern of the governments of Western Europe for many years. This article will focus upon what has been happening in the UK as an example of how asylum seekers are perceived in Western Europe. Each country in Western Europe has dealt with asylum seekers in their own way but each faces similar issues to those faced in the UK.

The aim of this article is to illustrate how the issue of asylum seekers and refugees can be perceived in relation to national security. It will try to show how and why this threat perception has become so popular in the UK and to what degree the securitisation of asylum policy can be justified¹.

Refugees and asylum seekers represent the very opposite of non-asylum seeking migrants in terms of threat perception. Statistics show that they tend to originate from outside of Western Europe and the developed world². They are normally of Asian or African origin, meaning that they are visibly diverse from traditional Britons. A higher level of visibility raises native concerns regarding uncomfortable societal change. Asylum seekers are more likely to be from a highly religious state (such as Syria, Iraq, Iran, and Afghanistan, where most asylum seekers in the UK come from)³. This heightens concerns over religious fundamentalism. Lastly, they are likely to have a lower level of education because the states from which they originate tend to be developing or Third world. This raises concerns over their economic threat. For all these reasons, asylum seekers are perceived to be at the extreme end of the immigrant threat perception scale.

National Security and Securitisation

Asylum seekers can be regarded as a problem to a host state in many ways. This article will distinguish between the three possible threats posed under the general heading of threats to national security. When a state representative calls an issue a threat to national security, and thus takes an issue out of the normal political process, this act is called securitisation⁴. In using this classification the Government can avoid having to justify its decisions to the same extent as lesser threats. Also, once an issue becomes 'securitised', more extreme measures can be taken, as the threat is deemed sufficiently serious to justify such measures. A good example where securitisation has taken place is the Anti-Terrorism, Crime and Security Act 2001, which allows for the indefinite detention of terrorist suspects, a derivation from the normal rules of arrest and detention. Such a measure is only possible because terrorism has been securitised, whilst other criminal activities have not (such as burglary and theft)⁵. Due to their securitised status and the threat perception of them, the public accepts the need to treat terrorists in an exceptional way. Likewise, the argument concerning asylum seekers and refugees, distinguished from other types of immigrants, encompasses the same logic.

Thus, securitisation is always a political choice. It occurs when a securitising actor (state representative) chooses to call an issue (e.g. asylum) a threat to national security. This means that they are trying to raise its status above that of the normal political process, moving it into a special position in which it can be tackled by methods outside the normal rules of the regular political and judicial system.

It is important to note that a state representative presenting something as an existential threat (i.e. asylum seekers) to a referent object (i.e. the state) does not by itself create securitisation – this is a *securitising move*, but the issue is securitised only if and when the audience accepts it as such⁶. It is the belief of this essay that this is what has happened with UK policy towards asylum. It is important to understand this concept because it shows exactly why the securitisation of the asylum issue can be seen as justified: the issue of asylum can only become securitised if the population perceive them to be a legitimate threat.

Once the concept of securitisation is understood, it is important to define what is meant by 'national security'. Security can be defined as *"The relative absence of real or perceived threats and low vulnerability of damage to the identity and acquired values of specified [societies]"*

¹ Buzan (1998), pp23-25

² Trends in Asylum Applications Lodged in Europe, UNHCR publication (2001), pp4-5

³ *ibid.*

⁴ Buzan (1998), pp24-25

⁵ For the sake of clarity terrorism will be defined as: 'politically, religiously or ideologically motivated violence used to coerce or intimidate governments or societies, carried out by sub national groups or clandestine agents'. Definition the author's own.

⁶ Buzan (1998), p25

in important sectors of its collective life.”⁷ The term national security therefore refers to issues that may threaten the survival of a state’s societal identity or political control within its own borders.

In the post-Cold War period, security has undergone a re-examination. The military aspect of national security is still very important but now there are other issues that have been securitised. Some authors now consider, in addition to military (hard security) issues, other (soft security) issues (political, societal, economic and environmental) have gained some recognition as legitimate national security threats⁸.

Threat Perception - General

Perception is all-important when it comes to national security. Military (hard security) threats can be clearly seen and how they threaten a state is easy to understand. The solutions to military threats are also quite easily recognised: the traditional defence against a military attack would be to have a military deterrent. However, there are differences between what can be objectively assessed as a real threat and what is perceived as such. States and societies may feel insecure because of non-military (soft security) threat, without any military threat present. Soft security concerns are often less visible than hard security concerns (they may not be tangible threats, such as societal threats) but the *perception* of the threat may be regarded as significant as the threat itself⁹.

It is less easy to see how non-military threats to national security actually threaten a state. Since asylum seekers pose only a non-military threat to the UK, the threat they pose to national security is not so easily understood or proved¹⁰. Rather than military threats, they primarily potentially threaten societal, economic and political stability and security. This may not take place in a sudden attack but over a length of time, perhaps 10 or 20 years, which further complicates understanding the potential threat posed. Therefore, it is necessary to define exactly what way non-military threats threaten UK national security.

If it is accepted that security can be broken down into five contributory factors¹¹, it is possible to analyse how asylum seekers and refugees affect each relevant factor¹².

1. Economic Threat

The economic threat has long been debated and is an increasingly important aspect of the asylum issue in the UK. Firstly, it costs a lot of money to house asylum seekers in detention centres, which is increasingly the norm for new arrivals¹³. The cost of supporting and processing asylum seekers is a much-publicised issue that is used in anti-asylum arguments¹⁴.

Another perceived economic threat is that of native unemployment. Asylum seekers are often perceived to be taking jobs from the native population, thus increasing unemployment among the natives and increasing anti-asylum resentment¹⁵. Also, in the long term especially, there are fears that a large increase in immigrants (in the form of asylum seekers and refugees, who typically have little money or education) will increase the demands on social services such as the National Health Service, which is already showing signs of over-stretch with current demands.

Economic stability is considered to be a part of a state’s security interests¹⁶. Anything that can be seen as a threat to its continued strength will therefore gain attention, however unlikely a threat it may be.

2.1. Societal Divide - Acceptance

Perhaps the most significant way in which asylum seekers and refugees can be perceived as a threat to national security is in the threat to societal (as opposed to social) security. Many asylum seekers do not speak English, so they face a difficult time integrating with the native population, and the native population has difficulty in accepting these non-English speaking foreigners into their community. The problem is exacerbated when the asylum seekers or refugees are of a distinctly different ethnic background, such as Africans and Asians. They can be easily singled out as non-European immigrants and so are more likely to face social exclusion and segregation, especially in areas where the natives are mostly or exclusively of white backgrounds. Therefore, there can be a cultural divide between the natives, who believe that these foreigners will dilute their culture, or even worse, dominate it, and the immigrants, who believe that they must cling on to their cultural ways to maintain their ties with their native country. Thus, the failure (or inability) of some natives to be open towards the asylum seekers and refugees puts them in a defensive posture and encourages them to maintain their native country’s societal ways, such as language, social mores, religion, etc... The lack of integration heightens the fear of a foreign diaspora¹⁷ invading the host country, threatening its societal integrity and self-sustainability.

⁷ Davies (2000), p33

⁸ Such as Barry Buzan *et al* (1998) and Ole Wæver (1993)

⁹ Poku and Graham (1998), p11

¹⁰ Terrorist acts are not included in this definition of ‘military threats’.

¹¹ Environmental, military, economic, societal and political. Buzan (1998), pp24-26

¹² The environmental and military factors of national security will not be discussed.

¹³ Pirouet (2001), pp164-165

¹⁴ Teitelbaum and Winter (1998), p60

¹⁵ Fielding (2002), ‘Home Office Targets Illegal IT workers’, www.themail.co.uk, accessed on 16th March 2002.

¹⁶ Poku and Graham (1998), p4

¹⁷ Davies (2000), p24. A diaspora is a group of people who live within a host state but maintain close societal/communal and/or religious links with their native state, essentially forming a separate entity within a state.

Therefore, the growth of diaspora's can be seen, if one wishes to view it in such a way, as a threat to British society as it exists today. Whilst it can be argued that these things need not matter in a liberal democratic country, the fear of immigrants adversely affecting the culture and social ways of Britain is a real one to many people and is a fear frequently emphasised by the media and politicians¹⁸.

2.2. Societal Divide - Crime

Crime is perceived as being both an economic and societal threat. Crime can harm the economy through the loss of taxes as a result of smuggling or illegal trading and through the negative consequences it has for legitimate rivals. This threat is minimal in reality. Firstly, there are criminals within every society, so it would be unrealistic to expect every asylum seeker to be honest. There is no reason to believe that asylum seekers are more inclined towards serious crime than any other deprived section of society.

Secondly, despite many asylum seekers having been arrested in the UK, when one realises that a lot of the charges against them are for shoplifting and similar minor offences, their threat cannot be considered significant. Anyone forced to live on less than the minimum given out by the state to jobseekers, an amount surely determined to be the minimum necessary for a basic quality of living, it is not hard to see why they are driven to steal food and some of life's other essentials.

However, the criminal perception of asylum seekers makes it harder for them to integrate with the native British people because their criminality can be seen as a threat to social stability. If they are perceived to be prone to criminal activities, then large numbers of them will generate a lot of threat perception, especially if they are concentrated in small towns or villages¹⁹.

Refugees and illegal immigrants are often impoverished due to their persecuted state, and criminal organisations are quick to use and abuse these people to their advantage. The transportation of illegal immigrants has become big business. It is an issue of considerable concern, not least to the Police forces who know better than most of the criminal links to asylum seeker transportation²⁰.

3. Political Threat

When asylum seekers are accepted by the UK as refugees, this means that the state from which they originated is being classed as an unsafe state. This can lead to friction between the sending country and the host country. This problem is exacerbated when the refugees are openly in opposition to the sending country. The example of Salman Rushdie illustrates the problems that can be caused when a refugee voices their disapproval of the state that made them a refugee in the first place²¹.

One big aspect of threat perception is that of religious extremism. This can be both a societal and political threat to national security. A lot of concern related to religious extremism is connected to Islam. Indeed, the media and anti-asylum groups, such as the BNP, pay close attention to the rising number of Muslims within the UK. This religion is deemed by some to be the most threatening because it dictates a certain way of living, and it encompasses every aspect of life. It includes laws of conduct to be followed and, just as with Christianity, it has its own rules with regard to moral obligations and social conduct. The fear is that some of these laws are at odds with the existing political and social ways within the UK. This fear is worsened when extreme elements of the religion voice their beliefs, encouraging native hostility and anti-Islamic sentiments²².

It is also the centre of much hostility because of the large number of well-publicised acts of terrorism that are carried out by Islamist extremists, and in the wake of September 11th 2001 the interrelationship between Muslims and non-Muslims in the UK has undoubtedly been put under a lot of strain.

The political threat also comes in the form of diasporas. If a community from a foreign country comes to the UK and still remains loyal to that other country above the UK, this is a potential threat. It may even influence the political system. For example, a politician from an area with a high concentration of immigrants may focus more upon the issues of the home countries of those immigrants rather than the British natives. Whether this is right or wrong is not the issue; if this happens, or is perceived to be happening, it could be the basis of discontent and trouble between the immigrants and the locals. Given that asylum seekers and refugees by definition come from countries with some form of instability or injustice going on, there is a possibility that their political problems may be imported and take priority over domestic issues.

The Threat as a Whole

All of these soft security threat perceptions are connected with asylum numbers (with the possible exception of terrorism)²³. When asylum application figures go up, the threat perception increases. It is always the case that more is worse. Even though the number of immigrants entering the country is at a relatively low level compared to the native population, the fear is that over the next few decades the influx will have built up a substantial ethnic minority, so that in some places of the country there is a larger ethnic than indigenous population. This is a concern that is particularly played upon by the right-wing extremist parties²⁴. It is this vision of the future that causes concern to those

¹⁸ Hayter (2000), p30

¹⁹ Hayter (2000), pp32-33. For example, the exaggerated high number of asylum seekers housed in Dover created a lot of native hostility.

²⁰ 'Asylum Seekers and Organised Crime', Police Magazine April 2001.

²¹ Teitelbaum and Winter (1998), p54. Ayatollah Khomeini pronounced a death sentence on Salman Rushdie in February 1989 after he wrote the book 'Satanic Verses', in which he criticised certain aspects of Islam.

²² Teitelbaum and Winter (1998), p55. In 1990 the Muslim Institute published a 'Muslim Manifesto' – a strategy for survival which announced that Muslims must obey the law "so long as that obedience does not conflict with their commitment to Islam and the Ummah".

²³ It is important to note that, unlike most other perceived threats posed by asylum seekers, the terrorist threat does not require large numbers and so is not so seriously affected by variation in asylum seeker numbers.

²⁴ Such as the BNP. The Conservatives have also used the argument that increasing asylum applications equals increasing threat perception.

unwilling or unable to accept the variety and change that comes with ethnic diversity. It is based on this vision of the potential risks to the next generation's economy and societal stability posed by asylum seekers and refugees that, rightly or wrongly, governments justify securitising asylum.

It can be seen that, within the boundaries of the national security definition given in this paper, asylum seekers can theoretically pose a threat to Britain's economic, societal and political security.

The Figures

The large increase in the number of migrants in the early 1990's increased the asylum concerns in Britain because it seemed logical to assume that many would end up in Western Europe, given its economic wealth and its relatively sophisticated welfare systems. The UNHCR increased the number of people it considered to be of concern from about 9 million in the late 1980's up to approximately 22 million at the beginning of 2002²⁵. This huge increase in asylum seekers could be interpreted as a warning that the number of asylum seekers was likely to increase substantially. Indeed, asylum application figures for the UK increased by a substantial amount between the early 1980's and the end of the 1990's²⁶. There was also concern, emphasised by the media, that "bogus" asylum seekers would abuse the asylum procedures, further exacerbating the numbers problem²⁷.

The UK Government's Response

Therefore, to minimise the domestic unease and threat perception, the Government took steps to reduce asylum applicants from these war-torn areas, even though they were likely to have a genuine reason for claiming asylum. For example, the break-up of the former Yugoslavia created large numbers of refugees, and the British Government's response was indicative of the trend in asylum policy. The Bosnian refugees arriving in Britain were likely to have a legitimate claim to asylum (genuine fear of persecution) but the Government feared a huge rise in the number of asylum seekers as a result of the Yugoslav conflict²⁸. The British Government announced that no Bosnian could travel to Britain without a visa, but there was no British Embassy in Sarajevo to issue one. The result, unsurprisingly, was a drop in asylum seekers from the war zone of the former Yugoslavia.

This example shows that the Government considered a mass influx of Bosnian asylum seekers to be of such a threat they were willing to use methods to reduce their ability to enter Britain. Indeed, the mass influx of migrants from the former Warsaw bloc, and other areas, was an important issue in discussions concerning European security²⁹. The Government believed, or at least seemed to believe³⁰, that there would be a huge increase in the number of asylum applications to Britain, and that these asylum seekers would pose a security threat. Therefore the number of asylum seekers that had arrived in Britain, although still small when compared to the population as a whole³¹, were considered threatening. The fear was that the number of asylum seeker applications would continue to increase.

Asylum Seekers – The Reality

Most of the threats that asylum seekers can pose are based on the increasing numbers entering the UK. More asylum seekers are perceived to equal a greater threat. It is certainly true that in the last 20 years asylum applications have dramatically increased³². The average figure for applications in the early 1980's was in the region of hundreds or at most a few thousand³³. By the early 1990's this figure had risen to several thousand and by 1999 the figure was up 90,000³⁴. This figure by itself seems high, and it is this interpretation of the asylum application figures that can and has been used to fuel anti-asylum rhetoric.

However, when other factors are taken into consideration, the huge increase in asylum applications does not seem so threatening. Whilst the percentage change in asylum applications has been high, the actual number of asylum seekers remain at a relatively low level as a percentage of the whole population of the UK. Similarly, the high rate of asylum seekers who fail to leave the country when their application is refused looks threatening when presented in percentage terms³⁵, but in reality it amounts to just a few hundred people. When the raw facts are taken into account, rather than potentially misleading interpretation of them offered by the media and politicians, it can be seen that the actual numerical threat posed by asylum seekers is not serious enough to warrant securitisation. It is hard to see how such a small amount of people can justify the expenditure on detention camps and other methods of keeping track of asylum-seekers that Britain seems willing to pay³⁶. Even though there is no specific point at which the number of asylum seekers become threatening, it is reasonable to argue that asylum applicants are too few to be called a credible threat.

²⁵ Figures attained from www.unhcr.ch under 'Refugee Statistics'.

²⁶ Pirouet (2001), p21. Asylum applications in the mid 1980's were around 4,000-5,000. Asylum applications for 2001 were just over 90,000 (latter figure from UNHCR Paper 'Trends in Asylum Applications Lodged in Europe... 2001'), an increase of nearly 2000%. These figures do not include those who entered Britain illegally but did not claim asylum.

²⁷ Hayter (2000), p82

²⁸ Teitelbaum and Winter (1998), p60. By November 1992, Bosnian applicants rose to more than five thousand.

²⁹ Miller (1998), p17

³⁰ Bigo (2001), pp125-126. The media and some politicians played upon fears about demographics, primarily mass asylum seeker immigration, even though the fear was not necessarily rational.

³¹ Office for National Statistics, www.statistics.gov.uk/themes/population. Even 100,000 asylum seekers a year represents less than 0.2% of the total population of the UK.

³² Glover (2001) p23

³³ Pirouet (2001), p21

³⁴ 'Trends in Asylum Applications Lodged in Europe ... 2001' at <http://www.unhcr.ch>. According to UNHCR statistics, 91,200 asylum applications were made in Britain in 1999.

³⁵ Rogers (1993), p119

³⁶ Pirouet (2001), p50

Even if the current number of asylum applications is accepted as being threatening, there is a belief that the relatively high rate of refugee and migrant flows in the 1990's was a specific consequence of the break up of the Soviet Union and the end of the Cold War. A lot of people were directly effected by the collapse of the Soviet Union³⁷. It is likely that, as those states affected by the Cold War begin to re-establish their identity, the conflicts will calm down and the migrant and refugee flows will begin to decrease. This has been the case with the former Yugoslavia.

Threat perception is not neutral; it is subject to the Government's choice, which is influenced by political motives. The Government would not securitise something that the public would never accept as being a threat e.g. the weather. This perception is strengthened by the media who frequently present asylum seekers as threatening³⁸. It is also strengthened by the rhetoric used by the politicians to reinforce the negative public perception of asylum seekers³⁹. The arguments being used have not changed since the 1970's when black people were the focus of attention⁴⁰. The fears they extolled then have not come to fruition, and the evidence they provide in recent times to present asylum seekers as a threat is not substantially distinct from the existing rhetoric on similar issues (such as black immigrants) to be taken seriously. However, the Government knows that, because of the threat perception of asylum seekers impressed upon the public (and, therefore, what the public subsequently believes), there is political value in presenting asylum seekers as a threat to be dealt with using securitised methods.

It has been argued that asylum seekers present economic threats to Britain. Certainly, it would not be wrong to argue that economic considerations play an important role in an asylum seeker's choice of final destination⁴¹. This could be interpreted as a threat to Britain's social services or economic growth, but evidence suggests that there is no correlation between immigration and economic trends⁴². It is reasonable to assume that if all immigrants do not have a significant influence on economic trends, and asylum seekers constitute only a small proportion of all immigrants, then asylum seekers are unlikely to adversely affect the economy.

Contrary to being a detriment, asylum seekers can be considered a benefit for demographical reasons. Britain's population is in decline because it is not replenishing itself, and current trends suggest that in a few decades our aging population will not have enough young people to fulfil all of the roles necessary for the economy and society to function properly⁴³. Immigrants, be they asylum seekers or not, help to redress this worrying trend.

This argument is not liked by many who fear that this will lead to British (primarily but not exclusively white) people becoming a minority in their own country. However, there is little evidence to support the argument that asylum seekers have in any tangible way harmed society. Many thousand of asylum seekers have settled in Britain over the last few decades but Britain has not radically changed. Therefore, the fear of the potential threat to societal security posed by asylum seekers does not seem well founded (nor is it a new phenomenon⁴⁴) and this fear does not justify the securitisation of asylum. The fear of outsiders comes largely from a lack of cultural awareness and/or ignorance, and this is no excuse for marginalising asylum seekers.

Conclusion

There is little evidence to show that asylum seekers do present a real threat to British national security— societal, economical or political. Whilst there are examples of asylum seekers who have threatened a state's security⁴⁵, this has not happened in Britain. The economic costs of asylum seekers are arguably outweighed by their economic benefits, and their threat to societal security is yet to be convincingly proved. Their political threat has thus far also been minimal, and remains a theoretical rather than actual threat. Therefore, it can be said that, in reality, asylum seekers do not pose a threat to British national security. If reality were all that mattered, the securitisation of asylum would have little justification, and the Government's policy of 'clamping down' on asylum unjustified.

However, the *perception* of asylum seekers as a threat to national security is a separate but equally important issue. The perception of asylum seekers as a threat is well-established. As it has been said, it is necessary to find an analytical stance that neither dismisses all fears as xenophobic and racist nor regards all anxieties over immigration and refugees as a justification for exclusion⁴⁶. The fears related to asylum seekers are not in accordance with reality, but they are real fears held by many people, and these fears do need to be dealt with.

The media and politicians are aware of the attention and interest that can be gained from the public concerning asylum seekers, and are not shy about presenting asylum seekers in a threatening way to win public interest and support. Securitisation is a way to attempt to address native fears regarding the perceived threat. Even if it is argued that the threat perception of asylum seekers is a fabrication exaggerated by the Government for political interests, this does not diminish the fact that asylum seekers are perceived to be a real threat. Given the acceptance of the threat perception, securitisation of asylum does have some justification, for at least as long as people consider asylum seekers a threat, in whatever form they perceive that threat to be.

³⁷ All of the former Soviet Republics as well as the states sponsored/supported by the USSR incorporated hundreds of millions of people.

³⁸ Hayter (2000), pp80-81

³⁹ *ibid.*, pp81-82

⁴⁰ *ibid.*, pp26-30

⁴¹ Glover (2001), p11

⁴² Stalker (2001), p78

⁴³ Glover (2001), p13

⁴⁴ Hayter, pp139-140

⁴⁵ Johnson and Williams (1981), pp56-62

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WHY THE EUROPEAN COURT OF JUSTICE IS NO LONGER RUNNING WILD: THE THREE FEARS

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Introduction

It has been declared time and time again that the European Court of Justice (ECJ) has been "running wild"⁴⁸. The charge is that the ECJ has been acting without real authority – creating laws that it should not have made without the authority of the legislature. Today, however, such a charge is increasingly unrealistic. The ECJ is no longer a court that is "running wild". The ECJ is now a court that has been tamed, and is a shadow of its former self. If anything, it is a court that now needs to become a little bit more "wild" once again.

The ECJ has gone through three distinct stages of development. It began with a period of expansion with the development of the doctrines of direct effect and supremacy. When the inevitable backlash began to occur, the court then entered a period of restraint, by placing restrictions and qualifications upon its doctrines. Today, the court has often been ambivalent about creating any new doctrines, and now tends to take a voyeuristic approach to any need to improve its powers.

The latest trend of voyeurism is unfortunate and unnecessary. There are many issues which the ECJ needs to solve and solve quickly if it is to remain a prominent institution. These include subsidiarity, standing and the issue of fundamental rights. These are not issues which need to be solved simply because to do so would help the ECJ, but because this would ensure that the Community remains to be a formidable international body. It is the ECJ's duty to take positive action in these areas. However, it has not done so because of three fears: firstly, the fear of restricting itself in the future, secondly, the fear of being unable to cope with an increasing case load, and thirdly, the fear that its position as the ultimate court of the Community would be undermined.

The first fear

The subsidiarity doctrine is a striking example of the court not acting when it should have acted. Subsidiarity could have paved the way for the ECJ to have developed into a fully fledged constitutional court for the Community. Subsidiarity is enshrined within the Treaty with Article 5EC:

The Community shall act within the limits of the powers conferred upon it by this Treaty and of the objectives assigned to it therein.

In areas which do not fall within its exclusive competence, the Community shall take action, in accordance with the principle of subsidiarity, only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale or effects of the proposed action, be better achieved by the Community.

Any action by the Community shall not go beyond what is necessary to achieve the objectives of this Treaty.

There is a clear possibility for the court to enunciate the roles of all the other European institutions. In the Tobacco Advertising⁴⁹ case, subsidiarity could have been used as a way of annulling a Directive. However, the ECJ did not follow this path. In the Tobacco Advertising case, the court simply looked at the jurisdictional basis of the Directive, and decided it should be annulled because an incorrect legal basis had been used.

Annulment of a Directive does not equate to the wide reaching jurisdiction that the ECJ could have attained over the institutions if it had embraced subsidiarity. Subsidiarity is used in many contexts, from the initiation of Commission legislative proposals to the political uses of it within various Member States. If the court had embraced the doctrine, it could have afforded the ECJ some power over all of these uses. Subsidiarity had the potential to be a highly regulated method of controlling various Community institutions. The Protocol on Subsidiarity annexed to the Treaty is testament to this potential. The potential was, however, never realised.

This is not the first time that subsidiarity has been snubbed by the ECJ – this has been occurring ever since the doctrine has been included in the EC treaty. The most likely reason why the ECJ has never really endorsed subsidiarity may actually be because of its potential wide reach. Subsidiarity has the power to also tie up the powers of the ECJ. Subsidiarity is a general doctrine of general application: it does not exempt the ECJ from having to abide by any of its principles. The ECJ has never been bound to this extent, and in this way, before.

The ECJ could, quite correctly, be described as being afraid of what subsidiarity could bring. However, we should remind ourselves that we are discussing the ECJ "of today". The ECJ has, in the past, introduced many important doctrines of EU law. It was not afraid to introduce them. It is arguable that they could also have had major consequences for the ECJ.

The doctrines of direct effect and supremacy greatly affected the development of Community law. When the ECJ began to introduce and expand them, it was by no means clear to what extent the doctrines would grow. The changing rationale of direct effect is evidence of the court initiating a doctrine, only to then have to rein it in at a later date.

⁴⁷ The author would like to point out that this is an abridged version of an article that is awaiting publication!

⁴⁸ Notably, Rasmussen, H., "Between Self-Restraint and Activism: A Judicial Policy for the European Court", 13 *European Law Review* 28 (1988)

⁴⁹ C-376/98 Germany v European Parliament and Council (Tobacco Advertising) [2000] ECR I-8419

The initial rationale for direct effect, for instance, was that individuals would need to have recourse to this doctrine in order to fulfil Article (ex) 189EC (now 249EC). Later, the court in Ratti⁵⁰ began to change its stance and to focus upon the estoppel rationale, which argued that Member States should not benefit from their wrongs. It was necessary to change the rationale for direct effect because of the way in which the court chose to limit it. In Marshall⁵¹, the ECJ decided to outlaw the horizontal form of direct effect. Horizontal direct effect is a situation in which the State is not involved – it is where a case is between two private parties⁵².

Thus, the ECJ was willing to take on direct effect and develop it, up until a point where it felt it had to begin to place limits upon it. The ECJ could have done the same thing with subsidiarity, but it has chosen not to. It has to be asked whether this is the correct approach. The Community could have been in turmoil or rendered irrelevant today, had it not been for the ECJ embracing direct effect and supremacy.

The second fear

So far, we have focused upon the fear of the ECJ becoming tied up with its own definition of subsidiarity. However, the ECJ is limiting itself in another restrictive way in relation to another issue. This is the issue of standing, which concerns the ability of individuals to bring a challenge directly before the ECJ. It is dealt with in Art 230EC:

The Court of Justice shall review the legality of acts adopted jointly by the European Parliament and the Council, of acts of the Council, of the Commission and of the ECB, other than recommendations and opinions, and of acts of the European Parliament intended to produce legal effects vis-à-vis third parties.

It shall for this purpose have jurisdiction in actions brought by a Member State, the European Parliament, the Council or the Commission on grounds of lack of competence, infringement of an essential procedural requirement, infringement of this Treaty or of any rule of law relating to its application, or misuse of powers.

The Court of Justice shall have jurisdiction under the same conditions in actions brought by the Court of Auditors and by the ECB for the purpose of protecting their prerogatives.

Any natural or legal person may, under the same conditions, institute proceedings against a decision addressed to that person or against a decision which, although in the form of a regulation or a decision addressed to another person, is of direct and individual concern to the former.

The proceedings provided for in this article shall be instituted within two months of the publication of the measure, or of its notification to the plaintiff, or, in the absence thereof, of the day on which it came to the knowledge of the latter, as the case may be.

The ECJ has been keen to put standing under a very restrictive test. The test was set out in Plaumann⁵³, which effectively says that an individual wishing to bring a case before the ECJ must have certain attributes peculiar to them, or by reason of their circumstances be differentiated from all other persons. There have been attempts by the Court of First Instance to widen the doctrine, as seen in Jégo-Quere,⁵⁴ and also by Advocate General Jacobs in UPA⁵⁵. However, the ECJ has decided not to adopt these approaches. When both of these cases reached final judgment in the ECJ, it simply reaffirmed its existing position.

The possible rationale that many academics have cited is that the ECJ fears it would become overrun by work. The court already has a very heavy case load, with many cases taking a long time before a final decision is reached. The majority of these cases are currently references from Member States under Article 234EC. However, this argument is unconvincing.

As we have outlined above, the ECJ has regularly taken on new roles as the Community has developed. The adoption of the doctrines of direct effect and supremacy led to a widening of the jurisdiction of the court, and could have led to an increased caseload for the court. Similarly, many cases that have been of immense importance to the development of EU law have had humble beginnings, and these cases might not have passed the strict standing requirements in Plaumann. The ECJ has instead been reliant on references from Member State courts.

Today, it is arguable that the ECJ relies too heavily on national courts to make references. About two thirds of the cases before the ECJ come from national courts. This is not necessarily good for justice in individual cases, because it relies upon national courts deciding to make the reference. Thus, they may decide an issue of Community law is not present in a case, or that the case does not need to be referred. This may be at odds with the conclusion which might have been reached by the judges of the ECJ.

This error of the ECJ may, nevertheless, ultimately result in the ECJ being seen as the ultimate court of the Community, with Member States' courts being underneath it. However, it is arguable that the ECJ is heavily reliant on Member State courts simply because of its reliance on references from them. If the ECJ was to rely more upon actions begun in it, then more often cases could be brought before it and perhaps more justice could be done.

⁵⁰ C-148/78 Pubblico Ministero v Tullio Ratti [1979] ECR 1629

⁵¹ C-152/84 Marshall v Southampton and South-West Hampshire Area Health Authority (Teaching) [1986] ECR 723

⁵² The reason why the court decided to limit direct effect in this way is uncertain, but we can assume it was because the ECJ was afraid of that old adage, the "floodgates of litigation".

⁵³ C-25/62 Plaumann & Copyright v Commission [1963] ECR 199

⁵⁴ T-177/01 Jégo-Quéré et Sie SA v Commission of the European Communities [2002] E.C.R. II-2365

⁵⁵ C-60/00 Union de Pequeños Agricultores v Council of the European Union [2002] E.C.R. I-6677

Another benefit could be a greater variety of cases arriving before the ECJ. This could enable the ECJ to develop Community law further. It is arguable that there is no need for the ECJ to unduly limit its freedom to take on cases. There are many ongoing and proposed reforms of the ECJ. One of these is the introduction of specialised panels. Panels are a good way of dealing with an increased case load.

If a growth in the panels system is accompanied by a relaxation of the requirements for standing, then it is suggested this is a better way of creating a hierarchical court system than that currently attempted by the ECJ. Instead of becoming a court which simply sits on top of the national ones, it could allow the creation of a truly independent system of courts, through which individuals could seek redress for wrongs committed against them.

The Third Fear

The ECJ had also taken a similarly restrictive approach in the field of fundamental rights. The ECJ was originally afraid to support the notion of fundamental rights, considering them to be something not central to the original reasons for the creation of the European (*Economic*) Community.

However, the ECJ was forced to radically alter its views after the constitutional court of Germany complained about the lack of protection of fundamental rights⁵⁶. The ECJ was ultimately forced to reconsider its position, leading to the German court finally accepting the changed position of the ECJ in Wunsche Handelsgesellschaft⁵⁷.

The ECJ was only really originally drawn into fundamental rights by the fear that its position would be undermined by national courts. Recent developments in fundamental rights also suggest a similar trend. The ECJ will have been greatly alarmed by the recent recommendations from certain quarters given to the draft constitution convention (the "European Convention"). Some of these could be read as questioning the role of the ECJ as the ultimate court of Community law: for instance, it was suggested that the European Court of Human Rights should behave as a specialised court for human rights matters⁵⁸.

Although the final draft constitution of 18 July 2003 did not make a reference to this proposal, it still highlights how the once activist court of the ECJ is in danger of being overshadowed by another court. The draft constitution as it currently stands could still be a significant threat to the autonomy of the ECJ, implicitly suggesting as it does that the ECJ should follow all European Court of Human Rights decisions⁵⁹.

The ECJ and European Court of Human Rights have often been in circumstances where one court has given greater rights in the same factual situation. Normally this has been the European Court of Human Rights. The ECJ has responded to this as best it can. It may not have necessarily given greater rights than the European Court of Human Rights⁶⁰, but it has been able to extend the way in which rights are applied. This means that fundamental rights must be applied in the following situations⁶¹: (a) the agency situation – when the Member State is acting for and/or behalf of the Community⁶², and (b) when the State relies on derogation to fundamental market freedoms⁶³.

The important consequence of this method of implementing fundamental rights is that it draws both the Community and Member State closer together in the implementation of certain laws. This results, in turn, in a ECJ which is clearly in a more central position of authority. However, this has only really resulted as a consequence of the implicit threats made against the ECJ by national courts.

The ECJ nonetheless needs to be more active in the field of fundamental rights. Although the court has made fundamental rights have a wide application, this has only been to protect its own current status. Fundamental rights are unique in the way that they could threaten the authority of the ECJ, because of the possibility of an independent court adjudicating over fundamental rights. But the approach of the ECJ towards fundamental rights should be more than this. The ECJ should consider the importance of fundamental rights for the Community as a whole: in other words, treat the area in an expansionist manner *in terms of its subject matter* rather than simply where it applies.

Concluding remarks

The ECJ is no longer "running wild", as it was in the days when it created direct effect and supremacy. The court today is a shadow of its former self. The court's primary reason to extend its remit in recent years has been purely to limit the potential threat to its jurisdiction over certain cases. This is not enough. What was once described as the "court running wild" was simply a reaction to the court establishing particular doctrines. It was suggested that these doctrines did not have a sufficient legal basis in the Treaty. However, today we have entered the other extreme. We can say that subsidiarity in Article 5EC places a clear duty on the ECJ to adjudicate on the doctrine whenever necessary. Yet the court has never really considered subsidiarity in any depth. Similarly, we may say that Article 230EC places an obligation on the ECJ to allow the adjudication of decisions of direct and individual concern. The ECJ does not need to place such a narrow interpretation on the meaning of those words. Likewise, the court could be much more active in the field of fundamental rights. It is the role of the ECJ to actively pursue and enforce the Treaty. Without doubt, the ECJ needs to become a little wilder if it is to fulfil this role.

⁵⁶ Solange I, Constitutional Court, judgment of 29 May 1974, 37 Entscheidungen des Bundesverfassungsrechts 271 [1974] 2 CMLR 540

⁵⁷ C-345/82 Wunsche Handelsgesellschaft v Germany [1984] ECR 1995 and the reaction of the German Constitutional Court: Solange II, judgment of 22 October 1986, 73 Entscheidungen des Bundesverfassungsgerichts 339 [1987] 3 CMLR 225

⁵⁸ CONV 354/02 "Final Report of Working Group II", Working Group II, The European Convention, Brussels, 22 October 2002.

⁵⁹ Art 52(3) in the Charter of Fundamental Rights

⁶⁰ Although this will chance now that the Charter suggests that the ECJ should provide the same level of protection as the ECHR.

⁶¹ Weiler, J.H.H., and Fries, S.C., "A Human Rights Policy for the European Community and Union: The Question of Competences", available at www.jeanmonnetprogram.org/papers/99/990401.html

⁶² E.g. as in C-5/88 Wachauf v Germany [1989] ECR 2609

⁶³ E.g. as in C-260/89 ERT [1991] ECR I-4685 and C-368/95 Vereinigte Familiapress Zeitungsverlags- und Vertriebs GmbH v Heinrich Bauer Verlag [1997] ECR 3689

DOMESTIC POLITICS AND THE 2004 EUROPEAN ELECTIONS IN LATVIA

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The Background

In marked contrast with the referendum on EU membership nine months earlier, the June 2004 European elections in Latvia saw a focus on issues of primarily domestic importance or immediate concern rather than questions of historical or long-term consequence – which had, in the end, significantly influenced voters in September 2003 to give their support to Latvia's turning-point in international affairs by joining the EU⁶⁴. Nevertheless, disconnected aspects of European politics did surface before and during the campaign for seats in the European Parliament. This period before the vote also highlighted the problem of projecting the EU as a meaningful type of political system to the Latvian public. In short, European elections were “domesticised” but with enough European colouration to distinguish them from national elections. They suggested, furthermore, that a hard distinction between domestic issues on the one hand and European issues on the other is really artificial. The two are in reality commonly related already in a new member state like Latvia. The problem here is therefore largely one of public perception.

The key to understanding the politics of the EU in Latvia at the moment is the considerable gap between the political elites, conditioned by the experience of working through accession business, and the general public concerning awareness and information about EU institutions and the policy impacts of integration (as distinct from the somewhat abstract arguments that eventually decided the referendum vote in favour of EU membership). Already in the middle of the membership negotiations, the United Nations Development Programme (UNDP) report on human development in Latvia had noted that ‘most issues linked with integration into the EU do not reach the agenda of the public’ even though ‘several of the EU’s priorities correspond with those listed in Latvian public opinion polls, such as: the reduction of unemployment, the fight against terrorism and organised crime (which includes the drug trade), the strengthening of the economy, social security and assistance to farmers’⁶⁵. There were occasional exceptions such as when the question of importing pork from EU countries produced heated debate; but this touched on the country’s favourite meat. Clearly, there is a basic difficulty in bridging the wide space between semi-abstract or historical notions of the EU’s importance and ad hoc expressions of its everyday relevance over concrete issues.

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Normally, political parties, NGOs and sometimes the media play a useful role in bridging this awareness gap; but there was little sign of this happening in the period surrounding these European elections. Conscientious efforts by the EU to conduct information campaigns – complemented in Latvia by parallel activities of the proactive European Movement (EKL) – reach some limited circles, notably the educated; but apparently with little deep or lasting effect. In fact, unlike in the referendum campaign, the EKL did not play a central part during the European elections since parties were in the forefront of activities. During 2001-2003 the government’s communications strategy had been mainly limited to the accession process rather than explaining broader integration effects, so that stereotypical views of the EU based more on gut feelings than knowledge continued to predominate. Accordingly, there remained great ignorance among the public about the workings of the EU and its various institutions; and this combined with a sense of the European Parliament as something distant and incomprehensible, or at least unknown, unlike local government and the Saeima (national parliament)⁶⁶. The complexity of the EU’s institutional structure makes it difficult, in any case, for ordinary voters, especially in new member states, to appreciate the significance of European elections including the EP’s now important functions – although not ones easily comparable with standard national parliaments.

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It was hardly therefore surprising that it was domestic political considerations which largely determined public responses in Latvia to European elections in June 2004. Evidence from opinion surveys in the weeks before the election on 12 June showed a strong preference for making national issues the main basis for deciding how to vote. Issues of concern according to Eurobarometer were employment, agriculture and Latvia-specific issues⁶⁷. This general picture was confirmed after the election when survey research showed that the domestic political situation, especially the government’s standing, was together with the appeal of the candidates the most important factor for the voters⁶⁸. Hence, the scope was great for Latvian voters to convert European elections into a de facto plebiscite on the government’s performance.

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The government led by Indulis Emsis (Europe’s first Green prime minister), in office only since March, was in a minority with parliamentary support from the National Harmony Party, whose main purpose was reconciliation between ethnic Latvians and non-Latvians and minority rights. In the somewhat charged political atmosphere of Latvia, where “Left” was associated with “Russian”, there was a strong perception on the Right that the Emsis government was in hock to foreign interests. Tension was high at this time over education reform and the role of the Latvian language in schools, with virulent opposition to this from both domestic Russian pressure groups and Moscow. Then, in late May, the cabinet made the contested decision to appoint an ethnic Russian to head the Corruption Prevention Bureau. It was seen as a partisan move against the previous government’s appointee; and this became all the more controversial when the new head, Loskutovs, made the tactless statement in a television interview soon after that the occupation of Latvia had been ‘a normal process in the expansion of the USSR’. Furthermore, in the month before the European elections, this government, the eleventh since independence in 1991, was dogged by growing rumours of its instability and impending collapse.

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⁶⁴ See: G.Pridham, "Latvia's EU accession referendum, 20 September 2003", *European Parties Elections and Referendums Network Referendum Briefing No 10*, Sussex European Institute, University of Sussex, 2003 at <http://www.sussex.ac.uk/sei/documents/latviaepernrefbriefing.pdf>.

⁶⁵ See: UNDP, *Latvia: Human Development Report 2000/2001, The Public Process in Latvia* (Riga, 2001), pp. 53-4.

⁶⁶ Latvian News Agency (LETA), report, 13 June 2004.

⁶⁷ Latvian News Agency (LETA), report, 8 May 2004.

⁶⁸ Author interview with Aigars Freimanis, Director, Latvijas Fakti opinion research centre, Riga, August 2004.

There was the additional problem that the political elite, institutions and parties still suffered from prolonged public mistrust. During the accession referendum campaign last summer the pro-EU cause had sought to play down the role of parties and politicians, with a major part allowed for the European Movement and an emphasis on prestigious public and particularly cultural figures; but this time it was parties that were unavoidably the central actors. While the EU as a whole enjoyed more prestige than national politics, there was, however, some public scepticism due to accession having been driven energetically by the political elite and therefore some risk that this association could create a negative potential for the EU's reputation.⁶⁹

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In addition, some link was being made between declining support for EU membership and rising food prices, a current object of complaints in the weeks before European elections; while a survey by the Market and Public Opinion Research Centre (SKDS) in the final week of European election campaign showed that almost a half of Riga's inhabitants thought their standard of living would decline because of Latvia's membership of the EU⁷⁰. During the few months before the European elections, support for EU membership showed a marked decline compared with the September 2003 referendum when 67% had voted in favour. The figures were in February 53.1% and in April 43% according to SKDS, with opinion fairly evenly divided or uncertain during these months about whether EU membership was good or bad. In a survey carried out by SKDS in May, 30.1% regarded membership as positive, 24.4% as negative, while 40.1% responded neither way⁷¹. According to Eurobarometer in May, Latvia registered one of the lowest levels of support for EU membership among the new member states. This fitted broadly with cross-national patterns of support in the years leading the 2003 referendum.

There was evidently a diffuse mood of anti-climax following the dual accessions to NATO and the EU in the spring of 2004. The public was no longer lifted up by metaphysical or grandiloquent arguments about voting for a better future. There was a growing but very inchoate sense of what the realities of membership could be, but this was based more on subjective perceptions or selective stories in the press or through the rumour mill than on any secure knowledge about the EU with all its pros and cons. There also remained quite some uncertainty about what to make of the European elections and how to relate Latvian political parties to them.

All this placed the parties in a quandary. Their leaders were very aware of such problems as explaining the EU's complexity; but at the same time were inevitably sucked into the political competition that seizes politicians over European elections despite the EP's difficult institutional credibility. At the same time, the political elite was well-educated in EU affairs and the candidates included a high proportion of national MPs, while most parties were members of one or other transnational party formation. The three centre-right parties – New Era, Latvia's First Party and the People's Party – were all members of the European People's Party (EPP), the Social Democratic Workers' Party (LSDSP) was in the Party of European Socialists (PES) and the former governing party Latvia's Way was in the European Liberal Democrat and Reform Party (ELDR).

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A certain prestige was attached at the party level to these transnational links, which had networking advantages and provided membership of a party group in the EP. Together with European elections they offered the various parties a European dimension to their strategies, with for instance Latvia's Way hoping to revive its fortunes having failed to gain re-election to the Saeima in 2002⁷². Some of the parties mentioned their transnational party affiliation in their programmes for European elections; but as a whole they did not make this very visible during the campaign itself. It was felt this would only confuse the voters with yet more EU type information; and some parties did not want to advertise that they belonged to the same European party for reasons of political competition at the national level.

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The Campaign

There were altogether 16 parties with 245 candidates running for the nine seats in the EP. The electoral law passed in January provided for proportional representation with a system of party lists and a 5% threshold for parliamentary representation. Its most interesting feature was the lifting of the ban that had applied to national elections on former KGB agents and those who had continued to be members of the Communist Party after January 1991. The parties running included all the main national parties but also a regional party from the poor eastern region of Latgale as well as a fringe party called Conservative (financed by an eccentric millionaire businessman who made a show of wearing rough denims and leather gear) and a group calling itself Political Organisation of Eurosceptics which had first appeared during the EU referendum campaign. The last was among other things opposed to 'excessive centralisation and bureaucratisation of the EU administration'. Its top candidate, described as a publicist, was chairman of a movement for national independence; while other candidates included those with mixed occupational backgrounds like several company directors, an artist, a doctor and the president of the Internet Club⁷³.

The most salient aspect among the candidates was the number of prominent figures. These included two former prime ministers (Guntars Krasts 1997-98 and Andris Berzins 2000-2), the current Foreign Minister Rihards Piks and six other former ministers, as well as over 30 national MPs (out of a total of 100 in the Saeima), e.g. the first ten candidates of Latvia's First Party were all national MPs followed by two current ministers. Several lists also included local government councillors such as Dainis Ivans, former leader of the Latvian Popular Front and now chair of the culture committee on the Riga City Council, as well as LSDSP chairman (he was its second candidate). This political weight among the candidates was aimed at using electoral "locomotives" to draw votes and it reflected the strong personal factor in Latvian politics (which also related to public scepticism towards parties as distinct from public personalities).

⁶⁹ See: UNDP, *Latvia: Human Development Report 2002/2003*, p.114.

⁷⁰ See: LETA report, 14 June 2004.

⁷¹ See: *Current Latvia*, weekly news summary, Ministry of Foreign Affairs, 9-16 March 2004, p. 8; LETA reports, 12 May and 10 June 2004.

⁷² Author interview with Georgs Lansmanis, Secretary-General, Latvia's Way, Riga, April 2004. According to him, this meant the party needed to elect at least one MEP out of Latvia's nine. The party took advice from the German Naumann Foundation on campaign organisation and was advised by the UK Liberals to concentrate on domestic issues. This included advocating more spending on education even though the EU had no responsibility in this area.

⁷³ The full list of all party candidates was published in *Diena*, 10 April 2004.

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But there were other reasons why so many top politicians were willing to opt for an EP career even though Latvia's nine seats hardly offered much scope for political influence among the total of 732 MEPs. The electoral law required that those elected would have to give up their domestic political positions. The reasons for this were: political weariness with both the fast pace of transition events and alienation on the part of the electorate (a by-effect therefore of anti-party feeling) and also persistent pressure from sponsors, the appeal of MEP salaries and privileges combined with less intensive parliamentary business in Strasbourg but also the promise of five years in post in contrast with the instability and usual brevity of government office back in Riga⁷⁴. At the same time, it was expected that MEPs could eventually return to national politics while meanwhile acquiring much EU expertise and useful political networks as well as maybe keeping a high profile back in Latvia (seen as all the more possible because of there being only nine of them).

The various party programmes combined European themes with issues of domestic concern, which in some cases had a European dimension although this was not always highlighted. For example, Latvia's Social Democratic and Workers' Party emphasised employment, social protection and education as issues but also highlighted its Social Democratic links in Europe including membership of the Party of European Socialists. The latter was advantageous for the party's legitimacy given its Communist origins and the fact its first candidate, Juris Bojars, was well-known as a former KGB major for which reason had been banned from standing for national elections⁷⁵. Latvia's Way, allied with the European Liberals, was, among other things, against excessive regulation of enterprise and tax harmonisation in the EU, and for free movement of labour and developing the national economy within Europe. Its website, as with other parties, included questions and answers about the EP, European elections and party policies.

By mid-May, however, when the campaign began to develop, it was clear that political competition was already focussing on certain emotive domestic issues. Political tension was rising as European elections crystallised differences between parties over ethnic issues such as education reform, citizenship and asylum seekers. There were differences here between the National Harmony Party, still supporting the government in the Saeima, and the more radical For Human Rights in a United Latvia (PCTVL), essentially a party of ethnic Russians, which urged the continuation of student demonstrations over education reform, sought to use the European elections for publicising internationally human rights problems in Latvia and advocated militant action on election day with its supporters demonstrating at voting stations 'against discriminatory practices set in the Constitution' (referring to citizenship requirements) and in solidarity with non-citizens and minorities. For Human Rights in a United Latvia also announced early on back in March that it would use the European campaign to urge the EU to grant official status to minority languages including Russian. Thus, we see here a case of a party extending its arguments from the national to the European level thereby gaining some international publicity, knowing that minority rights issues have a certain resonance in European circles.

Polarisation also arose from the aggressive line of the parties on the Right towards the Communist past. In January several of them voted against lifting the ban on candidates with a Communist or KGB past, while a few days later Sandra Kalniete (Foreign Minister in the then government and soon to be Latvia's Commissioner understudy from May to November) said at the annual general meeting of New Era that its future MEPs should ensure that the EP officially condemns the crimes of Communism. While there were differences among the Right parties over European federalisation, with For Fatherland and Freedom (TBB/LNNK) giving a strong priority to national sovereignty, they tended to agree in their stress on national values and safeguarding national interests. For instance, New Era talked about protecting national identity through Latvian culture and TB/LNNK raised the question of Latvia's representation in the EU as a small country. In short, therefore, domestic issues were to the fore – more so in the propaganda battle in the campaign than in the party programmes – but they were often given a European twist for publicity's sake and to mobilise different sets of voters. There was altogether a strong element of Left/Right polarisation; but as typical of Latvian politics this was mixed with the ethnic factor and thus became highly charged.

Meanwhile, the EP office in Riga provided some Euro-cosmetics for the start of the campaign with a "Flight to Europe" motif; the European Movement, on the other hand, launched its own information and motivational campaign both in Riga and out in the countryside aimed at promoting turnout. However, indications from the campaign and news reports in these weeks were that the European elections hardly promoted a real knowledge of the EU. There were two reasons for this.

Firstly, the main attention to EU affairs was drawn by scare stories especially in rural areas and invariably linked to farming matters and the EU's agricultural requirements. These had apparently become rampant since the country joined that organisation on 1 May. The Cooperation Council of Farmers' Organisations registered in early May many calls from concerned farmers asking whether every milkmaid required an EU licence and thinking there was an EU ban on the use of aluminium milk cans. Invariably, a sense of suffocating bureaucracy was the leitmotiv of such stories which were becoming widespread – and had a resonance as milk production accounted for nearly a quarter of the agricultural sector. Small farmers in particular were alarmed at the amount of paperwork now necessary following accession; and there were reports of some of them selling or slaughtering their few cows to avoid this. Clearly, small farms are disadvantaged by the Common Agricultural Policy. One solution would be the concentration of resources among them, but anything sounding like cooperatives is abhorred in Latvia because of the Soviet experience. Also, many farmers with a pronounced sense of independence do not even belong to farmers' organisations (which also helps to explain ignorance about EU agricultural policy detail)⁷⁶. As one national politician commented about rural campaigning for the EP, "the EU doesn't get understood among people – [they say] 'don't speak about such high-level topics, tell me how much money I will get for my cow!'"⁷⁷.

Secondly, the European campaign in Latvia was in fact low-key notwithstanding the political tension between the parties which featured mainly in the media. Party polemics hardly stimulated a public desire to learn more about the EU; on the contrary, this only reinforced public aversion to party politics. There was a contrast with national elections in terms of the visible element on the street. Few posters were evident

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⁷⁴ See: *The Baltic Times*, 3-9 June 2004. For instance, it was made clear in interviews with the author that Rihards Piks, the Foreign Minister, had better career certainty in the EP given his tenure of office was unlikely to be long because of current government instability.

⁷⁵ Bojars was Latvia's Social Democratic and Workers' Party chairman until 2002. The current chairman emphasised the need for the party to show its European links 'in the face of the right-wing criticism in Latvia that the Latvia's Social Democratic and Workers' Party was not like West European (i.e. Social Democratic) parties' (author interview with Dainis Ivans, LSDSP chairman, Riga, April 2004).

⁷⁶ LETA, report, 9 May 2004; *The Baltic Times*, 13-19 2004.

⁷⁷ Author interview with Georgs Lansmanis, Secretary-General, Latvia's Way, Riga, April 2004.

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and electoral glitz and paraphernalia were much less present compared with the campaign for the Saeima in 2002. There was a financial explanation for, in this case of European elections, sponsorship for parties was much less forthcoming since business circles and oligarchs did not view the EP as an institution with comparable influence. The signs were that they were holding back their funds for local elections in 2005 and the national elections in 2006⁷⁸. Whereas the overall expenditure for the 2002 Saeima elections had been 6.3 million lats and for local elections in 2001 it had been 2.2 million lats (roughly the same figure in pounds sterling), the planned expenditure for the parties in these European elections was decidedly modest. Expenditure figures in lats for some of the main parties were: New Era, 30,000; People's Party, 75,000; Latvia's Social Democratic and Workers' Party, 50,000; and, For Fatherland and Freedom (which went on to win by far the most votes), 50,000⁷⁹. The highest figure was for the new Conservative Party whose millionaire sponsor provided 100,000 lats; but this only pointed to one other difference. The cheaper campaigning with the main parties no longer monopolising the funding allowed fringe parties to make some impact. Altogether, therefore, the voters were much less motivated from above compared with national elections; and, notwithstanding their negative or ambivalent reactions to party messages, they did not become more convinced during the campaign of the importance of the EP and European elections.

Results

As Table 1 shows, the result showed a major shift to the Right with the nationalist For Fatherland and Freedom emerging the victor with a vote well ahead of all other parties. It was also the only party to gain votes compared with the 2002 elections to the Saeima, despite the much lower turnout which was down by 30% (turnout in 2002 was 72.5%, in fact the same figure too for the 2003 referendum on EU membership). For Fatherland and Freedom's top candidate, Guntars Krasts, a former prime minister, proved to be the most popular candidate out of the 245 based on the pluses against names in the ballot papers. For Fatherland and Freedom's second and third candidates also received a high number of pluses thus confirming the importance of the personal factor in Latvian party politics. The centre-Right New Era also did well giving both opposition parties very nearly 50% of the vote and six of the nine EP seats.

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Table 1: European Elections in Latvia, June 12 2004

Party	Votes	%	Seats	%2002 (change)
Fatherland and Freedom	170,819	29.82	4	5.4 (+24.42%)
New Era	112,698	19.68	2	23.9 (-4.22%)
For Human Rights in United Latvia	61,329	10.71	1	19.0 (-8.29%)
People's Party	38,114	6.65	1	16.6 (-9.95)
Latvia's Way	37,357	6.52	1	4.9 (+1.62)
Latvia's Social Democratic and Workers' Party	27,437	4.79	0	4.0 (+0.79%)
National Harmony Party*	27,423	4.79	0	
Union of Greens and Farmers	24,405	4.26	0	9.4% (-5.14%)
Latvia's First Party	18,614	3.25	0	9.5 (-6.25%)
Total	577,879			
Registered votes	1,397,736			
Turnout	41.34			

Source: Central Electoral Commission, Latvia, <http://www.cvk.lv>

* The National Harmony Party was in the 2002 election part of the alliance For Human Rights in United Latvia

Two other centre-Right parties – the People's Party (in government) and Latvia's Way, which achieved its goal of representation (having failed re-election to the Saeima in 2002) – each won a seat in the EP (the current Foreign Minister was elected for the People's Party). Both other government parties – the Union of Greens and Farmers and Latvia's First Party – performed badly. The one party of the Left to win representation, with one seat, was For Human Rights in United Latvia which had taken a radical line over Russian minority rights. The MEP elected for this party, Tatjana Zdanoka, a prominent figure, had run a lively and focussed campaign and received one of the highest totals of pluses in the ballot papers. Altogether, Latvia was remarkable among all EU member states for having the highest total of wasted votes (26.7%). Two parties, Latvia's Social Democratic and Workers' Party and the National Harmony Party, just failed to pass the 5% barrier. The well-financed Conservative Party won just 1.7% of the vote; the Eurosceptics received only 0.95%, although they defiantly announced the country would be hearing from them again over the question of a referendum on the EU Constitution – a proposal that was immediately shot down by various party leaders and the state president.

⁷⁸ See: D. Auers, 'Latvia's European Parliament elections' in *The Baltic Times*, 3-9 June 2004.

⁷⁹ See: *Diena*, 20 May 2004. Details on actual expenditure up that point included figures for some parties above these amounts and in a few cases less than planned; but this did not alter the picture of much less campaign expenditure compared with national and local elections.

Turnout, at just over 41%, was well below the national level but it was one of the highest among the new member states from Central and Eastern Europe, with only Lithuania ahead at just over 48%. The turnout in Latvia was even higher than in five of the old member states – Finland, Portugal, Sweden, the UK and the Netherlands. Relatively speaking, it was respectable remembering that European elections had repeatedly suffered from a turnout problem. The polarisation between the right-wing opposition and the government and the parties of the Left seemed to have encouraged turnout, all the more as the education issue exacerbated ethnic relations while relations between Latvia and Russia were very strained in this period.

Having said that, there were various specific factors at work in explaining the low turnout compared with national elections. The much lower campaign expenditure compared with domestic elections obviously had some effect but so, too, did the new voting procedure required by an EU directive. Now for the first time Latvians had to vote only where they were registered as residents, as required for EU elections to give EU citizens resident in Latvia an opportunity to vote – whereas previously they had been free to vote at any polling station in the country with their passports stamped to show participation (which remained for national elections). This was the main discussion point just after the election since many Latvians do not live in the area where they are registered (e.g. students in Riga). Also, people living in cities often have tiny cottages or huts in the countryside for weekend relaxation or to visit older family. Moreover, voting was on a Saturday which was traditional but in this case, where the importance of voting was not compelling, the passion for working on allotments and planting carrots, potatoes and cabbages seems to have defeated the idea of returning to the cities to vote. The sense of rurality in Latvia, given the timing, helped to constrain the turnout on this occasion.

Inevitably, the result was interpreted as a decisive defeat for the government of Indulis Emsis from the Union of Greens and Farmers. *Diena* unambiguously explained this in terms of the link between the government and the Left and hence the Russian factor; and this point was hammered by politicians on the Right in opposition, especially former prime minister Einars Repse who had taken an intransigent and rather bitter line towards this government since his loss of office in March. According to him, the government had been punished for ‘disregarding the community’s interests and flirting with pro-Moscow forces’⁸⁰. The period following the elections saw increased pressure on the government especially once one of the government parties, the People’s Party (the only government party to have an MEP), chose to have talks with the opposition New Era about a possible new coalition government. These continued well into the summer though they proved inconclusive. Controversy arose in August over Emsis’s abrupt appointment of his party colleague Ingrida Udre, the president of the Saeima, as Latvia’s European Commissioner despite the Greens’ electoral setback. Expectations had been that Sandra Kalniete, the competent Commissioner understudy, would be given that position; but she suffered from having been appointed by the Repse government in which she had served as Foreign Minister.

Conclusion and Analysis

Latvia’s first election to the European Parliament was a mundane event lacking the mild excitement of the referendum on EU membership; but then the purpose and consequences were very different. It was certainly an event taken seriously enough by the parties themselves but political competition saw to that. There was also a rather weak government and hence the temptation for the opposition parties of the Right to exploit some emotive issues against it. Post-election survey research showed that turnout was somewhat higher among opposition parties’ supporters than among those of the government parties⁸¹. One can easily see future European elections in Latvia becoming “domesticised” but then this has been the pattern so far in the other including older member states. European themes were indeed given attention in the campaign but they were usually instrumentalised for electoral and partisan reasons.

The other main observation which is perhaps peculiar to Latvia as a former Soviet republic is the strong presence in this election of the Communist past even though, formally, the referendum of the previous September on EU membership had been widely seen as turning away from that past and looking to the future. But the Russian factor was present in many ways: over the lifting of the ban on former Communists as candidates (a matter of sharp division and acerbic debate in the Saeima); through the heightened tension between Latvia and Moscow during this period with regular coverage in the media, including such stories like that about increased activity by the Russian intelligence services in the Baltic states since they joined NATO and the EU; and, of course, in the sensitive question of education reform and minority rights. The last problem, with respect to the role of Latvian Russians and citizenship, is clearly an example where a Latvian problem has become more “Europeanised” through the efforts of For Human Rights in a United Latvia to make this a special issue at the EU level, all the more likely now that For Human Rights in United Latvia has a representative in the European Parliament.

In fact, the European elections provided some signs of two-way interactions between domestic and European politics which are likely to develop more in the future. Certainly, the political elites understand this phenomenon. And it is evident too in the thinking of party candidates, and obviously among the nine MEPs elected, some of whom are already prominent, that a European mandate is a possible means for re-entry to national politics at a later date. The interweaving of European and domestic political careers is a pattern already established in old member states; and it is likely to develop too in the new ones.

More worrying, however, is the wide gap that was evident in this election between the political elites and the general public over EU affairs. To some extent this revolves around differences over knowledge and understanding of these affairs where the political elites and parties have become conditioned through the accession experience but where the public has remained largely ignorant. Again, this is not unique to Latvia, but in a country where mistrust towards these elites and towards political institutions is so strong the problem has a deeper meaning. Whether better public awareness of the EU through the experience of membership proves disillusioning, at least for some years, or whether the greater (albeit still somewhat abstract) credibility of the EU begins to make a real impact and counters this public mistrust, remains to be seen.

⁸⁰ See: LETA, report, 12 June 2004.

⁸¹ Author interview with Aigars Freimanis, Director, Latvijas Fakti, Riga, August 2004.

CATHOLICS, COMMISSIONS AND CONTROVERSIES: THE NON-CONFIRMATION OF THE BARROSO COMMISSION

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On the 27th of October 2004 Jose Durao Barroso withdrew his proposed line-up for the European Commission. The decision was taken in the shadow of a European Parliament vote on the Commission as a whole, which Mr Barroso was expected to lose by a narrow margin. Much of the Parliament's ire was focused on six individual commissioners-designate, one of whom, Rocco Buttiglione, had made provocative comments about homosexuality, leading parliamentarians to question his fitness for the Justice and Home Affairs portfolio. This confirmation crisis is unique in its extent. However, it is not new. The European Parliament has been here before, and will continue to return here as it seeks to increase its power relative to the Commission and to the Council of Ministers.

Nine years ago, Pdraig Flynn was re-nominated as Ireland's commissioner-designate. Like Mr Buttiglione, he was a conservative politician from a predominantly Catholic country. Like Mr Buttiglione, he was attacked for his controversial views on moral issues. In Mr Flynn's case, members of the parliamentary Women's Committee found him too sexist to take up the post of social affairs commissioner. Yet Mr Flynn's team was not the only one of Jacques Santer's embryonic commission to be criticised by parliamentarians. Commissioners from Denmark, Finland, Sweden and France were also criticised, though none were subject to an official rejection by parliamentary committee. One week before the vote, Labour, Socialist and Green MEPs all threatened to veto the Commission as a whole unless changes were made. Their threat, coming after an extremely close vote on the confirmation of Commission President Jacques Santer, was seen as credible.

Of course, changes (both minor and cosmetic) were made: Flynn put out a conciliatory statement emphasising his support for equal opportunities issue, Santer promised to chair a high-level group on monitoring equal treatment between men and women, and the Parliament was promised fuller powers and a code to conduct on Commission-Parliament relations to be specified later.

Now, nine years later, Mr Barroso has attempted to play the same trick as Mr Santer. He has rejected calls for a change in the Commission line-up, and promised the Parliament a specialised team of Commissioners – including Mr Barroso as Chair, Mr Buttiglione, Vladimir Spidla (Social Affairs), Margot Wallstrom (Communication), Louis Michel (External Development) and Benita Ferreo-Waldner (External Relations) – to combat discrimination in the Commission and its policies.

Except this time the trick has not worked. Informal counts on the evening of the 26th of October suggested that Mr Barroso could not command a majority in the 732-member Parliament. Whilst he could count on the support of the European People's Party (268 votes) and the nationalist UEN group (27 votes), the other significant groups in the Parliament – the Socialists (198 votes), the Greens (42 votes), the Leftists (41 votes) and latterly the Liberals (88 votes) – had all indicated they would vote against the Commission. With the Eurosceptic votes, all 37 of them, out of play, Mr Barroso's Commission could not have expected a majority.

Now that Mr Barroso has withdrawn the line-up, we can reflect a little on the meaning of the vote-that-never-was. What did MEPs think they were achieving by moving to vote down the Commission? Are they likely to succeed?

One interpretation that should rather quickly be dismissed is that MEPs were engaging in a narrowly technocratic exercise of weeding out the least competent commission nominees. This interpretation accords neither with the statements of parliamentary leaders, nor with the emphasis they put on Mr Buttiglione. It is important to note that parliamentarians did not criticise Mr Buttiglione on his unfamiliarity with Europe (he had, after all, served as Minister for Europe in the Italian government) or on his efficiency. Rather, it was Mr Buttiglione's values they disliked.

Granted, these values directly impinged on Mr Buttiglione's portfolio. Yet the same committee that rejected Mr Buttiglione for the role of Justice and Home Affairs Minister also decided against accepting him for any other post. The controversy over Mr Buttiglione was so salient because it involved the authoritative allocation of values, what, at least according to one scholar, is the very nature of politics⁸².

A second interpretation is that MEPs were engaging in party politics. The debate about party unity in the European Parliament continues, but in this case the interpretation has some grain of truth. Shortly after Mr Buttiglione, a conservative, was rejected by the Civil Liberties Commission, there was speculation over whether Lazlo Kovacs, Hungarian socialist and putative Energy Commissioner, might be targeted by conservative MEPs. He was, and the conservative party group is now lobbying Mr Barroso to change Mr. Kovacs if he decides to change Mr Buttiglione.

This interpretation still does not quite capture the whole incident. Partisan leanings were undeniably important, or else Mr Barroso wouldn't have been able to tell so definitively that a vote in favour of the Commission would not be forthcoming. However, there remains a third motivation: that the Parliament is interested in pushing its powers to see what it can get in return. Put crudely, Parliament voted the way it did in part because it "ends this idea of a rubber stamp, Mickey Mouse parliament"⁸³.

Nine years ago during the hearings on Jacques Santer and, later, on his Commission as a whole, the European Parliament was promised a great many things. Chancellor Kohl intervened in the week before the vote on President Santer's appointment, saying that the Parliament would get increased powers over the appointment of the Commission President if it played ball. It did, and it won the right to confirm the European Council's nominee for President in the 1997 Treaty of Amsterdam. It was promised a Code of Conduct to detail relations between the Parliament and the Commission, and it got that. During negotiations with President Prodi, it won the right to express no confidence in an

⁸² Easton, David, *A Systems Analysis of Political Life* (New York, Wiley, 1965)

⁸³ The words of Poul Nyrup Rasmussen, presidents of the European socialists

individual commissioner. Ever since it won the right to confirm commission appointees, the EP has used this power to wheedle further concessions out of the Commission and, indirectly, from the Council.

There are strong normative grounds for this: the EP is the only directly elected EU institution, and it seems reasonable that as such, it should have a significant say in the composition of the EU executive. It now has a credible veto over Commission appointees. In the shadow of this veto, future Commission presidents can either bribe the Parliament with more increases in its power, or find Commission nominees whose preferences better match those of the Parliament. The scope for bribery has been reduced lately: a significant change in the constitutional powers of any part of the EU is not likely given the enormous effort spent on the Constitutional Treaty. Whilst scope remains for making non-constitutional concessions to the Parliament, these will have to be more significant than those Mr Barroso offered. In the absence of significant concessions, future Commission Presidents will have to prevail on national governments to nominate commissioners whose preferences more closely match those of the Parliament. This will not be easy, though it has been done before: Romano Prodi was able to change some national governments' recommendations for the commission⁸⁴. For the moment though, the existing Commission will soldier on. Mr Buttiglione seems unlikely to step down, and Mr Barroso will have to concede more than he has done.

⁸⁴ Nugent, Neill, *The European Commission* (Basingstoke, Palgrave, 2001), p. 83

Mozambique – Wait for a Chance

Written by Amy Barry, Oxfam

In the late afternoon sun, Minlhui, 20, gestures at his bandaged foot. Standing without shoes on just-burnt, still-smouldering sugar cane, he's explaining how he hurt himself cutting the week before. His knife looks sharp enough to take a toe off. He looks too young to be wielding it. "They won't take me to the hospital because I haven't got a contract. And I have to keep working anyway."

Earlier in the afternoon we'd watched them burning the cane in preparation for cutting. Huge flames shot into the sky, the cane crackled and black smoke obscured the sun. Minlhui had come with others to find work for the next day. Some had travelled for days to get there.

Minlhui is one of thousands of people in Mozambique who rely on sugar cane to make a living. The plantation he works on employs 8,000 people in peak season. Although it isn't a great wage, or an easy life, in a country where unemployment is high and 75% of the population live on less than £1.50 a day, it's a lifeline: "I don't know what else I could do. If the conditions were better I would like to work permanently here and have a contract. Then I wouldn't have to worry about tomorrow."

The cutters get paid around 95,000 metricals for a day's work - around £2. To earn this much they have to cut 140 square metres of cane – 8 lines of a field – and work from 4am to 6pm.

For Mozambique, the third poorest country in the world, trade in sugar offers one of the biggest opportunities for poverty reduction. Costs of production are low – substantially lower than in Europe – and the potential for expansion is significant. Sugar cane production in developing countries is very labour intensive and so sugar plantations employ thousands of people, who in turn support their families with the wages they earn. Sugar could offer a desperately poor country a brighter future. But Mozambique is limited in how much it can benefit from the sugar trade because of the policies of Europe.

High prices and generous subsidies encourage overproduction in Europe and lead to surpluses, which are then dumped overseas, often at below the cost of production. Developing country producers can't compete. At the same time, the EU blocks the imports of developing country sugar into its domestic markets - in order to protect its own farmers from competition.

"If we had better access to Europe's markets at decent prices we'd be able to expand production, we'd pay our workers higher wages, and give lots more people jobs," explains Paul de Villiers, Assistant General Manager at Xinavane plantation, in Maputo province Mozambique. "As it is we're not sure how much we're going to be able to sell, and we don't know if we'll be able to expand."

Other plantation owners agree, arguing that given better access to European markets and a better price for sugar on the world market, they would be able to employ more people on permanent contracts and pay their employees more. They would also expand production and the benefits to Mozambique's economy would be significant.

Andre Sinai is a supervisor at Xinavane Plantation, Maputo, Mozambique. With a permanent contract and a decent wage, he is an example of the benefits a stable sugar industry could offer the country. He started working at Xinavane in 1981 and earns around £50 a month. His wages support his family and he has been promoted since he began work for Xinavane.

"I had no job before I started at Xinavane and I was still reliant on my parents. Now I support them and my brothers and sisters too. My parents grow cassava, maize and cowpeas. This is the food they need to eat but now it is much harder to grow because the weather has been so bad. First we had floods that destroyed everything, including people's houses. Now there is a drought and not much will grow. I am happy that I have this job and can help my family but I would still like to earn more than I do."

The Geneva-based World Trade Organisation (WTO) recently ruled that the EU subsidises and dumps more sugar on the world markets than it is allowed under WTO rules. This, coupled with a growing awareness of the unfairness and illogic of the current regime, is piling on the pressure for reform. But the EU has so far failed to do enough to improve the chances of Mozambique and other very poor countries. Reform proposals are due to be finalised by the end of 2005. Andre, Minlhui and others like them may not follow Brussels politics closely but they will no doubt be awaiting the outcome with great anticipation.

Join Oxfam's Big Noise petition to Make Trade Fair at <http://www.maketradefair.com>

To vote for trade justice take action at <http://www.tjm.org.uk/action.shtml>

Link into Bristol campaign action at www.ns-forum.org.uk

Oxfam Campaign South West are available on 0117 916 6473 or email: rjames@oxfam.org.uk

Colombia: Silencing Social Criticism.

Human Rights Abuse and the Academic Community

Colombia is a country plagued by political violence. From the 1st of January to the 30th of June 2003 there were 2500 violent deaths in Colombia. 1473 of these deaths were for political reasons. Between 1996 and 1999 more than 3 million people were forcibly displaced from the countryside to the cities due to violence. Colombia has the 2nd highest internal refugee population in the world (UNCHR 2004). In the last 25 years 103 000 people have been killed as a result of political violence, 6200 have disappeared. (CUT, 2002).

A War For Peace?

2002 saw the election of President Alvaro Uribe Velez in Colombia with a clear 53% majority (25% of the eligible voting population). The central tenet of Uribe's election campaign was zero tolerance for the armed insurgencies (FARC and ELN) who have fought the Government and national elites for the past 40 years. The embattled populace, weary after years of violence and poverty, had high hopes for the strong leader who, with the help of the US and UK through military aid, promised to lead the country to peace. While military spending has skyrocketed over the period, peace has remained a distant dream for the majority of Colombians. Meanwhile the president has continued with the austerity measures agreed to by the previous administration in 1999 in return for a US\$2.7bn IMF loan. Public utilities have continued to be privatised and crucial social spending cutback. The academic community, trade unions and civil society social organisations have argued that a sustainable peace must be accompanied by social justice. They have been met with a combination of violent repression and a systematic government policy offensive aimed at silencing dissent.

The Armed and Social Conflict

Colombia's conflict is conceptualized as dual in the sense that there is both an armed conflict and a social conflict. The armed conflict refers to the ongoing war between State military forces in collaboration with paramilitary groups and armed insurgents. The social conflict refers to the conflict of interests between minority national elites at the service of multinational companies and those of the majority of the population. Colombia is a country rich in natural resources and of geo-strategic importance particularly to the US for this reason. It is the third highest recipient of US military aid in the World, receiving US\$2million daily (CIP, 2000). Military aid is linked with commitments to economic reforms to liberalise the economy through deregulation of labour rights and environmental protections and privatisation. Colombia provides the US and Europe with oil, gold, emeralds, coffee, sugar and cheap labour among many other goods and services. The profits from this lucrative natural resource extraction remain in the hands of national elites and multinational companies based largely in the US, UK and Spain. Thus, despite its national wealth, like in so many less developed countries, poverty is severe and inequalities are acute. According to the UN, in 1995 60% of the population were living below the poverty line, by 2001 this had risen to 67%. During the same period inequality also increased with Colombia falling two points on the worldwide Gini⁸⁵ coefficient standard (UN 2004). In 2001 the richest 10 per cent of the population earned 60 times more than the poorest 10 per cent (Atherton 2002).

Dissident voices

Presenting alternatives to increased military spending, which they see as simply escalating violence, and opposing an economic model which perpetuates social injustice, are a multitude of non-violent social movements. Their recognition that the conflict cannot be solved by a purely military offensive is even echoed by the World Bank; its country profile on Colombia asserts that "While economic development is not tantamount to peace, continued deterioration of the economy could worsen the conflict in turn making the lives of Colombians even more difficult" (World Bank 2004). By calling for such changes, social movements present a challenge to the current political and economic system. The Government views those that oppose it as sympathisers with armed insurgents and brand them as such. Uribe, in a speech to the Colombian armed forces in September 2003 went as far as to call NGO's "spokesmen [and] politikers for terrorism" and challenged them to "take off their masks and drop the cowardice of hiding their ideas behind human rights" (CIP 2004). Amnesty International, Human Rights Watch and even US Republican Senator Jim McGovern among others went on to condemn the remarks commenting that in the past such statements have led to the deaths of members of social organisations (CIP, 2004). Indeed, this is no exaggeration, in the last 18 years 4000 Colombian community activists, trade unionists and social leaders have been assassinated by State and quasi-State paramilitary forces (CUT 2004). From indigenous leaders to human rights defenders, all those calling for peace with social justice have been subject to the ongoing violation of human rights and government policies designed to debilitate resistance. According to Central Union Confederation of Colombia (CUT 2002) it is the education sector that has suffered the largest proportion of these violations.

Why Universities?

The university community has historically come under attack from extremist or ultra authoritarian leaders. The public university is and has always been a place where freedom of thought, expression, debate and social criticism can flourish, a public space where the very people oppressed by an unjust, elitist political and economic system can gain access to the knowledge and skills to present viable alternatives to it. This exercise in basic democratic rights strikes fear in leaders cognizant of their crimes against the majority.

⁸⁵ The Gini coefficient is the most commonly used measure of inequality. The coefficient varies between 0, which reflects complete equality and 1, which indicates complete inequality (one person has all the income or consumption, all others have none). Graphically, the Gini coefficient can be easily represented by the area between the Lorenz curve and the line of equality (PAHO 2001). Colombias gini coefficient is 0.57. In the UK it is 0.36 (UNICEF 2002).

Silencing Academia - A Four-Part Offensive

In Colombia this fear is manifested in a well-orchestrated offensive against the University Community. This is comprised of four distinct elements. Three of these are official keystone Government policies: *Education Revolution*, *Democratic Security* and the *Project of Penal Alternative*; the fourth is paramilitarism.

“Education Revolution”

The global imposition of neoliberal economic policy has created a situation by which public services are rapidly becoming viewed as tradable products to be provided by the private sector rather than rights or public goods, the responsibility for the provision of which lies with the State. The education sector has not been excluded from this process and is currently valued at an estimated US\$2 trillion internationally (UNESCO, 2001). The impetus for privatisation in order to capitalise on this market has been globally pervasive. In Colombia, as in many other less developed countries, external pressure to open up its education markets is undoubtedly a factor in Government policy design. The Government's cynically entitled policy of “Education Revolution” is detailed in the Government's national development plan 2002 - 2006. As noted by UN Special Rapporteur Katerina Tomasevski in her report on Colombian education for the UN (2003), the plan “makes no mention of the right to education”. Indeed, “Education Revolution” is in keeping with global trends towards the commodification of education with the focus on a shift in funding from government to users. Between 1996 and 2002 the number of students per professor doubled; between 1999 and 2002 State spending on higher education was cut by a third (ACEU 2002). In a nation where 67% of the population live below the poverty line and close to 25% live in levels of extreme poverty this means quite simply excluding from education those already marginalised by the neoliberal project. It is a means of stripping potential dissenters of the knowledge and skills to present viable alternatives to injustice. Moreover, privatisation engenders curtailment of academic freedom and social criticism by forcing academics to seek research funding in the private sector where lines of enquiry are determined by potential profitability and criticism of powerful commercial sponsors is impossible.

“Democratic Security”

In response to these changes the university community is organising, demonstrating and challenging the Government education policy designed to debilitate opposition through the curtailment of free expression. While this phenomenon can be observed globally, in Colombia protests are met with force, with riot shields, tear gas and increasing numbers of young officers often recruited from marginalized sectors of society for whom the possibility of higher education has never been available. This is the effect of “Democratic Security Policy”; the arm of force on the part of the State to quell the resistance to unpopular policies combined with the use of the Anti-terrorist Statue (Acto 02/2003) to judicially penalise social activism and restrict civil liberties. It is the militarization of the neoliberal project (Styan, 2001). The antiterrorism statute enables the interception and censorship of academic publications and communication, house searches without prior jurisprudence and detentions of activists and thinkers for social criticism. In 2003, 6038 people were detained of which 3750 were liberated due to lack of evidence (ACEU 2004). According to the Colombian Embassy in Washington (2004), in order to deal with the “ever imposing terrorist threat” (like that posed by social movements including the university community and we must assume) “there are now 60% more combat soldiers ready to fight than four years ago” and thanks to new tax increases there is “an additional US\$800million to pay for 6000 new elite soldiers, 10,000 new police officers and up to 100,000 paid civilian informants”. On top of this the Government has committed to increasing defence expenditures from the current level of 3.6% of GDP to 6% of GDP by 2006 (State spending on education is 3.2% of GDP). These increases will help to fund the enlargement of security forces by 250,000 troops (150,000 military and 100,000 police) over the next four years (Colombian Embassy in Washington 2004).

Paramilitarism

Paramilitaries are groups of civilians organised in a military fashion to assist state military forces. They first emerged in Latin America following former US President Kennedy's 1961 Foreign Assistance Act as means of counter insurgency with the stated aim of “improving the ability of friendly countries and international organizations to deter or, if necessary, defeat Communist or Communist-supported aggression.” (Stokes 2003). They are comprised of peasants and retired or off duty police officers and soldiers and have often received training at the School of the Americas, the US's pre-eminent Latin American military training academy. A 1962 military training manual on counter insurgency produced for the Academy states that “it may become necessary to take more aggressive action in the form of harsh treatment or even abductions. The abduction and harsh treatment of key enemy civilians can weaken the collaborators belief in the strength and power of their military forces” and details tactics for “guerrilla warfare, propaganda, subversion, intelligence and counter-intelligence, terrorist activities, civic action, and conventional combat operations”. Used most famously in Nicaragua, paramilitaries have a huge presence in Colombia. While officially illegal paramilitaries have traditionally been used to carry out the illegitimate state action to debilitate resistance. This extends beyond the field of battle against armed insurgents to a sustained campaign against anyone that they feel may sympathise with the aims or ideas of the opposition.

Paramilitarism represents the third and unofficial arm of the offensive against social movements, universities and the civil and political rights they are trying to defend. It has increased alarmingly in recent years and in universities is present at many levels, from the thousands of civil informants working to undermine social movements to connections reaching right to the top of the university establishment. In the University Cordoba, which has one of the worst human rights records of any public university this connection was made explicit in 2002. Student, professor and trade union leaders from the University were ordered to attend a meeting at a paramilitary camp in the presence of Claudio Sanchez, the Vice Chancellor and Felix Mansur President of the Supreme Council, at which paramilitary Commandant Mancuso proceeded to dictate what the university's policies should be. Paramilitaries are responsible for the vast majority of human rights abuses in the university community in Colombia and indeed, over the entire country. 99% of their crimes are committed with full impunity (CUT 2002).

The Project of Penal Alternative

President Uribe Velez was integral to the formation of "Convivir", a government sponsored "civilian surveillance and intelligence force" (Cryan 2004) while governor of Antioquia from 1995-1997. "Convivir" was created to protect landowners from the threat of insurgents and to group civilians alongside the military (Felling, 2004) in effect acting as a legal paramilitary organisation. Under Uribe's governorship "Convivir" were able to carry out an assault on civil society including kidnappings, torture and murder with full impunity; however, due to later international outcry, the Samper Government was forced to restrict their activities. In 1998, 200 members of the Convivir group joined the illegal paramilitary organisation the AUC (Self defence forces of Colombia), which is now the largest paramilitary group in Colombia and widely recognised to be responsible for the vast majority of human rights abuses in the country (Amnesty International, Human Rights Watch, CUT). Today the Government's "Project of Penal Alternative" (Proyecto de Alternatividad Penal) is the fourth element in the offensive against civil dissidence and social movements. The project is set to seal the mantle of impunity covering the crimes of paramilitaries by offering "penal alternatives" supposedly in return for demobilisation of certain groups. While the possibility of demobilisation is unlikely at best the bargaining collateral is the justice system itself; to write off their crimes by offering penal alternatives effectively eliminates the possibility of truth, justice and reconciliation. It is an official legitimisation of groups employed to carry out the dirty work of the state to silence dissent and debilitate resistance through any means necessary.

Breaking the Cycle

In the last 15 years 29 students and 34 members of staff have been assassinated for political reasons, largely by paramilitary groups but also by official state forces. While this article has focused on the case of the university community as an illustrative example of the oppression of free expression it is by no means an isolated case. Social movements across Colombia are subject to ongoing and violent repression on the part of State and paramilitary forces in combination with government policies designed to silence dissent. Colombia's strategic importance *vis-à-vis* US and UK and multinational interests makes ignorance bliss regarding human rights abuse and military support readily available. However, as the Government trades economic liberalisation for military aid to maintain its position of power unchallenged, disparities only increase and with greater inequality come more dissenting voices. The military offensive is unsustainable, only social justice can break the cycle of violence and bring peace.

Nathan Eisenstadt

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The history of territorial barriers

By Alison Cross

In July, the International Court of Justice ruled that the parts of the West Bank Barrier built on Palestinian land are illegal. The Israeli government claimed that the Wall was making Israel safer, and that the decision (which is non-binding) would therefore be ignored. However, in August the Israeli high court suggested the potential ramifications of ignoring such a high profile decision should be assessed, and ordered that a report be compiled. The Attorney General even went as far as to suggest that such an action by the government could act as a catalyst in the international forum, prompting sanctions to be imposed on Israel by other states.

Of course, the content of any such report would be fascinating from a legal perspective. As legal issues collide with wider political considerations, the fall-out is interesting to watch, especially the adaptation of the law in deference to the political climate. One wonders particularly whether the vote this week to withdraw all Israeli settlers from Gaza will swing international opinion sufficiently in favour of the Israelis so that unpleasant consequences of ignoring the ICJ's ruling will be avoided. However, taking a historical standpoint – although not trying to predict the way in which international law will next develop – it is possible to consider the future of the Barrier using historical precedents. Will this Wall be any different from the in/famous Walls that have come before it?

Israel claims that the West Bank Barrier is a defensive barrier, designed to protect Israel from suicide attacks, that is, bombers coming into Israel, bringing destruction and terror. Similarly, the Great Wall of China was built as a defensive barrier.

It began life during the Zhou Dynasty, as early as 770 BC, as a defensive fortification for keeping out invading tribes. Several different ducal states built walls which were connected in 214 BC to form a stronger defensive system by Emperor Qin Shi Huang. For centuries the wall served succeeding dynasties as an efficient military defence, but it was not impregnable. Both the Mongols (Yuan Dynasty, 1271-1368) and the Manchurians (Qing Dynasty, 1644-1911) were able to successfully invade, aided by the weakness of the government and poverty of the people.

How does this compare with the West Bank Barrier? If the Great Wall of China could not keep the 'invaders' out, and could not guarantee absolute security, what makes the Israelis so certain their barrier will? And so far, despite the ongoing construction of the wall, the violence is still continuing, and people are still dying, on both sides.

The Great Wall of China was not just for defence, however; it was also a symbol of the Emperor's power. Likewise, Hadrian's Wall, begun in 120 AD, came to symbolise the power of the Romans. It was built on the orders of Emperor Hadrian at a time when the Roman Empire had ceased to expand and there was a need to consolidate boundaries. The Picts were proving difficult to subdue, and, realising that it would be impossible to introduce them to the Roman way of life, Hadrian decided instead "to separate Romans from Barbarians" by building a huge wall across Scotland. In that sense, Hadrian's Wall was a defensive structure, but as it was viewed as a near superhuman accomplishment by the 'barbarians', it also symbolised the Romans' indefatigable strength and power. By proving themselves capable of building such a wall, they had stamped their authority on the surrounding area.

It could be suggested that the Israelis are using the West Bank Barrier to achieve a similar aim. Perhaps they are building the Barrier simply because they can: they have the capacity to do so, and so by actually constructing it, they are emphasising the Palestinians' relative lack of power to stop the building works going ahead. Perhaps the Barrier is, as well as physical defence, also a psychological weapon: a status symbol that highlights Israeli power, acting as a deterrent by contrasting Palestinian powerlessness and making attack seem like a hopeless prospect.

A better comparison, however, may be made with the Berlin Wall which was built on August 13, 1961, closing the borders between West and East Germany. It was torn down on November 9, 1989, as the East German government crumbled and lifted all travel restrictions.

Again, this wall was declared to be defensive; an 'antifascist wall of protection', intended to prevent aggression from the West (although the more popular explanation is that the wall was intended to limit the drain of skilled workers leaving the East).

The Berlin Wall was a clear divide between the richer West and the poorer East. The poverty suffered by those in the East was one of the root causes of the mass emigration, and a basis of many of the problems arising between the sides. The same could be suggested of the Palestinian-Israeli divide. In general the Israelis are wealthier than their Palestinian neighbours, which apparent injustice provokes much anger and jealousy.

Furthermore, as with the West and East German governments, there is a deep underlying ideological divide between the Israelis and the Palestinians. This divide serves to exacerbate the practical issues between them, leading to greater mutual mistrust.

In such circumstances, the Berlin Wall came to be a sign of the Cold War, symbolising not power, but division. What is the likelihood that the same will come of the West Bank Barrier? It will become a symbol of the differences and disagreements between the sides, perhaps even physically forcing the division to become deeper still.

So what conclusions can be drawn from this brief comparison? None with any certainty, but the building of the West Bank Barrier is unlikely to guarantee complete safety. Also it may come to be hated (if it isn't already) as a symbol of oppression, and of division between the Israelis and Palestinians.

Indian Foreign Policy - Is Non-Alignment the Order of the Day?

Should non-alignment be the main thrust of Indian foreign policy even after the collapse of the Soviet Union and the end of the bipolar world? To answer this question it becomes necessary to study the policy of non-alignment as a choice that emerged as an alternative to military alliances such as the Warsaw Pact under Soviet leadership or the SEATO, CENTO or MEDO under American leadership during the Cold War era. It is true that Cold War threats to peace and security drove nations, sceptical of aligning with either confrontation zone, to explore the possibility of having, literally, a non-aligned movement. Spearheaded by Jawaharlal Nehru of India, Gamel Abdul Nasser of Egypt and General Tito of Yugoslavia, the Non-aligned Movement appeared to be, at first glance, a peaceful policy of neutrality. However, as articulated by Nehru on several occasions, the Non-aligned Movement was so much more.

It was not, as was often said in its criticism, a lax association of irresolute states, overwhelmed by the magnitude of Cold War tensions or of states impaired in their ability to make a choice. These states and their leaders had a vision, the discernment to construct for themselves a tenet, which would outlive the Cold War, the military alliances that it necessitated and the ramifications of the world order then in existence. The achievements and limitations of the Non-aligned Movement might be debatable, especially since the West viewed it as an equivocal, even unethical, stand to take.

For the nonce, however, non-alignment is as significant, if not more, as it was at its inception. It would be perilous to mistake the dismantling of the Cold War bloc alignments as the end of bipolar tensions. Only the structure has been altered. The apparent danger may seem like it has abated; the imminent danger has not. In such circumstances, non-alignment is a policy now more valid than ever.

Non-alignment is not a dormant policy confined to abstinence from Cold War power blocs. It is a policy that implies the discouragement of the further creation of any power blocs, alliances or coalitions. In the context of the creation of the European Union, the Non-aligned Movement has come under new light. The world order is changing from one of nation-states to a community of states. For non-aligned countries, this means a rethinking of their conduct, a revision of the Non-aligned Movement's founding principle of peaceful coexistence.

Having said that, it becomes essential to examine the influence of non-alignment in the Indian context, especially in its stand towards the USA. Pt. Jawaharlal Nehru had declared in 1948 that "Our foreign policy is one of keeping aloof from the big blocs of nations, rival blocs and being friendly to all countries and not being entangled in any alliance, military or other, that might drag us into any possible conflict". From this declaration, it is evident that even after the collapse of the Soviet Union, to Indian foreign policy, non-alignment remains as indispensable today.

Especially in its handling of relations with its neighbours, India cannot possibly move away from the peaceful stance it has adopted over the years. There cannot be a better example than Pakistan when speaking of India's pronounced efforts towards conciliation. Despite the former's continued and unfortunate inadequacy at accepting India's standing in the sub-continent, it is India's untiring endeavour that is the success of non-alignment. If both countries were to cease diverting their limited resources towards military haste and instead, focus on development, a true fruition of Indian non-alignment could be achieved.

Again, with China, the Indo-China War of 1962 perturbed Indo-Chinese relations for years. In keeping with its policy of non-alignment, India took the initiative and has been persistent in talks with China. Moreover, India backed the inclusion of China in the UN, even in the event of inviting the wrath of the USA. Unfortunately, the same cannot be said about Indian ties with Sri Lanka. It has been a bumpy ride for both countries, to say the least. But, India had left no stone unturned in its bona fide attempts towards solving any problems in general and the Sri Lanka - Tamil problem in particular. It is in our joint interest to see to it that a positive response is gained, soon.

On a different note, in its relations with the former superpower, India has been greatly accommodating. It is but obvious that since the relations between India and the Soviet Union were based on great understanding, the latter's disintegration had tremendous effects on India. However, creditably, both countries have worked towards keeping an unconstrained equation. This is corroborative of the working of non-alignment, even more so because it has worked with one of the two 'poles' itself.

Finally, Indo-American relations have had to go through great strain and India is perpetually anxious on that account. It will be a dismal failure to have any tension whatsoever between the world's two largest democracies. Many issues need to be sorted out, tricky amongst them being the American foster care of Pakistan; India's constant support to the Palestinian cause; the embarrassment the USA was subjected to in the Bangladesh War due to India's support for the liberation of the then East Pakistan; India's coincidentally antagonistic votes against the USA in the United Nations; and last but not the least, her reluctance to join any anti-communist alliance. The crux of the matter is that it will be interesting to see how India prevails upon the American intolerance of her non-aligned stance.

Various other examples can be cited to illustrate the éclat of non-alignment in Indian foreign policy formulation. Most certainly, such examples are outnumbered by the instances where India could and should reinforce her standpoint. All the same, in conclusion, it seems to me, undeniable, how much India shall profit from sticking to the sentiment the architects of her foreign policy enshrined it with. When push comes to shove, it is non-alignment that will manifest as a solution to India's predicaments. It is non-alignment that shall be transmitted to posterity.

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‘Engaging India: Diplomacy, Democracy and the Bomb.

A Memoir.’ Strobe Talbott. Brookings Institute Press, Washington D.C. 2004. pp 1 – 256.

At the heart of this intriguing book is the US reaction to the ‘surprising’ decision by India to test a series of nuclear devices in May 1998, despite apparent assurances to the contrary, and Pakistan’s inevitable response. Confronted with a major breach in the nuclear non-proliferation regime, the Clinton administration imposed sanctions and then sought to engage India and Pakistan in a ‘dialogue’ that would convince them to renounce nuclear devices, sign the NPT, and then agree to the Clinton backed Comprehensive Test Ban Treaty (CTBT). Volunteering himself for the delicate job of ‘2nd tract’ diplomacy with Jaswant Singh, Indian’s Foreign Minister, Talbott headed into a marathon dialogue that involved these two individuals ‘meeting fourteen times at ten locations in seven countries on three continents’ (p.4). His brief was to gain New Delhi’s acceptance of US policy while showing sensitivity to Indian concerns over security, maintaining a strategic relationship with China, and reassuring Pakistan that it was not about to be abandoned by its old, somewhat fickle ally the US. This was a tall order for any diplomat, and one that arguably, was an impossible one to boot.

Talbott sets out the drama in an admirably succinct, economical style. His historical observations on India are precise, accurate even when sympathetic. Talbott’s insights to Pakistan are also compelling, darkly disturbing: the Prime Minister Sharif compared to Prince Hamlet, agonising and remonstrating with an Army he was afraid of and not in control of, late night discussions between Talbott and the Army chiefs themselves that came close to physical violence, and the awful centrality of the Kashmir issue to the future of any Pakistan leadership.

Talbott’s grasp on the details inadvertently hides, however, the general weakness of the US strategy on non-proliferation and the CTBT in particular. What made the job of engaging India on this issue such a thankless task was not just the arrogant, gnostic lecturing by Jaswant Singh (‘civilizationally’ sums it up beautifully) but the simple fact that India’s position is, objectively, unassailable, analytically and empirically. Talbott notes – almost uncomfortably – the tacit ‘blind eye’ the US turned to Israel on matters nuclear (p 26). Clinton notes in his speech to the Indian parliament in 2000 that, in effect, he is asking India to stop doing something the US itself has been doing for almost fifty years (and even under the Democrats have no really interests in stopping). However eloquent the text – and important the contribution made – Talbott’s book fails to be convincing on the feasibility of his mission. He seems at times to accept, although never spell out, the inability of the US to treat India and Pakistan as equals when their ambitions are fundamentally asymmetrical. US policy to Pakistan IS responsible for ensuring a chronically weak state situated in a dangerous and volatile part of the world with *structural* links to terrorist infiltration – not just a passing interest that can be stopped by Washington. Talbott’s belief that covert support by the Pakistan military to terrorism in Afghanistan and Kashmir is merely opportunistic ignores the centrality of the army to supporting Islamic insurgencies that define Pakistani identity, however paradoxical this is for an Army still keen to appear secular. US interests in China (which has the bomb) reinforce New Delhi’s long-standing grasp of the realities of great power status and how it is to be acquired. Thus telling India that the US will get Pakistan to ‘reign in’ the training camps for terrorism is empty rhetoric: it is the equivalent of asking Sharif to publicly abandon Kashmir! It is as equally as ineffectual as the US reassuring Pakistan that it will keep an eye on Indian ambition.

US lecturing is not only hypocritical, but also ineffectual. There are times when Talbott almost wants the reader to know this. Talbott sites in detail Pat Moynihan’s outburst (the US former ambassador to India) at the ‘righteous indignation’ of the Clinton administration to the Indian test: ‘the BJP as much as told you they were going to begin the test’ (p. 55). ‘Grow up and accept reality’ – India as a NWS with a credible, self defined deterrent and a de-facto member of the NPT – OR – give up the bomb ourselves.’ Here is the rub. As if in *The Tempest*, the Indians defied the Americans to abandon their own symbolic claims to hegemony that give them their power.

In this regard *Engaging India* as a process (certainly not as a book) was less of a success than Talbott would like us to believe. When Madeleine Albright bluntly remarked to Jaswant Singh that ‘you lied to us’ about the bomb– she was only stating half the truth. The other half was that the US lied to itself. It failed to recognise India as a revisionist state, failed to recognise the need to adjust its position on Pakistan accordingly, and exaggerated its own power to structure the outcome to US global needs. While there is something deeply disturbing about Indian diplomacy – in both style and substance – India got what it wanted, a triumph of the Indian rope trick over US arm-twisting. This is an important, fascinating book, and makes significant contribution to a still rare genre of literature on South Asia. I await Jaswant Singh’s version with particular interest.

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