Around Europe
Quaker Council for European Affairs
No. 340 March 2012

Israel's Supreme Court Adapts International Law in West Bank

Recently Israel's Supreme Court decided that Israeli companies are entitled to profit from Palestinian natural resources in a controversial ruling which says that international law must be adapted to fit the situation in the West Bank.

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The Supreme Court ruled against a petition brought by Israeli human rights organisation Yesh Din, who challenged the legality of mining activities worth $900 million to the ten Israeli companies which operate in the West Bank. Under international law it is illegal for an Occupying Power to exploit the natural capital of a territory it occupies for its own economic gain.

Yesh Din cited Article 55 of the Fourth Hague Convention, which says that "The Occupying State shall be regarded only as administrator and usufructuary of public buildings, real estate, forests, and agricultural estates belonging to the hostile State, and situated in the occupied country. It must safeguard the capital of these properties, and administer them in accordance with the rules of usufruct."

Supreme Court President Dorit Beinisch decided that Article 55 does require the occupying power to "safeguard the capital" of natural resources on occupied land but agreed with the official Israeli line that the Oslo Accords authorise existing quarrying operations until a final-status agreement is reached. Beinisch accepted the State of Israel's view that quarrying operations in the West Bank are limited and do not amount to destroying its natural capital.

Furthermore, Beinisch said that international law must be adapted due to the long-term nature of the occupation. Israeli newspaper Haaretz reported that the Supreme Court President said: "it is necessary to take account of the fact that the West Bank has been under a prolonged and continuing occupation, so the territory's economic development cannot be put on ice until the occupation ends."

This ruling exposes how Israel has decided that it can adapt international law based on the fact that it has occupied the West Bank for over 44 years, and how it already views the West Bank and its natural resources as its own to exploit.

Yesh Din's legal attorney Michael Sfard said: "Mining natural resources in occupied territory for the economic needs of the occupying state is looting. The High Court's argument, that one should relate differently to a long-term occupation, cannot legitimate economic activity like this."

Since Yesh Din first filed the petition over two years ago, the Israeli Government announced that it would not licence any new quarrying activities in the West Bank, a decision which was backed by the Supreme Court. The Government also decided that all royalties from the mines, amounting to nearly 30 million shekels or 5 million euros per year, should be paid to the Israeli Civil Administration which governs large areas of the West Bank.

However, the Civil Administration is a part of the occupation regime and has faced criticism by the EU recently for systematically demolishing Palestinian infrastructure, including schools, homes, roads, water cisterns and solar plants, whilst failing to issue Palestinians with permits for new structures of any kind.

This Supreme Court ruling on quarrying needs to be looked at in the wider context of the way in which Israel is undermining international law and using the

length of the occupation to justify and consolidate its control of the West Bank through legal and administrative means.

Hannah Slater

A View of the EU Budget through Green-Tinted Spectacles

The budget of the European Union is framed in seven-year blocks called Multiannual Financial Frameworks (MFF). Included in each budget is any area deemed to have added value when funded at EU rather than national level. As the current MFF concludes at the end of 2013, preparations are well underway for the next budget up to 2020. 2020 is a milestone year for the EU. Not only does it mark the conclusion of the Europe 2020 smart, sustainable and inclusive growth strategy but also that of the 20-20-20 targets – 20 per cent reduction in greenhouse gas emissions and energy usage, and increasing renewable energy usage to 20 per cent. As the European Commission's budget proposals are deliberated on by the European Parliament and Council, environmental sustainability and climate change should stand out as clear priorities.

So, how are green issues approached in the budget? Firstly, there are specific areas which focus on reaching these 2020 goals. The Life+ programme, which offers grants to environmental and climate change projects, has a proposed budget increase of more than 50 per cent in 2014-2020. Similarly, Horizon 2020 – the new heading for research and innovation – is focused heavily on green projects. More broadly, the Commission aims to incorporate green issues throughout the MFF. This is done either by allocating specific funds to environmental and climate factors – the proposed budget for agriculture, for example, requires that 30 per cent be used for the improved use of natural resources – or by mainstreaming these issues to ensure they are a key consideration in each budget area.

> *"The EU wants to reach their green targets by 2020 without making any sacrifices in other areas"*

These are certainly positive additions to the MFF. However, each approach is unlikely to have a substantial impact on green issues unless more fundamental changes are made. Funds which are conditional on a green percentage may risk doing more harm than good if there are no safeguards in place to ensure the remaining funds are not damaging to the environment. Mainstreaming green issues into the MFF is equally faulty. Including factors such as climate change and environmental sustainability in sections of the budget is not enough unless there are assurances that, should they come into conflict with other priorities, these factors will not suffer. Put simply, the EU wants to reach their green targets by 2020 without making any sacrifices in other areas. In essence, they want it all.

That is not to say that the Commission's approach is entirely flawed. Mainstreaming green issues across the budget is important but, without more fundamental changes to how EU money is spent, the Commission is missing the mark. What is needed to make real change to how we treat our environment are clearly set safeguards which ensure that green issues do not lose out to other priorities as well as practical, enforceable guidelines which outline exactly how green issues are to be considered in each budget area. QCEA will continue to monitor the progress of the MFF up to 2014 with the hope that Member States will recognise the importance of addressing green issues, and will have the courage to act now.

Cat Hellewell

Message from Alternatives to Violence (AVP Europe) - connecting up!

On behalf of AVP International, we are researching for anyone who is an AVP Facilitator living and working in Europe with the aim of connecting up and perhaps holding an AVP European Regional Meeting in the future. If anyone reading this knows of people who have trained as Facilitators and might be interested, please could you pass on this note and our email addresses and ask them to drop us a line.
Many thanks,
John Ling jl@cooptelnet (Britain) and Jenny Haughton artwork@indigo.ie (Ireland)

Continued Cognitive Dissonance in EU Energy Efforts

What do US law-makers, a Kenyan pipeline, a planned municipality south-east of Brussels, the European Investment Bank and the Greek debt crisis all have in common? Sustainable Energy Security!

For many years, the EU has been obsessed with building a massive pipeline from eastern Turkey, with the expectation of bringing Azerbaijani, Turkmen, and possibly Iraqi or even Egyptian natural gas to Europe. Well, the end-game has arrived, and the EU-backed Nabucco pipeline is feverishly working to remain relevant.

As it stands, all that remains of the EU's original hubristic vision is "Nabucco West", a half-sized connector from the Bulgarian-Turkey border. And the reasons are manifold. There was never enough gas in the first place, costs doubled, and several governments and enterprises had their own ideas. (The serious possibility of a Greek withdrawal from the eurozone isn't helping regional investment either.) Full details are expected by the summer.

" A third of all lending by the European Investment Bank between 2007 and 2010 went to fossil-fuel projects, whilst only five per cent were for energy efficiency"

The EU's embarrassing desperation just goes to show how resolute decision-makers are to continue our destructive fossil-fuel consumption patterns in defence of existing economic self-interests. CEE Bankwatch have recently shown that a third of all lending by the European Investment Bank between 2007 and 2010 went to fossil-fuel projects, whilst only five per cent were for energy efficiency. Not only are we going to live with the calamitous consequences of these decisions for decades to come, given the long life of energy infrastructure, but continued investment in fossil fuels also removes incentives to invest in sustainable alternatives.

For example, in 1992, twenty-five Passivhaus (a passive house, or Passivhaus in German, is an ultra-low energy building that requires little energy for space heating or cooling) were built throughout Europe, including in the planned municipality of Louvain-la-Neuve, south-east of Brussels. Like all Passivhaus, this seriously energy-efficient home used significantly less energy (approximately 90 per cent less), yet was only eight per cent more expensive to build. Yet, despite taking only two and a half years to recover the upfront construction costs, and with Louvain-la-Neuve growing at a frenetic rate, with hundreds of homes planned and built every year, it was a decade before another (single!) Passivhaus was built in the community. Unfamiliarity, and the protection of the status quo, would, it would seem, appear to be powerful motivators.

Not even Lamu Island's UNESCO World Heritage Site status is thought to be too big a hindrance to a recently announced pipeline from South Sudan to Kenya. At a cost of several billion euros, and a mere four-year construction time, how is it that billions can be found to lock us into destructive dependency, but the affluent European Union can't deal with our well-established, urgent and far-reaching sustainability challenges? And at what stage does such cognitive dissonance stop being dangerous politics, and become criminal negligence?

The good news is that Michel Barnier, European Commissioner for Internal Market and Services, is expected to present proposals which will echo elements of the USA's omnibus Dodd-Frank Act, which will oblige European companies in the extractive industries to disclose payments to state treasuries in the overseas countries in which they operate. How appropriate, and just in time for all those now non-existent, massive, overseas EU energy infrastructure projects.

Paul Parrish

Democracy under stress: The global crisis and beyond

Book review

This book is described in the very first line as "a cautionary tale about the September 2008 financial 'earthquake' and the global tsunami that followed". It offers a range of analyses from political, sociological, economic and theological scholars providing the foundations for an interesting exploration of the current financial crisis and its potential impact on democracy. The book begins by placing the Great Recession in an historical context and explains how previous financial crises – notably the Great Depression – have affected democracy. The discussion then moves on to examine how the events of 2008 affected democratic and authoritarian regimes and how each form of rule responded. Finally, the book concludes with three fascinating essays contemplating what the future may hold globally, nationally, and locally.

The majority of the book focuses on democracy: Third

Wave democracies (the new democracies which have emerged since the late 1970s) and how they are faring; the relationship between democracy and capitalism; how democratic states have been affected by the economic crisis and the various democratic attempts to deal with the consequences. While the essays take very different approaches to the relationship between the Great Recession and democracy, there is a general tone of positivity about the future of democratic governance and its ability to cope with economic crises – a task which many democracies were not capable of in the 1930s.

Authoritarian capitalisms are then put under the microscope. The Arab Spring is included as evidence that democracy prevails over authoritarianism at least in the economic field, though it is conceded that it is still too early to draw concrete conclusions on this phenomenon. However, the apparent triumph in China over the global economic crisis warrants further examination and the third section of the book offers a compelling opening to the discussion. China's rich history is offered as a possible explanation for its ability to weather the economic storm followed by an analysis of how the Chinese government reacted to the global crisis: the US$586 billion stimulus package launched in November 2008 is described here as extreme Keynesianism. Finally the question is raised as to what the outcome of all this will be. Will the Chinese model be praised and copied by others, or have they simple succeeded in delaying the inevitable collapse of authoritarian capitalism? China: "Bogeyman or Saviour"?

The final chapter considers what if anything can be done to prevent history repeating. Here the contributors look outside of the political and economic world to the recent resurgence of radical religious belief, the waning tolerance which many advanced democracies are experiencing (the tragedy in Utoya, Norway in 2011 is an example of this), and how the global nature of our intertwined economies mean that conflicts will now be value-based rather than territorial. There is also a very valuable argument that globally we need to search for common values and, where our values differ, seek to understand and accept these differences.

This publication does not claim to answer all the questions about the Great Recession. There are no concrete conclusions. That is not the purpose of its contributors. What it does is introduce a number of important insights into a topic that has far-reaching effects; the conclusions of which we have yet to reach. In the opening essay we are told "Whether or not we will be able to muster the imagination and the necessary tenacity to institute change in managing global affairs in a new way remains an open question". We may not know all the answers, but this book certainly makes the questions much clearer.

Cat Hellewell

APOLOGY AND CORRECTION:

In the last edition of Around Europe, an abbreviation crept in and we omitted to explain what it meant. For this: our apologies. The rogue abbreviation was: EEAS, which stands for European External Action Service.

Around Europe

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