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WHAT IS WRONG WITH FREE MONEY

Proposals for a Universal Basic Income or Citizen Income and variants thereof enjoy sympathy from different camps: from conservatives like Richard Nixon¹, from libertarians who consider themselves disciples of the free market², from liberals like Martin Wolf³, from social democrats like Paul Krugman⁴ and from people who consider themselves Marxists⁵.

However, what each of these proponents actually mean and want with a Universal Basic Income is wildly divergent. Centrally, the Marxists want an end to the “compulsion to work”, liberals and libertarians rather want to provide “incentives to work”.

Yet, despite these differing and at times opposing aims, these proposals share more than just a name: they share wrong premises about the capitalist mode of production and the state which watches over it.

In the following, we first critique these shared wrong premises about productivity, the welfare state and the budget. Then we draw out the contradiction of some left-wing supporters who, on the one hand, insist on unity with libertarian, liberal and social democratic Universal Basic Income proposals in order to acquire a whiff of seriousness

and, on the other hand, continuously deny this unity.



Productivity

The point of departure of most, if not all, agitation for a Universal Basic Income is that productivity gains produce poverty.⁶ Since this production of poverty is taken as much a self-evident fact as the continued rise in productivity in the future, new policies are needed, so goes the argument, to deal with

these *effects* of technical progress. It is this starting point, though — productivity gains producing poverty —, which should give pause.

Taking a step back, gains in productivity mean that more stuff can be produced in the same time. If two chairs can be produced in the same time as it took to produce one chair before, the productivity of making chairs increased.⁷ More generally, increasing the productivity of labour means that it takes less effort to produce the same material wealth aka. stuff.

This means, we either have to work less to produce the same amount or we can produce more of the stuff we want to consume. A society which produces more productively has *more*: measured either in material wealth to consume or in free time. Hence, it is not self-evident that increases in productivity produce poverty. Yet, in this society they do.

Productivity for profit

In this society, it is capitalist companies who are increasing productivity and it is no secret that these companies produce to make a

¹ “But probably the most significant of these events, and their decade long culmination, occurred in August 1969 when Richard Nixon called for the creation of a Family Assistance Plan only eight months after his election. Nixon’s plan would have guaranteed all families with children a minimum of \$500 per adult and \$300 per child or, as already noted, an extremely inadequate \$1,600 for a two parent family of four. In its efforts to include the working poor, Nixon’s proposed FAP was a form of guaranteed income although, as we have seen, a modified and specific version: it was a negative income tax.” — Lynn Chancer, “Benefiting From Pragmatic Vision, Part I: The Case for Guaranteed Income in Principle” in *Post-Work: Wages of Cyberspace*, ed. Stanley Aronowitz and Jonathan Cutler (Routledge, 1998)

² Matt Zwolinski. *The Libertarian Case for a Basic Income*, <http://www.libertarianism.org/columns/libertarian-case-basic-income>

³ Martin Wolf. *Enslave the robots and free the poor*, <http://www.ft.com/cms/s/0/dfe218d6-9038-11e3-a776-00144feab7de.html>

⁴ Paul Krugman. *Sympathy for the Luddites*, <http://www.nytimes.com/2013/06/14/opinion/krugman-sympathy-for-the-luddites.html>

⁵ For example, Kathi Weeks, *The Problem with Work*, Duke University Press, 2011.

⁶ Three examples from three different political tendencies: “Until recently, the conventional wisdom about the effects of technology on workers was, in a way, comforting. Clearly, many workers weren’t sharing fully — or, in many cases, at all — in the benefits of rising productivity; instead, the bulk of the gains were going to a minority of the work force. But this, the story went, was because modern technology was raising the demand for highly educated

workers while reducing the demand for less educated workers. And the solution was more education. [...] Today, however, a much darker picture of the effects of technology on labor is emerging. In this picture, highly educated workers are as likely as less educated workers to find themselves displaced and devalued, and pushing for more education may create as many problems as it solves.” — Paul Krugman. op. cit.

“The argument that a rise in potential productivity would make us permanently worse off is ingenious. More plausible, to me at least, are other possibilities: there could be a large adjustment shock as workers are laid off; the market wages of unskilled people might fall far below a socially acceptable minimum; and, combined with other new technologies, robots might make the distribution of income far more unequal than it is already.” — Martin Wolf. op. cit.

“Clearly, the economic environment of the 1990s is one of fast-paced technological changes producing massive insecurities amidst job displacement and job destruction. Whether one draws on documentation provided by The New York Times in depicting *The Downsizing of America*, or by Stanley Aronowitz and William DiFazio in *The Jobless Future*, or by William Julius Wilson in his account of neighborhood transformations in *When Jobs Disappear*, secure full-time jobs have been evaporating. Moreover, for the majority of people who find re-employment among the large numbers of new positions also recently created, benefits and pay are frequently lower than in the jobs held before. Compounding this loss of jobs are also much-heralded processes whereby capital shifts around the globe with greater fluidity than ever before; even in the United States, sociologists have long been noting that types and locations of new jobs are not coinciding with how and where they are most needed.” — Lynn Chancer. op. cit.

⁷ In this example, we are assuming that the intensity of labour did not change.

profit. The profit is whatever they make on the market in excess of what they paid for means of production (machines, buildings, raw materials, tools) and workers.

They try to maximise profit. If a company manages to produce cheaper than its competitors then it can sell its commodities for the same price with lower expenses which translates to increased profits. To produce at a lower cost they could, for example, buy their raw materials more cheaply, e.g. by exploiting price fluctuations. Or, they might manage to get more work out of their workers for the same wage. Or they may increase productivity, i.e. they change the way their products are produced such that their cost price per unit drops.

To see how, let us consider an example. Assume a widget company normally has £50,000 invested in raw materials, tools, buildings and machines and £10,000 in wages for 10 workers. Also, let's say it produces 5,000 widgets with these means of production and workers, so that each widget costs the company £12 to make. Furthermore, say each widget sells at £15, i.e. each widget realises a profit of £3. The overall price fetched on the market for all widgets is £75,000. The profit is £15,000 (after subtracting the advance of £60,000 from the overall price fetched).

Now assume, our company is the first to find a new, more productive way of producing widgets. Less work is needed to produce a widget. Assume, so much less that our company can now produce 6,000 widgets with 7 workers in the same time, costing them only £7,000 in wages. On the other hand, increases in productivity have a tendency to require increased outlay in means of production. For example, more productive machines tend to (initially) cost more than their predecessors. Say, our company now has to invest £53,000 in machines, raw materials and so on. Each widget costs the company now £10 instead of £12. Our company could now either continue to sell its widgets for £15 a unit, which would mean a profit of $(£15 \cdot 6,000 - £53,000 - £7,000) = £30,000$. Or, our company could decide to lower the price of its widgets to make sure it sells all 6,000 of them, say to £13. Then it would make £18,000 in profit, which is still more than before. On the other

hand, in the latter case, assume the new machine would cost so much to push the overall investment in means of production up to £56,000. Then our company would not make more profit than before — $(£13 \cdot 6,000 - £56,000 - £7,000) = £15,000$ — and hence would have no reason to change how it produces widgets.

A first thing to note is that companies employ labour saving technologies, i.e. increase productivity, to increase their profit. The standard by which such technologies are judged is not whether they save labour, but whether they save on costs per unit. Companies will not always opt for the most productive technology. They opt, if they can, for the cheapest per unit technology. The question for a company is not if a technology is more productive than another, but whether it allows producing more cheaply than another. If a sweatshop achieves lower costs than a modern factory, then sweatshops are the adequate technological level of production for that capitalist branch of industry.

This is also why the “conventional wisdom” (Krugman) that in the past machines replaced low skilled labour but left high skilled jobs alone is wrong. Since the “industrial revolution” machines were also means to replace high skilled jobs with low skilled jobs if that allowed companies to save costs such as higher wages for specialists.⁸

However, regardless of why companies increase productivity, such increases still mean that less work is needed to produce the same material wealth. Going back to our initial point, one might be forgiven for thinking that if all the required work is done, we would all get to relax and enjoy life. But as observed by Universal Basic Income supporters, this is not the case. That people are out of work does not mean that all useful things are readily available to them, that there simply is nothing left to do, that everybody is provided for and that people get to enjoy their free time. Instead, those out of work are condemned to idle poverty.

The premise of this kind of poverty is that it became *easier* to produce material wealth. Hence, a lack of it cannot account for this poverty. Indeed, in a capitalist society there is a juxtaposition of wealth and poverty. If you can pay for it, you can fly to

space, if you cannot pay for it, you struggle with basic needs.

People go to work for a wage, in order to satisfy their needs and wants, to suspend their separation from the wealth of society. Unemployed people, in turn, are poor because when they lose their job they are separated from their source of revenue and thus their access to social wealth. However, whether they can find another source of revenue, i.e. another job, does not depend on their needs. It depends solely on another company finding use for them in order to make profit. While workers go to work for their *own* benefit, i.e. to have a wage to spend on what they need, this is not the reason they are employed, contrary to what some supporters of a Universal Basic Income might believe when they denounce the *failure* of the capitalist mode of production to provide employment.⁹

It is not productivity increases or technology as such that produce the effects to which proposals for a Universal Basic Income react. It is rather productivity gains as a *means* for increasing profit that do so. However, this distinction does not exist for most proponents of a Universal Basic Income. As a consequence, they treat the problems they identify with productivity gains as simply *given* instead of *made*. To them, technology just happens to produce poverty, whereas it is the pursuit of profit by capitalist companies which produces this effect, not technology. Even those supporters who use the word “capitalism” critically in their writings engage with this peculiar mode of production as a self-evident object whose law are merely encountered; just like their fellow reformers.¹⁰ They speak of capitalism, but they might as well not, as the distinction of whether poverty is produced or given makes no difference to their practice. For them, it is something to be dealt with, not criticised.¹¹

Work for profit

But not even those who still have a job reap the benefits of technological developments. Rather, the norm is that those who remain employed are confronted with demands to work longer and more intensely with their wage under threat. Technological development under the rule of profit produces a

⁸ cf. Karl Marx. “Chapter 15: Machinery and Large-Scale Industry” in *Capital. A Critique of Political Economy, Volume 1*, Penguin Classics 1990.

⁹ If the wage suffices is another question entirely as highlighted by, for example, precarious employment relations such as zero-hour contracts. These “changing employment relations” are sometimes given as another reason for implementing a Universal Basic Income. Some reformers deem the current welfare system unfit to deal with the newly successful demands of employers to have workers available whenever their profits need them, regardless of whether this enables these workers to pay their bills. A Universal Basic Income is then a way to facilitate this demand of capitalist companies against their workers.

¹⁰ For example, Kathi Weeks contrasts economic necessities with social conventions and argues that work in this society was structured by the latter not the former. She hence fails to recognise that these economic necessities themselves are social: “Work is, thus, not just an economic practice. Indeed, that every individual is required to work, that most are expected to work for wages or be supported by

someone who does, is a social convention and disciplinary apparatus rather than an economic necessity. That every individual must not only do some work but more often a lifetime of work, that individuals must not only work but become workers, is not necessary to the production of social wealth.” — *The Problem with Work*, p. 7

¹¹ “It cannot be overemphasized that a huge benefit of guaranteed income at present involves its explicitly anticipating, rather than denying, tendencies toward job displacement and economic uncertainty that are blatant by-products of a globalizing capitalism at the end of the twentieth century. Without some kind of better insurance in place than unemployment benefits that rapidly run out and are not universally available in any event, huge numbers of people in the United States continue to have reason to worry that layoffs may not quickly result — or result at all — in new jobs that offer adequate benefits and a livable income.” — Lynn Chancer. op. cit.

juxtaposition of unemployment for some and long hours for others.

This is firstly because increasing productivity is only one technique to maximise profit in the permanent competition of companies for it. Lowering wages or pressing more work out of workers for the same wages are also tools applied for that purpose. Secondly, because the poverty of unemployed people — made redundant by new technology — forces them to compete for jobs with those still in employment, labour saving technologies increase competition amongst workers for the remaining jobs, allowing companies to lower wages.

Thirdly, those employed have to work harder because labour saving technologies under the rule of profit produce a motivation on the part of the company to get more work out of the remaining workers. More productive technologies offer a relative advantage as long as they are not in general use. A company which produces more cheaply than the competition can sell its products for its target price because its competitors cannot undercut it. But if the competition is catching up, this advantage is gone. Other companies produce more cheaply and can lower the price to (re-)capture market share or to even get in on that extra bit of profit by still being ahead of the slower rest of the competition. Our more productive company's profits fall again. Maybe another company finds an even cheaper way of producing, pushing our company out of the market. This creates reasons to make those workers remaining work longer: produce and sell as many commodities before the competition catches up.

Fourthly, all those companies which did not yet introduce new machinery to increase productivity notice that their competitors undercut them with lower prices. They, too, must sell for a lower price to stay in the

market. This lowers their profit which they can try to recover by suppressing the wages of their workers, thus saving costs. They are helped in their endeavour by the fact that their competitors just made many workers unemployed, as explained above, who are now looking for employment.

The lower the advance on the wage and the higher the efficiency of the workers, the higher the profit, i.e. the higher the difference between advance and return. The premise of wage labour, i.e. employment in a capitalist firm, is the separation of those employed from the products they produce which belong to the company. All that workers get on average is a wage to pay for what they need to get by, so that they are dependent on employment again the next day, week, month, year. The premise of profit making is the poverty of workers. While many people believe that the wage is somehow founded in the performance of an individual worker (this is only a necessary condition), the opposite is true: precisely the legal and economic *separation* of a worker's product or output and her wage allows a company to prosper. She is separated from the results of her labour, because she sold her labour time and all she produced in that time belongs to the buyer.¹²

On that matter, Universal Basic Income reformers hold that now technology produces a problem: the wage fails as a mechanism to distribute society's pie.¹³ They think the purpose of the wage is that workers can *participate* adequately in the wealth of society which they produce under the command of capital. They think of the wage as a sort of reward for contributing to the production of social wealth and notice that it does not currently live up to this ideal.¹⁴ To them technological developments put the wage as a model of distribution into disarray which prompts them to seek alter-

native ways of distributing social wealth. But, as argued above, the wage is not a reward or remuneration but the lever to make workers come to work for the purpose of profit of a company.¹⁵ This lever is as high and low as companies can get away with in the universal competition of workers for jobs.¹⁶ Put differently, a small part of the wealth produced by workers is paid to workers in the form of wages. This way, they can sustain themselves as producers of a surplus from which they are excluded. In their agitation, proponents for a Universal Basic Income turn the wage into its opposite: the economic function of the wage seems not to be poverty and exclusion from social wealth, but is posited as wealth and participation.

Capitalist state

Demands for a Universal Basic Income are addressed to the state: the state is asked to react to an undesired economic development. This is apt, as the proponents of a Universal Basic Income relate to socially produced poverty the same way a capitalist state presents its relation to the economy. In its laws the democratic, capitalist state *reacts* to the capitalist economy, which it treats as an *a priori* fact. A democratic, capitalist state regards the economic roles of its subjects as something given. It does not decree who engages in which production process or assigns roles in the capitalist economy. Instead, its law merely defines that citizens have particular rights and duties if they happen to be in the situation of being workers, bosses, landlords, tenants, lawyers, bankers and so on. To the state these figures are given and they do their thing anyway. The proponents of a Universal Basic Income accept this relationship

¹² Companies sometimes pay wages per piece or bonuses to motivate their employees. However, this should not be confused with an objective relation between money made and money spent on wages. For bonuses to make economic sense, they must be lower than any "output" they stimulate. Even if a company offers an employee, say, 8% of the money she brings in somehow connected to her activity, this money first of all is the property of the company which it then can choose to pay as part of the wage to motivate the worker. That 8% is paid because of the company's calculation that it will be beneficial. There is no objective, direct connection between the performance of the worker and even her bonus, in the sense that the former is the economic reason for the latter.

¹³ "I've noted before that the nature of rising inequality in America changed around 2000. Until then, it was all about worker versus worker; the distribution of income between labor and capital — between wages and profits, if you like — had been stable for decades. Since then, however, labor's share of the pie has fallen sharply. As it turns out, this is not a uniquely American phenomenon. A new report from the International Labor Organization points out that the same thing has been happening in many other countries, which is what you'd expect to see if global technological trends were turning against workers." — Paul Krugman. *op. cit.*

¹⁴ Kathi Weeks is a radical critic of the wage system and she even criticises the "Wages for Housework" campaign for aiming to expand it to housework. However, she shares the idea that the wage is a mechanism for social distribution which rewards contributions with those she criticises. Her criticism is that these rewards are arbitrary, agreeing with the false notion that the wage is a reward. "... the demand for basic income offers both a critique and a constructive response. As a reform, basic income could help address several key problems of the post-Fordist US political economy that renders its wage system unable to function adequately as a mechanism of social distribution. These include the increasingly inadequate quantity and quality of waged labor manifest in high levels of unemployment, underemployment, and temporary and contingent

employment, as well as the problem noted in chapter I of measuring individual contributions to increasingly collective and immaterial labor processes. The demand for basic income poses a critique but also provides a remedy: reducing our dependence on work." — *The Problem with Work*, p. 143

"Second, rewarding more forms of work with wages would do more to preserve than to challenge the integrity of the wage system. A possible reply is that by drawing attention to the arbitrariness with which contributions to social production are and are not rewarded with wages, the demand for wages for housework carries the potential to demystify the wage system." — *The Problem with Work*, p. 149

¹⁵ The pressure of productivity gains on wages is observed by the authors of the BasicIncome subreddit FAQ at <https://www.reddit.com/r/basicincome/wiki/index> when they write: "Capital — equipment and machinery that helps to produce things — is now creating a greater share of output compared to labour — human workers. This allows business owners, who own the capital, to pay workers the same or less while more is produced, so they make more profit for themselves. We are already seeing that output per worker is increasing, while workers' wages are not." Equipment and machinery does not produce any "share" of the output whatsoever, the hammer does not produce a "share" of the nail in the wall, it is the means which we use to drive it in. Saying that a certain product is, say, 40% produced by labour and 60% by equipment is like saying bread is 30% dough and 70% taste, i.e. equating two qualitative different things. This fallacy is then used to justify why workers are excluded from the wealth they produced by claiming that capital produced a greater "share". What allows capital to suppress wages is the increased competition of workers for jobs because they were made redundant by capital not some distributive justice which somehow allocates to each a "share" according to how much they put in.

¹⁶ Because capital tends to "save" labour faster than it develops a new need for workers, competition of companies for workers is far less intense.



between capitalist state and capital as given and ask the capitalist state to react to a new economic development whose reasons are of no concern to them. However, technological development for profit and the separation of workers from the wealth of society is not prior to the capitalist state but is premised on it.

Private property

Through the capitalist state's maintenance of the principle of private property, it ensures that people must earn money. For most people this means they must work for a company to earn a wage. For most people the wage is the extent of their access to social wealth and they must hence seek it. It is the institution of private property which enforces that unemployed people are excluded from the wealth of society, which is produced with increasing productivity. Without the capitalist state's guarantee of private property, without coppers, courts and prisons, we would not be having this conversation about the relationship between technology and poverty.¹⁷

Research and development

But the guarantee of private property does not suffice for a modern capitalist economy. It asks for a lot more. For example, technological developments do not come about spontaneously but rely on a little bit of help from the capitalist state.

Firstly, they require research and development which are expensive and have an uncertain outcome. The capitalist state facilitates this research by educating parts of its population to perform it. It educates its population in the relevant sciences, so that companies can find the staff of their research and development departments on the job market.¹⁸ The capitalist state also conducts fundamental research itself in its universities and laboratories, paid for by its grants. It funds scientists engaged in basic research in mathematics, physics, chemistry, biology, labour process organisation, IT and so on whose results can be exploited by any firm for its individual pursuit of profit.¹⁹

Secondly, it is a long way from a scientific discovery to its successful exploitation in the interest of profit. When a technology is not profitable (yet) but deemed beneficial to the national economy, the capitalist state

helps it along its way by either organising its roll-out itself (train track networks, roads, telephone networks) or by subsidising the relevant industries (solar energy, nuclear power).

Without these interventions technological development under the rule of capital would have taken a lot slower pace. Demands for a Universal Basic Income react to effects of technological developments, developments that were helped on their way by the capitalist state. The capitalist state, to which the supporters of a Universal Basic Income turn, does not encounter the capitalist mode of production, it maintains and furthers it.

Social security

However, for those who seek to deal with poverty, appealing to the capitalist state is not wrong. After all, the capitalist state *does* maintain the working class. By paying in and out of work benefits the capitalist state recognises that the economy it watches over does not provide for those who produce the profits. Yet, it is not some socialist sentiment which explains the welfare state but harsh necessity. Left to its own devices, capital

¹⁷ We are keeping the discussion of private property rather short here but we have written about private property before. For example, see *Private Property, Exclusion and the State* available at <http://antinational.org/en/private-property-exclusion-and-state>, the first part of *Free Property — On Social Criticism in the Form of a Software Licence* available at <https://gegen-kapital-und-nation.org/en/copyleft> or the part on freedom in *Liberté, Égalité and such matters* available at <http://antinational.org/en/freedom-and-equality>.

¹⁸ When companies develop new technology, they have no interest in sharing this advantage with their competitors. They want to exploit their technological advantage for themselves. On the one hand, the capitalist state appreciates this interest and grants these companies an exclusive right of disposal over the application of scientific discoveries through its patent law. On the other hand, the capitalist state has an interest in the success of its whole national economy

and wants all companies to be able to exploit technological advances. It hence attaches an expiry date to patents. It also organises fundamental research which is available to all competitors as described in the main text.

¹⁹ A lot of basic research is both expensive and not immediately exploitable, i.e. its "time to market" might be counted in decades if there is such an expected time frame at all. Hence, engaging in such kinds of research is not interesting for most individual capitals.

²⁰ Most environmental regulation is a testament to the nastiness the capitalist state expects from its economy — not without reason. That there needs to be a law that bans dumping toxic waste into the river speaks volumes about the capitalist mode of production. That a lot of environmental regulation specifies a limit value up to which point it is legal to expose your surroundings to poisonous substances speaks volumes about the state which watches over it.

would eat workers and the earth, in a word, it would eat what it needs to exist and thus itself.²⁰

Capital in its drive for profit permanently makes workers redundant. It finds new ways of producing without some of its workers. Yet, it also sometimes needs more workers, for example, when new labour intensive branches of industry develop. Also, the economy goes through boom and bust, or some branch of industry prospers while another falters. Capital wants to find workers readily available whenever it needs them and to throw them out whenever it does not. Only if unemployed people are not left to starve, they are still available if or whenever their services are requested. What might present itself as reacting to and dealing with the effects of the capitalist economy is in fact a contribution to its maintenance.

This creates a bit of a pickle: the capitalist mode of production depends on the compulsion to work. Workers produce the products companies turn into profits. If workers are simply and comfortably provided for without them needing to work for some company, they would have no objective reason to show up to work. On the other hand, when unemployed workers are not provided for, they are not available to capital when needed. They must be maintained but this undermines their need to work for a capitalist company. The result of these opposing interests — maintenance when out of work, but without making workers free from the compulsion to work — is a social security system which maintains poverty below even normal working class poverty levels. In addition, the permanent compulsion by the job centre to be looking for work is meant to make life on the dole so miserable as to not present a real alternative to wage labour, i.e. to producing profits for capitalist companies.

These two opposing interests in the maintenance of the working class produces the jungle of rules and regulations governing the various social security schemes. In its rules and regulations the capitalist state recognises that its society produces poverty which undermines the reproduction of the working class. It wants its working class to have a place to live (housing benefits), to raise children (child benefits), to seek work (job seekers allowance) and so on. It wants to make sure that (only) these particular results are attained with its benefits. It wants to maintain just the right level of

poverty which allows those subjected to it to do what it considers necessary but nothing else. Hence, when social security law becomes more and more complicated, this is a consequence of what social security law aims to achieve, not an expression of a bureaucracy out of control. Proposals of a Universal Basic Income on the basis of curbing unnecessary bureaucracy miss the point of why these bureaucracies exist in the first place: to maintain useful poverty.²¹

The poverty and stress under the thumb of the job centre is a consequence of the purpose of social security — maintaining a useful working class. This does not mean there is no range of possibilities of how life on the dole might look like, but hopes of the social state ending poverty mistake it for something which it is not. It maintains it as a service to capital so that it can find the workers it needs even after it has discarded them.

Proposals for a Universal Basic Income do not ask what the capitalist state actually does and why. They do not ask what purposes are realised by maintaining the poverty of the working class in this way. These proposals instead posit their own image of how they would prefer the world to be and suggest policies which ought to get us there.²² When left-wing supporters of a Universal Basic Income see Universal Credit in the UK or social security changes in Cyprus as a first step towards realising their aims — except, of course, “details” like conditionality, compulsion to work and the amount of money actually paid out — they are ignorant as to why the capitalist state attaches conditionality and compulsion to work to its benefits, and why these benefits are so low.

State revenue

A fair amount of writing about a Universal Basic Income is spent on answering the anticipated question “can we afford it”. The answer by supporters of a Universal Basic Income is a resounding “yes” backed by alternative budget plans. This way, demands for a Universal Basic Income present themselves as realistic.²³ So realistic that they find nothing strange about an economy where providing people with what they need is a burden to the economy instead of its aim. The proponents are aware of the state’s worries about the budget and would not propose a reform without suggesting

how to finance it: firstly through changes to taxation and secondly through reallocations of parts of the state’s budget.

The state collects taxes. It rules by participating in the economic success of its subjects. In the case of the social state this means that the state reacts to the poverty of workers by expropriating part of their wage through taxation and mandatory insurance to pay for hard times. Additionally, the state also demands that employers pay for the continued availability of an able and subservient working class through taxation and mandatory insurance contributions. Any penny expropriated from a firm, though, is a penny which is not profit, which is the declared purpose of every business and the premise of taxation. The contradiction of taxation is that it *restricts* citizens in their economic activity in order to *support* the economic activity of its citizens. The availability of poor people as a means for profit is in the interest of capitalist companies. Yet, the money spent on maintaining them is still a deduction from profit. This creates another pickle for the state: it collects taxes because there is much to do for a capitalist state, but it also wants to reduce taxes to allow its national economy to prosper. All supporters of a Universal Basic Income appreciate this. They are sufficiently realistic to know that the provision for poor people in this society is premised on the success of capitalist enterprises in making profits. Their proposed unconditional provision for poor people is made rather conditional. That is, they appreciate that taxation to alleviate poverty should not threaten the endeavour which produces the poverty in the first place.²⁴

The state vets every expenditure in its budget for its usefulness to the national interest. It asks of every expenditure — benefits, the NHS, environmental protection, Trident and prisons — if they are really necessary for the national interest. Not only in themselves but also in comparison with each other. Is this or that expenditure more or less useful for the might of the capitalist state and the functioning of its capitalist society? Every expenditure only counts insofar as it is expected to be useful to the national interest, more useful even than other equally appealing expenses also competing for a chunk of the budget. In the case of the social state this means that the needs of poor people have to pass this test. The question is not only whether maintaining the working class is a necessity and if paying benefits is too much

²¹ “A lot of government workers are required to ensure that welfare recipients are not claiming their benefits fraudulently, and to administer the complicated system of welfare payments and tax credits. [...] A basic income would hugely simplify the welfare system by replacing most of these bureaucracies, which would reduce its administrative cost significantly.” — BasicIncome subreddit FAQ, op. cit.

²² “If the picture I’ve drawn is at all right, the only way we could have anything resembling a middle-class society — a society in which ordinary citizens have a reasonable assurance of maintaining a decent life as long as they work hard and play by the rules — would be by having a strong social safety net, one that guarantees not just health care but a minimum income, too.” — Paul Krugman, op. cit.

²³ “But if people are to take the idea of guaranteed income seriously, we must also return to pragmatic questions of cost. Let us assume that the intentionally multi-dimensional argument I have been making in favor of guaranteed income has been to some extent persuasive. Still, a question that will need to be addressed relates to funding. From where would money come to fund such a proposal?” — Lynn Chancer, op. cit.

²⁴ “The cost of this would be recovered through a more progressive income tax system. We recognise that with the public finances in their present state this is not the time to introduce such a scheme.” — Green Party General Election Manifesto 2010, http://www.greenparty.org.uk/assets/files/resources/Manifesto_web_file.pdf

of a burden for the budget, but also if paying this or that benefit is more or less useful for the might of the state compared to a bit of the NHS, higher education grants, more prison staff, a new weapon system and so on. This, too, is appreciated by proposals for a Universal Basic Income. Their unconditional provision for poor people is also made conditional on the national interest and the adequate allocation of funds for it. Their realism is demonstrated by alternative budget proposals which would enable the state to finance a Universal Basic Income without undermining other expenditures deemed necessary for its might.²⁵

Unity

Under the name “Universal Basic Income” contradictory purposes are pursued. The mutually contradictory purposes find expression in different answers to the question of *how much* it ought to be. This quantitative question expresses qualitatively rather different purposes.

For *conservative* or *libertarian* proponents, a Universal Basic Income is an interesting policy idea which would trim down the welfare state. If a Universal Basic Income is low enough to merely cover necessities then it would essentially amount to a restructuring of social security which gives up the bureaucracy needed for determining what a claimant needs and/or deserves in the eyes of the capitalist state. That is, it would express that the state — compared to its current welfare regime — had less of an interest in those particular problems facing its poor population that it currently recognises. Such a reform, if it truly replaced all other social security programmes, would express a new standpoint of state: here, the Universal Basic Income is a means to maintain poverty which is indifferent to the particular ways in which this poverty

undermines the ability of the state’s subjects to function as its means.²⁶

For *social-democratic* proponents a Universal Basic Income ought to be enough to make individual life choices about employment while still being low enough to maintain the compulsion to work in general. To them widespread life off wage labour and on a Universal Basic Income is not desirable but it perhaps ought to be enough to allow people to take a while off work without fearing immediate destitution. Their purpose is similar to that of the conservatives, except that they consider as valid opting out of work in order to care for a relative or in order to contribute to society through the voluntary sector.²⁷

For *post-autonomist* Marxist supporters a Universal Basic Income promises freedom from work.²⁸ For them a Universal Basic Income ought to be enough to not have to worry about material needs. Not just enough money to get by, but enough money to deal with everything life throws at you: the washing machine breaks, moving to a different place, raising children, an accident, taking care of someone, needing a new car, Apple releasing a new Macbook with a quantum processor eventually obsoleting your kit, etc.²⁹ In this left-wing vision of a Universal Basic Income it would be sufficient to never have to work for a capitalist employer again. They want people to be able to opt out of work for a company.

Given these radically different purposes, there is no actual unity amongst the proponents of a Universal Basic Income. It hence makes no sense to be in favour of “*the* Universal Basis Income”. What is called “Universal Basic Income” means radically different things depending on who proposes it and why.

Yet, it is important especially for left-wing supporters of a Universal Basic Income to posit unity. If only a few post-autonomist Marxists demanded a Universal Basic In-

come the demand would be as “realistic” as a call for a revolution. If, on the other hand, they can point to bourgeois economists like Krugman or Wolf, to a conservative US president like Nixon even, their project gets a veneer of seriousness and realism. By referring to the ink being spilled on a Universal Basic Income in the *Economist* and the *FT* these radical critics of society can point out how practical their suggestions are.

In the name of realism these radical supporters of a Universal Basic Income want to end capitalism while presupposing its continued existence. If people are free from any compulsion to work for a capitalist company, this would destroy the capitalist mode of production. This, after all, relies on the workers to produce the products which are turned into profits. It also relies on the exclusion of workers from these products so that they can become profits. However, at the same time, the same supporters also ask the same capitalist firms to produce the profits to pay for freedom from them in the form of a Universal Basic Income. They want both: the continued existence — for now — of the capitalist mode of production where the reproduction of each and everyone is subjugated to profit *and* the end of this subjugation by providing everyone with what they need. They want companies to make profits, which relies on and produces the poverty of workers, while at the same time ending mass poverty. They want to maintain the exclusion from social wealth through the institution of private property and end this exclusion by giving everyone enough money. Whilst realism tells these supporters to make the provision of poor people conditional on the success of capitalist firms, it does not make them shy away from these paradoxes.

By insisting on unity with their opponents these anti-capitalist supporters aim to demonstrate that they are not ivory-tower, dreamy intellectuals but serious, realistic

²⁵ Here is an example from before the “War on Terror” proposing a transition to a “post-capitalist” future while maintaining American military supremacy: “For instance, one source of possible funding exists in the form of reductions in military spending. Some analysts estimate that close to 50% of the current military budget of \$265 billion could be reduced since much of that budget was predicated upon Cold War assumptions rendered obsolete upon the demise of the Soviet Union. If so, then the military budget alone could provide a large proportion of the funding needed to start a basic income maintenance program. But even if we assume that the 50% military budget cut is too extreme, a still significant portion seems now unnecessary and to be inflated (military expenditures were 50% of the fiscal 1998 discretionary budget in the United States). According to the Cato Institute Handbook, the military budget could be sensibly reduced from \$243 to \$154 billion, a savings of \$89 billion which might become part of the funding needed to start a basic income maintenance program. The Center for Defense Information publishes *The Defense Monitor*, which noted in its April/May 1996 issue that ‘The United States can safely and sensibly reduce its annual budget to about \$200 billion and continue to maintain the strongest military forces in the world.’” — Lynn Chancer. op. cit.

²⁶ This standpoint is not completely alien to the British State. The benefit cap — no household can receive more than £500 per week — expresses the same standpoint: this sum must suffice. It must suffice even if the state itself declares it does not: the benefit cap prevents the payment of a sum of money larger than £500 which is calculated by applying the state’s own standard of what money is necessary and what is not. The part of the population which is subject to the benefit cap is not what the state is interested in maintaining at the previous standard any more.

²⁷ The Green Party considers £72 per week (+ housing benefits) sufficient to cover basic needs and describes the goals of its Citizen’s Income proposal as: “The Citizens’ Income will eliminate the unemployment and poverty traps, as

well as acting as a safety net to enable people to choose their own types and patterns of work (...). The Citizens’ Income scheme will thus enable the welfare state to develop towards a welfare community, engaging people in personally satisfying and socially useful work.” — The Green Party Policy Site, *Economy*, <http://policy.greenparty.org.uk/ec.html#EC730>

²⁸ On the one hand, Kathi Weeks wants a Universal Basic Income to allow people to refuse work. On the other hand, she presumes that most people would still want to work, implying that she really means “basic”, i.e. poverty, when she speaks of a Universal Basic Income as “substantial rupture with the current terms of the work society”: “To be relevant to the politics of work refusal, as was the demand for wages for housework, the income provided should be large enough to ensure that waged work would be less a necessity than a choice (see McKay 2001, 99). An income sufficient to meet basic needs would make it possible either to refuse waged work entirely, or, for the majority who would probably want the supplementary wage, to provide a better position from which to negotiate more favorable terms of employment. If the income were merely a small addition to wages, it would risk supporting precarious employment and rationalizing the present wage system. At a level adequate to live on as a basic livable income it would represent a more substantial rupture with the current terms of the work society.” — *The Problem with Work*, p. 138

²⁹ We are spelling out this more or less silly list to highlight what it would mean to be truly free from material worries in a society where all material wealth is in private hands. It is not true, as claimed by some left-wing supporters of a Universal Basic Income, that the median wage would achieve this goal. It is not like people on a median wage have no serious material worries. The currently enforced level of median poverty is a poor standard for freedom from material worries.

proponents of policy. However, now they are confronted with a problem: what Krugman, Wolf and Nixon want is not at all what they want. Mainstream supporters of a Universal Basic Income want to maintain the poverty that capitalism produces, the radical left wishes to end it. Hence, in a second step, the posited unity must be denied.³⁰ Radical writers distance themselves from their mainstream counterparts and urge each other to caution. They insist that their successful opponents want what they want so their project is not just blue sky dreaming, but their successful opponents also do not want what they want, so they have to be careful. They want the same as Richard Nixon, Martin Wolf and Paul Krugman which is why their proposals are serious *and* they do not want what Nixon, Wolf and Krugman want which is why their proposals are radical.

The radical supporters of a Universal Basic Income notice this contradiction. For them, it is the start of a debate on how to “strategically” deal with this situation; how to keep a radical profile while campaigning for this reform. However, by the time they “problematise” that their realistic policy suggestion also finds support from their opponents (but whose support makes it realistic in the first place) it is too late. They have already accepted that this society can be for those subjected to it, when they encounter that it is in fact not: when it gets easier to produce stuff, more poverty is the result.

The problem with a demand for a Universal Basic Income is not that it is not going *far* enough or that it is not radical *enough*.³¹ This criticism presupposes a unity of purpose and accuses this reformist demand of being *limited* in its seriousness of pursuing it. But if people put forward demand A — a Universal Basis Income — instead of

demand B — the end of the capitalist mode of production, say — they have their reasons. To hit its mark a critique must take seriously that the proponents of a Universal Basic Income take the capitalist relation of technology and poverty as a self-evident starting point, that they claim the wage is a reward, that they consider the capitalist state as a neutral arbitrator encountering the capitalist economy as an *a priori* fact, that they share the state’s worry about its economy and its budget, and that they believe the welfare state to be a means to end poverty. These wide-spread but incorrect judgements lie behind the appeal of demands for a Universal Basic Income and that is why everything is wrong with free money.

Appendix: Giving poor people money means inflation

A common criticism levelled against proposals for a Universal Basic Income is that giving poor people money to cover their needs would necessarily lead to inflation. Since all that money in the hands of poor people would produce an increase in effective demand, landlords and supermarkets could ramp up prices in response, leading to overall inflation. Indeed, in a first step the arrival of lots of money in the hands of poor people would likely increase demand for the goods affordable on a Universal Basic Income. In response, merchants, producers of mass consumption commodities and landlords could increase prices. As a result, their profits would rise. This makes these branches of industry more appealing to other capitalists. Producing, say, milk would promise higher profits for the same investment than, say, producing sports cars.³² Hence, other capitalists would switch industries from, say,

luxury production, to producing commodities within reach for those on a Universal Basic Income. As a consequence, supply of those commodities would increase, suppressing prices again. Whether this, in turn, would reduce supply in other branches of industry leading to rising prices there, depends on how a Universal Basic Income would be financed. Assume the funds for paying for a Universal Basic Income came from taxation as proposed by most proponents: the capitalist state takes money away from some citizens and gives part of it to others. In this case, whatever additional effective demand will come from poor people, it was expropriated from others who will now lack it. While effective demand for, say, milk increases, it decreases for, say, sports cars or big machines. In this case, all these proposals of a Universal Basic Income attempt to do is to redistribute wealth. This produces hiccups in the reproduction of the capitalist economy but does not necessarily lead to inflation. It is a different situation, though, if the money for a Universal Basic Income were raised through sovereign debt. If the state takes on debt for such a capitalistically unproductive venture as providing for its population then inflation is not unlikely. This is, however, a question of sovereign debt, its money-like qualities and the unproductive nature of state spending; not a question of a Universal Basic Income.

More generally, the fallacy of the “economics 101: supply & demand” argument is that it pretends that supply and demand would determine prices but that prices would not determine supply and demand. It posits supply as a fixed magnitude in a society where production is directed by the pursuit of profit: production goes where the ratio of return to advance is highest.³³

³⁰ “The very fact that Milton Friedman and Erich Fromm shared a common belief in guaranteed income — while on most other political, social and intellectual issues they would certainly have been prone to disagree — should also be taken as a cautionary reason for pause. For, as I also wish at last to emphasize, guaranteed income is not a panacea for all social problems facing Americans into the 21st century. Should the idea be viewed narrowly and in isolation, the proposal can be perversely privatizing: it would end up according with, rather than challenge, the strongly individualistic propensities which have tended far too characteristically to abandon people to their own devices.” — Lynn Chancer. *op. cit.*

³¹ Most of the time proposals for a Universal Basic Income are confronted with the opposite charge to which the authors of the BasicIncome subreddit FAQ respond correctly: “Isn’t this communism? Definitely not. Have another look at the list of supporters, for one thing — I doubt Milton Friedman and F. A. Hayek would support something that could be accurately described as communism! Let’s look more closely at the definition of communism from Wikipedia. This states that ‘Communism’ (from Latin *communis* — common, universal) is a revolutionary socialist movement to create a classless, moneyless and stateless social order structured upon common ownership of the means of production’. Basic income is not revolutionary (in that it doesn’t need a revolution to happen), does not require the eradication of classes, does not require the eradication of the state,

and doesn’t require common ownership of the means of production. It is in no way communist.” — BasicIncome subreddit FAQ, *op. cit.*

³² There are some things of which production cannot be easily increased such as real estate in inner London. If more people have the means and the interest to rent a particular kind of property there prices for those kinds of properties would go up. This could simply mean a shift in what kind of housing is offered in inner London, e.g. maybe some four room apartments would be split into one room apartments since those would now be within reach of Universal Basic Income recipients. That is, here too supply is not simply “fixed”. On how land prices are formed see *Gentrification — the Economy of the Land and the Role of Politics* available at <http://antination.org/en/gentrification-economy-land-and-role-politics>.

³³ If prices determine supply and demand and supply and demand determine prices we arrived at a circular explanation of price, i.e. not an explanation. Indeed, to explain what determines prices a first question would be what a price actually expresses. What is this quality of a commodity that is expressed in the price of it. What does it mean to say a commodity is “worth” this or that much. This question is the starting point of Karl Marx’s *Capital* which we would recommend to anyone.



ISDS

Courts of arbitration within the TTIP treaty

Courts of arbitration are planned as a centerpiece of the Transatlantic Trade and Investment Partnership (TTIP): after TTIP taking effect, foreign investors could take legal action against states when new legislation affects — in a way that breaches the TTIP treaty — the capital they have advanced. In principle, this is nothing new as similar courts of arbitration are already part of various international treaties. However, with TTIP these courts would for the first time play an important role between two powerful, leading state actors: the US and the EU.¹ Both the treaty and the courts of arbitration it introduces signify shifting power: states empower capital in a new way.

Non-governmental organisations and activists criticise the disempowerment of the state. This analysis fails to recognise the task at hand for capitalist states. Through law and policy, states lay the foundations for economic growth, which is another way of saying for the accumulation of capital. While TTIP and ISDS courts of arbitration would introduce new tools to pursue this aim in transatlantic relations, the end itself is not new. The question here is not why cap-

italist states look after capitalist growth, but rather why these states commit themselves to something they already do.

This piece will first give an account of what courts of arbitration are, how they work, who can turn to them and what they can decide. Then, it will explain the calculations of the US and the EU, what they hope to gain from introducing this new legal instrument and what they are ready to accept in return. In summary, our conclusion is that, while TTIP and ISDS deserve critique, nothing would be won if the whole treaty or the courts of arbitration were to be prevented.

What is an “ISDS”?

The investor-state dispute settlement (ISDS) aims to provide foreign capital with more security. If foreign capitals see their foreign investments damaged in a way covered by the court, they can sue the foreign state in front of such a court of arbitration for compensation of profits. The set up of these courts of arbitration is different from

courts under national law or international law regarding what interests enjoy legal protection, what is decided by the court and the formalities of how decisions are made.

Firstly, ISDS is specific in who can take part in an arbitration: a case can only be filed against states, i.e. only states can be accused of wrongdoing under ISDS. This makes sense insofar as dispute settlement aims to protect investments from arbitrariness. Since the conditions of investments are decided by states (when passing legislation, granting subsidies or introducing new regulations and industrial standards), they are the potential respondents. If such a measure damages a firm in a way covered by TTIP, then an ISDS court can award compensation.

Just as the group of potential respondents is limited — the states taking part in the treaty —, so is the set of potential claimants: only capitals can initiate a case under ISDS because only capitals invest in order to make a profit, profits which ISDS aims to protect.² Yet, not every capital, not every investor can file such a case. The right to bring a legal case against a state is

¹ The EU which is responsible for the external trade policy of all of its 28 member states is an alliance of states, not a state on its own. Yet, in this area of policy making, the EU acts as *one* actor and will therefore (and for better readability) be referred to as “one state” in this article.

² States also act within the economy: whenever a governmental body commissions the construction of a street, a school or a prison. But the state does not aim to make a profit.

reserved for foreign capitalist companies of the respective other state (see second part of this article for the reasons of that limitation). Compared to national law, it is nothing new for companies — domestic or foreign — to be able to take legal action against representatives or institutions of the state. In international law, on the other hand, this is not a given. In this area, states are the only legal entities that can sue.³ With ISDS, states permit capitalist companies to take legal actions against states in front of an international court of arbitration — simply based on a company's calculations and regardless of those by the involved states.

If the court decides that a company was in fact harmed in a way that breaches the TTIP treaty, the question of compensation arises — which standard is applied to detect damage? Damage is quantified as loss of *expected* profits; sometimes it is also measured as damage to a company's brand. To be compensated for a loss of expected profits reaches further than compensation for already produced commodities that can no longer be sold, e.g. due to a newly introduced industrial standard with which they do not comply. In ISDS rulings (under several other existing treaties), damage is regularly accepted to have taken place if a foreign company can show that it has started investing and if it can demonstrate that expected profits cannot be realised due to a state changing certain conditions in ways prohibited by the treaty.

Compensation for loss of expected profits due to state actions does not exist as such in national law, where current value is usually taken as the basis for compensation.⁴ Yet, there are many cases where such a loss of future profits accompanies other damages that are protected by national law. If that is the case, a damaged investor can also file a lawsuit in front of a national court. Three large electric power companies did this in Germany after the country phased out nuclear power: they brought legal proceedings before the Federal Constitutional Court of Germany.⁵ In addition to that lawsuit within the German judicial system,

one of the companies, the Swedish firm Vattenfall, has also claimed against Germany for lost expected profits in front of an ISDS court agreed upon in another treaty, the international Energy Charter.⁶ The outcome is pending. The difference between the two proceedings: the highest German court can decide that a particular decision by the government was unconstitutional or that it lacked a legal basis. Furthermore, it can force the government to revise its decision. In contrast, courts of arbitration only grant compensation. This compensation aims to indemnify the loss of expected profits if the judges see the latter to have been caused by governmental action prohibited by an international treaty. A victory in front of such a court of arbitration can therefore only lead to a recovery of damages. This is the third main difference between ISDS and regular, national court cases: compensation is the only possible victorious outcome for the claimant.

The four legal grounds

Dispute settlement between a state and a foreign investor presupposes the basic conditions of a capitalist economy; these are taken for granted as tasks for the state. Indeed, in the West, these are a given.⁷

ISDS builds on these premises. Under TTIP, the contracting states agree not to treat foreign capitals in certain ways. The ISDS mechanism then allows these foreign transatlantic investors to take legal action against the host state. There are four possible grounds on which a legal action can be brought.⁸ In this text, these grounds are called the potential "legal grounds for action".

a. Protection of Property

The first of the four legal grounds for action protects investors against expropriation. This refers firstly to a direct expropriation, e.g. nationalisation. Thereby, similar to national regulation, expropriation is not simply outlawed. Rather, expropriations

are allowed if they are in the national interest, if there are implemented lawfully and if compensation is paid. Those provisions are also known in national laws. However, investment protection clauses also target those state actions that are defined as "indirect expropriations", e.g. devaluation of a company through the introduction of environmental regulations.⁹ With ISDS, a company that has undertaken investments may sue if a new, unexpected regulation obstructs its business, say, by obliging it to use more expensive rinsers or to purify sewage to a higher degree.

The case *Moorburg I*, filed under the Energy Charter, is based on this clause.¹⁰ Vattenfall filed a lawsuit against Germany because the political circumstances changed while a coal power station was under construction. After a change to the regional government, the State of Hamburg demanded that Vattenfall fulfil higher standards than were previously required for the purification of the plant's sewage. In response, the company claimed to have had its expected profits indirectly expropriated. Because of increased costs, Vattenfall now expected to realise lower profits than it had anticipated. Both parties settled: the city of Hamburg has revoked the stricter environmental regulations and has possibly paid damages (this part is not on public record).¹¹

Ethyl v Canada exemplifies the claim of indirect expropriation as well: the chemical company sued the Canadian State due to a newly introduced ban on MMT in petrol. MMT is an additive to fuel which enhances the engine's performance. In most Western states, though, it is classed as a neurotoxin and therefore prohibited as a supplement to petrol. Ethyl filed for compensation on grounds of indirect expropriation due to the ban. The lawsuit was filed under the NAFTA framework, the North American Free Trade Agreement of the US, Canada and Mexico. After a positive preliminary decision in favour of Ethyl, the Canadian Government agreed out of court to pay the company US \$13m, to annul the ban and

³ This right to sue is increasingly being extended to international organisations such as the United Nations and the World Trade Organisation.

⁴ A well-known exception are claims of damages in US civil law which are not just measured by the damage they caused but can entail a punitive element.

⁵ To be exact, the lawsuit was directed against the 13th amendment to the Atomic Energy Act. Additionally, there are pending cases regarding the mandated shutdown of several nuclear power plants triggered by the nuclear catastrophe in Fukushima in 2011.

⁶ The Energy Charter was created in order to enhance investments in the energy sector all over Europe after the collapse of the Soviet Union and the Eastern bloc. The aim was the "integration" of the energy sectors of the former members of the Eastern bloc into the European and the global market. The treaty and the protocol was signed in 1994, the Charter became effective in 1998. There are 51 members states, amongst them all EU countries, Russia, various former Soviet republics as well as Japan and Australia.

⁷ That means all of the following: private property especially of the means of production is a precondition for profits to be made. Freedom granted to citizens by democratic states guarantees that everyone is left to oneself which for most people means a silent compulsion to work for a living. Since capital does not always need all the workers available, the state runs a whole department to deal with that: social policy. With social benefits, people are enabled to survive on a low level and therefore are in principle available for work. Also, the state looks

after the infrastructure for transport and communication to happen. The state provides an education system, too, so that for all the different jobs in a capitalist economy, wage labourers with the relevant knowledge are available. Finally, the state guarantees the whole thing with its monopoly on force which means police for domestic affairs and the military for international confrontations.

⁸ What exactly will be included in the TTIP agreement, which is still being negotiated, is still unknown despite the recent leaks made public by Greenpeace (2.5.2016). Most other investment protection treaties include those causes of action in a more basic or a more elaborate form.

⁹ Indirect expropriation is also part of e.g. the German legal system.

¹⁰ ICSID Case No. ARB/09/6

¹¹ This settlement was agreed under the national legal system (in the Hamburg Higher Administrative Court), where Vattenfall had initially filed a lawsuit. In the settlement, the different claims in front of the ISDS court played a decisive role. The settlement led to a stop of the ISDS proceedings. That was not the end, though. An NGO filed a claim against the settlement in a national court and won. However, this still was not the end of the saga, albeit it no longer being argued in front of an ISDS court. With the settlement and the less strict regulations, Hamburg possibly contravened the EU's Flora-Fauna-Habitat Directive. The EU Commission now is suing Germany. This case seems to be developing into a test run on which law trumps the others.

to run an ad campaign advocating MMT as harmless.

In both cases, planned policy changes were revoked out of fear of having to award damages to investors. Yet, it would be a misunderstanding to see these lawsuits as proof of benign states being forced to their knees by evil, greedy international corporations. Far from it. In capitalist countries, environmental policy is always subject to weighing up how much a state wants to burden companies like Vattenfall and Ethyl with costs versus how much damage it wants to tolerate to its natural and human resources. Many environmental policies do not outright ban a product or production method on the grounds of its destructive effects on the environment and people. More commonly, capitalist states decide on a degree to which those damages caused by the pursuit of profit are acceptable. As a consequence, limits are defined which ought to balance the interests of both sides, i.e. do not damage the interests of companies too much and do not ask so much of people and environment that their usefulness is undermined. The state defines when it becomes “too much”, lung cancer included. With ISDS, the US and the EU reinforce a standpoint which is part of the calculations of any capitalist state.

b. Fair and equitable treatment

Secondly, TTIP demands “fair and equitable treatment”. Said differently, predictability and reliability of the state as a negotiating partner are contracted in the treaty. The paragraph in question demands access to the national legal system for foreign transatlantic capital and that investors must not be blackmailed, treated arbitrarily nor discriminated against. Discrimination here is meant in the classical sense, i.e. with regard to gender, religion or on a racist basis.¹² Overall, this paragraph is no surprising innovation — in contrast to what many critics of TTIP claim. Democratic states consider the predictability of their law as an essential principle.

However, fair and equitable treatment is usually interpreted by courts of arbitration as meaning that the so-called “legitimate

expectation of the investor” must not be disappointed. The wording leaves leeway for a variety of interpretations by the respective ISDS court. The case of *Metaclad v Mexico*, also on the basis of the NAFTA treaty, is an example of what that practically means.¹³ The US waste disposal company Metaclad Corporation had planned to build a landfill in the East of Mexico. The Mexican Government had not only given permission but also reassured the firm that no further permissions were needed. Yet, the local government had to sign off the building licence, which it eventually denied. Thereby, it made commissioning the landfill impossible. In the case, Metaclad argued it had made the decision to invest based on false claims by the government. Metaclad claimed an infringement of fair and equitable treatment and also claimed to have been indirectly expropriated. The company won on both counts and was compensated.¹⁴ If the state does not act as a reliable partner, e.g. because its arms act in contradictory ways and in contradiction with agreed arrangements with an investor, then the damaged foreign capital of the partner state can receive compensation. This second legal ground is seen to be the most far-reaching, offering the most leeway for the claimants.

c. Non-discrimination

Thirdly, foreign capital must not be discriminated against. That can mean, for example, a ban on those subsidies in which domestic capital is favoured.¹⁵ Any benefit a domestic investor receives must be granted to capital from the other state as well. In national regulation, this kind of discrimination is usually not prohibited (more on that further down). Yet, the issue is covered by other international treaties: in the context of the WTO, all EU states as well as the US have agreed to treat foreign investors no worse than their domestic companies.¹⁶

d. Protection and security

Finally, foreign capital must be granted “security and protection”. This provision originated in times when such courts of arbitration were part of treaties between

Western and Third World countries. In contrast to the former, the latter generally did not provide for a democratic order watching over a relatively smoothly running capitalist society (which relies on a monopoly on force because it is continuous and universal competition). Today, this part of the treaty still protects foreign investors. After all, even in Western countries, no guarantees exist that the generally comfortable situation for investors will not change one day — temporarily or for longer.

What is new about the four legal grounds?

With these legal grounds, European capital could now invest in the US and sue the state if it sees its interests damaged. This is an additional and powerful means which domestic capital does not have access to. Domestic capital can only take legal action against their government under national law.¹⁷ Furthermore, ISDS courts of arbitration guard an interest which is not usually part of national laws: the protection from loss of profits. The EU and the US thereby guarantee to each other’s capital good conditions for investment, by protecting them from certain changes in policy.

Because ISDS can take lost profits into account, a foreign capital might gain a financial advantage over a domestic company if it is awarded a compensation for damages by an ISDS court that is higher than the compensation awarded a national court. In contrast, the *grounds* for legal action in front of an ISDS court do not constitute advantages for foreign capital over domestic capital. These grounds correspond more or less to legal grounds in national laws or are covered by WTO regulations already. These legal grounds are detailed above because many critics of TTIP paint them as *new* laws for foreign companies, which is not true.

National law in capitalist states is concerned with the protection and promotion of capitalist growth — just as much as ISDS and its foundations in the TTIP treaty will likely be. Capitalist states guarantee the competition of capitals, i.e. they administer this competition and maintain their citizens as subjects of competition.¹⁸ This means that the economy is based on and the sustenance

¹² It is the newer investment treaties like CETA or the one between the EU and Singapore that define fair and equitable treatment more clearly than older ones. The EU Commission explains that it wants to prevent unwanted claims of investors that are seen in the past to have exceeded the intent of some agreements. One example: a subsidy paid in an EU member state was ruled unlawful by the EU. Therefore, the foreign company initially foreseen to profit from that subsidy claimed and received damages. That was seen to be like a reintroduction of the subsidy through the backdoor. http://trade.ec.europa.eu/doclib/docs/2015/may/tradoc_153408.PDF, p. 5–6.

¹³ ICSID case No. ARB(AF)/97/1.

¹⁴ Mexico was made to pay US \$16m.

¹⁵ Whether public procurement will become part of the TTIP deal, is highly contested from the US side.

¹⁶ This is the so-called national treatment: it determines that contracting states of the WTO must treat foreign capital on their territory equally to domestic firms. Additionally, the “most-favoured nation clause” requires that any advantage state A agrees to offer to companies from state B, state A must also offer to any capitals from state C (if and when they invest in state A). Thereby, the

current rules of world trade stress more and more that foreign capital cannot be discriminated against, i.e. domestic companies can no longer receive more favourable treatment by its state.

¹⁷ Under CETA, the European-Canadian equivalent to TTIP, an allegedly damaged investor is prohibited from suing both in front of an ISDS and a national court.

¹⁸ Beyond the basic conditions, the capitalist state does a lot in order to administer this competition: antitrust laws for instance aim to prevent the formation of monopolies, whereby the law aims to guarantee the competition in each sector. Other examples of the need to regulate include the prohibition of corruption and bribery, avoiding personal gains of state agents as a reason for the advancement of single capitals. Then, there is public procurement law regulating how companies receive often ample contracts from public institutions, in order to avoid nepotism. In order for the total social capital to grow there are various protective standards needed. That aims to limit the permanent ruination of the population and particularly of workers to a degree that avoids widespread deaths and aims to keep the working class intact so that it can be used as wage labourers when needed.

of everybody relies on exploitation: food and shelter exist if and as long as money can be made from producing and providing it. National law is just as little concerned with the well-being of people as international law is. In both forms, people only appear in their formal roles defined by the state and its law. Everyone ought to be useful for the capitalist economy in their specific role — as capitalists, as workers, as teachers, as pupils etc. Only in that capacity do people appear in the state's calculation and in the calculation of capitalist businesses. ISDS presupposes all these conditions provided by the state and then adds additional protection for transatlantic capitals.

Investment protection and the capitalist common good

In some newer treaties — like in the European-Canadian CETA or the Free Trade Agreement between the EU and Singapore — a so-called “right to regulate” is codified.¹⁹ The contracting partners must have seen a necessity to clarify that states can indeed continue to make laws to decide what goes on in their territories. This is remarkable insofar as sovereign states make laws all the time. However, with the introduction of rights for foreign transatlantic capitals beyond the sovereign's judicial system, potential for conflict between these rights and the state's interest to regulate arises. The clarification in those newer treaties reaffirms, above all, that states are not wrong to claim responsibility for their land and people and to shape the conditions for successful accumulation.

At the same time, external courts of arbitration are now asked to decide if a given policy is fit for purpose and falls under the “right to regulate” or not. Does the state outlaw a certain chemical mainly because it considers the costs and damages to its own population too high? Or is this merely a badly concealed, protective measure directed against some foreign capital? ISDS courts would have to consider national interests in two ways to decide these questions: firstly, is a given policy actually aimed at enhancing the common good? Secondly, is the way in which the state pursues its legitimate aim particularly harmful to foreign, transatlantic capitals, for example, when a policy is not intentionally but effectively discriminating or when foreign capital suffers from indirect expropriation without compensation?²⁰ More generally, the central task of such a state — to organise its society as a well-oiled capitalist one — is affirmed with the “right to regulate”, yet at the same

time, the interests of foreign, transatlantic capital are affirmed in the form of legally protected interests.

The right to regulate is mentioned in newer treaties because many of the measures taken to protect investments can conflict with providing for a modern capitalist society. The introduction of a minimum wage, for example, aims to ensure that sufficiently many workers can be sustained long-term. States calculate that workers should earn enough to sustain themselves so that they are usable by capitalist companies whenever needed. But a minimum wage means more costs for those companies that make profits in sectors with minimum wages; their wage costs rise. The mentioning of the right to regulate simply flags this contradiction; it does not achieve more than that. At the end, it would be up to courts of arbitration to judge whether a particular measure harmful to foreign transatlantic capital was aimed at causing harm to foreign capital or whether this is a permissible side effect of providing for the capitalist society. With ISDS, the partaking states give a licence to institutions other than its own to render verdicts over a state's pursuit of commonwealth. This is new. Contrary to what critics claim, it is not new that judges decide over a government's policy and determine whether it is constitutional or whether it improperly harms the protected interests of subjects.

In the 1,000 and more pages of the treaty, the basis for the court's deliberation is rather minimal. The lack of clarity is easy to explain: on the one hand, it is obvious to every contracting party that itself and the other side will continue to make policy at home in order to shape the foundations of their respective capitalist economies. On the other hand, policy measures taken by *another* sovereign — e.g. by the US, especially if it is in the way of European investors there — can come under suspicion of being introduced to benefit domestic capital under the cloak of serving the common good. Additionally, every policy to facilitate economic growth ends up with some capitals winning, some losing out. Finally, whether a certain policy has the desired effect of bringing about more capitalist growth, is a matter of speculation and hence always subject to scepticism.

In the second part of this article, it will be explained why a capitalist state fostering its common good is something other countries worry about: states indeed want to see their particular domestic capital grow. When necessary, states can be rather inventive in

using the tools available to them. Technical norms or health standards can be applied in a way that keeps unwelcome competitors from abroad away and allows some domestic capitals that the state deems important to flourish. Whenever *other* states do this, it is considered as a problem. Hence, the EU (resp. US) monitors how the US (resp. EU) applies its right to regulate for its common good.

ISDS v national law

The ISDS procedures show the particular content at stake in these proceedings. After an action is brought forward in accordance with the ISDS mechanism, both sides, claimant and respondent, each name one lawyer to serve as a judge. Both of these judges then agree on a third judge — and the ad hoc court of arbitration is good to go.²¹ This alone is a rather peculiar procedure as there is no fixed court but a list of lawyers who have been named (or registered themselves) as possible judges for such international dispute settlement cases. Investor and state each choose their favourite candidates from such a list. Once formed as an ad hoc court, these three judges analyse the facts of the case which can take years. Whether the procedure takes place in hiding or in public can change. Sometimes it suffices for one party to register their interest in keeping the case from the public for it to be private. Secrecy, though, is not an innovation of ISDS courts: under certain circumstances, the public can also be excluded in national legal proceedings. However, that even the existence of a case can be kept secret under ISDS stands in contrast to national legislation.

The criteria for constituting an ISDS court have more in common with a mediation process than a court of justice. It is called “dispute settlement” for a reason: both sides are involved in defining who the “judges” are. In most national legal systems, by contrast, if a judge were to declare an inclination to deem a defendant guilty in current proceedings, even during a private poker game, then she would be barred from the case on grounds of being biased. For ISDS judges, on the contrary, it is more or less a given that they enter the whole process being partial.

Under ISDS, there is a possibility for the parties involved to reach a settlement before any verdict. If that is not the case, judges agree by majority whether the suing company was in fact damaged in a protected right and if that damage was caused by state action. In case of a recognised damage, a compensation amount will be set and the

¹⁹ Critics hold that the right to regulate was nothing important to the signatories because it only appears in the preamble of the agreements. They claim it is not mentioned to enable state's to regulate but that it is simply a sop for the protest movement. These critics overlook the fact that in US case law, for example, the preamble plays an important role: it is used by judges to clarify the intent of the contracting parties — For TTIP, the EU Commission has announced its aim to include the right to regulate in an own article,

cf. http://trade.ec.europa.eu/doclib/docs/2015/may/tradoc_153408.PDF, p. 6.

²⁰ Such an inquiry is also standard procedure in national courts when lawsuits are filed against expropriation, e.g. in front of the Federal Constitutional Court of Germany.

²¹ Some bilateral treaties allow for 5 or 7 judges.



state as the respondent party will be asked to pay.²² This decision cannot be challenged except for breaches of the formal rules of the proceedings; there is no right of appeal.

Courts of arbitration make decisions that are completely independent of other awards granted and other judges' arguments under the same treaty. Verdicts can relate to one another and the reasoning for one decision can be argued by relying on another verdict and its supporting arguments. Or two verdicts can be in open contradiction to each other. On the one hand, this means that each decision can be used as a precedent for the future thereby continuously interpreting the text of the treaty.²³ On the other hand, this is not like US case law where courts are obliged to follow verdicts of higher courts. Ultimately, the ISDS mechanism offers little legal certainty because different ad hoc courts can decide differently each time. Therefore, a further progression or binding interpreta-

tion of the TTIP treaty text cannot come into being. The treaty cannot develop an authoritative life of its own.

The legal mechanisms of ISDS differ from national law insofar as the state has much less control over who is a judge.²⁴ In national law, the state wants its judges, who rule over the recurring confrontations of its subjects, to be partial in one sense only: to be above all disciples of the legal regime. They must not be partial in the sense of having sympathy for one side in a legal dispute. The state in the national context institutionalises this demand of impartiality of its judges by a myriad of regulations and by controlling who is fit to serve in such a position. It refrains from doing that in the ISDS framework. Both sides, EU and US, would give up their usual competency in this regard.

The EU is getting cold feet: reform proposals for ISDS

In the EU, some politicians started to have doubts whether the current construction of courts of arbitration in TTIP is indeed fit for purpose. In September 2015, the EU Commission announced that its position on the dispute settlement mechanism had changed: in the negotiations, it would now press for a permanent trade court with the possibility of appeal in a separate court. A similar change was already agreed upon between the EU and Canada who had previously finished their negotiations on CETA. The ad hoc courts of arbitration initially included were replaced by a permanent commercial tribunal including a court of appeal, consisting of 15 judges. These are named by Canada and the EU and three of them will be appointed for each particular case. They appear as judges and as judges

²² Dispute settlements under the WTO — which only take place between states as companies are not a legal subject here — allow for verdicts *asking* (i.e. not obliging) for national laws to be changed. But most of the bilateral treaties — where companies are legal persons — are limited to paying compensations as the only possible outcome of arbitration.

²³ The arguments supporting a certain court's decision are often dozens of or even hundreds of pages long, the legal basis to which they refer is often only a handful of pages specifically on investment protection in the treaty.

²⁴ Pointing out how the ISDS mechanism differs from national law should not be mistaken for a praise of the latter. Both regulate and mediate the daily with and against each other of capitalist societies, both approaches structure and maintain the conditions of accumulation for capital. However, they differ in how they accomplish this.

only, i.e. they cannot be lawyers in another proceeding. The proceedings are open to the public. Therewith, all formal oddities of the ISDS courts are done away with in CETA.

The EU now seeks the same result in the negotiations with the US.²⁵ If the US were to agree, the formal differences compared to national law would disappear.²⁶ The legally protected interests, however, i.e. the grounds on which companies can claim compensation, would not change, only the procedures. Also, the EU is still committed to all other aspects of the treaty. Equally untouched by the proposed changes is the foundation for how external trade policy as a part of imperialist conflicts is dealt with: international legislation and its enforcement stay the same.

Law and trade agreements under imperialism

The purpose of any international economic policy remains to achieve the best conditions for its domestic capital. At home, the capitalist state can decide which laws to make and how to apply them on its territory: it is sovereign. It has full control over its territory. But its full control is restricted to that territory; anywhere else in the world, it is limited by the power of the other sovereigns. Yet, successful capitalist companies seek business beyond national borders to capture markets, to buy supplies and produce wherever deemed advantageous. Therefore, any capitalist state is confronted with a problem that only intensifies with growing international trade: the state cannot provide beneficial conditions for its national capital in the rest of the world despite it being interested in its growth.²⁷ For this reason, states make international trade policy: states negotiate the conditions for their respective national capital's activity on the other state's territory.

In these negotiations, each side hopes to liberate its own capital from limits imposed by the other state and therefore to make the other state's territory more attractive for its own capitals. But since these limitations are implemented by the other state for its own benefit, conflicts are inevitable. This constellation explains the seed of conflict in bilateral trade agreements as well as during World Trade Organisation (WTO) negotiations.²⁸

Treaties are not expressions of peaceful co-existence of states, which depend on and compete with each other. The opposing interests do not disappear by means of a contract, they merely are brought into a form to make productive use of them. This form has a particularity: even with the WTO and its set of rules by which to play on the world market, there is no international authority which would permanently and systematically mediate arising conflicts. There is no monopoly on force over nation-states with an interest only in the rules of international trade and which enforces decisions taken by WTO or ISDS courts. This "lack" of an international monopoly on force is often — not only on the Left — seen as a problem as this monopoly, to them, means the minimisation of violence. This criticism misunderstands what a monopoly on force is. It is not merely the suppression of competing authorities and therefore of violence, but the license of the state to itself to enforce its policies.

In most cases on the international stage, the role of the monopoly on force is fulfilled by the leading world power or, in less important cases, by a regional power. It decides if need be with its superior military force. Thereby, it enforces its *particular* interest, whereas nationally the entity exerting the monopoly on force is not part of the competition but rather orchestrates it.

The dispute settlement mechanism is a way of addressing the problem that states have immediate control only over their own territory but want to provide for their capitals in the rest of the world. In other words, ISDS is an attempt to find a legal form for this problem, hence the unusual legal construction. TTIP changes nothing about the reasons for conflicts amongst capitalist states, i.e. imperialism. Rather, it provides a new form in which states can facilitate the accumulation of their domestic capital while also attracting foreign capital.

The courts of arbitration are an international legal mechanism and therefore part of international law. The subjects of international law are states — and to a growing degree international organisations. Only with the dispute settlement mechanism do companies become legal persons of and in international law. Capitals thereby turn into potential claimants who can sue independently of states and their calculations.

However, this does not entail independence of capitals from their home states. This becomes apparent with the regulations

on how to deal with states who have been unsuccessful in defending an action brought against them but are unwilling to pay the required compensation. In that case, the home state of the damaged capital has the right to seize property of the unsuccessful state. Whether the state decides to make use of that right, is down to its own calculations. As rare as this case may be, the ISDS foresees a procedure for dealing with it. There is a necessity for such a regulation, as usual with international law, since there is no global monopolist on force to back up the rules. Any legal arrangement amongst states is based on these states obeying it. In the case of trade agreements, they generally have an interest in following the rules agreed upon — otherwise they would not have signed the contract in the first place or would rescind their membership.

How ISDS changes laws without changing laws

While the sole direct outcome of a dispute settlement is compensation for damages, the indirect result of cases brought under the ISDS mechanism can still be a change to the law. Claimant and respondent can come to an agreement before the court rules. This happened during the case of *Moorburg I*. The initial change in law, against which Vattenfall brought a legal action, was withdrawn as part of a deal between the two parties.

The fear of a lawsuit alone can convince states to not pass certain legislation, the so-called "chilling effect". Philip Morris's lawsuit²⁹ against the Australian Government's decision to impose larger warning notices on cigarette boxes and to ban almost any possibility for brand distinction had such an effect. The government of New Zealand had planned to introduce a similar provision but put that on the back burner because it wanted to wait for the result of the case against Australia and if need be avoid a similar challenge by dropping the proposed law.³⁰

The amount of the damages can be in the billions. These numbers are beyond petty cash even for successful countries. Taking the standpoint of the national budget, i.e. thinking about which expenses a state wants to allow itself, defending an expensive legal action and risking a possible adverse award of damages is something to be avoided. Therefore, there are incentives for states to settle with the claimant

²⁵ [http://trade.ec.europa.eu/doclib/press/index.cfm?id=1365&title=Reading-Guide-Draft-text-on-Investment-Protection-and-Investment-Court-System-in-the-Transatlantic-Trade-and-Investment-Partnership-\(TTIP\)](http://trade.ec.europa.eu/doclib/press/index.cfm?id=1365&title=Reading-Guide-Draft-text-on-Investment-Protection-and-Investment-Court-System-in-the-Transatlantic-Trade-and-Investment-Partnership-(TTIP)).

²⁶ However, thousands of investment protection treaties worldwide still contain ISDS mechanisms and its ad hoc courts of arbitration to provide protection for foreign investments.

²⁷ There is no difference here between states like EU and US who define and foster trade and liberalisation and states which are simply confronted by the rules developed this way and have little to say on the matter. All states are confronted with this problem.

²⁸ An agreement is bilateral if it is concluded between two states. It is plurilateral if more nations are involved.

²⁹ *Philip Morris Asia Limited v The Commonwealth of Australia*, UNCITRAL, PCA Case No. 2012-12

³⁰ In December 2015, the lawsuit was dismissed (i.e. the court considered the claims to be invalid) by an ISDS court. According to Philip Morris, this was due to procedural failure (the verdict is still secret, the details therefore unknown to the public). It nevertheless had the effect of stalling legislation elsewhere, since the lawsuit began in 2011. <http://www.iareporter.com/articles/breaking-australia-prevails-in-arbitration-with-philip-morris-over-tobacco-plain-packaging-dispute/>

before such a judgement is given, which happens in roughly one-third of the cases. This incentive to come to an agreement with the claimant does not only play a role in front of ISDS courts, as the New Zealand example indicates, but already when preparing new legislation. This shows how the dispute settlement mechanism can indeed influence which laws are passed or withdrawn. By introducing this mechanism, states create an instrument for capitalist companies from the other state. This instrument can cause follow-up costs, which now need to be calculated with when passing legislation. This does not make ISDS courts the big bad weapons they are often portrayed to be by critics of TTIP. Rather, the involved states are willing to commit to a new basis for their calculations: to strengthen foreign transatlantic investors as contributors to their ongoing facilitation of capitalist growth. Therewith, they intensify the competition amongst themselves. With TTIP, it would be a matter of which state is seen to be more friendly to foreign investors and which state refrains more from favouring domestic companies. That is, which state shapes its policies most compatibly with TTIP rules or — alternatively — where successful ISDS claims prove that the state is not as committed. If the state complies, it would not need to fear additional strains on its budget caused by claims of compensation.

A brief history of trade imperialism based on ISDS

The increase in security which possible proceedings under the ISDS mechanism aim to offer to foreign capital is mostly agreed upon in treaties concerning the protection and promotion of investments. The first of these was established between Germany and Pakistan in 1959 but it did not include provisions on any dispute settlement. A decade later, an ISDS was part of such a bilateral agreement for the first time (between Italy and Chad). The first treaties were historically important for European capital as these capitalist companies wanted to invest in Third World countries. Until the end of the Cold War, Germany, for instance, had trade agreements almost exclusively with African states. Only since state socialism has been almost completely a thing of the past and since market liberalisation has become a global doctrine in trade policy, have treaties been agreed upon between Western countries. Additionally, multilateral treaties

such as the aforementioned Energy Charter were signed. Today, there are over 3,000 such agreements worldwide; Germany negotiated the most (140) and all EU countries taken together have 1,400 treaties with a variety of third countries.³¹ Over time, the ISDS mechanism became part of more treaties. With a little delay, the number of lawsuits filed under this legal mechanism also rose: until the turn of the millennium, only a double-digit figure of proceedings were brought; by now, there are hundreds of publicly known cases per year.³²

This historic development is no accident: countries in the capitalist periphery did not provide the security of investment and political continuity that Western capital wanted. Western capitals had a lot to worry about: a possible change in the political climate so that governments would turn more socialist at the blink of an eye,³³ potentially nationalising the property of foreign investors; insurrections and other disruptions of the course of exploitation. To protect foreign capital against these perils, investment treaties were signed with countries considered at risk. The corresponding proceedings were accordingly one-directional: Western capital filed cases against relatively poor states whereas Western states were usually spared from such hassles. This is not surprising, as the treaties are mostly used by financially strong capitalist companies. In poorer countries, capital flourishes only to a limited degree. Less successful states lack the conditions for capital to be successful enough for it to be invested abroad, let alone in richer regions of the world.

That Western states now negotiate such agreements with one another shows that even in these states investors are left with something to desire. That is, they worry despite an established monopoly on force, a high degree of continuity and security, an interest of these governments in foreign investments, hardly any revolt worth noting or any other form of disruptive dissent by the working class. They worry because a state with such a tight grip on its society cannot only assert the conditions for capital accumulation but can also make decisions which might ruin some business.

That now even the leading players US and EU enter into a mutual obligation to the ISDS rules, shows their dependency on foreign investors from the other contracting party and their accumulation. It will be shown in the following how states want to turn exactly that growth into a means for their own ends.

Other treaties between Western states

Besides the American-European TTIP, Western states are involved in a number of other agreements: Canada and the EU have finished negotiating their trade deal (CETA); its ratification is the next step. Equally, the negotiations for a Pacific Free Trade Agreement (TPP) have been finalised. Some leading capitalist countries are part of that project (US, Canada, Australia, Japan, Singapore — yet not China, against whose economic dominance in Asia this treaty is also aimed) as well as states from the second and third tier in the ranking of capitalist states (amongst others, Brunei, Malaysia, Vietnam). Counting all of these important current treaties — CETA, TPP and the envisaged agreements between China and the US as well as China and the EU — 80% of the world trade would be covered. This changes the relevance of the dispute settlement mechanism and who they would affect. The introduction of the mechanism in treaties amongst Western states means that it is much more likely that they find themselves in front of ISDS courts. Therefore, now they factor in the risk of legal actions against them by foreign capital. Why?

Opening up national markets — for what?

TTIP, CETA and TPP all reach far beyond the previous policy of tariff reduction³⁴ and aim to minimise trade barriers on a large scale. In the WTO, members could not agree on a general lowering of national restrictions to international trade during the Doha round which started in 2001 and which is technically still running.³⁵ This is part of the reason why other agreements spring up: to reach trade liberalisation on a bilateral level or amongst a group of states.

What does TTIP want?

In their trade and investment treaty, the US and the EU want to make access to their respective markets easier for each other's companies. This ought to be accomplished by reducing any so called non-tariff trade barriers, i.e. anything besides tariffs which makes business crossing borders more expensive or harder than domestic economic activity. Environmental or labour standards shall increasingly be coordinated in some way.³⁶ For example, such a standard could be a set of requirements which a product

³¹ In the Lisbon Treaty (in effect since 2009) the EU has been assigned the competence for external trade policy of all its member states. Hence, the EU now negotiates agreements on foreign trade for the whole of the EU with other states. Before, the EU was already responsible for the tariff policy but not investment treaties.

³² Before 2000, just under 80 cases were publicly known; in 2010 alone there were 331 known cases.

³³ If governments do not say goodbye to the world market altogether but become more particular about which investments they want and under which conditions.

³⁴ Tariff reduction is something that has broadly advanced since the WTO's foundation in 1994, as a consequence they are generally quite low.

³⁵ This round of negotiations was discontinued, suspended or declared to be dead several times — it is still being negotiated, though. One crucial disagreement concerns agricultural products for which Western states want more liberalised trading but emerging countries and the poorest states object to it.

³⁶ Initially, the US and the EU even planned to create common standards. That fell through because neither state wanted to submit itself to the rigour of accord that would have been needed.

must meet to be sold legally. With TTIP, these nationally set standards are planned to be valid also on the other market. If this is realised, TTIP would allow a company meeting US requirements to compete on the European market without re-certifying its products.³⁷ It would make it easier for companies to invest and to sell on the other side of the Atlantic.

The US and the EU want to avoid some hassles of nationally divergent regulations by cooperating on future legislation: they plan to introduce “regulatory cooperation”. It shall ensure the suitability of legislation for a largely barrier-free transatlantic trade. Additionally, public procurement plays a prominent role in the TTIP negotiation talks: if it was up to the EU, companies of the partner state should be free to bid for public contracts and should not be discriminated against. This is a pretty important market especially considering that TTIP will include the service sector — think everything from transportation to infrastructure, from hospitals and prisons to schools and universities.³⁸ Furthermore, existing import restrictions (such as import ceilings for certain products) are being targeted. Free movement of capital is another issue on the table: both sides want to ensure that any capital invested and augmented can be dealt with absolutely freely, that none of the states will limit its free flow across the borders. There is also an energy chapter aiming to liberalise that sector. All these measures aim at making it easier for companies to produce and to trade across the Atlantic. About 20% of the worldwide trade of commodities and services would be subject to these liberalisations as this share of global trade takes place between EU and US. It would then be easier to compete on both sides of the Atlantic, to have a sales market of 700m people and the corresponding business, to realise the profits they squeeze out of workers here or there.

First estimates of the expected economic growth due to TTIP quickly proved to be way too optimistic. Nowadays, proponents expect less than 1% additional growth. In the public debate this is often considered as too little to be worth it. But even growth of, say, 0.5% spread over several years is nothing to be ignored. It still is growth.³⁹ Besides, at least the more competitive companies in the EU and the US would become even more competitive through TTIP which is something both states can benefit from. Such businesses are vital particularly with a view towards China which caught up and

has outstripped Germany as the world’s champion of export. During the last crisis, China’s economy not only grew faster than other national economies but its companies also captured market share from European and American companies. The profits thus realised strengthen the Chinese economy, which is a threat to the world power, the US, and to the EU.

If the US and the EU can agree on a trade and investment treaty, it would create new commercial terms between these two powerful economic zones. It can be assumed that the agreement would be a blueprint for what is still to be negotiated in other parts of the world: if the TTIP conditions were to define transatlantic trade, both players hope to set new standards for any future investment agreement.⁴⁰ After all, here the world power and another important economic force, the EU, redefine trade amongst themselves. Any other state is likely to see that as a blue print for newly crystallising global trade terms. Not least, TTIP plays a role in the negotiations EU and US each have with China. TTIP affects not only the strongest capitals but also two of the leading powers, which will have its effects on other negotiations to come.

The dispute settlement mechanism ISDS as part of the TTIP agreement aims to contribute its share to spur the accumulation of EU and US capital by providing it with new legal means for its business. It has not become clear in this article yet, though, why this supplementary legal means is provided only to foreign companies of the contracting partners. To answer that question, we need to look at the interest of the modern state in capital on its territory, how and why it treats domestic and foreign capital differently and why states negotiate trade policy in the first place.

What is external trade policy and how does it work?

a. The capitalist state wants capital to flourish ...

A capitalist state concerns itself rather actively with its economy: it establishes the general conditions for the economic activities for profit and maintains them continuously. The state thereby guarantees a capitalist order which asks everyone to participate and materially even forces people to do so. The state’s law and the state’s actions are one big appeal: if you have sufficient money, then go and multiply it, invest, be

active in a capitalist sense — if you do not have that amount, well, then you better get yourself a job. The capitalist state is a beneficiary of this kind of economy as its might is based on how much accumulation happens on its territory. In the form of taxes, it collects its share of all economic activity. The more successful capital accumulates, the better for the treasury. Yet, no exchequer can manage purely with tax revenue. Every state goes into debt in order to finance the far-reaching necessities of maintaining its society. It obtains loans on the financial market where it offers sovereign debt bonds to investors. A state’s power depends on these two means — taxes and debts — which enable it to exercise its influence over other states economically, politically or militarily. Therewith, its demand against business life on its territory is defined: capital needs to accumulate, companies are to be successful. This is also a demand against governance which ought to provide the best conditions for this success. TTIP, in line with this purpose, ought to develop a productive pressure. Successful capitalist companies would have more opportunities to outperform less successful ones and hence to grow ever more.

b. ... in particular domestic capital

With its interest in capital flourishing on its territory, the state knows how to distinguish between domestic capital and foreign capital. The domestic or national capital forms the backbone of a state’s durable economic activity. National capital is any capital that has its head office in a country and pays taxes on revenues there. If it is successful, it might spread out — yet it would have to go bankrupt for it to disappear from the home market completely. Domestic capital usually has its origin in doing business on the domestic market and — as a net contributor — is listened to by politicians (when it fits in with stately calculations). Whether a state’s domestic economy is deemed suitable for long-lasting capital accumulation, is first decided by the success of national capital.

The special significance of national capital to each state is visible in bilateral negotiations. When a head of state travels to, say, China, the delegation often includes representatives of important companies. They stand for (particularly strong) domestic companies whose success the government wants to foster on a political level. The government wants to improve their conditions for investments abroad and therefore negoti-

³⁷ Though some commodities and sectors are either exempted from the treaty or special provisions might apply to them.

³⁸ In the negotiations, the EU is arguing for the US to open public procurement not only on the federal level but also on the state level, which awards many public contracts. In some states, the Buy America Act explicitly encourages favouring regional or US companies.

³⁹ Sometimes, the total amount of expected monetary gain in the EU is divided by the number of its citizens. That supposedly expresses how much more everyone would have at the end of the month: a three or four digit figure. It is not clear

who came up with such a stupid idea first — as if capitalist growth were ever split up and everyone got an equal share of it.

⁴⁰ To state the aims related to TTIP in the language of the EU Commission: “to influence world trade rules [and to] project our values globally.” <http://ec.europa.eu/trade/policy/in-focus/ttip/about-ttip/>

⁴¹ Not every single company is supported by its home state. Yet, whereas a state might take its chances to see some domestic capital go bust, it does not care as much for foreign firms to begin with.

ates with other states all over the world. It does so in order to maintain and strengthen its own basis of power.⁴¹

Foreign capital is more fleeting as it has chosen this location based on the best opportunity for valorisation. Domestic companies by contrast are bound to the territory because they just happen to have started their business there. They use it as their headquarters from which they expand elsewhere. Capitalists invest in successful Western economies when that other territory is economically well developed. That is the case when the country can on its own generate so much growth and set such favourable conditions that it attracts more capital to invest. If however it does not look so rosy, foreign investors might still be interested — due to low wages, for example. Yet, that also means that money earned will usually flow off quickly.

Interlude: the role of the currency

For the strength of its economy, the state is not only interested in powerful capitals on its territory. To secure and widen the basis of its power, the state also watches its currency carefully. In the first step, it is a question of *how strong* that currency is. This strength flows from the purchases and sales that are accounted for in a particular currency. On its territory, trades are typically done in the domestic currency, at least in the West.⁴² In the Eurozone, trades are processed in Euro. Therefore, any inner-Eurozone business strengthens the Euro. Next, there is business to and from the Eurozone that is denominated in the same currency. For any cross-border deal, the two sides of the business are free to agree upon the currency. It is the same for financial products, securities or derivatives trading⁴³ — these are denominated in a particular currency chosen by the contracting parties.

A currency is properly established when business happens in it where neither of the two parties are based in the economic area of that currency — say an Indian and a Tunisian company agree to trade in Pound Sterling. If a currency attracts this kind of business, it is established at least regionally if not globally. By choosing a specific currency, any international deal contributes to passing an economic vote of confidence in, for instance, the Euro. A deal done in Euros certifies that there is successful accumulation to be had in this currency.

Companies additionally seek a money which is easily tradable, which enables them to get rid of the currency at any time. If a currency always finds buyers, because it is accepted and traded worldwide, then it is an attractive currency to do business in. This is true for capitalists from the productive sphere as well as from the financial sphere because the currency itself and financial products denoted in it will likely find a new buyer. Hence, a strong currency supports the demand for accumulation that any sum of money carries. For money to be retained, it needs to be increased — and that is best done in a strong currency. The success of a currency shows that it is a great means to do business in.

A strong currency is of interest to Western states because it expresses a strong domestic economy as well as success beyond the national market. But the interest of states in their currencies goes further because the strength of a currency determines a state's ability to take on debt. The trust put in the US dollar and the political power backing it made it possible for the US to sell sovereign debts unabatedly. Recently, this enabled the US to finance two wars — Afghanistan and Iraq.⁴⁴

With TTIP, the US and the EU want to boost trade or at least keep transatlantic trade stable compared to the rest of the world. ISDS as part of TTIP shall additionally protect investments in one of the two currencies insofar as trade is done on either of the territories. Moreover, both states hope to have more trade accounted for in their respective currency by attracting more business to do their deals in the “right” money. Despite all that, currency itself hardly plays a role in the treaty itself. There is a good reason for this: both sides hope their currency to gain from the economic outcome of the treaty, which solely rests on their respective trust in the strength of their respective currencies; which money is the strongest is up to the economy to decide. This is premised on the free convertibility of the currency: the fluctuations in the relations of currencies are an expression of the compared economic strength of each money only under that premise and only if the state does not fix an exchange rate.⁴⁵

TTIP refers to the topic explicitly only by guaranteeing that companies are free to dispose over their capital: restrictions by either state on capital export is banned. This is the mutual obligation to leave it

completely up to the economy and its actors in which currency they want to hold their monetary assets and if they, for instance, want to exchange any profits made in Euro right into US dollar.

The economic success of a state is ultimately expressed in its currency and can immediately be compared to all other states. It expresses how well capitalist wealth can be accumulated in a currency. A strong, in-demand currency, therefore, has become the central aim of economic and foreign trade policy. Hence, successful Western states continue to have a particular interest in their own domestic capital: The companies' business at home happens in the currency of its state. The same is true for the trade they do with foreign capitalists (in particular with those of countries with weak currencies). The more fit one's own capitalist companies, the more likely it is that their operations will foster the strength of the currency by simply doing their business. The stronger the currency, the better for the state.

c. Competitive economies: free flow of capital

However, states do not only aim to support domestic capital abroad. Foreign companies can also bring advantages for a state: these companies, too, pay taxes, employ people, and they usually process some intermediate, local product, i.e. create business for suppliers. They also denominate some deals in the national currency and generally stand for successful accumulation in this area as they deem it worthwhile to invest there. National policy making, therefore, looks after foreign investors, too. Western states aim to create conditions that will attract these capitalists, e.g. by providing infrastructure. They maintain and develop their territories as an attractive place to invest.

Improving the attractiveness to foreign investors and advancing domestic capital, these two interests of the state can collide. Some national companies or whole sectors could go bust if they are not competitive on the world market. For that reason and during some periods of world trade, evolving capitalist states used to protect their domestic capital from foreign competitors through tariffs, import restrictions for foreign commodities and technical standards more favourable to national capital etc. Since the second half of the 20th century, in particular, this conflict gets addressed with a rather different approach. Especially since

⁴² Economic activity in less successful states does not necessarily take place in the national currency.

⁴³ These are financial products traded at a stock exchange which might speculate on the value of other financial products or which are compiled from part of other papers.

⁴⁴ There is no question about what the leading currency is these days: the US dollar keeps dominating world trade, it is the world money. This is exemplified by the oil trade, which is dealt with to a large degree in this currency. Many other international business deals are also being processed in US dollar. With the Euro, the EU attempted to set something of their own against this dollar dominance. The initially successful project is not in the best of shapes since the financial crisis

of 2008 and following and even more so since the sovereign debt crisis since 2010. Nevertheless, the Euro is still one of the leading currencies and the EU continues to plan for the expansion of the Euro's worldwide importance. Another currency to be counted with is the Chinese Yuan which is gaining attraction.

⁴⁵ In the background of this free availability of the strong currencies are the foreign currency reserves of the central (or reserve) banks. The European Central Bank holds a large supply of US dollar by which it expresses: everyone can deal and trust in the Euro. Any time you want to get rid of the Euro and exchange it into some other leading currency, I, the central bank with my foreign currency reserves, am happy to provide you with that if there is no other buyer on the market for Euro.

the collapse of state socialism and the end of the East-West conflict — during which international trade was strongly determined by political prices within the blocs⁴⁶ — another trend is prevalent: national companies are generally expected to be competitive on the world market. Within the WTO, this type of trade policy is dominant. Even if not all members (immediately) agree to this line, the main thrust now is: far-reaching reduction of tariffs, elimination of other trade barriers, cutback of advantages for national capital (e.g. the ban on discrimination, principle of national treatment and the most-favoured-nation clause).

The disagreements in trade negotiations stem from the fact that it would be best for each state if all the others were to lift their trade barriers, but this state were still able to have any protective measures it deems fit. Yet, the interest of other states to have easy access for their respective companies is the bargaining chip each state holds: how much of this or that do I have to allow for getting what I want for my capital in the other state? The key question for TTIP accordingly is how much of its protective measures the EU must drop — deliberate deterrents like tariffs or product standards that have the same effect — for the US to agree to do the same with regulation standing in the way of EU capital.

Thereby, those states advocating and agreeing to a general liberalisation of national markets make a slightly different calculation: instead of protecting their own capital by practically isolating it, these leading states confidently count on the power of their capitals. They renounce their former protectionism up to a point and thereby might allow some of their domestic companies — or even a whole branch — to go bust.⁴⁷ The capitalist state does this in order to reduce the costs for its more competitive industries and companies to spread out into the world and do their exploitation business abroad as well. The EU has mastered this strategy: in order to create the European Single Market, the participating states have giving up their protectionism and have opened up their economies fully to the competition from within Europe. The idea is to establish this bigger market as a player in the world and to create sufficiently big capitals which are among the fittest on the world market. By contrast, poorer countries and their hardly existing domestic capitals only have the choice to comply with the demands of the West — and in return maybe get better market access for their exports

(typically food and raw materials) — or else to completely drop out of the cross-border hierarchy of competition.⁴⁸ That would entail even more brutal consequences than the ones yielded by the world order already.

How does ISDS contribute to competitiveness?

a. ISDS is a means for domestic capital investing abroad

The EU and the US want to set new conditions for global trade. They do this with confidence, they are not merely pressured or forced by capital to do so. They both expect to gain from this endeavour, including from the courts of arbitration. From the viewpoint of the EU: the Union firstly thinks about its own companies and how it can support them abroad. If in the future a European capitalist invests in the US and then cannot make its expected profits due to a change in policy that is incompatible with the ISDS regulations, it can sue the US for damages.

This way, foreign capital is to be protected from damages stemming from the other state supporting its own domestic companies. The fear of not being explicitly taken into account by US politics or by the American legal system is not completely irrational. The same is true the other way around, i.e. for US companies investing in the EU. As shown above, in national calculations foreign capital is less of a priority. Capitalist states undertake diverse manoeuvres in order to keep foreign competition at bay whenever deemed necessary. The contracting partners of TTIP would bind themselves and each other to follow the ISDS rules and therefore to look after foreign companies from the other side of the Atlantic just as much as after domestic capital. The idea is to even the playing field for companies from the respective other territory through this new legal process. ISDS is a means against the valid suspicion that foreign capital plays a lesser role when the other state balances competing interests.

This supplementary tool offers something new and different in one regard, as developed above: damages can be granted for loss of expected profits caused by particular actions by the host state. Foreign companies therefore do not only have their own legal forum in the form of ISDS but also a legal basis of their own. This special juridical construction comes about because the contracting states thereby agree that their

own capital investing in the territory of the other state can itself take that host state up on its promise to treat it completely equally to its own domestic companies. Neither side trusts the other national legal process, which is why they establish ISDS courts. It is the mutual obligation to the programme that lies at the heart of ISDS: the contracting states make European companies which are active in the US legal persons under international law — just as much as American companies investing in Europe. It is a licence given to those capitals to recover financial compensation for damages in front of external courts.

This is a licence to act juridically, independently of their home state, in the international arena — which is the key difference compared to the settlement dispute embedded in the WTO, where only states can sue other states. There, states think about whether they want to engage in a dispute with another country over some issue. The state might shy away from such a confrontation and accept the damage to its domestic capital because other imperialist calculations are deemed more important than compensation for lost profits for a particular firm. With ISDS, the contracting states grant each other's capitals permission to sue them and their own capitals to independently sue the other state. Companies are thereby empowered by and in the framework of TTIP to sue independently of any calculation of their home state.

b. ISDS is an invitation to foreign capital

The second positive reason why the US and the EU want courts of arbitration is concerned with foreign capital from the other state investing on their territory. As shown above, states rule over their territory in part to be attractive to foreign investments. The dispute settlement mechanism within TTIP would be part of this strategy for both contracting states. It would not only strengthen capital abroad but would also be an offer to foreign capital that its interests are taken more into account. It is a clear signal to transatlantic foreign capital to come and invest on the other state's territory. The state plans on not getting in the way of that capital more than strictly necessary. This is what the state commits itself to with ISDS.

Thereby, the chances for transatlantic investments being worthwhile are increased, despite that foreign companies cannot count on getting the same attention from the foreign state as its domestic capital. ISDS would

⁴⁶ Both sides, the US and the Soviet Union, made trade deals with other states in order to tie them to their respective bloc. Prices were "political prices", as the priority for both the US and the Soviet Union was to form alliances: the big powers wanted less successful states to align themselves with their respective bloc. The aim of this kind of trade was to score politically rather than economically.

⁴⁷ For instance, the European clothing industry after the WTO agreement (more precisely: after the transitory Multifibre Agreement ran out in 2005).

⁴⁸ Some Latin American states and South Africa have developed a more sceptical evaluation of the ISDS mechanism. Some investment protection treaties

have already been cancelled, some others are being reconsidered. Australia has announced that it does not want ISDS to be part of any future treaties (cf. CEO pamphlet "Profiting from injustice" <http://corporateeurope.org/sites/default/files/publications/profitting-from-injustice.pdf>, pp. 9, 16–17 and the World Investment Report "Towards a new generation of investment policies" by UNCTAD, 2012, http://unctad.org/en/PublicationsLibrary/wir2012_embargoed_en.pdf, pp. 86ff.).

be one more positive factor in a long list of aspects that each capitalist investor takes into account when deciding where to invest.⁴⁹

For the state, ISDS is a chance to attract foreign capital — but it is also a threat because these investors can cause domestic companies to go bust if the latter are not competitive enough. While a state expects to gain from foreign investments on its territory, it knows the price it might have to pay — foregoing protective measures — all too well. Yet, a successful capitalist country can take losing a domestic capital here and there. The state expects to be able to bear that, because while the provisions to reduce trade barriers take their toll, at the same time they also result in domestic capital being able to expand elsewhere with lesser restrictions.

c. *The costs of ISDS to the state*

Both advantages that the EU and the US hope to gain from the ISDS provisions — the empowerment of their domestic capital on the territory of the partner state, as well as increased attractiveness to foreign capital — come at a price. This is what critics take issue with: why on earth would states willingly burden themselves with a deal that can make them respondents in big lawsuits? As much as the same critics ignore the first two arguments laid out here, their question is still standing. The price is obvious indeed: ISDS means the self-commitment to rising costs of some changes in policy. In the future, the state will have to pay for favouring some domestic capital. In these and similar cases damages would have to be paid. All of that is part of the calculation; both parties have the assessment that the trade policy instrument ISDS is worth so much in potential gains that they are ready to pay the price.

Foreign v domestic capital

With the two positive reasons for courts of arbitration, it can be explained why the ISDS mechanism is introduced only for foreign capitals. The contracting states do not trust one another to treat and support foreign, transatlantic capital fully equally to domestic capital. They aim to agree to a superior authority, which is not duty bound to either national politics and therefore should be able to judge neutrally on whether a foreign, transatlantic capital was put in a worse position.

For domestic capital, this mistrust which is the starting point for ISDS does not exist. The superior authority of dispute settlement within a country is the domestic state. It is interested in capitalist companies in as much as they contribute to the economic might of that state. There simply is no-one else who would and could insist that domestic capital can sue its state in front of a third, non-state court. Even the ISDS courts indicate the dependency of capitals on their home state: it is that state which negotiates companies' freedoms towards other states.

Summary

By introducing the dispute settlement mechanism ISDS, foreign investors from the other side of the Atlantic would be provided with a new means against the state in which they invested. The novelty of these courts of arbitration is the offer of better security for foreign investment. Contrary to what many critics claim, the legal grounds for action of the ISDS mechanism, as shown, do not favour foreign capital over domestic capital.

The bigger a foreign investment, the more of an incentive for the state to consider its investor's claims. The larger the investment, the higher the possible compen-

sation claim and the bigger the potential damage to the national budget. This would raise the importance of these aspects compared to other national interests. In order to implement its interests, a foreign capitalist company would not have to rely on the calculation of its home state and what part this particular company and their problems play in it. With ISDS, it would have its own judicial means and be a legal subject in international law. The power of the foreign capital would still be based on the EU and US having an ongoing interest to comply with the TTIP agreement — the same basis as for any treaty between states. If they stick with it, they are likely to accept the decisions taken by the external courts of arbitration and to pay damages whenever they lose a case. If they do not, they will not — there is no power above states that could force them to honour the agreement. The subjects of the TTIP negotiations are states, which grant each other and each other's capitals certain freedoms.

ISDS means a strengthening of the Western capitalist companies that are active on both sides of the Atlantic. Any improvement in the conditions for capital accumulation signifies a cementation of the subordination of the world under the adage of profit maximisation as the highest command of any economic activity.⁵⁰

That is the kernel of a reasonable critique of TTIP and ISDS. The inversion of this argument could not be more wrong. A prevented TTIP or a TTIP without the settlement dispute would not mean a better world, and not even the preservation of a status quo as a lesser of two evils. With or without TTIP, everyone is the material of the accumulation of capital and for the might of the democratic state.

⁴⁹ In as much as this might mean more jobs in times of boom, it is the same boom that flushes money into the accounts of capitals, which is money to buy new, more productive machinery, making workers redundant. Not even in economic prosperity can workers bank on a positive outcome.

⁵⁰ See Karl Marx. *Capital. A Critique of Political Economy, Volumes 1–3*, Penguin Classics 1990–1992.



SINCE YOU MENTIONED “US”

Nationalism by example of Scottish independence

We oppose nationalism.¹ With this opposition, we are not alone. For many people, nationalism has a bad reputation. For example, in the debate around the referendum for Scottish independence, the “Yes” campaign was repeatedly accused of being nationalist. On the other hand, few take issue with identifying with their home country — they might call this standpoint patriotism.² Many take being English, British or Scottish as a self-evident part of their own identity. But they might get a bit annoyed about others wav-

ing flags, because they do not want to make a big fuss about nationalism. Some people might even reject mainstream or right-wing nationalism as oppressive but posit the “real nation”³ or (local) “community”⁴ against it. Finally, from left to right, big fuss or not, many protests invoke the greater, national good to make their point: unions calculate how higher wages would benefit the whole economy⁵, students point out that they are a key resource of the nation⁶, bankers and benefit recipients are criticised for putting

their interests before the nation (from the left and right respectively)⁷. The word nationalism might have a bad reputation in some places, the appreciation of the nation, however, is undaunted.

Many people who distance themselves from some forms of nationalism oppose the overt racism that often accompanies it. When the Left opposes nationalism, they usually take issue with the nationalist *segmentation* of humankind into peoples. In contrast, we criticise nationalism not just

¹ This text is not quite finished. For example, is the relationship between nationalism, law and the standpoint of rights correctly characterised or should more be said? However, because we had to send Kittens #5 off to the printers, we did not find enough time to finalise our discussions. We might provide a revised and updated version of this text later at <https://antinational.org/en>.

² “I know my fellow Scots are, like me, patriotic and proud of our country. [...] But I say this to the SNP. Don’t equate our patriotism with your nationalism.” — Gordon Brown. *We Will Not Stop Fighting for Scotland and Social Justice*, speech 5 May 2015, full text available at <http://www.scottishlabour.org.uk/blog/entry/we-will-not-stop-fighting-for-scotland-and-social-justice-gordon-brown>, 2015

³ “Ralph Miliband was not a patriot because he served in the navy. He was a lover of this country and its people precisely because he understood that institutions like the monarchy and the House of Lords symbolise and perpetuate inequality, and that militarism usually encourages the poor to die defending the interests of the privileged. His patriotism has more in common with long progressive patriotic traditions in Britain, from the Diggers and Levellers to the Chartists and anti-privatisation campaigners. It was about claiming land and country for the

majority of its labouring denizens rather than the plutocrats and the powerful who live off the fat of the land while spouting an insincere ‘nationalism’ which serves less to create collective wellbeing than to prevent their privileges being questioned.” — Priyamvada Gopal. *The Daily Mail may not realise, but Marxists are patriots*, <http://gu.com/p/3j8yx/stw>

⁴ It is not uncommon for antifascists in the UK to call on the local “community” to oppose fascists who are portrayed as external invaders. For example, Anti-Fascist Network had a call-out for “Community Self-Defence” against an EDL splinter group, cf. <https://www.facebook.com/events/669927613109443>.

⁵ We criticised this idea in *Jobs, Growth, Justice — an alternative that isn’t available* at <http://antinational.org/en/jobs-growth-justice-an-alternative-that-isnt> and in *A poor future* available at <http://antinational.org/en/poor-future>.

⁶ See our critique *Education is a duty* available at <http://antinational.org/en/education-is-a-duty>.

⁷ We criticised this idea in *Benefit envy without benefit* available at <http://antinational.org/en/benefit-envy-without-benefit>.

because of a wrong segmentation but also because it posits *unification* of actual people into *the* people. This particular critique is not one which is widely shared.⁸ Hence, in this piece, we want to explain what nationalists think, what nationalism claims and wants and why we oppose it in any form.⁹

As a running example, we are going to use the referendum for Scottish independence held in late 2014. While we realise that we are rather late to the party in writing about Scottish independence, we chose this example for three reasons. Firstly, Scottish nationalism did not go away with the referendum. Repeated calls are made for a second referendum. Secondly, the question “Should Scotland be an independent country?”¹⁰ asks exactly what any nationalism asserts and hence takes us to the core of the matter. Thirdly, Scottish nationalism — being often more left-wing — prides itself with avoiding some features of nationalism outlined above which many people object to. Scottish nationalism only serves as our example, though, the arguments presented in this article also apply to English, British or German nationalism.¹¹

“We”

Nationalism posits *the* people. This is an assertion of a distinction between a nation’s people and the rest of humanity (“The Scots are Scots and not English, not German, not French”). The starting point of any nationalism is the assertion and appreciation of a particular group: “we”.

“We” is also the assertion of an accordance between the people of the nation (“Scots belong and fit together”). When nationalists speak of “us”, they do not simply mean to describe a group that is somehow distinguished from the rest of humanity like “all people with brown hair” or “all people who like tea”, instead “us” characterises a community. Nationalists think that their personal interests and the interests of other members of the community — and hence of the community in total — are somehow aligned. Not necessarily perfectly so but at some level. Nationalists think that somehow the national community is the place where they fit in, where their purposes have a place, where people accomplish their respective goals somehow with each other. They believe that there is a connection, some accordance, some cohesion even, that “we” are “better together”.¹²

Justification

Nationalists differ in where they see the basis of this accordance. Some see the basis for why “we” fit and belong together in a presumed common biology (“Celtic blood”, “Aryan race”), some in a common culture (language, customs, cultural values) and some even in a common conviction (constitutional patriotism).¹³ None of these reasons holds water. There is no “Celtic blood”, language does not preform thought but ideas can be expressed in any language, a habit of drinking tea makes for a tea drinking society, not an all-encompassing community.

It is of no use, though, for the critique of nationalism to pick apart these reasons, because nationalists do not ask *if* their people exists. The point of these reasons is not to actually establish *that* a particular people exist. Rather, the existence of their people is the nationalist starting point and conviction. We can see this by looking at how nationalists relate to these reasons. Asking most English nationalists what exactly characterises the English as a nation, typically earns you a blank stare and maybe some half worked out argument. Moreover, without such prompting nationalists hardly ever ask this question. Most nationalists tend not to inquire about each other’s reasons and two typical nationalists would not find anything too worrying about finding out that they do not agree on, say, whether drinking tea is a defining British pastime or not. Similarly, most racist nationalists tend not to be too invested in the particularities of their racist theories. The relationship of most nationalists towards specific foundational arguments for their nation is characterised by a lack of interest: the reasons that nationalists give are not reasons they have.¹⁴ Instead, these reasons are *justifications* for some “us” which is presupposed.

Scotland as a nation was taken for granted by all sides arguing over Scottish independence.¹⁵ The British State considers Scotland a nation and itself a country of four nations. Consequently, Scottish nationalists did not have to agitate for its recognition as a nation.¹⁶ The taken-for-granted starting point for all separatist and unionist agitation was Scotland and the referendum simply presupposed Scotland and the Scots as a

⁸ A notable exception is the Anarchist Federation which recognises that national community is not something to be cherished in any form: “Anarchist communists do not simply oppose nationalism because it is bound up in racism and parochial bigotry. It undoubtedly fosters these things, and mobilised them through history. Organising against them is a key part of anarchist politics. But nationalism does not require them to function. Nationalism can be liberal, cosmopolitan and tolerant, defining the ‘common interest’ of ‘the people’ in ways which do not require a single ‘race’. [...] In many western countries, official multiculturalism is a key part of civic policy and a corresponding multicultural nationalism has developed alongside it. The shared ‘national culture’ comes to be official multiculturalism itself, allowing for the integration of ‘citizens’ into the state without recourse to crude monoculturalism. If the nationalist rhetoric of the capitalist state was of the most open, tolerant and anti-racist kind, anarchists would still oppose it. This is because, at heart, nationalism is an ideology of class collaboration.” — Anarchist Federation. *Against Nationalism*, <https://afed.org.uk/against-nationalism/>

⁹ In *Why anti-national?* available at <http://antinational.org/en/why-anti-national> we already set out to answer what nationalism is. Many of the arguments in this article can also be found in that previous article, but this piece proceeds differently.

In *Why anti-national?*, we first debunked false explanations of the national community (nature, language, culture, civic nationalism) and then tried to answer the question why nationalism is so successful (regardless) by giving an account of how bourgeois subjects require the state above them in order to pursue their own private interests. The private antagonistic interests of competitors necessitates an interest in the institution which limits their own “pursuit of happiness”. Hence, *Why anti-national?* actually explains the appreciation of the state by its citizens. In this perspective, fellow citizens appear as competitors whom the state ought to tame. In contrast, here we emphasise that nationalism is an ideology which posits nations as communities. For a nationalist, other citizens also appear as fellow members of the decent community. They make a *positive* reference to them, think of them as the community which finds actualisation in the state, and do not merely see them *negatively* as competitors against whom the state provides protection.

¹⁰ We know that this question is not the question the Scottish National Party wanted at that time. We also know that restricting the choice to “Yes” or “No” — with no option for maximal devolution — is also not what the SNP wanted at that time. Regardless of the reasons how this particular referendum came about, it

is the question “Should Scotland be an independent country” which the “Yes” campaign and the Radical Independence Campaign mobilised around.

¹¹ Our object is nationalism in capitalist, democratic countries. We do not discuss nationalism in state-socialist or Fascist countries (but we briefly touch on Fascist nationalism towards the end of this piece). Across capitalist, democratic countries there are also differences in how nationalism presents itself. For example, in the US there is a much stronger emphasis on the competing individual and its calculations than in European countries. Despite these differences, we set out to explain and criticise the common core of democratic nationalism.

¹² “Better Together” was the name of the main Unionist campaign against Scottish Independence, trying to convince the Scottish electorate that the “we” is British.

¹³ Constitutional patriotism plays almost no role in political life even in Germany where it originated. It is, however, sometimes referenced in the context of the EU whenever its institutions are mainly justified with respect to a certain set of values — freedom, justice, etc. — and not necessarily with respect to some European heritage. In this text, we will only deal with it in footnotes. For those, however, who want to understand how liberal democrats formulate their demands against the subjects of liberal-democratic states, the constitutional patriotic literature provides some interesting reading material.

¹⁴ To avoid a potential misunderstanding, the argument here is that nationalist justifications of the nation are not reasons because nationalists seem rather disinterested in the particularities of these justifications. We are not saying that these justifications cannot be reasons because they are wrong like “this is obvious nonsense, let’s move on”. Just because we recognise them as wrong does not mean that nationalists must do so, too.

¹⁵ This is not something that just happens. Rather, this is a result of political agitation and policies by the British State. The Anarchist Federation have written a good account of the history of Scottish nationalism in *The SNP, Scottish Nationalism, and the Class Struggle: Yesterday, Today, and Tomorrow* available at <https://afed.org.uk/the-snp-scottish-nationalism-and-the-class-struggle-yesterday-today-and-tomorrow/>

¹⁶ Yet, what British patriots mean when they refer to it as a union of four nations is something rather different from what Scottish nationalists want. To the former “four nations” has no more significance than perhaps the federal structure of Germany or the USA. The political self-actualisation of these “four nations” to them is the UK and this was the kernel of the disagreement.

collective who now decide on an important aspect of their lives.

In contrast, when nationalists struggle to have their nation recognised, these justifications play a greater role. For example, Cornish nationalists invoke a wide range of historical, political, linguistic and cultural reasons to illustrate that Cornwall does constitute its own nation. But these reasons ought to justify the “us”, not establish it. They do not ask if Cornwall is its own nation, but ask how to demonstrate it.

General differences between justifications, cultural or biological, play a role in political life. For example, people may be more or less relaxed about immigration based on whether they believe in blood and soil or in culture. Yet, here too, the question is not *if* the citizens of the host nation indeed constitute a nation, but they argue about *how* their national bond is characterised.

The indifference of nationalists towards the particular foundational arguments of their nation does not mean that they do not care about justifications. The point of these justifications is to assert cohesion. Asking most nationalists about the particularities of their justifications is met with disinterest. But when they smell that the inquiry seeks to undermine the certainty of their community, they get upset. *How* the community is justified is not that important, *that* it is justified is without an alternative to a nationalist.

Identity

Nationalists *identify* with their nation.¹⁷ Nationalism not only asserts the existence of a group but being part of that group is an identity of its members.

If people have a shared interest in drinking fine wine they may decide to find others who share this particular interest and decide to form a wine tasting club. The people in this wine tasting club might also have different interests outside of wine tasting, but they are an affinity group based on their mutual interest in wine tasting. The membership in a wine tasting club is both conscious — they decide to join and leave — as well as based on a shared activity or interest.

The nation is no such collection of people based on some particular shared interest. To nationalists, being Scottish or English is not something you *decide* to *do*, but it

is something which claims to define your *being*. For an English nationalist when 11 English players win a world cup, *we* won the world cup, not just someone from our group. Also, this is something for the whole nation, not only for football fans. *Our* green valleys are a feast to look at. If the British economy does well, *we* grew our GDP. If the British State goes to war, *we* go to war and its soldiers are fighting for *us*.¹⁸ Some people even say that *we* won World War I, despite all the people who fought in that war having died now. When nationalists appreciate something about their country, it is somehow also partially themselves who did it and it fills them with pride. When they accept that atrocities were committed by their people (usually in the name of the nation), it fills them with shame. Both of these reactions presuppose identification.

The criteria employed to decide who gets to be Scottish, English, US American or German differ, in some cases the criteria might be lower than in others, sometimes it might be possible to be a member of two nations, but nationalists assert that belonging to a certain nation is not a lifestyle choice, a conscious, calculated decision or a particular interest, it is an identity.

However, nationalists do not rely just on self-evident and immediate identity. Where they can, they foster traditions, customs, national language and national culture. In established nation states, a lot of energy is spent by professional nationalists — politicians, journalists, teachers, etc. — on educating the population about “their” national customs, culture and history. Students learn the national language, learn about national history, about their “cultural heritage” and to respect other cultures. Cultural institutions and museums provide the population with national culture and history. National holidays encourage the celebration of the nation. Scottish, German, British might be something you *are* in the eyes of nationalists, it is certainly also something whose performance is encouraged and maintained — no nationalist movement trusts in self-evident essence alone.

“State”

Nationalists hold that a national community requires actualisation in a state. There are many ideologies which claim that cer-

tain (ostensible) criteria would establish some group and the identities of group members: racism, sexism, homophobia, etc. Nationalism is distinguished from all these essentialist ideologies in that the group it is concerned with is a community and requires some form of stately authority.¹⁹ Nationality — in the eyes of nationalists — is an identity which requires a political authority. The nationalist proposition is “the right of nations to self-determination”. Or rather the right of *their* nation to self-determination, e.g. “Scotland should be an independent country”. That is, nationalists posit the nation which then finds its actualisation in its own state. For example, the Scottish Government wrote:

*If we vote for independence, the eyes of the world will be on Scotland as our ancient nation emerges — again — as an independent country.*²⁰

In established nation states this idea often finds expressions in the preamble of constitutional documents where it is claimed that it is the people who establish a state of law.²¹

The true relationship between state power and nation is the other way around. A state does not make itself dependent on the nationalism of its human resources, it subjugates them and the territory they live on. Borders of states, and therefore what is and is not a people, are results of wars between states, a question of power. When most European states were established, the respective nationalisms were ideas amongst small groups of intellectuals. It was only through the subjugation of “the people of ...” by their state that the unity which nationalists posit was produced. When the United States were founded, it was not “the people of the United States” who founded them but some people with enough power bent on subjugating their fellow countrymen to a new democratic state. Despite what preambles in constitutional documents might claim, “the people” have never given themselves a state.

Even if the “Yes” campaign had won the independence referendum, it would not have been “the Scottish people” who would have given themselves a state. The Scottish independence referendum was an attempt of a nationalist movement — around the Scottish Government — to subjugate Scot-

¹⁷ “83% of the Scottish population feel they have a Scottish national identity” — Scottish Government, *Scotland's Future*, November 2013, p.2

¹⁸ Anti-war protests in turn like to point out that a particular war is fought “not in our name”. With this, some might simply and sensibly want to point out that this war indeed is not their project, while others want to assert that it is not in the name of the “true nation”.

¹⁹ Some nationalisms seem to be content with some limited form of autonomy within another state. This might be a tactical admission that their national collective fares better (for now) within a larger structure or that full autonomy is currently not on the table. It might also express that when these people speak of nation, they mean something else than what most people mean. Regional identities are, for example, not unheard of in Germany, but the idea of regional autonomy has virtually no support, most Germans are German nationalists. These regional

ideologies deserve critique in their own right, but they are not the object of this piece.

²⁰ Scottish Government, *Scotland's Future*, p.3

²¹ “We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.” — Preamble to *Constitution of the United States of America*
“Conscious of their responsibility before God and man, Inspired by the determination to promote world peace as an equal partner in a united Europe, the German people, in the exercise of their constituent power, have adopted this Basic Law.” — Preamble to *Basic Law for the Federal Republic of Germany*

fish people under a new state. If the “Yes” agitation had been successful, then the Scottish Government would have subjugated those it defined as Scottish under a new Scottish state, regardless of whether they voted “Yes” or “No”. It would have been able to do this because it was tactically backed by the existing monopolist of force — the British State. The referendum could happen because the British State, which asserts absolute authority over its citizens, gave a part of itself — the Scottish Government — permission to subjugate a part of the British population in the case of “Yes” vote.²² Usually, separatist movements are not met with tactic approval from the state they seek to separate from. In this case, the question of violence is posited directly: who can assert power over those defined as the chosen people against the contender also claiming to represent them.

Foreign rule

A demand for political autonomy is a rejection of rule from outside of the national community. Foreign rule is not simply rejected because of what it wants and does, but because it is foreign. In the words of the SNP:

*Today, we have a Tory government in Westminster that most of us did not vote for, and yet that government is able to take decisions that cause real harm to families and communities in Scotland.*²³

The SNP notes that the Westminster Government rules over a majority of people in Scotland who did not vote for it, just as it rules over many people in England who did not vote for it. This is a feature of every democratic election, elections the SNP stands in and wants to happen in an independent Scotland: in some part of the country or in some strata of society there usually will be some majority who did not vote for the government.

Hence, one could be tempted to accuse the SNP of hypocrisy, but this is not fair. By making a distinction between Labour voters in the North of England and in Scotland, both of which are ruled by a government they did not vote for, the SNP expresses what standard it applies. If Scottish people

are ruled over by a party in Westminster they did not vote for, this is a problem. For people in England not so much. The SNP does not propose to split up the UK along voting lines or interests. The problem for the SNP is not rule but that it is exercised by people from the wrong community. Westminster is wrong because it is not Scottish; that it is Tory is just an additional sin. Put differently, if a Scottish government voted in by the Scottish people would do “real harm to families and communities”, then it would at least be home rule. The rejection of foreign rule on the grounds that it is foreign is an affirmation of home rule.²⁴

Self-determination

A demand for political autonomy wants rule by a nation state over those who belong to its nation. The self-determination of a nation means that the members of the national community are subjugated to their national political authority. Practically, a people realises itself by its people being subjugated under their nation state.

On the one hand, nationalists want an authority which objectively subjugates the people. The people *are* its objects. On the other hand, those people are assumed to want this authority and their collective will is thought to find actualisation in this authority. To a nationalist, the people *is* the subject.²⁵

To a nationalist, this is no contradiction as she posits the state not as a force of domination but *instead* as an administrator of the community. This is not because she does not understand what a state does, but because she considers this as an adequate actualisation and administration of the community she wants. Nationalists know that laws passed in Parliament apply to everyone regardless of whether they like them or not and they know that states have copiers, judges and prisons to enforce those laws. But to them, this means us taking care of ourselves. In the words of the Scottish Government:

*Independence means that the people of Scotland will take responsibility for our future into our own hands.*²⁶

The Scottish Government wants to rule over those who it called to the polls, but this demand for subjugation is understood as the Scottish people taking matters into their own hands to do what they want. Nationalism is consent to *domination*, which is understood as a people’s *freedom, self-determination and self-actualisation*.

As with any other nationalism, Scottish people are invited to think of acts done to them by the state as actualisations of themselves. If an imagined Scottish government bans nuclear energy, this is done by *our* government, *we* are banning nuclear energy. If a Scottish government guarantees the right of my boss to cut my breaks, this is an act of *our* government. If a Scottish government institutes a maximum working day, this is an act of *our* government. The order of policy and rule is so that identification with and affirmation of rule comes first, then come questions of policy which may affect me positively or negatively.²⁷ In the words of a Scottish nationalist:

*There is widespread confusion among some politicians and media pundits regarding the independence referendum planned for Autumn 2014 and the Scottish general election scheduled for May 2016. Many pundits are treating the two events as if they are the same thing. They are not. This cannot be stressed, underlined, or shouted from the rooftops loud enough. 2014 is a referendum on relocating power, relocating the tools of democratic governance, from London to Scotland. 2016 is about the people of Scotland picking up these tools and using them in any damned way we choose. I’ll say it again: 2014 is about DEMOCRACY. 2016 is about POLICY.*²⁸

The “Yes” campaign and the Radical Independence Campaign argued for independence by listing many nice things which could be done in an independent Scotland: better health care, higher benefits, greener energy ... None of these policies were actually on the ballot. The ballot did not ask voters what they think of the welfare state, citizenship laws or where government spending should be directed. The question was if the authority ruling over Scotland should be Scottish and this is the first standard by which nationalists judge it.²⁹

²² The point of this referendum in the eyes of Westminster was for it to fail and thus to reaffirm British unity. This did not quite work as expected, but that is another story.

²³ Scottish National Party. *What is in it for me?*, <http://www.snp.org/referendum/whats-in-it-for-me>

²⁴ The same logic shows in anti-EU agitation by British nationalists such as UKIP. Sure, they also tend to find something wrong with the specific regulations passed down from Brussels. But they make it clear that their qualms are a lot bigger, that they are concerned about sovereignty. For example, UKIP agitates for home rule against perceived foreign rule: “If you believe that we are big enough to make our own laws, in our own parliament; if you believe we should have the sovereign right to control our own borders; [...] then we are the party for you.” — Nigel Farage. *The UKIP Manifesto 2015*, <http://www.ukip.org/manifesto2015>

²⁵ This sentiment is not a monopoly of democratic nationalists. For the Nazis, the Führer was the immediate expression of the German people, executing its will.

²⁶ Scottish Government, *Scotland’s Future*, p.40

²⁷ This does not mean that nationalists would find nothing to criticise. On the contrary, they busy themselves with accusing the state of not living up to its responsibility. See below.

²⁸ <http://www.yesscotland.net/news/referendum-2014-about-democracy-scottish-general-election-2016-about-policy>

²⁹ The connection drawn between social democratic policies and Scottish independence was that Scottish people tend to vote more left wing. Hope for social democratic policies was premised on an assertion about the national character of Scotland. When people argue that they expect better chances for winning this or that fight under different social conditions, this is one thing. When people, however, argue that social democracy is a better actualisation of Scottishness they switched means and end.

However, the rule these people appreciate does not make itself dependent on their appreciation. While nation states want and encourage the appreciation of their populations (hence the referendum), if consent is absent then time after time the question of rule is settled by force. This does not make consent to domination a harmless private matter, though, with no effect on the world. Rule over people is easier if they accept and appreciate it. When, for example, people argue if this or that politician is fit to rule over them, the question what purpose the rule over them serves is not one to worry about. Furthermore, if people think of what is done to them as their own doing, it not only saves costs on coppers and prisons, but also mobilises their energy and creativity for the rule over them.

Opposition and cohesion

Nationalists demand self-determination in the form of a state and seek to subordinate their people to their nation state. Their national community must be enforced by superior force; the same community which they hold to be a self-evident part of their being. Therewith nationalists practically acknowledge that their community is not as self-evident and matter-of-fact as they claim, it does not simply flow from their essence but needs a nudge or two from the state. Nationalists posit their community as self-evident *and* — in insisting on a stately authority over it — as frail. In other words, to them, the members of the community are drawn together and apart. While Scottish nationalists posit a self-evident ancient nation which has to find actualisation in a state yet again, they find this status quo untenable: to them the Scottish *need* a state. They do not merely seek to drive out Westminster, but to establish a rule over Scottish people for Scottish people because they are Scottish people. The unquestionable essence in them which they believe to bind them together — being Scottish — is not firm enough to bind them together — this the Scottish state ought to provide. Amongst all claimed unity and accordance, nationalists also presume divisions within the nation. The interests and actions of the individuals are not simply assumed to be aligned with the interests of the community and, hence, each other.

Thereby, nationalists address the objective divisions that exist in their community. Democratic nationalists know of and do not

deny the many little and big divisions that characterise life in a capitalist society. Workers know of the pressure to work harder and longer, they know of the threat of unemployment, tenants know that their landlord hikes the rent when she can, they know that they struggle to make ends meet. The economy — how a society produces, distributes and consumes — is a continuous source of conflict.³⁰ At the same time, nationalists posit a common interest with those on the other side of their disputes. In the words of a British nationalist:

*Whatever happened to that post-election stuff about “one nation”? It is clear that David Cameron and some of his ministers genuinely believe in the Disraelian ideal of social cohesion at some important level. Yet in the wake of the government’s latest move against trade unions, the commitment will look to many like mere hypocrisy. Part of the essence of any kind of one-nation politics, whether from the left or the right, must be an effort to reconcile old antagonisms. But these new measures to make it more difficult to join a union are only designed to provoke this antagonism still further.*³¹

The author acknowledges the continued necessity for workers to organise in unions against their employers and calls for a reconciliation of “old antagonisms”: opposition and cohesion.

To nationalists, oppositions are, in principle, not in opposition to their community. Instead, oppositions amongst the members of the community fit in with their community, are accepted and filed as part of how it functions. Life in their community is no easy, harmonic life. Oppositions and their consequences are, in principle, to be expected, accepted and endured. Indeed, democratic nationalists appreciate “everyone for herself” in the economic sphere as a contribution to their community. This way, they think, the community becomes more productive, this way all give their best, this way the community prospers. Collateral damage and benefit is part of community life.³²

However, nationalists distinguish between opposition and antagonism. The accepted and presumed conflicts ought to have their limits. They notice the expressions of oppositions around them, but would deny that systematic, fundamental antagonisms are produced from the way their community functions. Amongst all divisions they seek cohesion and call for restrictions on

the pursuit of opposing goals; they seek a balance.

Decency

Nationalists do not ignore that they have to follow the rules of the community (cf. “State”), that their community does not allow them to do whatever they want. In the nationalist perspective, though, the restrictions placed on them are *for them*, not an external constraint: this community is their community, where they can pursue their interests, it is the place and premise for their “pursuit of happiness” (cf. “We”).

They appreciate the community for allowing opportunities for its members — they can try to get that job, apply for that loan to start a business, win the lottery — and think of moderation as an exchange relation: if each of us moderates herself, lives by the rules of the community then the community prospers which means that we get to pursue our respective goals in this community. They moderate their goals in the hope that this allows these goals to be realised: voluntary compulsion or worthwhile renunciation.³³ They expect this imagined relation of exchange to be honoured, expect what is *fair* and what is *deserved*: a fair wage for a fair day’s work, a just minimum level of sustenance as a member of the national community, a just reward for providing jobs etc. In the words of a Radical Independence campaigner:

*We believe the success of a country comes from the hard work and commitment of all. We believe that a good country is one in which all share fairly the success of good times and all share fairly the burdens of bad times.*³⁴

In the nationalist ideal, if everybody takes a step back from their respective interests, if all work hard and commit, if all interests are moderated in the name of the common good, then they all get the fair share they deserve.

They demand the national community to be a community of the decent, a community where participants *want* the restrictions placed on them, a community where the participants are willing to a step back in the interest of the greater, national, collective good. The Radical Independence Campaign version of this ideal goes like this:

³⁰ The capitalist economy is characterised by opposition and mutual dependency. We explain how in *Appendix: Economy*.

³¹ Martin Kettle. *Wake up, unions: there will be no Prime Minister Corbyn*, <http://gu.com/p/4bbzv/stw>

³² The point here is not that democratic nationalists are people who also appreciate competition in the economic sphere. Instead, the point here is that they appreciate this competition *as nationalists*, i.e. as a means for their community.

³³ In *Why anti-national?* we referred to this as “virtuous materialism”, i.e. materialism which is restricted in order to be realised in its restricted, permitted and decent form.

³⁴ Robin McAlpine, *Declaration for Radical Independence*, <http://radicalindependence.org/2012/11/26/declaration-for-radical-independence>.

*Scotland can be a moral nation. Where mutuality, cooperation and fellowship define our relationships. Where we are good stewards of our country and hand it on to the next generation in a better state than we inherit it. Where our values are not dominated by greed, selfishness and disregard for others but by patience, generosity, creativity, peacefulness and a determination to be better.*³⁵

Different nationalists address their calls for “determination to be better” towards different groups. Some ask for jobs and payment of taxes from companies, some demand wage moderation from workers, some demand decency and guidance from politicians. But they all demand decency.

Essence

For nationalists, cohesion, decency, the will to the nation, — “we” — is not a calculated, rational decision but a natural part of them.

The assertion of a self-evident unity of the nation is not merely a mistake that could be rectified by educating a nationalist about differing interests in a capitalist society. They know of them, which is why they want to moderate them. The assertion “we” is as much an invitation as it is a demand. Firstly, “we” is an invitation to look beyond the day-to-day competition and to recognise the needs of the community as being greater than mere individual materialism and calculated decisions for personal gain.³⁶ Secondly, “we” is also a demand that this unity is not up for debate, it is an invitation you cannot refuse, it is essential.

For a biological racist nationalist, it is a natural essence which guarantees the na-

tional bond, which is not only self-evident but natural. She asserts that the will to the nation is not a product of volition but of a biological essence. To her, this founds a strong, irrefutable bond because the members of the community have it in their bones. They cannot but stand for their community and act decently for the benefit of their community. This is an uncompromising demand against the members of the nation.

Nationalists who invoke culture (language, customs, values, etc.) seek the same result but without a recourse to biology. They, too, found the will to the nation in a pre-voluntary essence of the members of the community but an essence which is produced by society — which is why they can be more open to the idea of others being *integrated* into the collective. They disagree that biology can account for a will but seek the same, firm result from a source outside of the will, beyond decisions.

Here, too, the demand against the members of the community is expressed as the assertion that these members have their national bond in their being.³⁷ They have no choice in the matter, they *are* English, Scottish, German and so on. For example, “National Collective”, a group of artists campaigning for Scottish independence, offered their view on a progressive civic nationalism in Scotland:

*In Scotland, we make a lot of noise about our ‘civic nationalism’ — an open, inclusive brand of national pride based on shared goals, values and institutions, summed up by the late Bashir Ahmed, Scotland’s first Asian MSP: “It is not important where we have come from; it’s where we’re going together, as a nation.”*³⁸

Civic nationalists claim that sharing certain liberal values is part of a particular national identity and they are proud of these values: freedom, equality, democracy, the rule of law — the accomplishments of modern democratic rule. People who criticise nationalism for excluding others from the national community might read statements like these as an open invitation to everyone who shares Scottish values. However, this is a misunderstanding. Who would get to be Scottish is not some individual choice of sharing a certain set of values, but up to the Scottish Government to decide in the interest of the nation.³⁹ Civic nationalism posits that the members of the nation share certain values, not that sharing certain values makes you a member of the nation.

When civic nationalists speak of shared “goals, values, and institutions” this expresses that they expect those who are part of the national collective to share these. Especially, when a politician says “It is not important where we have come from; it’s where we’re going together, as a nation” this is not merely a true or false analysis of what constitutes the nation, but a demand to get in line. When someone in power tells you “this is how we do things”, this is an imperative indicative: a demand against you to follow through. When someone who shapes the values and goals of the nation tells you that you share those defined goals and values, this is the demand to want what they want for the nation.

The same applies to other pictures that nationalists draw of their respective peoples. Nationalists will not shy away from statements like “Germans are punctual” or “British are polite” when confronted with a disorganised resp. rude person. These statements are not intended as statements of fact

³⁵ Robin McAlpine, op. cit.

³⁶ Constitutional patriots are rather explicit about their invitation being a demand against citizens: “However, constitutional patriotism is decidedly not a theory of self-determination: it does not start with a picture of unattached individuals asking themselves the question: ‘Where do I belong? Where do I find the best liberal-democratic constitution?’ Rather, it asks how citizens within existing political communities should think about their allegiances, and also what they might do to improve the kinds of political arrangements with which they find themselves confronted. It is not so much *foundational* (motivating a choice of political allegiances or constructing political order *ex nihilo*) as *transformative* (moving existing political cultures in a more universalist direction).” The same author then also responds to the charge against constitutional patriotism of not providing enough reasons to sacrifice for the community by insisting that it does: “As for the alleged motivational deficit: it cannot simply be taken as an obviously correct empirical observation that something like ‘national culture’ inspires quite large sacrifices of resources — at the limit: life itself — while norms and values do not. While clearly family and friendship are special in this regard, nothing justifies an analogy between family and nation as somehow both a matter of kinship and therefore equally capable of motivating loyalty, even if it is very costly. Charles Taylor is undoubtedly right when he points out that attachment ‘has to motivate a degree of giving’: serving in the armed services, paying taxes to enable large income transfers, but ideally also a willingness to invest in civic activities and political participation.” — Jan-Werner Müller. *Seven Ways to Misunderstand Constitutional Patriotism*, *notizie di POLITeia* (96): 20–24.

³⁷ At first glance constitutional patriotism bases the will to the nation and its state on a decision. However, a denial usually follows immediately and it is pointed out that those decisions are grounded in a national culture themselves: “[C]onstitutional patriotism can neither take shape in social practices nor become the driving force for the dynamic project of creating an association of free and equal persons until they are situated in the historical context of a nation of citizens in a way that they link up with those citizens’ motives and attitudes” — Jürgen Habermas. *Between Facts and Norms: Contribution to a Theory of Law and Democracy*, MIT Press, 1996, p. 499

³⁸ National Collective, *Editorial: Finally, Britain is beginning to understand civic nationalism*, <http://nationalcollective.com/2012/08/05/editorial-finally-britain-is-beginning-to-understand-civic-nationalism>

³⁹ For instance, the “Yes Scotland” campaign answered the question “Who will be eligible for Scottish citizenship on independence and in the future?” as follows: “The current Scottish Government has set out detailed plans for citizenship on independence. British citizens habitually resident in Scotland on independence will be considered Scottish citizens ... Following independence, other people will be able to apply for Scottish citizenship. For example, citizenship by descent will be available to those who have a parent or grandparent who qualifies for Scottish citizenship. Those who have a demonstrable connection to Scotland and have spent at least ten years living here at some stage, whether as a child or an adult, will also have the opportunity to apply for citizenship. ... Procedures will also be put in place to allow certain migrants lawfully resident in Scotland to apply for naturalisation as a Scottish citizen. ... Future changes to citizenship laws would be a matter for Scottish governments elected in 2016 and beyond.” — <http://www.yesscotland.net/answers/who-will-be-eligible-scottish-citizenship-independence-and-future>

That is, in addition to receiving Scottish nationality at birth as stipulated by most countries, people who would have managed to live in Scotland for at least 10 years with the consent of the Scottish state, would also be given the chance to apply for citizenship. If anyone should have any illusions about what standard would be applied to permitting migrants to live lawfully in Scotland, the Scottish Government clarifies that Scotland’s needs — and not some shared values — would set those standards: “Scotland’s differing demographic and migration needs mean that the current UK immigration system has not served our interests. ... Historically Scotland’s population has grown at a lower rate compared to the rest of the UK. The latest population projections suggest that Scotland’s workforce will not grow as rapidly as the UK as a whole. Scotland’s population needs are therefore different to the rest of the UK and Scotland has a clear economic rationale for growing our population — in particular our working age population.” (Scottish Government, *Scotland’s Future*, p.268) The proposed rules for citizenship might be more permeable than other states, the standard in any case is the same: can these migrants be useful human resources for the nation.

but expectations and demands against the members of the national collective. “We” is a demand.

Force

Nationalists think of the national community as a moral community, a community with just rights and responsibilities, a community formed by and for decent people. This is a peculiar view towards their actual social relations.

In their daily lives, the subjects of a democratic state are endowed with rights and responsibilities by the state; it provides its subjects with general rules which they have to follow. There is much to regulate, permit, prohibit and sanction when people who are dependent on each other compete against each other. For their interactions in the economy, the actors make contracts. These are agreed upon because each party expects to gain from them but this does not extinguish the economic opposition of the contracting parties. A low or no price is better for the buyer and worse for the seller. More concretely, a low wage is a means for profit and a detriment to workers sustenance. Capitalists have reasons to squeeze more out of their workers and workers have reasons to resist this through collective action.⁴⁰

The capitalist economy needs an arbiter to decide who prevails when the members’ interests collide and to provide general restrictions keeping competition from eating itself, to make the unity of competition and mutual dependency feasible. This feat is not accomplished without force: when everybody’s goals are pursued against the others, under rules which restrict the means of success of each party, then it makes sense to bend or break the rules here and there to realise these goals — theft and fraud are ways to take part in competition with other means. Therefore, a capitalist economy requires a state ruling over it with force. Capitalist states happily oblige because they rely on their capitalist economies as the basis of their might. They guarantee private property and provide the rule of law, infrastructure, the welfare state and economy policy to facilitate accumulation of their national capital which they count as the growth of the gross domestic product (GDP) and which provides their rule with means.

Where the state in its laws defines the conditions under which its subjects *must* pursue their own interests, nationalists see conditions under which they *can* pursue their own interests. Conditions become opportunities. Where the state excludes

the mass of its citizens from the wealth around them, where it ensures their continued existence as human resources for the accumulation of capital, they see general regulations being implemented which ensure that their decent community — and hence them — can function and consider the rights provided by the state as their means to participate justly in their moral community. They treat conditions, which they do not decide about, as their own, as expressions of themselves and of their morality.

Escalation

This reversal — that the objects of rule think themselves as the subjects — does not mean nationalists are content. When they interpret law as a realisation of their morality, not as the form in which the state organises its society for its own might, they also judge it this way. Hence, as much as they are one with their nation and its state in principle, they always tend to find some transgression, some violation of decency, some instance where someone receives what is not deserved and where those who deserve do not.

Nationalist criticism detects deviations from decency, identify culprits and demand a correction from the state: more crack down on benefit scroungers, more restrictions on strike action, a tighter tax regime for corporations, restrictions on banker bonuses etc. Left-wing and right-wing nationalists often target different groups with their criticisms, but both want to mobilise the guardian of the national community against “excessive” self-interest.

However, because the state’s purpose is not to realise the often conflicting moralistic national ideals of its subjects but its own might and a strong capitalist economy, it often fails to live up to the expectations of its nationalist critics. What they imagine as decent and fair is not on the agenda. Most nationalists are content with airing their complaints down at the pub, armed with the righteousness of their respective standpoints of justice. Some of them, though, become critical of the government, which they accuse of having lost sight of what is important and seek more grounded alternatives. Some become even critical of the form of the state in general and become disciples of a fascist state which ruthlessly cracks down on vested interests everywhere.⁴¹ Some turn the claim of national identity around and seek culprits amongst those they do not consider the right kind of English, Scottish or German. They extend the idea that identity ensures national cohesion to the idea that the wrong kind of identity undermines

it — just as firm and unchangeable as the former.

Not every nationalist takes these last steps. In fact, many do not. But what they all share when they say “we” is plenty: appreciation for a community which requires force over its members to make their relationships passable, acceptance of the antagonisms produced by the capitalist economy which ought to be endured, identification with the conditions we are confronted with by the democratic state and moralistic demands to submit to these conditions.

Postscript: Into the world

Nationalists judge all and sundry from their nationalist standpoint, also other nations and their states. On the world stage, nation states confront each other with their demands and compete for power. They compete economically, threaten each other with their military might and engage in open war. Nationalists observe these conflicts in a peculiar way. To nationalists, their own nation is the home of the decent and universal, the guarantor of everything that is good in the world. In contrast, other nations are merely French, Russian, US American etc. The respective national standpoints are merely *their* particular standpoints. This does not necessarily make them foes, but every nationalist can identify base motives driving other nation states’ policies. Reading any British newspaper’s reporting on Russia or watching an hour of Russia Today provides ample material of this kind. From this perspective then, it only makes sense for nationalists to wish their own the best of luck in every endeavour, even base ones because this is the basis of success for everything that is decent in the world.

Appendix: Economy

The arguments in this text rely on how the capitalist economy works, that it is a continuous source of conflicts while being a strange form of cooperation, outlined in the following.

Any act of sale or purchase — i.e. exchange, the fundamental economic social relation in a capitalist economy — contains within itself an opposition between the two involved parties: the lower the price the better for the buyer and the worse for the seller. The advantage of one party is the disadvantage of the other and vice versa.

On the other hand, every exchange is also some form of cooperation. A commodity producer does not produce immediately for herself, but her products ought to be

⁴⁰ See Appendix: Economy.

⁴¹ When the German National Socialists accused the Jews of being the driving force behind communism and finance capital this expresses their nationalist criticism:

both are criticised for being egoistical — one for being the egoistical pursuit of workers interests, one for being the egoistical pursuit of capital’s interest.

consumed by others such that she can exploit the need of others to realise her own interests, i.e. get paid. Only through others can she realise her own goals. Commodity-owners exclude each other from their respective property so that they can pursue their respective interests *using* each other. Moreover, not only do they need each other when they confront each other directly, but they also need each other success in their economic endeavours elsewhere. If someone wants to sell, the buyer must previously have earned her money somehow. The success of others is the premise for using them. Exchange is characterised by both a *with* each other and an *against* each other.

The opposition contained within sale and purchase is rather abstract. While a high price is better for the seller, there is no general reason why the relation cannot work out satisfactory for everybody involved. Buyer and seller could *in principle* arrive at a deal which allows each side to get what they want, enough money to fulfil their needs and desires. However, money is the one thing which allows them to gain access to the world of commodities from which they otherwise exclude each other: all material wealth is the private property of someone, under their exclusive right of disposal. With money everything is available — storms can be weathered, obstacles overcome, previously unknown desires fulfilled — without money nothing is available. As a consequence, the pursuit of money is the dominant economic purpose of this society.

Those who can use money to make more money: they invest to make profits. Companies produce commodities in order to sell them for more money than invested and are successful if they earn more selling their products than what they pay for wages, materials, machines etc. Their suppliers have the same measure of success — buy cheap, sell dear, make profits — which means in their transactions a company and its sup-

pliers confront each other with opposing interests. The suppliers want to sell dear, the company wants to buy cheap, both trying to maximise their respective bottom line. When a company comes to sell its own commodities, it confronts its customers in the same way. When a company asks for a loan from a bank, the bank and the company also oppose each other, for example about how much interest the bank charges — a source of profit for the bank.

The examples so far spoke of opponents which both pursue and realise a profit. The advantage of one is the disadvantage of the other, but both might still realise a profit. Workers, in contrast, do not have the means to buy cheap in order to sell dear. They have no choice but to rent themselves out to employers. Their interest is a liveable wage while minimising the damage (time, exhaustion, stress, RSI) they incur for it. Their employers, in contrast, want to maximise the difference between what they pay e.g. on wages and what they earn — their profit. The result can be observed all around us, companies make profits while workers work long hours and remain excluded from the vast wealth accumulated in this society. Any success workers achieve against their employers such as longer breaks or higher wages is to the detriment of the expressed purpose of their employment: profit. In this relation, the opposition between the involved parties is anything but abstract, because one interests — more profit — is hostile in its nature towards the other and undermines it. It undermines it to such an extent that the state intervenes to provide workers with basic necessities.⁴²

Yet, even this relation is not *only* characterised by opposition: capitalist companies rely on workers to produce and sell their products. At the same time, workers cannot earn a wage without the success of capitalist companies in this society. *As workers*, they need the success of their opponent. Only

if their company realises its purpose of making profits — which entails low wages compared to output — they can take home a wage at all. Thus, even the antagonistic relationship between capital and labour is also characterised by mutual dependency.

However, mutual dependency in competition against each other does not mean the involved parties share a common interest, that their respective purposes fit together and are realised through each other.

As long as business is good, the goods provided by a supplier are the means to do business and hence her success is the premise of the buyer's success. Moreover, the participants of a capitalist economy might consider even their competitors as helpful means and their success as a means of their own. For example, one manufacturer successfully raising prices might enable other manufacturers of the same good to raise their prices, too. But as soon as business hits a slump, the price asked by a supplier becomes an obstacle to success. Similarly, one seller lowering prices undermines the ability of his competitors to sell their goods. Unity quickly comes apart.

The mistake of identifying dependency with a common goal is particularly crass when workers make it. Workers go to work for a wage, the money they need to pay for necessities, to reproduce themselves. This is *their* reason. Capital, on the other hand, needs workers for its production of profits. It will only hire workers insofar their employment is deemed productive in this sense. The reason why workers have a job is not so that they can make a living, but to be useful for the production of profits. This is *the* reason for their employment.⁴³ Only insofar they are useful for profit can they realise their purposes, after a fashion. When they are not, their purposes count little and they have to make do with less.

⁴² See *What is wrong with free money* available at <https://antinational.org/en/what-wrong-free-money> and in this issue of Kittens.

⁴³ The capitalist process of production produces a constant surplus of workers over jobs, such that workers cannot usually successfully assert their reasons for employment against the reasons of capital. See *What is wrong with free money*.



“THAT’S JUST HOW THESE PEOPLE ARE”

Racist essentialism

In every racism, assertions are made about how *people as such* are.¹ These assertions are not about human beings in general but about specific groups. Racism assumes that everyone belongs to some alleged group, i.e. that people are “white” or “Caucasian”, “Arabic”, “Native American”, “Gipsy” etc. This enumeration is not a real description of actual groups, as there are no races; race is a nonsense category. Neither biologically nor culturally can humanity be sorted into such groups. Hence, this classification, that is the first point here, has, in reality, nothing to do with the people being classified.

That does not unsettle racists. They continue on Racist Road and add to this wrong definition of fixed human groups another

mistake.² These groups of people are assigned certain, unchangeable attributes — a few examples from a Western racist perspective: white people allegedly are clever and a bit stiff, Arabic people backwards and fanatic, native Americans are in touch with nature and gipsies are as lazy as they are musical. These attributes are not only ascribed to the group as a whole but also to every member of the group. Each imagined member of the group is regarded as a specimen or representative of the whole group: every gipsy is considered to be lazy. These features are seen to distinguish every person of that group from every person of another group, it forms them and it shows in their very essence.³ This is the essentialisation.

Racism does not start where people are offended, humiliated, persecuted or murdered. It starts when people are sorted into biological or cultural groups and are seen to share essential characteristics — simply as alleged members of the group.⁴

Although the groups racists create do not exist, there are certain modes of behaviour or preferences which can be widely shared in certain regions while being less prevalent or even non-existent in others. Racism declares this to be *the* behaviour of a racified group, i.e. of a so-called race. Yet, even if people living in the Northern Mediterranean gesture more, it does not mean that people from South Europe are more passionate. The logical mistake is to

¹ For this issue, we planned to include a longer piece on racism in general. Timing interfered, so it did not get finished. Hence, we are just publishing the excerpt on essentialisation. This short text does not claim to explain racism. It describes and critiques the general mistake of essentialising which is the form of any racism.

² We separate the logical steps of ideology, which is an analytical distinction. To a racist, these logical steps do not appear as separate steps, they think them all together.

³ So far, nothing has been said about the content of these judgements. In this piece, it will be shown how racist judgements are applied to people, who have already

been sorted into racist groups. There will be more about the content of these judgements in a later edition.

⁴ Essentialism is also the form of sexism: on the basis of a few, in many regards rather unimportant differences between people, sexists claim a myriad of social attributes. These are seen to be self-evident. Then, there is biologism in a more general sense, where people are ascribed with characteristics that are, in fact, either socially produced or else not even existent in everyone. “Man is a wolf to man.” is an example for such thinking. It claims this is how all people as such are and abstracts social conditions away.

interpret such a cluster (as useful or useless for the community, or often at least as good or bad) and to link it to all members of the alleged group. While these differences exist, they are not a feature of everyone living in a certain region. Or else racism ties characteristics that *some* people might possess to *all* members for their “race”. Here, too, the racist processing of reality considers some actual difference and generalises them incorrectly.⁵

Why certain manners are particularly widespread in some areas, can already be the result of racism: slaves in the US for instance used to play “dumb” to avoid yet more work.⁶

Finally, there are racist essentialisations which do not correspond at all with reality. That is, for example, the idea of some groups of people being cannibals. This is pure fiction and has no basis in facts.

In reality, these attributions are not true either in their entirety or not at all. The essentialising conclusion is wrong either way. Racism, however, homogenises and what does not fit in is mentally aligned. Existing differences in a group are ignored. Other ideological judgements are by contrast incorporated into the racist image. Gender differences play a part in racism, for example “Arab women” are seen to be submissive, “Arab men” quick-tempered.

When racists engage with something that their racist explanation does not account for, they commonly brush this aside as an “exception from the rule”. They consider their “hard-working and coldly calculating Latin American” neighbour as just as Latin American albeit her being different from the racist’s idea of “such people”. It is remarkable that this does not lead to racist ideas being given up. Instead, it is seen as a deviation from what that person as a “representative of her race” *ought to be*. Racists are rather creative when it comes to incorporating contradictions into their theory to maintain it.

Racism is often perceived as an old-style way of thinking which differs greatly from the normal, enlightened, modern way of interpreting the world. Hence, it is regularly downplayed. By extension, it seems to be a

socio-psychological riddle to some: in times of enlightenment, how can anyone think that way? They must have psychological reasons.

However, the form of racism, essentialisation, is not uncommon in the everyday world. It is a wide-spread ideology to think of people being the way they are because this is their essential character rather than because they experience things, then think about them and then practice their skills. “My child is highly gifted” is that kind of judgement: she can do all these awesome things not because she wants to and tries to learn the required skills enthusiastically or because I encouraged my child. The essentialising view rather sees this to be the result of the kid’s mere being, no matter if this is ostensibly grounded in her genes or her brain. The reverse is even more widespread: that underachiever in school, well, she is just more “practically dexterous”, i.e. not very useful when it comes to abstract thinking. It is the same form of thinking as in racism, volition and awareness only express a presumed being. People are what they are: that explains their position in society and their successes and failures in the competition. The difference here with racism is that essentialising the social standing is a judgement about how individual people fare in this society whereas racism is a judgement on a whole imagined group.

Even though the idea to take perceived attributes of certain people and with these explain their position in society has increased in modern times, it is nothing new. In other authoritarian pre-capitalist societies, some people exercised power, appropriated the social surplus product and claimed that their essential characteristics called them to such a noble deed. The others were called to serve — that, too, due to their being. In the classical or feudal mode of production, reasons given to justify the hierarchy were noble blood, descent, kinship with gods or at least a divine decision. But because god was in play, the hierarchies were not as rigid — feasts and piety could have an effect. With the transition to modern society, nature comes into play as the explanation —

and you cannot argue with nature, it means inescapable fate.

Racist essentialisation means that features or modes of behaviour, which can be changed, are presented as unalterable, and people are sorted into groups which are ascribed with these as core characteristics. Real differences are levelled out or are considered marginal, i.e. racism homogenises. Racism does not have its root in the given examples nor the perception of people. Instead, the particular racist judgements are just illustrations or expressions of ideological notions. The image of the gypsy, for instance, as musical, work-shy and living off the expenses of the community is the counter-image to the demand against all members of a capitalist, successful collective. You can be musical, that is ok, but what really counts is success in competition, on the job market, for which every worker has to be willing, useful and available. Only thus can an income be earned, only thus can everyone contribute something to the community (e.g. taxes) without “freeloading”.

This demand re-appears as a mirror-image of the negative racist attributes given to other groups: the racist attributions to others are an inverted expression of the demand against everyone in the alleged in-group on how they are supposed to behave. For that reason, it is not just the negative attributions which are a problem. That “white people” allegedly think better, is a harsh judgement on all “white people” who are not perceived to be clever. It certainly is a demand against the in-group to apply their “cleverness”.

Despite all the randomness in how the racist images came about and which people are sorted into what groups and then which characteristics each group is ascribed with, they all have a lot to do with the constitution of capitalist societies and the demands against members of the national collectives. These demands do not need to be made from above; racism survives despite the ending of colonialism as a state-orchestrated programme of direct domination and subordination, to which the racist ideology was the ideal accompaniment and justification.

⁵ This can come about on a subjective level: somebody sees gypsies — or whoever is considered to be one — making music and concludes in a racist way that gypsies “just have music running through their veins”. (Whenever it is a case of social characteristics, the essentialising generalisation from some to all members of any group is always wrong because they are changeable.) This is not a claim that racism comes into being by a “naive” conclusion and a wrong generalisation. People who judge like that already have a racist concept in their head. They

think that “these people just are like this and that” and with such a thought, they go into the world and “find” corresponding characteristics. Racism might be reproduced that way but only on the basis of already racist thinking.

⁶ This behaviour was so minting that it has grown into a collective self-image. Some people with a darker skin colour started to think of themselves as not being able to do certain things, like abstract thinking, well.



CAPITAL

Money 2.0

The following article is a translated excerpt from an introductory book on the critique of capitalism. So far, the rest of the book is only available in German.¹

In this society almost every aspect of life is dependent on money. Hence, it is useful to have a lot of it² — although most people are all too familiar with having rather little of it. Common sense has it that the best strategy against a lack of money is to put money aside. If someone puts enough money aside, they can then buy something which was out of reach before. This, however, is only accomplished by first relinquishing other

items. If a person spends her savings, they are gone — damn, carry on, new money is needed.

With money as capital this is different. If someone has so much money that not all of it is needed to pay for necessities but instead some of it can be invested then money is augmented by *spending* it. Money functions as *capital* when it is invested. If the investment is successful, not only the principal sum returns but more: *profit*.

Industrial capital realises this by selling the commodities its workers produced for more money than was expended on their production.³

Profit and its contradictions

To illustrate this, let us consider an example. Ms K somehow got her hands on a decent amount of money and now wants to invest it, i.e. she wants to use it as capital. She consults experts, compares different spheres of investment and finally seizes the opportunity to buy an apple sauce factory.⁴ When setting up her new company “Squish” her primary goal is to realise stable profits in order to fund her lifestyle.⁵

For production she needs materials (apples, sugar, jars ...) and employees. All this costs money. For her plan to augment

¹ <https://antinationall.org/page/die-misere-hat-system-kapitalismus/>

² If you can or must restrict your consumption, you might be able to get by. However, that’s about it. To give a few examples: with increasing age you might be confronted with increasing care costs, a friend has some troubles which could go away with a bit of money, the car breaks down.

³ We focus on that kind of capital which is engaged in production and organises it (industrial capital) — and do not explain finance capital (e.g. banks) or merchant capital (e.g. supermarkets). The point here is to investigate how concrete wealth (all that stuff which can be used like apple sauce or apple sauce machines) comes into the world under capitalism. We are interested in the peculiar way in which the satisfaction of needs and desires is organised in this society. In contrast, many criticisms of finance capital contain within them a praise of industrial capital. Even though the apple sauce which comes out of a capitalist apple sauce factory has a usefulness besides business, i.e. it satisfies the need and desire for apple sauce, this does not mean that “producing useful stuff” is the purpose of capitalist production. We consider the capitalist mode of production in its entirety as an obstacle to the satisfaction of needs and desires. In this book, we are content with

showing that industrial capital produces such conditions, without any intervention from finance capital. For the critique of finance capital, see *Financial Crisis 2008ff* available at <https://antinationall.org/en/financial-crisis-2008ff>. As an aside, if our critique is correct, it is a rather bad taunt to talk of this society as a consumer society.

⁴ The authors of this piece do not actually know how modern apple sauce factories are organised. For example, we have no idea what happens with foul fruit there. It should be mentioned, though, that capitalists do not need to know either, they simply buy the relevant expertise on the labour market. Even managers do not need to understand this stuff in detail, which is illustrated by the ease with which managers switch from, say, the chemical industry to an energy company. This illustrates that running a capitalist company is firstly about understanding the capitalist way of calculating and enforcing it. Knowledge about the involved use-values and the steps to produce them is only of secondary relevance.

⁵ We presume this purpose to show in this chapter what running a capitalist company entails even if the owner does not want to maximise profit in the first instance.

money she hence has to spend money in addition to the money expended on the factory itself, she must advance or invest more. When planning her production, she calculates with averages. She calculates with the current market prices for buying and selling and assumes standard wages and working hours.

When Squish now enters the market as a buyer, it changes that market. Demand for those raw materials it requests changes, which might have an impact on their prices. If prices increase then Squish's own engagement on the market has a negative impact on its purpose. Once production started and Squish's product ("Squish Apple") enters the market then this increases the overall supply of apple sauce, which might suppress its price. This, too, would be bad for Ms K's conditions of success. Ms K's actions have, just as the actions of other companies, "side effects" which she does not control, but which — the horror — threaten her profits.

Whether prices for raw materials actually rise or whether the price for apple sauce in supermarkets actually falls depends on many factors not determined by what happens within the factory gates of Squish. For example, it depends on what happens in other branches of industry (suppliers of apple sauce and competing products to apple sauce) and if effective demand in society for apple sauce overall increases. The point here is that Ms K's actions for her profit contain within them effects which act against the realisation of this goal.

For now, Ms K finds the prices of her means of production (apples, machines, replacement parts, lubricants, energy, ...) on the market at the current rate. She can only gradually try to influence how high these prices are, for example, by putting pressure on her suppliers. But this has its limits in the prices that other customers of these supplies are willing to pay and ultimately in the prices at which these supplies can still sell with a profit.

The project "consistent profits for Ms K's lifestyle" demands additional entrepreneurial finesse: other techniques are needed to ensure profit. If influence on the market "outside" is limited, then the search turns inwards. A strategy could be "quantity has a quality of its own" — simply produce more? This could increase profits absolutely but also demands more investment: more must be advanced on wages and raw materials, perhaps also more on machines. On the other hand, this expansion has the same effect as above, but in escalated form: if Squish buys and sells more, it has the same reasons to do this as any other company. Hence, we have to assume that everybody does it and that this way they all

undermine prices for themselves and each other. Marketing companies offer to optimise the sale, but their services are neither free of charge nor can they accomplish the miracle of enabling Squish to sell its apple sauce for whatever price it wants.

Simply *expanding* production hence has its limits. Perhaps the particular organisation of production allows optimising.

Squish apple must become cheaper, without diminishing profit. This is accomplished by reducing the cost of production *per commodity*; the *unit cost* of each commodity is reduced. This way Squish can sell more commodities, as those are cheaper, and realise more profit because costs are reduced.

At Squish they are now busy with condensing the working day, i.e. reducing or eliminating interruptions. Furthermore, Ms K realises the usefulness of her workers working longer hours — in particular if she does not have to pay higher wages for it.⁶ Even when this means that per day more raw materials are used up, which brings with it an increase in expenses, this reduces unit costs because less wage needs to be paid per commodity, i.e. *unit labour costs* are reduced. The same result would be attained if wages were simply cut. Whether a wage allows workers to go on holidays abroad or not is, after all, a subject of negotiation. This direct suppression of wages or the indirect suppression by making the working day longer or more intensive is conditioned by the labour market. If demand for workers increases substantially, the negotiation power of workers improves slightly and vice versa.

But even if Squish had to pay higher wages for extending the working day, there is still an advantage. Firstly, because other expenditures such as land and buildings have to be paid regardless of whether work is done in them or not. Working, say, ten hours a day instead of eight hours means that the same rent is spread over more commodities, decreasing unit costs.

Secondly, there is an advantage because of the increased speed with which commodities are produced and sold. Apple sauce does not leave the factory jar by jar but in larger quantities which are negotiated with trade partners, say, a supermarket chain. Whenever a certain amount is delivered, i.e. when the corresponding production period is over, Ms K gets the money for her sauce. If the apple sauce is produced or sold faster, the money advanced for it returns faster and can be used to buy raw materials and workers anew. That is, with the money earned for the sauce she can now pay for wages and raw materials of the next working period. For slow production, too, money earned in one period can be

used to pay for the next period's production. However, when we consider a whole year, it makes a difference if the procedure of using already earned money to pay for wages and raw materials happens ten times or twelve times. In the latter case, the same investment allows producing and selling more commodities per year. In relation to the whole year, this reduces the investment per commodity as the same advance is now spread over more commodities. Producing and selling faster reduces the need for an advance.

While all techniques of pushing workers are being exhausted, speeding up production is also accomplished through improving technological efficiency. In order to produce even faster, new machines are needed. This, too, costs money.

The plan is to eventually modernise Squish. The old machines still work but are not state-of-the-art. The existing production process does not allow production to speed up further. For example, a few people were employed to scan the belt for foul apples, something which slowed down the production process overall. Now, the market provides an apple scanner and sorter, which can do this task and is considerably faster, too. This is worthwhile despite the big investment necessary to buy it because this new technology might allow improving unit costs: applying this machine lowers the wage bill. The company compares how much work the machine would save and then further compares the price of the machine (repair and maintenance included) with the saved hourly wages over the complete lifespan of the machine. If the machine is cheaper in this regard, it is bought and workers are made redundant. This is called *rationalisation*. However, those reduced unit costs require selling a greater amount of apple sauce because typically productivity gains are at least partly a result of the economy of scale.

If it is only Squish that introduces new machinery, Ms K has an extra edge over the competition. Her costs are lower than those of the competition but she can sell at the old, average prices. However, if her competitors also introduce the more productive machines, this edge is gone since prices eventually come down to the new level. This is because the competitors can now afford to lower prices in order to (re-)capture market share. In the end, this could lead to no advantage in the cost benefit calculation. Still, this process has a nice side effect: the establishment and increase of unemployment by making workers redundant. This way Ms K and her competitors relax the labour market to their benefit, which allows them to assert their cost-benefit calculation

⁶ Not every employment contract specifies an hourly rate. For example, it could also specify targets. Furthermore, it hardly needs mentioning that unpaid overtime is expected or contractually mandated in many jobs.

against their workers: suppressing wages and more performance for the same wage.

Intermediate results

- Capital is money spent with the purpose of being augmented. The surplus over investments is the profit. For the moment, it is still open what happens with this profit. Whatever the case, profits are partly used to finance the livelihood of the capitalist.
- The measures which are available in capitalism to secure profits all result in generalised pressure to lower prices and to sell more commodities. In order to continuously make profits, the measures listed above are necessary: lowering wages, expanding production, prolonging the working day, more intense and faster work, faster sale (incl. marketing), rationalisation.
- The dilemma of capitalists, which they present to each other in their competition, leads to pressure on workers.
- All tasks which are available as means for making money need constant attention. The market is always on the move. For example, Smith & Sons and everybody else reacts to the actions of Squish, which then reacts again to which then everybody else reacts etc.

Growth as a necessity

Ms K is a critical person. She not only reads the Guardian but she also wants to be a responsible businesswoman. She does not buy into the “hype” of growth and thinks that it is silly that all companies always want to get bigger. She thinks it should be sufficient if her company simply preserves her investment. She wants to siphon off all profits and use them to realise a nice life for herself. Yet, it is now clear that she cannot do that. Simply to keep profits stable, she needs to apply the methods outlined above, which increases costs. The source for these additional investments is the profit itself.⁷ Ms K’s purpose, constant profit for a nice life, demands splitting up profits: only a part can be used for her immediate consumption, the other part becomes necessary for the existence of the company.

There is another way in which profit becomes the means for continuous profit. Ms K estimates risks and imponderables. It could be that her funds are not sufficient at some point to, for example, do some necessary repairs. Or one of her main customers goes bust and cannot pay for a big shipment. To keep production going continuously she

needs a *reserve fund*. Where does she take it from? Again from profits. The same applies when a food scandal makes people less eager to buy apple sauce or when pears gain popularity or when there was a bad harvest and so on. The only way to keep business going in all these cases is to have a reserve fund which is funded by profit. In order to make profits fit for this purpose, capital must grow and for this profit is needed. At least a part of it must be reinvested in order to make the company more robust. The relationship is rather circular: the condition for continuous profit making is continuous profit making.

Firstly it is important to make a lot of profit because the bigger the profit the more capital can grow. For example, assume Squish made £1 million in profits, but Smith & Sons made £1.5 million. The profit of Smith & Sons is better in absolute terms. Secondly, it is now relevant what the ratio of advanced capital to realised profit is. If there are currently £10 million invested in Squish, the ratio would be 10% profit. If Smith & Sons had invested £20 million in their factory, they would make 7.5% profit. In terms of relative profit, Squish would look better. The ratio of advance and return is called the *profit rate* and expresses how efficient each invested pound has augmented itself. The higher the profit rate the more efficient a given advance is as a “money making machine” and the better capital can be bolstered with profit.

Several ways in which absolute profit and the profit rate can be increased were illustrated in the previous example of Ms K’s company. These require additional outlays, capital hence must grow and profits must be reinvested. This results in the following circular movement into which companies push each other: in order to keep capital competitive, it needs to be made more efficient using an ever increasing amount of money. The optimal application of capital, the optimisation of the profit rate, is the way to maximise the amount of profit. This in turn is the way to grow the initial capital sum with which the profit rate and absolute profits are increased. Squish rationalises, sells more apple sauce, makes more profit. Profits are then the means to optimise further.

This growth of capital, by reinvesting profits, is called the *accumulation of capital*. Squish needs to grow even for the sake of its mere continued existence. The new demand against profit is that it does not only have to suffice to provide Ms K with a nice lifestyle, but business demands it — permanently. Hence, there is now a demand against Squish which might not have been Ms K’s personal motivation: she must try to increase profits,

not (just) to have a nice life, but in order to preserve her business as a money making machine. After all, not only her profits are under threat but her whole investment — if her company goes bankrupt she is unlikely to recover her initial investment. Merely for the *preservation* of her capital, it needs to *grow* — permanently. This follows from the peculiarity of the source of revenue capital, which includes constant competition with others pursuing the same aim.

Neither profit nor growth have, as explained above, an “enough”: they are *limitless*. Spoken from Ms K’s position: since she cannot be certain that her investment is preserved nor that she makes any profits at all, she *time after time* takes care of renewed investments and pursues a permanent, principally infinite growth as a goal. If her capital has grown, and perhaps even her profits, it, too, is only a given magnitude of money and hence only has a limited power in competition.

The project is hence to permanently make as much profit as possible. The slogan of capitalist competition is not merely “attack is the best defence”, but “attack is defence”.

Competition hence has two sides: on the one hand, Ms K is confronted by the competition, she might seem to be at its mercy. After all, she has to assert herself against the competition. Every jar of apple sauce which is sold by the competition is not Squish Apple. Even worse, the profits of the others allow them to have better means of competition and hence are dangerous. On the other hand, the other companies see Squish the same way. They, in turn, must assert themselves against Ms K. The success of one side means a loss for the other side. This way, capitalists continually compete with each other. The actions of individual capitalists put the standard higher for all others without there being an end in sight. The moaning of capitalists that the competition would force their hands ignores the fact that the moaners are the reason for moaning of other capitalists. This way, more is invested and all attempt to grow further.

The size of profit itself is a decisive weapon in the competition of capitalist companies. That means, big companies have an advantage as they are already of considerable size and correspondingly realise big profits. These companies have an advantage in another regards, too: if competition has the effect that in a branch of industry profits fall because all companies try to grow and nobody really gets the upper hand against the others until bankruptcies relax the situation, some capitalists will want to switch branches of industry in order to pursue higher profits. Yet, this step is not available

⁷ In this example, we ignore credit to keep things simple. However, what is being said here also applies if we include credit. Credit is only available if it seems that a company is in a strong economic position so it can be successful with the

help of credit. These assessments are based on the current success of a company in competition.

for all capitalists: it entails considerable costs.

Ms K realised that without growth she does not stand a chance. She must give up on her plan to use all her profits for her personal consumption and give up her plans not to expand. If she wants to be and remain a capitalist, she must pursue the expansion of her capital by reinvesting her profits, i.e. she needs to organise the accumulation of capital. Whatever her initial plans for her business were, she must act according to the logic of capital.⁸

The desire of capitalists to live their life from profits is the reason why they run a company (or hire managers to do so). The continuous growth of a company through reinvestment of a good chunk of profits might also allow capitalists an increasingly luxurious lifestyle, when profits indeed increase. The rhythm of growth, however, is not determined by the need for luxury of capitalists. It is not that they figure that a second mansion by the beach would be nice and then expand their company accordingly.

The increased satisfaction of needs and wants of capitalists is rather a sort of by-product of capitalist production but not the principal reason for rationalisation and so on. The money a company earned is reinvested for a company to be a source of profit in the long term. Merely for this purpose, to stay on the market, Squish increases productivity continuously and accumulates capital. Profits are reinvested in order to be adequate for the rising technical conditions of profit-making. Insofar as this leads to increased profits, we can say: capitalists have their luck forced upon them. They permanently must earn more, their wealth in their companies must permanently grow, so that capital can be preserved as their source of revenue.

Capitalist relations: no accident but principle

As shown, Ms K cannot just run her business the way she wants to if she does not want to bankrupt. Instead, she has to live up to her role as a capitalist. She can make decisions, but cannot act as she pleases, if her business is to succeed.

More generally, the capitalist economy imposes its logic on all its participants. The rules of this logic are at the same time the result of and the precondition for how people relate to each other economically. They experience results and conditions of their actions as a force which determines their economic actions and towards which they are, on the one hand, powerless. On the other hand, this force is a result of their own actions —

it is neither a godly nor a natural process without consciousness. A system of laws, with capital as the dominating economic principle, is hence at play.

Capitalist relations are looked upon by bourgeois economics and other people in a contradictory way. When concerning themselves with the big picture, they take the standpoint of principles and praise the invisible hand of the market. People who think like this know and appreciate that individual participants do not control what happens in the market. This way, “misbehaviour” is ostensibly corrected. Sometimes they even compare this with natural selection. If, however, results are produced which they do not like, the same people start looking for culprits.

These people think that the actions of individuals can undermine the invisible hand of the market which contradicts their belief in the invisible hand of the market. With their pursuit of culprits, they then give the capitalist mode of production a big theoretical hug as a good endeavour.⁹

Of course, the principles of this economy only exist as long as there is a majority which not only obeys it but also considers it a rational or at least best-possible compromise and acts accordingly. This is why we criticise everyone who speaks favourably of the capitalist mode of production, be it workers or capitalists.

Capitalism or Stone Age?

One commonly made assessment of capitalism is: “Without capitalism, significant technological progress is impossible, we’d still be in the Stone Age.” Let’s look at the nature of progress under capitalism.

Let’s assume that Ms K from the earlier example had rationalised her production as exemplified above. This could well have led to making workers redundant who would now lose their jobs — possibly not only at Squish, but also in competing businesses. At this point, one of the cynical oddities of the capitalist mode of production becomes apparent: the same technological progress that leads to a decrease in the amount of necessary work does not lead to less work for workers and more free time to enjoy the fruits of labour.

In fact, the opposite is the case. Those who get to keep their jobs are now made to work harder. The aim is to use a possible advantage over other competitors in a race against time (that is as long as other businesses do not work as efficiently) to the largest extent possible. This can only be achieved by selling many products in a short time, so these goods have to be produced

faster. Since a day consists of 24 hours, but only 8 of these are used “productively”, it means not selling two thirds of the products that could actually be produced in a day — night shift, morning shift etc. are introduced.

Furthermore, neither competitors and nor researchers at universities ever rest — newer, better machinery is constantly being developed and there is always the possibility that it might soon be applied by competitors, regardless of whether their old machines are still working. They then make Squish’s prices turn sour because the release date of the next, faster or cheaper apple sorting machine is not in Ms K’s hands. Competitors could even gain an advantage by acquiring the machine at a later time — for example, if it had become a lot cheaper by the time Ms K’s competitors decided to buy it.

Thus, Ms K has to make sure that she brings in the cost of the machine as quickly as possible — or else she puts her business at risk.

Thus, in order to rationalise, a capitalist business has to spend money — most of the time a lot of money. This money must first be earned as profit¹⁰ by capitalists selling the products that their workers have produced. If these rationalisations take place, making workers superfluous, a frequently voiced criticism is that even though profits were made, the business lets workers go. This point of view is based on the misguided assumption that a capitalist business’s interest is to create or maintain jobs.

It is the other way around: *because* profit has been made, rationalisation is possible. Rationalisation happens *in order to* continue making profit. This is what a job is for and it is only because of this, that the job exists. A job is a means for making profit; it is not an end in itself of a business.

This is the dire reality: if you give all you have at work, this can, on the one hand, lead to you being able to call yourself part of the sad remaining active workforce — because you were able to create the impression that you are a useful and compliant tool for the company’s profit. On the other hand, you could also lose your job because (together with your colleagues) you contributed to the accumulation of enough money for rationalisation to be possible. Innovation is expensive after all.

Technological progress is an important means in capitalist competition. Comparing capitalism with past societies, it will most likely win the medal for “most inventions per year”. However, the reverse — that capitalism is necessary if progress is to be achieved — is not true. Progress can also take place without capitalism. We are not saying, though, that a non-capitalist econ-

⁸ Marx calls people “characters” (p.179), when they act in accordance with *economic principles* which could perhaps even stand in contrast to *individual preferences*.

⁹ They do not only fail to get to the bottom of all that suffering which perhaps was their original motivation. Instead, they cause more harm when they go

about punishing whomever they identify as responsible for their problems, real or imagined.

¹⁰ Even if the business takes out a loan, investors need to see that the business aims at producing profit. Otherwise, it would not be creditworthy.



omy would produce more technological progress than a market economy. However, the question is moot before having settled to which end technology should be used. For example, progress in chemical science is used for increasing productivity, waging war and for improving cleaning products: if “a lot of progress” is the abstract yardstick, progress in the production of napalm is just as cherished as progress in cleaning dishes.

Some people see technological progress as the scourge of humanity. This disregards what this progress is for and claims that all technological development has bad effects. Under capitalism, progress may lead to a deterioration in the quality of life, for example, if machines make human labour superfluous which leads unemployment. But even if people can keep their jobs: at least in terms of time, work forms the centre of most people’s lives and modern machinery tends not to make work more comfortable. In this regard, the technological progress might as well be called regression — but hardly so from a capitalist point of view.

Machines, in themselves, are a means to the end of producing useful things. In

capitalism, the end of production is earning money. This is what production is for and this is what it looks like. The means, in this case: the machines, are neutral — they are geared towards the ends of production, but can also be used in different ways, for example at a more leisurely pace. It is not technology in itself nor scientific knowledge that deserves to be criticised; it is the end and thus also the form of technological development in capitalism.¹¹

Not a handshake in vain, not a breadcrumb wasted?

Capitalism has the rather good reputation that it ensures labour and resources to be employed as efficiently as possible, which means that as much as possible is gained from labour and a given amount of resources. It is further claimed that this is the case because capitalism simply cannot afford to waste anything since whatever is wasted costs money. Let us take a closer look at the apparent self-evident soundness of “the more efficient, the better”.

First, let us look at a production process without taking its capitalist peculiarity into account. It is certainly convenient for many people to produce a thing rather quickly since it means that they are done with work earlier. However, productivity needs to be viewed in relation to how work is done: for example, we have to take into account how arduous and monotonous it is to work with a machine, and trading productivity for health and well-being seems like a bad choice. It is quite possible that people would prefer work to be a little more comfortable and less dangerous. Saving resources is not a value on its own either. Constructing air filters for the ventilation of workplaces also requires spending some resources and we doubt that many people would sacrifice their pulmonary function on the altar of thrift.

The primary end of capitalist production is the business of making money and, leaving state interventions aside, this is also its only standard for waste and thrift. Whatever is available for free is used, polluted and wasted without concern for environmental or other consequences. Water, woods and

¹¹ In a reasonable society, one would, for example, see to it that dangerous or uncomfortable types of work are mechanised where and as soon as possible, but one would also help to develop machines in a way that they are productive without harming workers or environment — be it through noise, pollution or

whatever. When testing technology, it would, for example, be called for to watch for such effects and to mend machines accordingly.

¹² How and when the state intervenes depends on its own calculations and trade-offs: it wants capitalist accumulation and the continued availability of the resources for this accumulation: human and environmental.

air, the health of workers in or neighbours of a factory: all of this is used without consideration of “sustainability” — unless the state interferes.¹²

If an expenditure is necessary for the sale of a product, then it will be made: in order to produce rye bread, rye flour is needed — otherwise the result will not be rye bread. When it comes to worker protection and work safety, there is less necessity and willingness to spend money. Whether a flour-dust filter was used to improve air quality at the workplace is not visible in the final product.

The following examples shall serve to reject the fairytale of a highly rational reduction of work produced by an economy that is dedicated to the increase of money.

- Products are produced for the market; whether there are any actual buyers is only determined afterwards.¹³ Therefore, despite of all market analyses, producing “past the market” is quite common. What happens with dead stock differs from case to case: cars, for example, are usually disassembled and their usable parts are built into the next series, which requires a lot of labour; food is usually destroyed in order not to undermine market prices — regardless of whether there are people who are hungry but cannot afford food. Often products are disposed of or recycled, again using sometimes more, sometimes less labour to do so. Neither the labour nor the resources that went into these products were useful to anybody.
- Scientific activities are also organised competitively. While there is a certain level of exchange of ideas at conferences, there is also a lot of secretiveness. Even knowledge that has been published is not necessarily free for use. In the form of patents, knowledge is separated from its practical application by giving the latter the status of private property. Competition and its consequences thus impede technological progress: if, for example, new techniques to accomplish a certain task have to be reinvented differently time and again to avoid patent restrictions; or because there is simply no knowledge of the procedure that research lab XY has developed but conceals for strategic reasons.¹⁴
- Many types of jobs only exist in societies of private property and money. Cashiers, for example, are only needed where the possession of money is a prerequisite for

acquiring a useful good. Furthermore, advertising agencies, insurance companies, banks, lawyers and most security companies only exist because of the market and money economy. All the labour that goes into these companies’ buildings, office supplies and energy would simply be superfluous without capitalism.

- It becomes apparent that “low price” refers to “low wages” rather than “little labour” when looking at shrimp production in Germany, for example. German shrimp are being shipped to low-wage countries, where cheap workers shell them, then they are being shipped back to Germany. So much for “economic and efficient”. What a waste of resources and human labour. However, under capitalism, this is efficient and not a waste, of course, since its criterion for efficiency, i.e. the profit rate, is measured in money.
- New machinery is only used if it is profitable. For example, if a machine were to simply make labour easier without giving the capitalist cause to think that it would contribute to her workers’ motivation and thus their productivity, it is not acquired. Where labour power is available at low cost, it is possible to produce competitively and profitably even when using technology from 10 or 100 years ago.

Division of labour and planning

There is no doubt that the capitalist economy is a division of labour. Indeed, capitalism represents a historically unique degree of the division of labour. Many people arrive at the conclusion that specialisation and division of labour are impossible without capitalism or that some sort of coercion is necessary for division of labour to work. Another widespread opinion is that capitalism has the advantage that people pull themselves together because they want to get paid. In this way, so the idea continues, they are forced to show discipline and go to work. Without the incentive of a wage, everything would go down the drain and people would never manage to arrive at a complex social division of labour.

In order to determine whether there is any truth to these ideas, we want to take a closer look at the division of labour in capitalism. First, we have to distinguish between different forms of division of labour: *social* division of labour or division of labour

in a society as a whole (it is not necessary for everyone to know everything: some people specialise as mechanics, others as programmers or hairdressers) and the division of tasks in a process of production (division of labour within a factory).

We will first examine the social division of labour and then turn to division of tasks in a process of production.

The social division of labour by private producers means that they use their mutual dependency to make money. The development of a capitalist division of labour came about because of the purpose to create new dependencies. Therefore, the division of labour on a social level takes place unplanned. It arises “behind the backs of the producers”, mediated via the market, and as a result of “private labour ... carried on independently”.¹⁵ The producers, however, are dependent on each other; the various companies depend on, for example, finding suppliers of raw materials. These suppliers also want to make a profit; as laid out above, this remains the prerequisite for their existence. A lot can go wrong here: there might not be enough money, even though the needed goods are all there or a supplier goes bust and therefore the necessary goods have not been produced.

The fact that — at least in successful industrial nations — survival is somehow possible fascinated economists such as Adam Smith. He praised the market’s “invisible hand” for this accomplishment.¹⁶ Those who prevail in competition, might have reasons for this compliment, but not all is well either, not even for capitalists. For examples, they are also affected by capitalism’s ruinous effects on the environment (albeit they have more means to protect themselves from some of these effects).

Many people are of the opinion that planning the economy and the division of labour on a large scale is impossible. It is true that it poses a complicated problem — to pronounce it *impossible*, however, is not correct: the fact that even within a chaotic capitalist production with all its unknowns and uncertainties big corporations are able to come up with, e.g., five-year plans in order to schedule the production is a strong hint that economic processes in general can be planned. States keep records, at least concerning the basics such as food provision and energy demand, and systematically intervene in social processes in order to guarantee these fundamental matters of production for the future — for capitalist

¹³ Products are rarely made to order. Usually it is simply produced and the hope is that one’s own products will be bought rather than the competitors’ products. Capitalists want to avoid consumers purchasing from a competitor because their own company has not placed enough products on the market. This is one of the reasons why there is constant overproduction in capitalism.

¹⁴ Leaving efficiency and resources aside: it becomes most crass in the area of medication. Even if a drug is easy to produce and a factory with all the necessary equipment is available, the cost for acquiring the patent can turn the venture into an unprofitable one. Production is not commenced because its end — making

profit — is undermined by the cost of the patent. People stay sick even though they could afford the medicine.

¹⁵ Both quotes from Karl Marx. *Capital. A Critique of Political Economy, Volume 1*, Penguin Classics 1990. p.135 resp. 167 (or similarly on 133).

¹⁶ Capitalism in Smith’s view seems as if it were a natural process, but in reality, it remains the result of purpose-driven human deeds. Nevertheless, people are subject to the results of their actions regardless of what they did why and how. The market eludes any form of control by the individual; it *becomes independent*. It confronts the individuals like a force of nature, like the weather. This is exactly how experts and analysts treat it when it comes to market forecasts.

production, of course. Furthermore, when disaster strikes, nobody relies on the invisible hand of the market but planned and coordinated responses are, rightly so, put in motion.

Division of labour in companies

Inside a capitalist business, the division of labour is planned and directed. The individual steps of production are coordinated according to two factors. On the one hand, the organisation of the process ensures that the result is a usable product, i.e. the properties of the product of labour are taken into consideration. Cheese, for example, has to mature before it can be cut into pieces etc. This is the labour process, and as such, it has to be coordinated. This coordination is arranged by capital itself in the form of managers, supervisors etc. On the other hand, the labour process is organised in order to produce more wealth in money than advanced.

It has been explained so far that capital has an interest in workers working long and intensively in order to maximise profit — which is not something that simply follows from the mere production of useful things. It affects, of course, workers who have to cope with it during their working hours and with its effects in their free time in the form of fatigue and health issues. Even the tiniest of their movements at work can potentially be regulated — when and for how long they can use the toilet and when and for how long they are allowed to eat.

Capital enforces these requirements on workers by pressuring and controlling them. Capital's leverage are sanctions, docked wages, fewer shifts and the threat of dismissal. Just like the coordination of the production of useful things, it is the companies that organise this harassment and control. Thus, managers, supervisors etc. do everything at the same time: they coordinate the different operations of their workers in such a way that the end product is a useful thing, i.e. that it has use value and they harass the workers in such a way that their performance allows for an increase in capital.

The view common among workers, capitalists, politicians and economists that a complex division of labour is not possible without pressure and control is false. The mistake lies in seeing control as the natural basis for any kind of division of labour. An

aspect that is necessary for *capitalist* division of labour is declared essential for all kinds of production. Planning and coordination of a work process is simply equated with control and coercion.

This false conclusion has its basis in capitalist production, in which coordination and harassment coincide in terms of both time and staff. Yet, control is only necessary because of the opposition of capitalists and workers, which would not exist without capitalism. All the above ideologies share that they twist the attitudes of modern citizens (a *social* factor) into a sort of eternal human *nature*. The points laid out above also serve to demonstrate — without a dogma like “that’s just the way people are” — that people have very valid reasons for avoiding wage labour when- and wherever possible.

Passion for pressure and the self-contradictory stance on planning

Division of labour in capitalism is a type of cooperation through competition — a type of cooperation that leaves numerous people wanting. That products get to a place where they are used, even though somebody else has produced them, is a result of the pressure exerted by producers or capitalist companies through their commodities and money. This kind of social division of labour is full of contradictions.

Both in the factory and on the social level, the division of labour in capitalism is generalised within the ideology: without pressure, nobody would lift a finger. Cooperation in which the working individuals simply agree on how to divide labour because they care about the actual, immediate result seems to be wishful thinking — just like a person wanting to fly by jumping off a cliff and by flapping their arms: the best possible result is a broken leg. The form that said pressure should take varies with different ideologies. On the one hand, within a business, direct control and command is welcome, pushing workers to be efficient. On the other hand, a big fear for many is a whole society functioning like a factory.

In both cases, however, the form of coordination is welcome, bringing to light that the two opposing statements serve to praise capitalism: the market is praised for being able to get by without planning, while capitalist companies are applauded because of their detailed planning and foresight.

Addendum on the concept of “capital”

We use the term “capital” in our texts in different meanings. At the beginning of this chapter, “capital” was used in quite an abstract way, denoting money that is spent in order to increase money.¹⁷ A specific company, such as Squish, can also be called “a capital”. It expresses the aim of a modern enterprise — the increase in money. This is true for all capitalist companies. The sum of these actions results in an overall movement in society, which we also frequently call “capital”.

We speak of “individual capital” when companies depend on specific things in order to reach their goal, but they do not manage to procure these things on their own, thus depending on the total social capital. “Total social capital” then means that the individual capitals depend on the actions of all other capitals, i.e. the sum of the individual capitals. This term can also refer to the aim that capitalism taken as a whole should flourish, while individual capitals might as well go bust. This is especially relevant when it comes to state intervention.

Conclusion

Society as a whole depends on the success of the accumulation of capital. The state acquires its means in the form of taxes from business transactions, owners of landed property need capital and paid wages in order to be able to collect rent and the people depending on wages are at the mercy of the economic success of the capitalist companies employing them. If the capitalists’ business does not work out, everybody else is in trouble as well. Through this, the business interest, i.e. the capitalists’ private interest, is turned into the public interest.

Therefore, the term “capitalism” hits the nail on the head when trying to express this economy’s fundamental quality. If profit making is the prerequisite for production to take place at all, this entails that society as a whole has to comply with this peculiar logic: the principle of capital. Taking capital as a point of reference, employees are “human resources”. In order to sell their labour power, workers have to force themselves to cater to the requirements of capital.

¹⁷ Whether it actually was capital, is something that only becomes clear in hindsight. If money has increased, it acted as capital. If it has not, it was not capital after all.

ABOUT THIS JOURNAL

This world has a lot of misery to offer: poverty, long work, stress, unemployment, war, hunger, racism, anti-semitism, sexism, homophobia — to name but a few. Pointing this out does not distinguish us from most people, many even resent these phenomena or at least some of them. However, they also quickly volunteer wrong explanations for why these exist.

We claim that modern misery ultimately is the result of the capitalist economy, the nation-state watching over it and the wrong ideas people have about them. This separates us from most other critics. The purpose of this journal is to prove this claim by explaining phenomena such as those listed above and by criticising the ideas and ideologies that misrepresent the prevailing conditions — whatever the well-meaning intentions behind them.

Since we refer to Marx's *Capital* quite a bit, a few clarifications. We do not do this to prove our worth as Marxists but because a lot can be learned from studying that old book carefully. Besides explaining how the capitalist economy works, many ideas held dear also by people on the Left were already criticised in it. Capitalist crises are nothing but interruptions of the accumulation of capital. We do not criticise it for sometimes not accumulating all that well but because capitalism causes harm to people as an inevitable part of its package both in crises and in booms.

Modern democracy, where politicians strive to improve the well-being of the nation, is a fitting form of government for the capitalist mode of production. The separation of rule from individual capital-

ist enterprises is a necessary condition for the existence of general capitalist relations. Nation-states are not capitalist players on the market — they rather make markets possible. We do not criticise modern democracies for being undemocratic but explain what democracy, freedom and equality — as they exist — are.

We do not follow the wide-spread "realism" which consists of doing stuff we do not want and of not talking about the stuff we do want. The lesser of two evils is still an evil. We do not merely aim for success but rather want a particular critique to succeed. We do not oppose "revolution" to "reform" but criticise the mistakes that people make when they want this or that reform or revolution or neither.

Declarations of love towards the workers, "the people" and "the little man" are absent from our texts since this prevents the critique of their wrong consciousness. This critique is necessary because we need allies in order for anything to change. The kind of anti-capitalism which suspects evil parasites behind everything and conspiracies everywhere will not be found in our texts; however, arguments against these ideologies will be.

Insight does not follow from a social position in a positive (operaism) or negative (Marxism-Leninism) way. Arguments do not have a standpoint, they are either correct or else wrong, insufficient or incomplete. Speaking of which, we throw around terms like "truth", "correct" and "wrong" like there is nothing to it; this is because there is not. Those who dispute the existence of a world which we can understand contradict

themselves: they themselves claim to make a true statement. Also, we do not express our "opinions" but "judgements", we do not "believe" but "know". Please do not mistake this for dogmatism or arrogance. Let us explain: we know that everything anyone ever says is a result of their thinking. This means that we can — and frequently do — err. We do not have a monopoly on truth. Every sentence can always be prefixed with "as far as we know". This is a tautology, which is why we save the ink. Instead, we give the reasons that lead us to a certain conclusion. When these reasons are wrong or we overlooked something, we appreciate critique. This journal and every piece in it is also an invitation to critique.

We lay no claim to being clever, innovative, original or sophisticated. Our project is to be correct and clear. Hence, writing in a way which is too difficult is an obstacle for our own project. Yet, we struggle with writing in a way that is sufficiently accessible and clear. If our pieces are difficult to understand, we would really like to know about it, so we can do something about it.

This journal is jointly produced by people from Critisticuffs (London) and from Gruppen gegen Kapital und Nation (groups against capital and nation, Germany and Austria). We are happy to do discussion meetings, reading groups or seminars around topics we write about, also outside of London. Get in touch at

- <https://twitter.com/portandcheddar>
- kittens@espiv.net
- <https://antinational.org/en>
- <https://critisticuffs.org>

