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European unions and the repoliticization of transnational capital: labor's stance regarding the Financial Transaction Tax (FTT), the Transatlantic Trade and Investment Partnership (TTIP), and the Comprehensive Economic and Trade Agreement (CETA)

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This article argues that labor and social movements should repoliticize the transnationalization of capital in production and finance. The neoliberal era has demonstrated the power asymmetry between global capital and national labor. It seems that academics, trade unions, and progressive politicians have accepted this upscaling of capital to the global level as an irreversible fact that cannot be challenged. This article claims that progressive labor and social movements should, first, repoliticize the power of global capital and, second, try to scale down capital. The article studies three cases from the European Union to examine whether trade unions are trying to repoliticize, and succeeding in repoliticizing, global capital's power. It is concluded that repoliticizing and challenging the power of transnational capital is not impossible, but not easy either, and that trade unions need to focus more on these struggles.

Keywords: labor; capital; transnationalization; neoliberalism; capital controls; Financial Transaction Tax (FTT); Transatlantic Trade and Investment Partnership (TTIP); Comprehensive Economic and Trade Agreement (CETA)

Introduction

After the global economic crisis that started in 2007, some hopeful progressives were suggesting that this might well be the end of the neoliberal era and the start of the transition to a more progressive world order.[1] However, these hopes to date have not materialized. It could be argued that this is largely because of the weakness of the left in the political spectrum, broadly seen as trade unions, social movements, and radical- and center-left political parties.[2]

In this article, I claim that one of the many reasons for this weakness lies in the left's failure to politicize the power of internationally mobile, or transnational, capital.[3] Ever since the European left accepted that capital is 'footloose' and that national states are unable to control mobile capital, capital mobility has mostly been taken for granted.[4] It has been considered as a neutral fact, something that cannot be changed, and has consequently been depoliticized. This article contends that the repoliticization of the transnationalization

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of capital could be an important – though insufficient – game-changer in the power relations that have sustained the neoliberal model.

After this introduction and a short note on the methodology and case selection for this article, the section 'The depoliticization of the power of transnational capital' looks into the power relations between capital and labor, and particularly how these power relations have been changed since the 1970s (and before) by the transnationalization of capital. It is argued that the structural and ideological power of capital has increased strongly because of higher capital mobility. However, this power 'instrument' – mobility – has largely been depoliticized. Moreover, it has led to, and gone together with, the implementation of new constitutionalist frameworks – frameworks that legally anchor neoliberal policies to retain the confidence of international investors.

The section 'Repoliticizing the power of transnational capital: a view from Europe' advocates the repoliticization by trade unions of the transnationalization of capital as an important step in changing the power relations between capital and labor. Three contemporary examples from Europe are outlined to demonstrate that this repoliticization will not happen automatically, but also that it is not impossible. In the final section, the lessons from these cases are summarized, and it is argued that trade unions should devote more attention to repoliticizing the power of internationally mobile capital as a first step towards decreasing the mobility of capital and thus challenging an important source of capital's power.

A note on the cases and methodology

The empirical section of this article is based on three cases: the Financial Transaction Tax (FTT), the Transatlantic Trade and Investment Partnership (TTIP), a free trade treaty between the European Union and the USA, and the Comprehensive Economic and Trade Agreement (CETA), a free trade treaty between the EU and Canada. These three cases have been selected because they are recent examples of proposed arrangements that would affect the power of internationally mobile capital – the FTT negatively, the free trade treaties – and especially their investment chapter – positively.

The FTT is a small tax on all trades of financial products (shares, bonds, and derivatives). Its implementation would (marginally) decrease the power of transnational financial capital because the cost of its 'exit option' (see later) would rise. The two trade treaties are closely related. They can both be seen as reactions to two evolutions. On the one hand, there is the failure of multilateral trade and investment negotiations such as the Multilateral Agreement on Investment (MAI)[5] and the WTO Doha round.[6] On the other hand, bilateral negotiations between Western states can be considered as a response to the geo-political and geo-economic threat posed by emerging markets, in particular the rise of China.[7] These two trade treaties are also related because both of them would increase the power of (especially) transnational corporations (TNCs) in a similar manner. This is not only because the freer the trade, the more the competition between workers from the signatories of the treaties can be encouraged, but also because of the inclusion of the Investor–State Dispute Settlement (ISDS) mechanism in both agreements. In simple terms, this mechanism gives foreign capital the right to sue governments in private and secretive arbitration panels if their (expected) profits are threatened by government regulations.[8] Thus, it can be seen as an example of the 'new constitutionalism of neoliberalism,' the institutionalization of neoliberal discipline that makes it harder for future governments to deviate from neoliberal norms (see later). Finally, that TTIP and CETA are closely related can also be seen in the joint campaign that has been launched against both TTIP and CETA, as outlined later.

Although it could be argued that labor movements include many social movements and NGOs, this article examines particularly what it is still the largest representative of the working class, namely, trade unions. To evaluate whether or not they are a significant actor in the debates on these three cases, and thus play a role in the politicization of the power of global capital, the focus lies mostly on the Flemish divisions of the two largest Belgian trade unions, ABVV and ACV. However, the article also adopts a broader view and looks (less thoroughly) into the (re)actions of trade unions in the Netherlands, the UK, France, Germany, and the US, and supranational trade union confederations. The source material consists in the first place of internet sources, namely, documents and websites on these issues, and the websites of the respective trade unions. Moreover, the database GoPress, which includes all the Flemish newspapers, was searched, with as keywords, respectively, FTT, *Financiële Transactie Taks* (Financial Transaction Tax) and Tobin; TTIP, TAFTA, and *Transatlantisch* (Transatlantic); and CETA and EU–Canada. To get a broader view than just the Flemish context, the archives of FT.com, Guardian.co.uk, and EurActiv.com were also explored for references to the three cases and trade unions. Finally, three interviews were conducted in May 2014 with members of the research departments of the Flemish trade unions, one from the socialist trade union ABVV and two from the Christian democratic trade union ACV.

The depoliticization of the power of transnational capital

The transnationalization of capital under neoliberalism

The politics of scale has long been an important issue in academic debates, especially in the field of geography.[9] It refers to 'the proposition that geographical scales and scalar configurations are socially produced and politically contested through human social struggle rather than being pregiven or fixed.'[10] Indeed, social forces can use spatial strategies to reconfigure power relations. However, as David Harvey notes, capital has always been better than labor at using spatial strategies to its advantage.[11] This has been painfully clear during the neoliberal era.

In the period right after World War II, there was a fragile balance of power between capital and organized labor.[12] However, in the 1970s, the capitalist economic order was increasingly threatened by an economic crisis of profitability, political challenges by the organized labor movement, and the New International Economic Order.[13] In this context, the neoliberal project gained strength with two mutually reinforcing objectives: the restoration of corporate profitability and changing the balance of power in capital's favor to the detriment of labor.

One of the main instruments used was the restoration and strengthening of the discipline of capital (or the *law of value* in orthodox Marxist terms) on many actors in the capitalist system: not only on the working class, but on corporations and states as well.[14] All these actors faced increasing pressures to secure higher rates of profitability by any and all means. Moreover, the profit motive was expanded both into new geographical areas and into new sectors.[15]

The expansion and intensification of the discipline of capital and the concomitant attack on workers were realized through three related processes: the globalization of production, the financialization of capital, and the globalization of finance. First, with regard to productive capital, through the transnationalization of production and the expansion of global production networks, TNCs have increased their bargaining leverage on the work floor by encouraging competition between workers from different countries (with different labor laws).[16] This has decreased the bargaining power of organized labor.[17]

Thus, through transnationalization, productive capital has increased its material power because of its exit option, namely, the ability of transnationally mobile capital to relocate across borders when the conditions for profitability and capital accumulation are perceived to be deteriorating in the current location.[18] This exit power is a form of structural power, as capital does not even have to act to make this power visible. It does not even have to mention the threat to relocate to activate this power. The transnationalization of production has thus, through changing the relative power relations between capital and labor, worked as a strong brake on workers' aspirations and demands.

A second tendency since the 1970s has been the financialization of capital. This process has been subject to various interpretations and conceptualizations, but in general it entails the dominance of financial activities and short-term profits, a massive growth in global financial assets, a growing share of the financial sector as a percentage of GDP and employment, and new practices and financial instruments. Financial capital has appropriated an increasingly large share of profits.[19] Financialization has been crucial in breaking the power of the working class and in strengthening the discipline of capital.[20]

Third and finally, the transnationalization of financial capital, consequent to the liberalization of controls on foreign banks and short-term capital flows, has also played a crucial role in increasing the profitability imperative and the disciplining of working class movements. The international financial system is now characterized by almost complete freedom 'to roam the world in search of the highest return.'[21] As Gill notes, 'financial capital can react to government policies, or expected policies, much more rapidly than productive capital.'[22] Whenever and wherever there is a perceived threat to capitalist profitability and power, the continuing threat of capital flight is able to discipline progressive movements. Capital's exit power is thus even greater because of the speed with which financial capital is able to react.[23]

To sum up, the transnationalization of capital has strongly increased the structural material power of transnational capital. As Palley summarizes it: 'Mobility of investment and production creates fear of employment losses, while mobility of finance creates vulnerability to financial disruption.'[24] This has been instrumental in the attack on trade unions and organized labor, and it has led to the introduction of neoliberal policies in many domains – from environmental regulation through taxation and macroeconomic policies to social security – becoming more probable. Hence, the transnationalization of capital has been crucial in changing the balance of power.

The power of transnational capital and the competition state

The changing balance of power has had an impact also upon the state and the actions of state managers. Whereas the transnationalization of capital through the free movement of capital and goods ensures that profit rates are more or less globally equalized, labor is unable to demand national state policies that would potentially lower profit rates (such as policies in the realm of macroeconomics, social policy, the labor market, taxation, and the environment).

This is related to what Adam Harmes considers to be a self-conscious neoliberal project of market-preserving federalism.[25] In his view, two central principles are at the heart of the scalar project of neoliberalism. The first principle relates to the creation of global capital 'through greater capital mobility and the centralization of 'market-enabling' policy competencies.'[26] The second principle 'is to decentralize the policy capabilities that neoliberals do not support.'[27] As he argues, 'neoliberalism is shown to advocate fiscal and regulatory sovereignty within the context of international capital mobility.'[28] The purpose is clear, namely, 'to create an exit option that forces different political jurisdictions to compete for investment in a way that will discipline governments and constrain their options for pursuing market-inhibiting forms of intervention.'[29] Internationally mobile capital is able to play off states against one another by the possibility of 'regime shopping' or 'regulatory arbitrage.'[30]

This has been captured in the notion of the *competition state*.[31] States are increasingly restrained from implementing progressive policies because of the need 'to act in accordance with norms and standards that first and foremost imply the provision of favourable conditions for mobile firms and capital.'[32] Hence, international capital mobility has a disciplinary effect on states. There is both an ex-ante and an ex-post aspect to this.[33] The ex-ante restraint implies that, as states have to compete for the investment of transnational capital (and export market shares), they have been more or less obliged to provide an attractive investment climate on a permanent basis.[34] The ex-post constraint means that 'in the advent of capital flight or currency crises, the government is compelled to adopt measures aimed at reversing the outflow of portfolio investment.'[35] As Gill notes, the international mobility of capital 'can swiftly force governments that deviate from policies seen as suitable by the "market", to change course.'[36]

The recognition that transnational capital is able to discipline governments consequently results in the idea that 'good' policies are policies that please internationally mobile investors. The ideological dimension, which is related to capital's exit option, has in this sense been crucial in legitimizing neoliberal policies. The globalization narrative is used to justify domestic policies that are in line with the neoliberal project.[37] The discourse of capital flight and the exit option, facilitated by the mobility and short-term horizon of financial capital, has hence been an important ideological force.[38] It has strengthened the plausibility that there is no alternative (TINA) to neoliberalism. As Watson has noted: 'Governments need only act on the *perception* of the structural constraints imposed by globalising tendencies in order to turn the globalisation hypothesis into a self-fulfilling prophecy.'[39] Indeed, citizens (and even trade unions) often expect their governments to please international investors as much as possible.

Depoliticization and new constitutionalism

To recap, during the neoliberal era, the transnationalization of capital has been decisive in changing the balance of power in capital's favor. However, despite the fact that this transnationalization is not a neutral process as it has a strong impact on power relations, it has been depoliticized to a large extent. This has especially occurred through the notion that the transnationalization of capital is a natural process that is both inevitable and irreversible.[40] Hence, the option of curbing transnational capital's power through downscaling capital has been remarkably absent from the discussion on how to change the power relations between capital and labor, especially in the developed world. As Abdelal writes, the European social democrats have in the past internalized the free movement of capital as a norm, after failed (although half-hearted) attempts to rein in capital flows.[41] After the global economic crisis, center-left political parties have remained deeply committed to globalization.[42] A debate on capital controls is also remarkably absent within the Western trade unions.[43] The absence of large and powerful opposition to the free movement of capital has thus resulted in its depoliticization and naturalization.

Nevertheless, even though the transnationalization of capital has been depoliticized and is seen as irreversible, this does not mean that it really *is* irreversible. However economically and politically difficult this would be, it remains a possibility for a country to withdraw from international capital markets and to re-instate substantial control over international capital (and goods) movements. This would lead to less pressure to retain investor confidence, and it could endanger neoliberal policies in other domains as well. Therefore, capital has used a second strategy to eternalize neoliberalism, namely, through the increasing institutionalization of neoliberal policies into bilateral, regional, and global legal and quasi-legal agreements, such as constitutions, laws, institutions, regulations, and international treaties. This legal anchoring of neoliberalism has been termed the *new constitutionalism* by Stephen Gill, and it insulates these policies from day-to-day democratic debate and decision making.[44]

As Gill has stated, the central goal of the new constitutionalism is to firmly secure the protection of private property rights and to transform public policy in accordance with the interests of internationally mobile capital. This implies binding constraints on fiscal, monetary, and trade and investment policies, and emphasizes values such as market efficiency, discipline, business confidence, policy credibility, and competitiveness. Via these constraints, disciplinary neoliberalism is legally encoded. Moreover, 'these frameworks can be modified only in extraordinary circumstances and through burdensome procedures, often requiring special majorities or unanimity.'[45] Governments have often 'willingly' adopted these new constitutionalist frameworks to 'prove' their credibility to internationally mobile capital.

Repoliticizing the power of transnational capital: a view from Europe

Depoliticization and new constitutionalism in the EU

The EU is a region where the free movement of capital is strongly anchored both ideologically and institutionally. Ideologically, European states have internalized the neoliberal norm of the free movement of capital.[46] The EU Treaty, Art. 63, clearly states that 'all restrictions on the movement of capital between Member States and between Member States and third countries shall be prohibited.' As the (center-)left, including trade unions, do not question the free cross-border movement of capital, the depoliticization of this aspect of internationally mobile capital's power has been quite solid.

The EU is, however, also a scale at which neoliberal policies have been increasingly institutionalized. Main examples of the new constitutionalism at EU level include, besides the free movement of capital and goods enshrined in the EU treaty, fiscal discipline through for instance the Fiscal Compact, the independence of the European Central Bank, and the monitoring of competitiveness through annual competitiveness reports. Consequently, not only have national policy-makers accepted that they must continuously prove their credibility to investors and the financial markets – as capital within Europe is able to move across borders even more easily than in the world economy – but they have also agreed to EU-wide frameworks limiting their policy choices at national level. This has probably been easier than imposing constraints at national level. Because the EU is further removed than individual states from democratic decision making, it offers an opportunity to form a supposedly depoliticized, technocratic level of governance.

However, because it has become clear that EU decisions are having an increasingly large impact on the activities of national trade unions and the living standards of the European working class, organized labor has devoted a growing share of its attention to EU policies. This has also (partially) led to a focus on the two elements identified above that increase the power of transnational capital, namely, its mobility and efforts to institutionalize neoliberal policies into legal frameworks. This could therefore result in the repoliticization, not at national but at EU level, of the power of global capital. This could be a first step toward putting more constraints on the international mobility of capital and challenging an important source of its economic and political power. Later, it is examined whether trade unions in Europe have tried to repoliticize, and succeeded in repoliticizing, global capital's power with regard to three contemporary cases: the FTT, the ISDS mechanism in the TTIP, and the ISDS mechanism in the CETA.

Case 1: the FTT

As already explained, the FTT is a small tax on all trades of financial products. It was promoted after the economic crisis especially by the governments of France and Germany. When it became clear that the G20 would not propose the introduction of an FTT, France and Germany ordered the European Commission (EC) to propose a plan for its introduction at EU level.[47] The EC publicized an initial proposal in September 2011, which was strongly opposed by – amongst others – the UK. Thereafter, 11 member states asked the EC to prepare a proposal on the introduction of the FTT through the procedure of *enhanced cooperation*, which allows a group of at least nine EU member states to proceed with regulations on which it is impossible to reach unanimity. The latest development was a statement by 10 member states[48] in May 2014 that they will implement the FTT by 1 January 2016 at the latest. It remains to be seen whether this already watered-down and postponed version of the FTT (excluding bonds and some derivatives) will survive the legal challenges and conflicting views within the group of proponents.[49]

Although the political economy of the European FTT has – to my knowledge – as yet not been thoroughly analyzed, it seems clear that pragmatic considerations lie at the basis of France and Germany's determination to introduce an FTT. In particular, the so-called debt crisis leading to a desperate search for new public resources and the populist discourse on punishing the banks have probably been crucial, and the de-legitimation of the neoliberal ideology has also been an important precondition. However, it is unlikely that the FTT would have been so prominent on the agenda without the pressure from NGOs and trade unions.

For trade unions, the FTT is a positive measure that is easy to explicate in the context of tax justice, as one interviewee explained. Given the role of the financial sector in the economic crisis, an extra layer with regard to financial regulation could be added. The two large Belgian trade union confederations (ABVV and ACV) have a brochure on the FTT on their websites, including links to petitions to support the FTT, and many of the trade union federations within the ABVV and ACV also explain the purpose and meaning of the

FTT on their websites. This is also true of many trade union confederations in other parts of Europe, such as the FNV in the Netherlands and the TUC in the UK.

Trade unions have also been part of broad-based, long-standing coalitions calling for an FTT, such as the UK-based Robin Hood Tax campaign or the Belgian Financial Action Network. The FTT also figured in the demands and in the pamphlets of both the European Trade Union Confederation (ETUC) and national trade unions in the euro-demonstration on 29 September 2010 in Brussels.[50] Recently, a group of trade unions (among which ETUC) launched a new campaign on www.financialtransactiontax.eu to demand the swift implementation of the FTT by the 11 countries that originally decided to use the enhanced cooperation procedure. According to the interviewees, there is a large awareness among militants with regard to the FTT, and it is easy to inform the wider public as well.

The promotion of the FTT is also connected to the year-long campaign by NGOs such as Attac, supported by many trade unions, for the introduction of the so-called Tobin Tax. This tax is closely related to the FTT, but, whereas the FTT is aimed at financial transactions, the Tobin Tax is a levy on currency transactions. So, the Tobin Tax directly targets international capital flows, but the FTT does not. Nevertheless, it does have an indirect impact, because the tax has to be paid when a trader wants to sell (or buy) a European financial product to buy a financial product in another country. In other words, whereas the Tobin Tax is designed to limit the power of transnational financial capital, the FTT could limit the power of financial capital in general, without explicitly questioning its transnationalization. Therefore, the debate on the FTT (and of course the Tobin Tax) could be used for a stronger politicization of the free flow of capital and its consequences. However, it should also be acknowledged that this potential of a broader debate on the cross-border mobility of capital has not been fully realized.

Moreover, whereas trade unions educate their members on, and try to lobby for, the FTT, it is remarkable (but not really surprising) how both Flemish media and the *Financial Times* base their FTT articles on the opinions of economists and financial sector practitioners. Furthermore, when other voices are heard, it is especially NGOs such as Oxfam in the UK and 11.11.11 in Belgium.[51] It could therefore be argued that trade unions are not succeeding in their external goals, namely, to sufficiently influence the mass media and public opinion.

Case 2: the TTIP

Another example showing that the repoliticization of the free movement of capital is possible concerns the TTIP, the free trade treaty that is currently being negotiated between the EU and the US, and strongly supported by EU and US capital.[52] Trade unions and NGOs have raised alarms about many trade aspects of the TTIP, but one of the most contentious issues is the ISDS mechanism.[53] As already explained, this mechanism gives foreign capital the right to sue governments in private and secretive arbitration panels if their (expected) profits are threatened by government regulations.[54] It can therefore be seen as an example of the new constitutionalism of neo-liberalism, and it will make it harder for future governments to deviate from neoliberal policies.[55]

Opposition to this system of private arbitration is largely led by activists such as George Monbiot (on *The Guardian*'s website on 2 December 2013 and 10 March 2014), civil society alliances,[56] NGOs such as Corporate Europe Observatory (CEO) and Friends of the Earth Europe,[57] and politicians in European green and radical-left parties. NGOs and activists fear not only that TNCs would sue governments, but also that governments would preventively weaken environmental, social, and other regulations to avoid being sued.[58] In several national parliaments in Europe, from Germany and the Netherlands through France to the UK, there has been a debate on ISDS.

The hostility to ISDS resulted in the EU's Trade Commissioner Karel De Gucht announcing a three-month public consultation on the ISDS mechanism, which started on 27 March 2014. It is beyond doubt that this is a first victory for the anti-TTIP movement. The German and French governments have also prudently stated that they do not want it in the treaty.[59] Moreover, besides the green and radical-left fractions in the European Parliament, the social-democratic fraction has also declared that it opposes the inclusion of ISDS in the trade deal (see a press release on their website on 21 January 2014).

At first, it was still largely NGOs, social movements, and left-wing politicians that were active in the public debate and that were reported in the mass media as opposing ISDS. If unions were involved in protests or alliances, it was mostly through more militant coalitions largely supported by the organized labor movement 'on paper,' but not actively.[60] Whereas there is a Business Alliance for the TTIP, there is no Labor Alliance a*gainst* the TTIP. Even though the International Trade Union Confederation (ITUC) and the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) were among the signatories of a letter to the US and EU trade negotiators, expressing opposition to the ISDS (published on the website of CEO on 17 December 2013),[61] it is reasonable to argue that national trade unions have not been at the forefront of the anti-TTIP movement. One of the main reasons is that trade unions are in general sympathetic to free trade (see later).[62]

However, the run-up to, and aftermath of, the May 2014 European elections contributed to the politicization of the debate, and trade unions started to oppose the TTIP more vehemently, as the inclusion of ISDS and other elements detrimental to workers' interests has raised considerable concern. In its resolution on the TTIP, posted on its website on 25 April 2013, the ETUC declares: 'We oppose the inclusion of an investor–state dispute settlement provision in the agreement.'[63] In March 2014, Detlef Wetzel, the president of IG Metall, the largest German trade union, argued that the entire negotiations should be halted, partly because of ISDS.[64] After the elections, many Belgian trade unions federations within the ABVV and ACV informed their members about ISDS and the TTIP.[65] One interviewee said that the members of his union are very well aware of the ongoing negotiations, and, if the final agreement contains the ISDS mechanism, a large-scale mobilization is very likely.

The previous European Commission stated that it only wanted to improve ISDS, not abandon it,[66] but it is as yet unclear how the new Juncker Commission will handle this thorny issue.[67] One of the trade union interviewees thinks that it is highly unlikely that the final agreement will include investor–state arbitration. The conservative American Cato Institute has noted that removing ISDS from the TTIP negotiations 'would assuage legitimate concerns about those negotiations, splinter the opposition to liberalization, and pave the way for freer trade.'[68] It could be argued that the consequence is that 'a debate purely focused on the agreement's most controversial provisions – which may well get left out of an eventual deal – risks overshadowing the broader public debate on the pros and cons of the agreement that we should be having,' as emphasized by Siles-Brügge and De Ville on the Manchester Policy Blog on 27 January 2014.

To sum up, trade unions have on different occasions opposed the ISDS mechanism within the TTIP. Although challenging the ISDS mechanism does not amount to questioning the free flow of capital directly, it forms an indirect challenge to the free flow of capital. Moreover, it politicizes the power of foreign investors and TNCs and could thus be an occasion to launch a broader debate and to raise consciousness among the working class. Yet, again, it must also be recognized that the trade unions have not used this opportunity sufficiently and have not even been at the forefront of the battle against the ISDS mechanism. Although there is an awareness of the potential consequences within research departments and among cadres, and although unions are trying to educate their members on this issue, it seems that they have in general not tried to influence public opinion or bring about a broader debate in the mass media.

There are several reasons for this. First, it is not easy for trade unions to play a role in the debate. As one interviewee admitted, it is difficult to translate an abstract and 'obscure' issue for a large audience. Moreover, he argued that unions do not have the means to handle all issues like the TTIP, especially as unions are being attacked on different fronts at the same time within the EU. Another important reason is that most trade unions are in general not against the TTIP and other free trade treaties as a whole. They only want a better agreement, and two interviewees argued that their respective unions are definitely not against free trade as such, as long as it is fair trade.[69] The ETUC, for instance, states in its resolution on the TTIP, published on its website on 25 April 2013:

> The ETUC recognises that such an agreement could bring positive energy to the stalled multilateral negotiations, and if the agreement is based on the best practices on each side of the Atlantic it could have positive impacts on jobs and investment flows so long as demands set out below (inclusion of binding core labour standards, exclusions of public services and investment protection etc.) are met.[70]

The ETUC and the AFL-CIO have therefore been calling for a 'gold standard' EU–US trade deal, for instance in a press release published on the AFL-CIO website on 21 May 2014. However, this ignores the fact that free trade always increases competition between workers and consequently intensifies the discipline of capital. Therefore, more critical activists claim that, even without ISDS, the TTIP may still lead to a race to the bottom in, among other things, labor standards. As John Hilary, director of the UK-based War on Want states in an article by Clare Speak on the Equal Times website on 10 March 2014: 'There is no possibility of turning around a free trade agreement which is specifically designed to lower standards and reduce barriers to business, to make it into something which is good for labour.' Some trade unionists are clearly aware of this; as IG Metall president Wetzel stated: 'The pressure would build indirectly. Liberalisation always brings stiffer competition. The competition gets tougher, in this case Europe's competitiveness with the US where workers' rights are significantly weaker and trade unions are being opposed by politicians.'[71]

Case 3: the CETA

The EU–Canada free trade agreement CETA is less well-known than the TTIP, despite the fact that the negotiations were completed in October 2013 and that the treaty is now awaiting approval from the European Council and the European Parliament, as the EC website states. Two interviewees confirmed that it is only within research departments that people are familiar with it, even though the ETUC is trying to raise consciousness. This is also clear from a search through the databases and media websites identified earlier.[72] Before the European elections, none of the articles on the CETA in the mainstream media included any reference to actions by, or positions of, trade unions, despite the fact that the CETA entails a similar ISDS mechanism as the TTIP. Thus, US companies with a Canadian subsidiary could use the CETA to sue European states and would not need the TTIP.

Interviewees did say that the ETUC is trying to raise consciousness on the agreement. However, it must also be noted that until recently the only reference to the CETA to be found on the ETUC website was a joint letter with the Canadian Labor Congress (CLC) asking for more transparency, dating from January 2013.[73] At the beginning of May 2014, the ETUC issued a press release stating that it opposes the inclusion of ISDS, and that 'the Canada trade deal with the same ISDS text looks like an attempt to pre-empt decisions on the same subject in the Transatlantic Trade and Investment Partnership talks with the US.' It did seem that European civil society, sometimes acting in alliance with Canadian NGOs, was carefully monitoring the developments with regard to the CETA.[74]

Moreover, as mentioned earlier, after the European elections a joint campaign against the TTIP and the CETA was launched by social movements, NGOs, and left-wing political parties. They organized a European Citizens' Initiative (ECI), through which citizens can present a legislative proposal to the commission if they collect more than a million signatures. However, the EC rejected the proposal as illegal, on the ground that the negotiating mandate for the trade treaties does not constitute a legal act but only an internal preparatory act and therefore cannot be contested through an ECI. In response, the Stop TTIP coalition filed a lawsuit against the EC at the European Court of Justice and launched a second self-organized petition calling on the commission to cancel the trade deals. The fact that the EC declared the ECI proposal illegal can be seen as an indication that these campaigns are a threat to the agenda of political and economic elites.

In any case, the political resonance of a free trade agreement with a smaller country such as Canada is not as pronounced as the negotiations with the USA, and this could make it more difficult for trade unions (and civil society) to politicize the agreement. It seems reasonable to assume that far fewer people are informed about the CETA than about the TTIP. Moreover, it is an open question whether the CETA would have received as much attention if the TTIP was not being negotiated at the same time. As one interviewee somewhat ironically stated: 'It's only Canada.' However, as US companies and companies from other countries with a subsidiary in Canada could use the CETA to sue states, as indicated above, this treaty may prove to be equally dangerous as, or even more dangerous than, the TTIP.

By way of conclusion: from repoliticizing to downscaling transnational capital?

This article has argued that the neoliberal era has revealed the power asymmetry between global capital and national labor movements. It has increased capital's structural and ideological power to the detriment of the working class, and it has led to not only the adoption, but also the growing institutionalization, of neoliberal policies through legal and quasi-legal agreements. Moreover, this power of transnational capital has been depoliticized, in that it has been seen – even by many trade unions and leftist movements – as an inevitable and irreversible process to which the best answer is to adopt policies that secure the confidence of internationally mobile capital.

Contrary to this position, this article has argued that progressive labor and social movements should repoliticize the free flow of capital as a first step towards scaling back the transnationalization of capital. This is necessary, because the removal of capital controls and the international mobility of capital have 'given capital such power over labour and society that no attempt to create a new progressive domestic policy coalition is likely to succeed unless accompanied by a direct assault on the foundations of that regime through capital and perhaps trade controls.'[75] However, this option has been remarkably absent from many academic and public debates.

As the CETA case demonstrates, this repoliticization is definitely not an automatic, spontaneous process, and trade unions are having difficulties in politicizing more abstract and politically less important examples of the new constitutionalism. However, the TTIP shows that it is not impossible to politicize abstract issues – and maybe avert (parts of) this new constitutionalist framework – especially when NGOs and social movements are following these issues closely. Finally, the FTT case indicates that it is possible not only to repoliticize new constitutionalist frameworks that would increase transnational capital's power, but also to push for (moderate) policies that would decrease transnational capital's power by making it a bit less internationally mobile – again especially when other civil society organizations are making a large effort to politicize these issues. To sum up then, the three cases demonstrate that politicizing the power of global capital is not an impossible task. However, trade unions should focus more on this politicization as a first step, and also consider a strategy of scaling down capital as a second step.

It should be acknowledged that capital and trade controls, especially in their moderate variants, are definitely not a panacea for all the problems that the left in general and trade unions in particular are facing. Nor should they be considered a replacement for the transnationalization of labor, which many authors have suggested is a necessary strategy to change the balance of power.[76] However, a two-pronged strategy – scaling up labor movements while at the same time trying to scale down capital – has the potential to be more effective than a sole focus on the transnationalization of organized labor.

By limiting the transnationalization of capital, the relative – both material and ideological – power of capital would decrease because its exit option would become less credible. Although this would not imply that capital would suddenly be powerless, it would put capital and labor on a more equal footing. Moreover, capital controls could be a first step in the realization of 'greater democratic control over the production and utilization of the surplus.'[77] Labor and the left cannot focus only on issues that directly impact the lives of the working class. Major decisions on capital flows and investment should be democratically made and not left to individual wealthy investors and TNCs. Thus, the politicization of the free flow of capital is only the start, not the end.

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Notes

1. For example, Wallerstein, February 1, 2008, http://mrzine.monthlyreview.org/2008/wallerstein010208.html
2. For example, Fine, "Locating Financialisation," 114.
3. Global capital, transnational capital, and internationally mobile capital are used as synonyms here.
4. See Abdelal, *Capital Rules.*
5. See Erne, Agathonos-Mähr, and Gauper, "Social Democracy."
6. See Hopewell, "Different Paths to Power."
7. See e.g. Hamilton, "TTIP's Geostrategic Implications."
8. See Eberhardt and Olivet, *Profiting from Injustice*.
9. See e.g. Brenner, "Limits to Scale?"; Gough, "Changing Scale"; Macartney and Shields, "Space, the Latest Frontier?"; Swyngedouw, "Globalisation or 'Glocalisation'?"
10. Brenner, "Limits to Scale?," 604.
11. Harvey, "Geography of Class Power," 61–62.
12. Gill, *Power and Resistance*.
13. van Apeldoorn and Overbeek, "Introduction."
14. Gill, *Power and Resistance*, 190; Harvey, *Limits to Capital*, 149.
15. van Apeldoorn, de Graaff, and Overbeek, "Reconfiguration," 476; Gindin and Panitch, "Rethinking Crisis," 42.
16. Bieler, Lindberg, and Pillay, "What Future Strategy?" 264; Gill, *Power and Resistance*, 107, 113; Harvey, *Brief History*, 168–9.
17. Cowling and Tomlinson, "Globalisation and Corporate Power," 45; Harvey, *Limits to Capital*, 421.
18. van Apeldoorn, "Theorizing the Transnational," 159; van Apeldoorn "De macht van het kapitaal," 168.
19. Bakir and Campbell, "Financial Rate of Profit," 299–300; Krippner, "Financialization of the American Economy," 180.
20. Panitch and Gindin, "Current Crisis," 17.
21. Dufour and Orhangazi, "International Financial Crises," 342.
22. Gill, *Power and Resistance*, 111; Harvey, *Limits to Capital*, 147.
23. Grabel, "Marketing the Third World," 1767.
24. Palley, "Labor Perspective," 33.
25. Harmes, "Neoliberalism and Multilevel Governance,"; Harmes, "Rise of Neoliberal Nationalism."
26. Harmes, "Neoliberalism and Multilevel Governance," 727.
27. Harmes, "Rise of Neoliberal Nationalism," 67.
28. Ibid., 61.
29. Harmes, "Neoliberalism and Multilevel Governance," 740.
30. Lesage and Vermeiren, "Neo-Liberalism at a Time of Crisis," 45; see also van Apeldoorn, "De macht van het kapitaal," 168.
31. For example, Fougner, "State, International Competitiveness"; Fougner, "Neoliberal Governance of States."
32. Fougner, "Neoliberal Governance of States," 320.
33. Grabel, "Marketing the Third World"; see also Crouch, "Privatised Keynesianism," 389.
34. Cowling and Tomlinson, "Globalisation and Corporate Power," 44–45; Gill, *Power and Resistance*, 109–110; Harvey, *Brief History*, 92.

35. Grabel, "Marketing the Third World," 1764.
36. Gill, *Power and Resistance*, 111.
37. DeMartino, "Comment," 83.
38. van Apeldoorn, "De macht van het kapitaal," 168; see also Fourcade-Gourinchas and Babb, "Rebirth of the Liberal Creed," 568–9.
39. Watson, "International Capital Mobility," 86 (original emphasis).
40. van Apeldoorn, "De macht van het kapitaal," 169; Panitch, "Globalisation and the State," 62.
41. Abdelal, *Capital Rules*.
42. Wade, "Is the Globalization Consensus Dead?," 144.
43. Tabb, "Labor and the Imperialism of Finance," 13.
44. For example, Gill, *Power and Resistance*; for a discussion see Dierckx, "After the Crisis?"
45. Lesage and Vermeiren, "Neo-Liberalism at a Time of Crisis," 43.
46. See Abdelal, *Capital Rules.*
47. Lesage, Vermeiren, and Dierckx, "New Constitutionalism," 202–5.
48. France, Germany, Austria, Belgium, Estonia, Greece, Italy, Portugal, Slovakia, and Spain.
49. See e.g. the article on EurActiv.com on 4 November 2014.
50. ACV, ABVV, and ACLVB, *Streng bezuinigingsbeleid?*; ETUC, *No to Austerity*.
51. There are of course exceptions, e.g. two letters on the website of the *Financial Times*, one published on 29 November 2011, by Sharon Burrow (General Secretary of the ITUC), Bernadette Ségol (General Secretary of the ETUC), and John Evans (General Secretary of the Trade Union Advisory Committee to the OECD), and one written by Ségol, published on 17 April 2013.
52. See e.g. BusinessEurope, *Why TTIP Matters*; also a letter by the president of BusinessEurope and the chair of AmchamEU on the *Financial Times* website on 13 February 2014.
53. Like the TTIP as a whole, ISDS is strongly supported by business, as indicated for example by a letter from the CEOs of the United States Council for British Industry and the Confederation of Danish Industry, and the Director General of the Confederation of Swedish Enterprise on the *Financial Times* website on 10 March 2014.
54. Eberhardt and Olivet, *Profiting from Injustice*.
55. Gill, *Power and Resistance*.
56. See for instance the website http://eu-secretdeals.info/ or the letter by Magda Stoczkiewicz, see Stoczkiewicz, *Civil Society Call*.
57. FOE Europe et al., *No Fracking Way*.
58. See e.g. an opinion by a number of civil society groups on EurActiv.com on 13 January 2014 and a post by Erich Pica, president of Friends of the Earth US, and Magda Stoczkiewicz, director of Friends of the Earth Europe, on the *Huffington Post* website on 24 December 2013.
59. See the *Financial Times* website on 14 March 2014.
60. Examples include the pan-European AlterSummit, the Belgian Alliance D19-20, the German TTIP Unfairhandelbar, the French Non au Traité Transatlantique, and the Italian Campagna Stop TTIP, which are not even always supported on paper by large trade union confederations.
61. The US trade union centre AFL-CIO has also stated: 'We strongly oppose ISDS, which privileges a single type of economic actor – foreign investors – to bring cases against sovereign governments to challenge democratically enacted laws as well as regulations and judicial and administrative decisions.' AFL-CIO, *AFL-CIO Response to Request*.
62. See also Bieler et al., "Conclusion."
63. A similar position has been formulated by the largest German trade union confederation DGB; see DGB, *Concerning the Planned Negotiations*.
64. See the translation of the interview with Wetzel on http://media.ttippen.se/2014/03/Stop-the-Free-Trade-agreement-immediately-edited.pdf.
65. See, for instance, within the ABVV, the websites of the public services federation ACOD (http://www.acodonline.be), the Algemene Centrale ('General Union') (http://www.accg.be), and the metalworkers Metallos MWB (http://www.metallos.be), and, within the ACV, the white collar workers' union CNE (http://www.cne-gnc.be) and the public services federation ACV-Openbare Diensten (https://openbarediensten.acv-online.be).
66. See an article by Gus Fagan on the OpenDemocracy website on 6 February 2014.
67. See the *Financial Times* website on 22 October 2014.

68. Ikenson, *Compromise*.
69. Note that an important initiative trying to politicize 'free trade' within the EU concerns the Alternative Trade Mandate alliance, which published in November 2013, in the run-up to the European elections, an alternative to the free trade agenda. It is probably no coincidence that trade unions again played only a secondary role in this alliance.
70. Similarly, AFL-CIO declared that a trade treaty '*could* have positive impacts on job creation and income growth' (original stress), but that it 'is unlikely to have such impacts unless the United States Trade Representative (USTR) fundamentally alters its approach,' AFL-CIO, "*AFL-CIO Response to Request*." The Head of the British TUC's European Union and International Relations Department, Owen Tudor, has on his ToUChstone blog (an informal blog by TUC staff) called for 'saving the baby when the bath-water is removed,' and it is clear from several blogs that he is not necessarily opposed to a trade deal. The social-democratic fraction S&D has adopted a comparable position, published on their website on 17 April 2014.
71. See the link of the interview in note 64 above.
72. For instance, whereas by May 2014 there were 129 search results for TTIP on EurActiv.com, there were only six for CETA.
73. CLC-ETUC, *EU-Canada Comprehensive Economic and Trade Agreement*.
74. See e.g. 11.11.11 et al., *Transatlantic Statement*; Eberhardt et al., *Right to Say No*; FOE Europe et al., *Stop the Corporate Giveaway*; Maes, *Investment in CETA*; Maes, *Investment Protection*. The same could be said for Canadian civil society (with coalitions such as the Council of Canadians and the Trade Justice Network).
75. Crotty and Epstein, "In Defence of Capital Controls," 122; see also Epstein, *Should Financial Flows Be Regulated?*; Panitch, "Globalisation and the State."
76. For example, Bieler, Lindberg, and Sauerborn, "After 30 Years of Deadlock," 257; Harvey, "Right to the City," 39; Radice, "Responses to Globalization," 15.
77. Harvey, "Right to the City," 37.

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