

The Regulation of the Market and the Transformation of the Societal Relationships with Nature*

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1. Introduction

The era of neo-liberal globalization appears to be drawing to a close. This is true not only at the national level, where social democratic governments are appearing on the scene with the claim to formulate alternative policies to the neo-liberals. At the international level, too, awareness is growing that “the market” on its own is increasingly fraught with crisis. As early as 1997, the World Bank came to the conclusion that an “effective state” was necessary, and the latest United Nations Environment Programme (UNEP) report regards comprehensive international coordination mechanisms to be essential.¹ Even economic liberals such as George Soros, struck by the 1997 economic crises in the East and Southeast Asian countries, are demanding effective international political instruments to prevent such

*This is a revised version of our article published in German in *PROKLA*, 118, 2000. We are thankful to Joachim Hirsch and the anonymous reviewers of *CNS* for their comments, to Irene Wilson for the translation of this article, and to Andrew Biro for editing. In this article we use the term “societal” instead of “social” to indicate that we conceptualize nature and society not as a dichotomy (in which nature is something independent from human activities) but as a relationship. The word in German for “societalization” is *Vergesellschaftung*.

¹World Bank, *World Development Report 1997: The State in a Changing World* (Washington, D.C. 1997); UNEP, *Human Development Report* (Nairobi, 1999).

crises.² The interlinking of the different forms of dealing with these problems is discussed under the heading of “global governance.” The more general term “re-embedding,” often used synonymously with re-regulation, is used to point out the general direction: a political shaping of the world economy by embedding it in political and socio-cultural institutions.

At first glance, the debate on the re-regulation of the world economy has little to do with ecological problems. At most, the cooperative forms of dealing with the ecological crisis serve as a source of hope for the development of new forms of regulation. It is hoped that what is effective in the “soft” conflict field of international environmental policy could perhaps be exemplary for the “taming” of “predatory capitalism” in its “hard” economic core. The question, however, is not only whether this hope will be fulfilled. The question is also whether this relationship between economy and ecology is the appropriate way of understanding the issue. A systematic interlinking of ecological and socio-economic questions is only on rare occasions undertaken and, more specifically, research with regard to international forms of regulation is still in its infancy. For example, research on international environmental regimes stubbornly continues to refuse to link ecological questions systematically to dynamic political economic transformation processes.³ Conversely, political economic analyses usually only mention ecological aspects in the footnotes, as further evidence that global capitalism is fraught with crisis.

In this article we examine how the radical processes of change in society, which are only apparently defined by the term globalization, and the still relatively new debates on re-regulation, are connected with the restructuring of societal relationships with nature. We raise objections above all to the use of the key imagery of *re-embedding*, which we contrast with the analysis of the contradictory forms of societalization derived from Marx’ analysis of the law of value. Although both are concerned with the breaking away (*Herauslösung*) of market processes from more comprehensive social relationships, in the former hope is placed on the re-embedding of economic processes in their political, socio-cultural and ecological context, while the latter questions the assumption of an autonomous market process and

²George Soros, *The Crisis of Global Capitalism: Open Society Endangered* (New York: Public Affairs, 1998).

³Thomas Bernauer and Dieter Ruloff, *Handel und Umwelt. Zur Frage der Kompatibilität internationaler Regime* (Opladen/Wiesbaden: Westdeutscher Verlag, 1999).

concentrates instead on the historically concrete effect of the law of value and its inherent tendency to become independent (*Verselbständigung*), which implies a *contradiction* to other social relationships. One of the main differences between these two approaches is their divergent notion of the central categories of regulation, deregulation and re-regulation. Studies concerning regulation theory have shown that even an economy which has become independent in accordance with the law of value requires a network of political and socio-cultural institutions for the stabilization of the basically contradictory process of accumulation.⁴ The issue here is not so much the contradiction between disembedding, and re-embedding, as the contradiction between independence in accordance with the law of value and these more comprehensive social relationships. The question of the re-regulation of the world economy then shifts towards an analysis of global, national and local conflicts, and the opposing interests and power relationships inherent within them, which are presently taking place over the shaping of a post-Fordist mode of development. The issue at stake is less one of the re-embedding of the economy than of the sounding out of the room for political formation in the era of globalization.

To begin with, some theoretical reflection on the present debate on re-regulation appears to be necessary. This term is juxtaposed with societal regulation, in order to show that the latter allows a broader non-economistic and more precise socio-theoretical understanding of the present transformation processes. Using this concept allows us to properly assess certain problems which are connected with re-regulation and which are based on the contradictory character of capitalist societies. While the first part of this article is quite abstract and theoretical, the second part concerns itself with the field of biodiversity politics and policies. We will show that international politics in this era is not primarily a re-embedding of an autonomous market process. The attempts to control the destructive results of the dominant relationships

⁴We translate the German term “Regulierung” as *political regulation*, and “Regulation” as *societal regulation*. This distinction is based on regulation theory, the German version of which provides the framework for the following article and to which the perspective developed in the article is due. See in particular, Joachim Hirsch and Roland Roth, *Das neue Gesicht des Kapitalismus Vom Fordismus zum Postfordismus* (Hamburg: VSA, 1986); Joachim Hirsch, *Kapitalismus ohne Alternative?* (Hamburg: VSA, 1990); and Josef Esser, Christoph Görg and Joachim Hirsch, eds., *Politik, Institutionen und Staat. Zur Kritik der Regulationstheorie* (Hamburg: VSA, 1994).

with nature are at the same time a matter of the political creation and establishment of new markets for genetic resources, the conditions for which must be institutionally guaranteed.

2. Re-Regulation and Embeddedness

Neo-liberal ideology assures us that with the optimal utilization of the factors of production, not only will maximum welfare for all participants be achieved, but also by doing so nature will be utilized most effectively and therefore most sparingly. The *re-embedding* approach as developed most prominently by Karl Polanyi challenges both of these assumptions. According to this approach, a liberated market mechanism also sets free the destructive powers of the market with regard to social and ecological relations. Therefore the market must be politically “re-embedded.” This approach can therefore be understood as a simple antithesis to liberal market fundamentalism. However, it shares certain basic assumptions with its opponent. In both approaches — in neo-liberal discourse and in the recourse to Karl Polanyi and his concept of *re-embedding* — globalization is regarded first of all as a self-regulating market process, functioning as an inherent constraint to which economic and political actors must subordinate themselves. The only difference between the two is that the neo-classical, neo-liberal position presents this inherent necessity as a challenge which includes the so-called “win-win options” for the various actors, while, in contrast, the position based on the work of Polanyi regards this autonomous economic process as precarious or destructive because of the lack of a political or social component.

In his study of the 19th century economy, Polanyi elaborated how emerging capitalism destroyed, or threatened to destroy, the existing feudal social relations and the social and natural habitat of humanity, as well as how violent this process of “disembedding” was.⁵ Parallels can certainly be drawn between this and the “primitive accumulation” described by Marx: the capitalist economy is not the result of a quasi-natural process of evolution or modernization, but on the contrary its organizational principles were established by violence and enforced against a great deal of resistance.⁶ Starting in England in the 1830s, the Great Transformation was a process in which capitalism created new markets and based itself on their unregulated character — including free

⁵Karl Polanyi, *The Great Transformation. Politische und ökonomische Ursprünge von Gesellschaften und Wirtschaftssystemen* (Frankfurt/M: Suhrkamp, 1944/1990).

⁶Karl Marx, *Das Kapital*, Marx-Engels-Werke, Band 23 (Berlin/Ost: Dietz-Verlag), p. 741ff.

markets for labor, land and money, all of which were treated as commodities. Polanyi refers to the latter “fictitious commodities:” their character as commodities has systematic limits, but nevertheless they are treated as commodities in liberal capitalism and in the “self-regulating market system.” The price mechanism and orientation to profit functioned undisturbed for several decades; the creation of markets in this unregulated phase was unhindered by the state or anyone else. Where previously market processes had been embedded within comprehensive social relations,⁷ this connection is now reversed. According to Polanyi, the “utopian experiment” leads to a “self-regulating market.” He writes, “As soon as the economic system is divided into separate institutions based on specific objectives and given a special status, society must be so formed that the system can function in harmony with its laws.”⁸ Polanyi emphasized that it is a characteristic of this enforcement that politics and economics become differentiated and at the same time remain connected to one another. “Economic history shows that the emergence of national markets was not at all the result of the slow and spontaneous emancipation of the economic sphere from state control. The market was, on the contrary, the result of a conscious and often violent intervention on the part of the government.”⁹

The capitalism of liberated markets undermined its own functions and was for most people a catastrophe. As a result of capitalism’s destructive tendencies, from the 1860s onward there emerged various “anti-movements” and “collectivistic antipoles” in the form of workers’ movements, of factory and social laws, of laws to limit trade and to control money through the establishment of central banks. Polanyi calls these movements against the continually expanding market, which were often expressed through the state and through legislative measures, the “self-protection of society.”¹⁰ He thus interprets the history of the 19th century as the result of a “double movement:” on the one hand, the expansion of market organizations with regard to real commodities; on the other, their limitation with regard to the fictitious commodities: labor, land and money. The extraordinary dynamic in the process of the emergence of capitalism consisted not least of the “conflict between the market and the elementary requirements of an ordered social life.”¹¹

⁷The “moral economy” in Edward P. Thompson, *Plebeische Kultur und moralische Ökonomie* (Frankfurt/Berlin/Wien: Ullstein, 1980).

⁸Polanyi, *op. cit.*, p. 89 (here and in the following our translation).

⁹*Ibid.*, pp. 330-331.

¹⁰*Ibid.*, p. 182ff.

¹¹*Ibid.*, p. 329.

One result of the various resistance movements was that, since the 1870s, “tensions” arose which discharged themselves in the First World War, in the economic crisis of 1929 and the repeal of the gold standard at the beginning of the 1930s, and in Fascism. Liberal capitalism “fell apart as a result of a whole number of causes: the measures taken by society in order not to be destroyed itself by the effects of the self-regulating market.”¹² For Polanyi, the level at which re-embedding takes place is, appropriately considering the historical context, essentially the nation-state. But Polanyi’s terminology is taken up today in a completely changed historical situation. Those who advocate for the historian tend to adopt his ideas only in an abridged form, and furthermore, some of the theoretical problems left unsolved by Polanyi remain so.

When Polanyi analyzed the imposition of bourgeois-capitalist society in the 19th century, he assumed that a “self-regulating market” had been enforced and that an independent process had been established. However, he expressly emphasized the political content of this process. This aspect seems to be underestimated in a large part of the globalization debate, insofar as the present transformation of capitalism is (mis)understood primarily as an economic or purely market process,¹³ ignoring the political character of this process. What is often not considered is that even global markets have to be established and enforced, not necessarily by state actors but certainly by the transformation of existing social relations and thus by political activity in a broader sense. Post-Fordist or neo-liberal globalization must therefore be understood first of all as a process of the re-articulation of politics and economics, as a social “search process” as a result of the crisis of Fordism. While this process began as open-ended, its resolution is steadily gaining a specific shape.¹⁴

Furthermore, one of Polanyi’s central theoretical concepts, the market, is problematic. For Polanyi, the market is a historically constituted exchange mechanism and a sphere separate from politics, but which is more or less accessible to political intervention. Social problems result, according to Polanyi, from the dysfunctionalities of the “self-regulating market.” The appearance of weaknesses and risks in

¹²*Ibid.*, p. 329.

¹³Matthias Albert, Lothar Brock, Stephan Hessler, Ulrich Menzel and Jürgen Neyer, *Die Neue Weltwirtschaft. Entstofflichung und Entgrenzung der Ökonomie* (Frankfurt/M: Suhrkamp, 1999).

¹⁴Joachim Hirsch, “Globalization of Capital, Nation-States and Democracy,” *Studies in Political Economy*, 54, 1997.

the market system cause the various anti-movements to emerge.¹⁵ Even though these dysfunctions must be counteracted politically, in the final analysis, this assumption is based on a *functionalist concept of society*. According to this concept, society as a whole reacts to the self-endangerment of the system. Particular interest in, or resistance to, the destruction of the market mechanism is passed off as the general interest of the system in its self-preservation: “In the final analysis things were set in motion by the interests of the entire society, even if their defense originally fell more to one than to another part of the population. It thus appears to us to be appropriate not to gear our report of the protective movement to class interests but to the social substance threatened by the market.”¹⁶ Polanyi conceives of bourgeois-capitalist society not as a contradictory process but as a functional whole which is basically held together by one interest: the functioning of the capitalist market economy. The social sub-spheres of economy, politics, and so on, must be harmonized in order to prevent a single sphere from becoming destructively independent.¹⁷

Precisely this same pattern of argument is often found in the current debate on globalization.¹⁸ Global capitalism shows negative social and economic consequences, including instability. Seen from this perspective, the world market is a (more or less well-functioning) self-

¹⁵Polanyi, *op. cit.*, pp. 201, 252, 329.

¹⁶*Ibid.*, p. 223.

¹⁷At some points he does refer to social conflicts in connection with regulation, although his understanding of these tends to be functionalistic. In contrast, the current debate on re-regulation is almost exclusively limited to the “right instruments” and to institutional innovations, and thus takes a more “social-technocratic” direction. For example, in the discussions on global governance it is inadequately reflected on, that the establishment and the precise form of regulating systems of institutions depend on the individual interests and the relationships of power of the participating groups of actors. For criticism see Ulrich Brand, Achim Brunnengräber, Lutz Schrader, Christian Stock and Peter Wahl, *Global Governance. Alternative zur neoliberalen Globalisierung?* (Münster: Westfälisches Dampfboot, 2000).

¹⁸Hans-Peter Martin and Harald Schumann, *Die Globalisierungsfalle. Der Angriff auf Demokratie und Wohlstand* (Reinbek bei Hamburg: Rowohlt, 1996); Soros, *op. cit.*; Anthony Giddens, *The Third Way: The Renewal of Social Democracy* (Cambridge: Polity Press, 1999). There are, however, some theorists with another use of Polanyi’s concept of re-embedding which is much closer to the concept of regulation, see Stephen Gill, “New Constitutionalism, Democratization and Global Political Economy,” *Pacifica Review*, 10, 1, 1998.

regulating system, as were for Polanyi the nation-state societies of the middle of the 19th century, in which political intervention must take place in order to keep the destructive powers in check. Today's global version of "Manchester capitalism" would (it is hoped) be stabilized and tamed by means of appropriate political instruments. But this ignores the fundamentally contradictory character of the organizational principles on which the exchange mechanism is based. The capitalist (world) market is mediated by a mechanism which exhibits a specific form, the value form of its products. This social form is contradictory, however, because the social relations on which the process of production and exchange are based are reflected in it only in reverse form, as objective-material monetary relationships. The social relationships are laid claim to by this organizational principle of societalization by value (*Wertvergesellschaftung*) and at the same time negated in their real meaning.¹⁹ This process is therefore in principle contradictory and irrational; it cannot be controlled by the actors and shows a tendency to crises.

This does not mean that there is an inherent mechanism that produces economic crises or a breakdown of the economic system. As Marx said, the contradiction of the value form provides only the abstract possibility for crises, but cannot explain any single real crisis and its complex political, economic and social causes.²⁰ But it does mean that there is a fundamental contradiction between the rationality of individual activities (whether in the following of accumulation strategies or in any attempt to steer this process politically), on the one hand, and the logic of the course of social reproduction, on the other. The latter on

¹⁹Sometimes this contradiction also emerges in certain approaches to disembedding, such as when Giddens defines disembedding as the separation from social relations, see Anthony Giddens, *The Consequences of Modernity* (Cambridge: Polity Press, 1990), p. 21), but at the same time states that disembedding mechanisms are dependent on trust (see *ibid.*, p. 26). In Giddens' work money is reduced simply to a symbol and thus falls short of the complexity of the Marxist concept of money, at the bottom of which, in the final analysis, is a social relation. At the same time, it becomes clear that market processes are always dependent on social relationships, which cannot be created by money/capital itself. The commodities can also not yet "go to the market themselves" in the globally disembedded world economy but need their "guardians" with corresponding moral or symbolic-cultural requirements — although the process of exploitation is controlled by this less than ever, see Marx-Engels-Werke, *op. cit.*, p. 99.

²⁰Karl Marx, *Theories of Surplus Value*, Vol. 2, Marx-Engels Werke, 26.2 (Berlin/Ost: Dietz Verlag, 1974), p. 510.

principle produces non-intended results (crises, etc.) and the rationality of the former can only be determined ex-post. But this does not mean that the multitude of social relations are irrelevant (for then there would be no contradiction). Regulation theory, in addition to production and class relations, which were taken into account by Marx, takes much broader social relationships, such as gender relations, into consideration. The contradiction manifests itself, then, in the social forms (the value- and the state-form) becoming independent of the actors, even though these independent forms cannot be reproduced without the activity of the actors. This contradictory process thus can only stabilize itself if it is able to develop institutional forms of regulation that is also a more or less coherent mode of regulation. The existence of such a mode of regulation does not eliminate the contradictory character of the process but enables its stabilization *despite, and because of*, these contradictions.²¹ In contrast to the thesis of *re-embedding*, institutional settings here do not serve to remove the irrational character of the process or to eliminate its destructive consequences. Rather, they incorporate and reproduce precisely this contradictory character. In their function as an element of a mode of regulation they express contradictory social relations — and the question of the destructive consequences for humanity and nature is decided not least by these concrete institutions and their interplay, which are the products of social conflicts.²²

The societal regulation of social relations is therefore a much more comprehensive process than that of explicit (political) re-regulation, at least as this last is usually understood. By concentrating on intentional activity by political actors such as governments and also on international political instruments, the much wider social context in which market processes always take place are ignored. The result is that too little attention is paid to the more comprehensive process of post-

²¹Alain Lipietz, “Akkumulation, Krisen und Auswege aus der Krise: Einige methodische Überlegungen zum Begriff ‘Regulation’,” *Prokla*, 58, 1985, p. 109.

²²The interpretation of regulation theory presented here thus avoids the widespread (yet false) position, which always associates law-of-value independence only with a functionalist explanation pattern and which therefore pretends that a stronger emphasis on social conflicts and their contingent results can only be achieved by dispensing with value theory; see Esser, Görg and Hirsch, *op cit*; Christoph Görg, “Plädoyer für Gesellschaftstheorie,” *Prokla*, 101, 1995.

Fordist restructuring.²³ The fact that processes of “primitive accumulation” continue to occur today also risks being ignored, when attention is focussed strictly on intentional and explicitly political actions. Moreover, this social “dis-embedding” of economic processes at the local and national level — the commodification of social relations which in the past functioned according to other cultural patterns — leads to resistance and social conflicts. Integration into the capitalist world market continues to be a contested and violent process.

3. Post-Fordist (societal) Regulation

The significance of these two different approaches to an understanding of re-regulation can be seen in their handling of the subject of globalization. The main differences lie in whether the political-institutional “embedding” of the economy is regarded as the solution to the problems, or whether it is seen as the beginning of the emergence of a new mode of regulation. The way in which the two approaches deal with social and ecological problems *thus does not differ over whether political regulation takes place, but to which institutions and structures it finally leads*. The outcomes of the social conflicts over the form of the mode of regulation are decisive. Not the re-embedding of a self-regulating market but the creation of the institutional framework of an independent but contradictory social process is then the subject of the debate.

Elmar Altvater and Birgit Mahnkopf refer to Polanyi in their impressive analysis of the current process of globalization.²⁴ They speak of a “global disembedding” in which the “economic functional sphere,” the world market, shakes off its social ties and disregards nature. “The market not only detaches itself from society but imposes its logic on politics.”²⁵ The prominent characteristic of the epoch is the emergence of the inherent constraint of the world market (“*Sachzwang Weltmarkt*”), which is the product of various “disembedding mechanisms” and has an effect on social relations and on the system of

²³Tobin tax, the control of capital transfer, the establishment of social and ecological standards in international trade, etc., see Kurt Hübner, “Globale Geld- und Finanzmärkte und sozial-ökologischer Pfadwechsel,” in Wolfgang Hein and Peter Fuchs, eds., *Globalisierung und ökologische Krise* (Hamburg: Deutsches Übersee-Institut, 1999), p. 125ff; Jörg Huffschnid, *Politische Ökonomie der Finanzmärkte* (Hamburg: VSA, 1999).

²⁴Elmar Altvater and Birgit Mahnkopf, *Die Grenzen der Globalisierung* (Münster: Westfälisches Dampfboot, 1999, fourth edition), p. 90ff.

²⁵*Ibid.*, p. 90.

political institutions.²⁶ Today, the economy is being globalized and the world market is becoming a (socially-produced) inherent constraint which brings with it the imperative of economic competitiveness. Nevertheless, Altvater and Mahnkopf, with their metaphor of *disembedding*, systematically pay too little attention in their theoretical considerations to the extent to which the current transformation is also a political process, that is, the relationship between politics and economics rearticulating itself.²⁷ The contradictoriness of the process is also barely elaborated but in some places simply stated as a fact.²⁸ The “disembedding mechanisms” take effect as a self-functioning process, and correspondingly the policy of deregulation is for Altvater and Mahnkopf simply a *result* of globalization, rather than one of the forms of its enforcement.²⁹

Finally, however, Altvater and Mahnkopf do formulate the perspective of the necessity of re-embedding: “Thus it happens that economic de-regulation is followed by a legal, political re-regulation. The pure ‘disembedded’ market economy is therefore a fraud.”³⁰ Here they perceive limits to globalization. “Politics” — and “civil society” — are thus placed *in opposition to* the globalizing “economy.” The aim is the re-embedding of “labor, money and nature.”³¹ The political constitution of markets thus disappears from analytical — and potentially from political — view. Thus they are in danger of using a functionalist, optimum control type of argument, similar to Polanyi’s metaphor of the “self-protection of society,” when they speak of the necessity of “legal, political” re-regulation and mean intentional policies by dominant actors. Both the state and civil society are, however, in themselves not at all institutions for the “taming” of the market, but rather they are just as much preconditions for it, or an accompanying element to it.

By contrast, institutionally oriented regulation theory can be used to show that the process of globalization cannot be explained by the concept of the disembedding of market mechanisms. Capitalist

²⁶Elmar Altvater, *Sachzwang Weltmarkt. Verschuldungskrise, blockierte Industrialisierung, ökologische Gefährdung — der Fall Brasilien* (Hamburg: VSA, 1987).

²⁷Not only a “disembedding of the economy from society,” see Altvater and Mahnkopf, *op. cit.*, pp. 95ff.

²⁸*Ibid.*, p. 93.

²⁹*Ibid.*, pp. 112-13.

³⁰*Ibid.*, p. 115.

³¹*Ibid.*, pp. 537, 525.

restructuring is bound up from the very beginning with institutional processes, and market processes do not abstractly stand opposite to political-institutional ones. Although this argument can also be supported by other theoretical approaches,³² the regulation approach has two decisive innovative factors: *firstly*, it conceptualizes the history of capitalism as a dialectic of continuity and discontinuity and thus comes to its heuristic device of “phases” of capitalist development. Accordingly, the current globalization processes and the attempts at stabilization of the world economy can be understood as post-Fordist restructuring and thus as a reaction to a crisis of the Fordist mode of regulation. *Secondly*, the variations of the regulation school which are based on Marx assume that the dynamic of bourgeois-capitalist development lies in the imperative of accumulation, in the subsumption of the various spheres of life to the capital relation, and in the contradictoriness of the fundamental processes of societalization. The issue is therefore not one of the dysfunctionalities of the (world) market, but of its constitution by means of domination. The concept of societal regulation is thus closely connected with that of domination — in contrast to the concept of political (intentional) regulation. The scientific-political perspective is the analysis of the various relations of domination.³³

Seen from this perspective, globalization or post-Fordist restructuring is a fundamentally unstable and contradictory process, which can certainly be “regulated” — meaning stabilized by means of domination without its immanent contradictions being removed. The questions to be asked about current transformation processes include how structures change (and how these appear to the actors to be an

³²Cf. e.g., Michael E. Porter, *The Competitive Advantage of Nations* (London: Basingstoke, 1990); Dirk Messner, *Die Netzwerkgesellschaft. Wirtschaftliche Entwicklung und internationale Wettbewerbsfähigkeit als Probleme gesellschaftlicher Steuerung* (Köln: Weltforum Verlag, 1995); and Rogers J. Hollingsworth and Robert Boyer, eds., *Contemporary Capitalism. The Embeddedness of Institutions* (Cambridge, MA: Cambridge University Press, 1997).

³³In the last years, there has been much work done to develop a regulationist approach to a theory of politics, mainly connecting regulation theory with historical materialistic state theory, especially with Gramsci, see Esser, Görg and Hirsch, 1994, *op. cit.* However, an approach in this tradition which deals with the “internationalization of the state” still needs to be developed, see Joachim Hirsch, “Die Internationalisierung des Staates. Anmerkungen zu einigen aktuellen Fragen der Staatstheorie,” *Das Argument*, 42, 3, 2000.

objective, inherent constraint, such as the imperative of international competitiveness), and what interests and strategies prevail. These questions must be answered by examining the concrete nature of contradictions. For the connection which interests us here, namely the relationship between re-regulation and societal regulation, the relationship between the political and the economic in particular is of central interest.

“Politics” is not necessarily the re-embedded counterweight to economic globalization, a fact that is particularly clear if we look at the state. If the state is understood not as an expression of the “self-protection of society” (Polanyi) but as the “material condensation of class relations” (Poulantzas), then it becomes clear that its regulatory functions overlap with those of the restructuring and stabilizing of capitalist societies, which were induced by the crisis of Fordism. This is the point of the thesis that the “post-Fordist” state is a “national competition state,”³⁴ which plays a varied and active part in the current transformation processes. In the orientation of society as a whole towards *Standortpolitik* (locational politics), civil society or a “civil-society totalitarianism” (Joachim Hirsch) has played a decisive role.

At the level of international politics, to which the debate on re-regulation above all refers, in the final analysis what is decisive is the way in which the relationship between the “political” and the “economic” is formed. Although the international political system of institutions cannot be directly compared with that of nation-states, they do have one thing in common. They are both an expression of a condensation of social power relations, under neo-liberal dominance, which speeds up the contradictory process of capitalist globalization. This does not mean that political institutions could not be and are not capable of contributing to stabilization; it does mean that they are not *per se* actors engaged in a *re-embedding* in response to small and large crises. Whether a post-Fordist societal regulation succeeds depends on much more than simply the international politics of state actors or intergovernmental institutions.

³⁴Joachim Hirsch, *Der nationale Wettbewerbsstaat. Staat, Demokratie und Politik im globalen Kapitalismus* (Berlin: Edition ID-Archiv, 1995); Bob Jessop, “Narrating the Future of the National Economy and the National State: Remarks on Remapping Regulation and Reinventing Governance,” in George Steinmetz, *State/Culture: State Formation after the Cultural Turn* (Ithaca: Cornell University Press, 1999).

4. The Transformation of Relationships with Nature and International Politics

With regard to the “ecological question,” assessments still sway between two opposite poles, either placing the stakes on social and institutional reforms which aim at solving ecological problems within the framework of capitalist societalization, or assuming that the problems are insurmountable as a matter of principle and thus expecting a critical development of the situation into a catastrophe. The first strategy, which is the basis of various concepts of “sustainable development,” can be observed most clearly in the models for an “ecological modernization” of society. Despite the differences in their approaches, these models explicitly assume that in spite of the structural character of environmental problems “the existing political, economic and social institutions will be able to internalize concern for the environment.”³⁵ The second strategic approach, in contrast, casts fundamental doubt on the capacity of existing institutions to solve these problems and therefore comes to the conclusion that a fundamental change is necessary if ecological collapse is to be prevented.

Those that hold both points of view can find evidence to support their positions in the latest developments in both national and international environmental politics. At the beginning of the 21st century, societies worldwide have begun to react to environmental risks: from international conventions on most of the global environmental problems (climate, ozone, biodiversity, desertification, etc.)³⁶ through national environmental policies, which have now been established in a large number of countries,³⁷ to reactions at the entrepreneurial (eco-audits, etc.) and socio-cultural levels (environmental consciousness or ecological lifestyles).³⁸ Professional optimists are even expecting the beginning of a “century of the environment.” Skeptical observers, on the other hand, point out that the sensitivity to the threat to the natural

³⁵Maarten A. Hajer, *The Politics of Environmental Discourse: Ecological Modernization and the Policy Process* (Oxford: Clarendon Press, 1997), p. 108, our translation.

³⁶Frank Biermann, *Weltumweltpolitik zwischen Nord und Süd: die neue Verhandlungsmacht der Entwicklungsländer* (Baden-Baden: Nomos, 1998).

³⁷Martin Jänicke and Helmut Weidner, eds., *National Environmental Policies. A Comparative Study of Capacity Building* (Berlin: Springer, 1997).

³⁸Fritz Reusswig, *Lebensstile und Ökologie* (Frankfurt/M: IKO, 1994); and Gerhard de Haan and Udo Kuckartz, *Umweltbewußtsein* (Opladen: Westdeutscher Verlag, 1996).

environment and its consequences is diminishing once again and social problems — increased unemployment, the growing division of national societies and of “world society” into North and South, racism, migration and ethnic cleansing, and the increasing conflicts and violence of the international world disorder — are again attracting much more attention than ecological threats.

Although both pessimistic and optimistic observers can point to certain evidence to support their arguments, both of these assessments miss the real central issue of the process which is emerging. “Ecological communication”³⁹ is becoming both more constant *and* more qualified in the process. Institutional reforms are taking place, but at the same time these must be regarded as fundamentally inadequate. What appears to be happening presently is therefore a confirmation of neither the extreme optimistic nor the extreme pessimistic view, but the *selective treatment of ecological problems*. This expresses itself in the very divergent treatment of global environmental problems where both successes and failures occur and, most of all, where “solutions in accordance with economic growth” have a chance to be implemented. However, this selective treatment affects the emerging forms of national and international regulation at their core. In order to make this plain, however, we must first examine some fundamental deficiencies of social scientific studies of ecological control or regulation.

At the core of the regulation problem is the exclusive concentration on explicit environmental policy, ignoring of other spheres of politics or other levels of regulation, which can often be of much greater importance for the subject at hand.⁴⁰ This touches directly upon the social and structural relevance of ecological regulations. On the one hand, the social context is all too often ignored, along with interests and power relations, which often have a greater influence on the contents and the probable success of environmental policy regulations than the actual policies themselves with their intended aim. On the

³⁹Karl-Werner Brand, Klaus Eder and A. Pöferl, *Ökologische Kommunikation in Deutschland* (Opladen: Westdeutscher Verlag, 1997).

⁴⁰One fundamental problem that must be ignored here is the question of how material conditions, i.e., “nature” in a broader sense, can be the subject of social scientific debate. All too often social scientists are uninterested in this question and only examine the social effects, i.e., the cultural consequences in a narrower sense. In contrast on the concept of societal relationships with nature see, Thomas Jahn and Peter Wehling, “Gesellschaftliche Naturverhältnisse — Konturen eines theoretischen Konzepts,” in Brand, *op. cit.*; and Christoph Görg, *Gesellschaftliche Naturverhältnisse* (Münster: Westfälisches Dampfboot, 1999).

other hand, the contribution of genuine environmental regulations to other socioeconomic and socio-cultural regulations is also underestimated. It may be more appropriate, then, to speak of the *regulation of societal relationships with nature* instead of merely individual ecological or environmental problems. The basic mistake in the assessment of the ecological question lies in the separation of social from ecological problems, which often hardens into a dualistic viewpoint. Conflicts within society regarding the distribution of wealth and power, and the resulting forms of regulation of the supposedly joint efforts of society, which Beck famously interprets as a “global community of fate,” are thus contrasted abstractly with the solution to the ecological question. This likely fatal separation of ecological problems from the examination of various social interests is particularly clear in Ulrich Beck’s prescient diagnosis.⁴¹ Beck explicitly claimed that the distribution of ecological risks was the central social problem in today’s “risk society,” having replaced the distribution of wealth, which was the central social problem in industrial society. For Beck, social and ecological problems were thus separated from one another and arranged into a temporal sequence of problems to be solved. A preferable view would be one that focuses on the overlapping of socioeconomic and ecological factors in the restructuring of global capitalism. This would mean that ecological problems lose some of their beautiful clarity and simplicity, but they gain more relevance through their link to social interests and global power relations.

In other words, the (societal) regulation of *social* relations, that is, the powerful stabilization of a contradictory social process, is conventionally not simultaneously understood as the (societal) regulation of relationships with *nature*. The *regulation of societal relationships with nature* is, conversely, not only the subject of explicit environmental politics but is *inscribed within all social relationships*. We can only understand what roles nature will in fact play in the transformation of global capitalism, and the positive and negative consequences that can result for this transformation and “world society,” if we examine the immanent mediation between social and ecological processes.⁴²

⁴¹Ulrich Beck, *Risk Society: Towards a New Modernity* (London: Sage, 1992).

⁴²Egon Becker and Thomas Jahn, “Growth or Development?” in Roger Keil, et al., *Political Ecology: Global and Local* (London and New York: Routledge, 1998).

Not only the ignoring of social interests is at the root of the isolation of environmental politics from other political processes and conflicts, however, but also a false conclusion in the assessment of the explicit forms of regulation. All too often, the existence of urgent problems leads — in a classical functionalist way of thinking — to the deduction of necessary solutions. Thus, international ecological problems appear to force the “community of states” to find a cooperative solution if they are not all to be in a worse position in the future. In view of the “end of bloc confrontation” and the emergence of a “borderless world society,” agreements on the protection of the environment, it is claimed, can take on the role of a vanguard in the development of “global governance,” of a “world governing without a world government” or a “complex world governing.”⁴³

The national state is commonly considered responsible for the solution of social and ecological problems, but in times of a “de-bordering of the world of states,”⁴⁴ or of the increasing incongruity of economic and political areas, the nation-state can no longer achieve this. Undoubtedly, beyond the scale of the nation-state there are emerging new scales of negotiation and regulation. The question, however, is whether this indicates an adequate “self-protection” of society in the face of new problems. This places the question of the re-establishment of the state’s capacity to control (or of the possibilities for explicit regulation) at the center of analytical and political interest.

If, however, the assumption that a state must in fact solve social problems is dropped (if, in other words, one ignores the question of what is a problem for whom), and if the state is regarded instead as primarily an instrument of domination which bases its legitimation and its social function to some extent on the repression of the conflicts which arise from unsolved problems, then things look somewhat different. In this case, if the function of the state as an instrument of control *and* of domination are regarded as two aspects of a single social relation, both the selective treatment of environmental problems and the real importance of forms of environmental regulation become clear. If the nation-state is regarded as a condensation of power relations, both

⁴³Oran R. Young, ed., *Global Governance: Drawing Insights from Environmental Experience* (Cambridge, MA: MIT Press, 1997); and Michael Zürn, *Regieren jenseits des Nationalstaates* (Frankfurt/M: Suhrkamp, 1998).

⁴⁴Lothar Brock and Mathias Albert, “Entgrenzung der Staatenwelt. Zur Analyse weltgesellschaftlicher Entwicklungstendenzen,” *Zeitschrift für internationale Beziehungen*, 2, 2, 1995.

the “explicit environmental politics”⁴⁵ and other forms of regulation which directly or indirectly touch upon ecological questions, must first be examined with regard to the interests connected with them.⁴⁶

The discussions on “sustainable development” allow various aspects of this to be demonstrated briefly. Sustainable development was first formulated as a normative concept for the reform of national and international relations and was intended to integrate the contradictory interests of North and South, of ecology and economy, and of the present and the future.⁴⁷ Although on the face of it the concept has been incomparably successful, it can also be observed that the content of the concept has changed dramatically in the process. What has evolved is a compromise formula, marked by certain structural characteristics, particularly the intensification of competition. In Germany, for example, a hegemonic understanding of the environmental question has been established. This can be described as *ecological modernization*, which places its bets primarily on technological and institutional innovations (examples of this are the debates on “efficiency revolution” and the “factor 4” or “factor 10” and the concept of “*Umweltstandort Deutschland*” [environmental location Germany]).⁴⁸ The North-South relationship with its structural inequalities is rarely questioned in these discussions. Among other things, the increased negotiating power of

⁴⁵Ken Conca, “Environmental Change and the Deep Structure of World Politics,” in Ronnie D. Lipschutz and Ken Conca, eds., *The State and Social Power in Global Environmental Politics* (New York: Columbia University Press, 1993).

⁴⁶This does not at all mean that the material content of the individual ecological problems should not be taken seriously. But this content, i.e., the precise structure of the problems and the possible catastrophic development of the problems, must first be articulated and it must be inscribed into the social conflicts and different interest groups. The climate negotiations are an example of this, as is the diagnosis of the problem “loss of biodiversity” (see below), Andreas Missbach, *Das Klima zwischen Nord und Süd. Eine regulationstheoretische Untersuchung des Nord-Süd-Konflikts in der Klimapolitik der Vereinten Nationen* (Münster: Westfälisches Dampfboot, 1999).

⁴⁷Bund and Misereor, eds., *Zukunftsfähiges Deutschland. Ein Beitrag zu einer global nachhaltigen Entwicklung* (Basel: Birkhäuser, 1996); and Christoph Görg, “Sustainable Development — Blaupause für einen ‘ökologischen Kapitalismus?’” in Helmut Brentel, et al., eds., *Gegensätze — Elemente kritischer Theorie* (Frankfurt/M. and New York: Campus, 1996).

⁴⁸Ernst Ulrich von Weizsäcker, ed., *Umweltstandort Deutschland* (Berlin, 1994).

the developing countries is pointed out, which is often deduced directly from the persistence of global environmental problems or from the possibility of an increased valorization of natural resources.⁴⁹

This development, in accordance with the “phase” heuristic of regulation theory, can be understood in such a way that sees the concept of sustainability as introduced in the 1980s to mark a reform project within the framework of a relatively open search process, to overcome the crisis of Fordism. It was intended to point out ways in which both a new world order could be achieved following the end of bloc confrontation, and, at the same time, the most urgent forms of ecological and social crisis could be overcome. At the end of the 1990s the concept has now — to the extent that actors relate to it positively and do not simply propagate market fundamentalism — become an integral part of the “post-Fordist” restructuring within individual countries and worldwide. In this guise or function, sustainable development is inserted into conflicts over the formation of national and international relations.⁵⁰ Thus the concept no longer represents a particular approach towards overcoming the socioeconomic and the ecological crises, but is itself an element of the conflicts which are being fought out over the regulation of social relations. It is, therefore, no longer really a consensual model which is to be achieved jointly by the various actors. Rather, the various actors who deploy this concept in fact aim at very different things: *sustainability* thus describes a *terrain of conflict* rather than a clearly defined objective.

At the international level a *competition-cooperation paradox* can be observed. Political cooperation occurs and systems of negotiation and control are established. This takes place partly with explicit reference to the concept of sustainability (as in the Convention on Biodiversity [CBD]), but partly, for example, within the framework of the WTO, without this reference and with a greater or lesser degree of ignorance concerning its objectives. At the international level, too, some of the aims of political control — such as an adequate environmental policy in certain fields or even the realization of a socially specified concept of sustainable development — do not lie outside the dominant development of international competition and its political stabilization. Climate negotiations in particular are characterized by the fact that the anticipated effects on the competitiveness of the more powerful states,

⁴⁹Biermann, *op. cit.*

⁵⁰Ulrich Brand and Christoph Görg, “Nachhaltige Widersprüche: Die Rolle von NRO in der internationalen Biodiversitätspolitik,” *Peripherie*, 71, 1998.

above all the U.S., play a decisive role.⁵¹ *International cooperation and the formation of regulating institutions thus do not represent a contradiction to the norm of increased competition within the framework of capitalist globalization, but rather serve to stabilize its framework or boundary conditions and to compensate for its mal-effects.*

There is an additional factor, namely, the competition between, and the institutional heterogeneity of, different regulatory processes and levels of regulation.⁵² The objectives and measures of control, and the authoritative resources of the WTO are, for example, quite different from those of the UNDP or the UNEP. The system of international political institutions is by no means homogeneous, but rather hierarchical in the distribution of its power resources. This hierarchy also expresses itself in relationship to different regulatory levels — international, national, regional and local. These differences can be explained by the different interests and degrees of authority of the participants, as well as by their will to prevail and their strategies (the priority given to political objectives favoring neo-liberal deregulation, rhetorical agreement, strategic agreement for the purpose of prevention, etc.) and thus by the condensation of different power relations at the different scales.

With respect to the societal relationships with nature and the realization of sustainable development, the emergence of a new phase of capitalist development thus can be interpreted as the result of *neither* an intended strategy *nor* of a blind evolutionary process which establishes itself more or less naturally. As Wolfgang Hein emphasizes, both non-intended results and strategic intentions must be integrated into a social theory in order to be able to determine both the complex interaction of different spheres of society (economy, politics, science, culture, etc.) and the strategic starting-points for reforms.⁵³ Such a link can be established using regulation theory, if value theoretical arguments are coupled with the examination of the forming of stable phases of

⁵¹Andreas Missbach, *op cit.*; Heike Walk and Achim Brunnengräber, *Die Globalisierungswächter. NGOs und ihre transnationalen Netze im Konfliktfeld Klima* (Münster: Westfälisches Dampfboot, 2000).

⁵²Bernauer, *op. cit.*

⁵³Wolfgang Hein, “Postfordistische Globalisierung, Global Governance und Perspektiven eines evolutiven Prozesses ‘Nachhaltiger Entwicklung,’” in Hein and Fuchs, eds., *op. cit.*

capitalist development via the conflicts and compromises of social actors.⁵⁴

The relationship between intended political regulation and uncontrolled societal regulation is an essential part of regulation theory. This can be used to illustrate the direction in which specific approaches to the regulating of environmental problems will develop and how, in this process, the selective treatment of these problems prevails. Just considering certain instruments from an abstract perspective, those seem to have the best chance of realization that represent market-conforming regulations.

Let us take the example of global climate politics and the actually disputed development of a globally functioning system of “tradable certificates for the use of the environment.”⁵⁵ Even such a system of certification cannot work without political (in a wider sense, state) instructions. Firstly, in the shaping of societal relationships with nature, the objectives are always based on certain assumptions, which are inevitably disputed (as they are never based simply on biophysical necessities). Secondly, these assumptions derive from controversial interpretations by different actors and the normative implications of these interpretations, which are mediated by the actors’ individual capacities to prevail over other interests. Thirdly, an agency is necessary which guarantees any and all compromises institutionally and, at the same time, represents the “general interest of society” (“*gesellschaftliches Allgemeininteresse*”) against the particular perspectives of the competing interests. This agency is the state or, at the international level, some functional equivalent of the state.

A decisive problem of the present transformation processes is that it is more and more difficult for the national state to formulate these interests of society in general, and to safeguard them against other more powerful actors (above all TNCs), while at the international level an adequate (or functional) equivalent to take on this role is nowhere in

⁵⁴There is a difference here from Hein, who tends to categorize regulation theory as a strategic analysis of social relations and aims at a connection to Luhmann’s system theory. It is correct, however, that in the context of regulation theory until now strategic and structural aspects remain very often without any mediation, see Wolfgang Hein, “Transnationale Politik und soziale Stabilisierung im Zeitalter post-fordistischer Globalisierung,” *Nord-Süd-Aktuell*, 12, 3, 1998; and Christoph Görg, 1995, *op cit.*

⁵⁵Edgar Fürst, “Globaler Ressourcenverbrauch, Umweltraum und ökologischer Strukturwandel — Implikationen für die Nord-Süd-Beziehungen,” in Hein and Fuchs, eds., *op. cit.*, p. 98.

sight. This does not mean, though, that market processes and new valorization conditions for capital are not being institutionally safeguarded (or often set up for the first time) and enforced, not to mention that their consequences are being safeguarded through repressive means. This form of regulation is always a part of environmental politics, on the national as well as the international level. Examples of this are the establishment of a new “market for recyclable materials” in Germany, as a result of the introduction of the dual system of waste disposal, or the debates on the introduction of an environmental tax, in the course of which the ecological management effect has taken second place to the lobby interests of certain major sectors. While in both cases the instruments applied are non-traditional — instead of command and control, market-conforming “soft” control mechanisms — they are not simply to be classified as deregulation mechanisms (even if in the field of waste disposal, as in the liberalization of the electricity market, a strategy of deregulation has been followed, which is likely to lead to the destruction of more or less functioning markets and in the long term to a further centralization). More decisive is the fact that *environmental regulations* in these and in other areas have become an *element of governmental competition policy*, the appropriate conditions for which must be created or maintained politically.

A similar situation can be observed at the international level. In the negotiations on climate policy, for example, tendencies can also be observed towards the establishment of new markets for tradable emission rights. At the same time, in this field, the contradictory developments of international societal regulation show themselves particularly clearly. It is here that the U.S., for domestic political reasons, blocks not only a strengthening of restrictive regulations: due to its specific situation — as the leading country of “fossilist Fordism” — it is able to put up strong resistance to structural changes. For example, in negotiations it plays only a “negative leadership role.”⁵⁶ A stable post-Fordist mode of regulation fails, according to this view, because the U.S., despite its relative (economic, political and military) strength has been unable to effect a consistent strategy due to a lack of hegemony (in the narrower sense of the capacity to win other actors to accept a compromise).

⁵⁶Missbach, *op. cit.*, p. 224.

5. The Valorization of Biodiversity

The contradictory and as yet unstable regulation processes can be better understood if the assumption is abandoned that the process of globalization is a completely independent, autonomous market process that must be “embedded” again in political institutions and thus restrained. This can be seen in biodiversity policy even more clearly than in the case of the climate negotiations, although in different issue areas or regulative processes variations can be observed.⁵⁷ There is a general consensus that there is a “loss of biological diversity” and that political action must be taken,⁵⁸ but this general consensus is overlapped by multifaceted conflicts over the new form of “biopolitics.”⁵⁹ These conflicts over the appropriation of biological resources in the global setting are characterized on the one hand by a

⁵⁷These are linked to different problem structures, which can partly be explained by the subject, partly by the different interest structures. Thus, the problem “protection of the ozone layer” found a form of regulation in the “Montreal Protocol” in a relatively short period, which integrates the various aspects (the problem of causation, technical substitution, financial compensation, etc.) fairly well. Relatively clear opposing interests between “North” and “South” and a narrowly defined problem area may have been decisive here (Biermann, *op. cit.*). But the transfer of this solution to other areas is by no means certain. Even if, for example, it was attempted to transfer the financial mechanism to the negotiations on climate and biodiversity (see Frank Biermann and Udo Ernst Simonis, “Institutionelles Lernen in der Weltumweltpolitik,” in H. Albach, et al., eds., *Organisationslernen* (Berlin: WZB Year Book, 1998), the conflicts in these fields are characterized by other problems and conflict structures. In the case of the negotiations on biodiversity, for example, the interests of “North” and “South” are much more complex and the subject is much more controversial, since genetic resources represent a major raw material for the up-and-coming life science industries (in the pharmaceutical and agrarian sectors). For example see Ulrich Brand, *Nichtregierungsorganisationen, Staat und ökologische Krise. Konturen kritischer NRO-Forschung. Das Beispiel der biologischen Vielfalt* (Münster: Westfälisches Dampfboot, 2000), chapter 5.

⁵⁸These conflicts begin already over the exact definition of the concept of biological diversity (beyond the general statement that it is a combination of the diversity of species, genetic diversity and habitat diversity). See Christoph Görg, Christine Hertler, Engelbert Schramm, and Michael Weingarten, eds., *Zugänge zur Biodiversität* (Marburg: Metropolis, 1999).

⁵⁹Michael Flitner, Christoph Görg, and Volker Heins, eds., *Konfliktfeld Natur. Biologische Ressourcen und globale Politik* (Opladen: Leske + Budrich, 1998).

dominant trend towards the valorization of these resources,⁶⁰ but also by the need for the gradual development and implementation of the institutional (legal, political, social) conditions for this valorization.⁶¹ However, there is as yet no consensus concerning major aspects of the institutional embedding of valorization, and the form it will take is dependent on the outcome of these conflicts and on the interests and capacities of the various actors involved.

In this field, there is not only a question of the North-South dimension, but also of the international division of labor. There are different national interest groups in different countries, and differences of opinion between local user groups and global actors (TNCs and NGOs) which must be taken into account, as well as the gender aspects and different cultural reference systems to biodiversity inscribed within them.⁶² The respective powers of these different groups of actors find their way with varying intensity into the (societal) regulation of biodiversity, without successfully overcoming the fundamentally opposing positions between groups, and without there being any real hope of a rational solution to the biodiversity problem.

Biological diversity is constituted as a resource, the utilization of which (i.e., its actual or potential value) is to contribute to its maintenance (from ecotourism in nature parks to the work on the maintenance of plant genetic resources) or at least to provide rational arguments for its maintenance (such as the “natural pharmacy of the tropical rainforest,” which is “in everybody’s interest”). One set of questions involves whether the objective of maintaining biological diversity can in fact be achieved in this way and whether such a use of biodiversity can be ecologically sustainable and/or socially just. Still another is what effects these attempts in fact have on society, what developments prevail and what structures are created. On a practical level, initiatives for the valorization of biodiversity (such as the UNCTAD Biotrade Initiative),⁶³ and the conflicts connected with these, are the focal point of the discussions on the implementation of CBD.

⁶⁰Ramchandra Guha and Juan Martínez-Alier, “Die Vermarktung der Artenvielfalt,” *Prokla*, 108, 1997.

⁶¹Achim Lerch, *Verfügungsrechte und biologische Vielfalt* (Marburg: Metropolis, 1998); Gudrun Henne, *Genetische Vielfalt als Ressource. Die Regelung ihrer Nutzung* (Baden-Baden: Nomos, 1996).

⁶²Christoph Görg, “Kritik der Naturbeherrschung,” *Zeitschrift für Kritische Theorie*, 9, 1999.

⁶³Christoph Görg and Ulrich Brand, “Global Environmental Policy and Competition between Nation States. On the Regulation of Biological Diversity,” *Review of International Political Economy*, 7, 3, 2000.

The question as to the economic or non-economic utilization of biodiversity for different purposes is also entwined with the conflicts over the form to be taken by property and patent rights. The conflict field (or the regime of) biodiversity politics today therefore cannot be equated with the CBD (i.e., with one form of explicit international environmental policy).

In international biodiversity politics a central question is how legal regulations can be created which provide reliable access for the life science industries (resident above all in the “North”) to the biological resources (which lie mainly in the “South”), thus affording at least a minimal degree of security for activities in a highly dynamic and insecure field. The increasing importance of biological resources, and in particular of genetic information for the pharmaceutical and agrarian sectors, has led in recent years to the increased formulation of claims to compensation for the use of biological diversity (benefit sharing) on the part of the biodiversity-rich countries of the South. Genetic resources are no longer “a common heritage of humankind” but are subject to national sovereignty, which is defined as mandatory in the CBD and thus in international law. This recognition of national sovereignty by the CBD can not be regarded as an effective “embedding” in a political context, however. It is rather the necessary precondition for the distribution of rights of disposition together with state guarantee of these rights. In brief, *state-political activity is not opposed to the interests of economic actors here, but is the precondition for valorization*. Whether the protection, or even only the sparing use, of these resources can be achieved in this manner is more than doubtful for a number of reasons, for example, the weakness or unwillingness of major nation-states; extremely asymmetric market structures. And the protection of the rights of local users such as, above all, indigenous peoples, is by no means guaranteed.⁶⁴

With the CBD and associated regulation fora, only a general framework has been set up, which must still be filled out bilaterally and multilaterally. Various models have been developed in recent years with the aim of securing access to biological diversity. Furthermore, with regard to the sharing of benefits in just ways, developments are much less dynamic. This can be interpreted as an expression of specific power relations, namely, the dominance of Northern governments and the

⁶⁴Arun Agrawal, “Geistiges Eigentum und ‘indigenes’ Wissen: Weder Gans noch goldene Eier,” Michael Flitner, et al. eds., *op. cit.*; and Peter-Tobias Stoll, “Werte der Vielfalt aus rechtlicher Sicht,” Christoph Görg, et al., eds., 1999, *op. cit.*

corresponding interests of the life science industry. *We are therefore dealing here with a field in which markets are being constituted.* As a consequence of developments in genetic technology and against the background of the debates on sustainability and the conservation of nature, biological resources are receiving a new evaluation, in the course of which new and conflicting interests are being constituted. In the final analysis, this is a process which is sometimes referred to as the “enclosure of the global commons.”⁶⁵ The constitution of these markets requires not only international negotiations, but also the continued implementation of the results of these negotiations at the level of the nation-states.

Because international policies have to be concretized first in the national states — and appropriate national regulations and laws must first be discussed and enacted (this process is taking place in a large number of states at the present time) — international policies are not at all consistently formulated. Even under the auspices of the UNO, *different terrains* are forming, all of which are sites for regulating the questions handled here: the Convention on Biological Diversity, the Food and Agricultural Organization (FAO) and the World Trade Organization (WTO), in particular, the Agreement on Trade Related Intellectual Property Rights (TRIPs).⁶⁶ In the coming years it will be seen which regulations succeed in prevailing. This is neither functionalistically predetermined nor is it already decided by the trend to valorization. Those national states of the “South” which are rich in biodiversity are already competing with one another over the relatively scarce demand in the form of large TNCs from the life science industries, which is likely to have an effect on national legislation. The individual clauses on the treatment of property rights are particularly controversial (within the CBD/FAO and WTO as well as in the relationship between the two). The CBD and the FAO have grown markedly closer in recent years, so that a certain degree of homogenization has taken place when subjects were being discussed in the respective negotiations in the “other’s terrain.” But at the same

⁶⁵Alain Lipietz, “Enclosing the Global Commons: Global Environmental Negotiations in a North-South Conflictual Approach,” V. Bhaskar and Andrew Glyn, eds., *The North, the South and the Environment: Ecological Constraints and Global Economy* (Tokyo, et al.: United Nations University Press, 1995).

⁶⁶Achim Seiler, “TRIPS und die Patentierung lebender Materie — Handlungsmöglichkeiten für die Dritte Welt,” *Wechselwirkung*, 88, 1998, pp. 50-57.

time, differences remain in both fields (for example in the different treatment of farmers' rights, among other things).⁶⁷

The multifaceted international, national and local regulations which are emerging as part of a post-Fordist mode of regulation can be summarized as the (*societal*) *regulation of biological diversity* (which thus goes beyond explicit environmental regulations). An analysis must therefore not limit itself to examining the fact that state regulations are being established or markets regulated.⁶⁸ Precisely the dominant economic actors are dependent in this conflict field on state regulations in order to secure for themselves legal and enduring access to the “green gold of genes.”

6. Perspectives

It was our intention to show that the debate on alternatives to the neo-liberal globalization of capitalism must not limit itself analytically or politically to the re-regulation of the world economy or to a *re-embedding* of independent market processes. For theoretical reasons alone, the perspective of a political “re-embedding” of economic globalization processes is problematic. In addition, neither international, national nor local forms of regulation are in themselves a “self-protection of (world) society” against the destruction of the fictitious commodity “nature.” Rather, these political forms of regulation themselves contribute towards the creation of markets and their institutional embedding. This is particularly, but by no means exclusively, true of societal relationships with nature in general and of the societal appropriation of natural resources in particular. In many regions of the world — above all in peripheral ones — dynamic processes of “primitive accumulation” are still taking place today, which in addition to the ever increasing commodification of all spheres of life — in all parts of the world — make up a large part of the post-Fordist accumulation dynamic.

The success of neo-liberal globalization rests on comprehensive changes in social structures, power relations and moral concepts. Anti-neo-liberal strategies must take account of all these comprehensive transformations at *all* spatial levels and cannot limit themselves to a debate about suitable international instruments. This does not mean that the debate on re-regulation is wrong. But it must be aware of its

⁶⁷Guha and Martinez-Alier, *op. cit.*

⁶⁸Alain Lipietz, “Arbeiten für eine weltweite ökologische Nachhaltigkeit. Für eine ‘New Great Transformation,’” *Kurswechsel*, 3, 1999, on the climate as an example of this.

limitations — and of its potential affiliation to concepts which serve to make neo-liberalism sustainable in some respects. Will these politics and policies enable a better functioning of the ruling actors and institutions of global capitalism, in which conflicts and crises are avoided, or do they point beyond global capitalism? The decisive point is not to be taken in by the division between the political and the economic, nor to limit re-regulation to international or national policies. Approaches to re-regulation which go beyond this must be “embedded” in the *theoretical and practical critique of domination*. In the coming years, the question of which regulations or systems of regulation in fact become established will therefore be a politically decisive (but not the only) one. From a critical-emancipatory perspective the question continues to be unanswered: whether regulations can be used in a reformist manner (and if so, which ones) or whether they should be rejected altogether. Answering this question requires a more comprehensive understanding of the creation of the political at an international level, that is, of the “*internationalization of the state*.” Instead of trusting in political re-regulation, the question must in particular be posed as to the role which state control in fact plays in this complex process of international (societal) regulation which embraces all spatial levels.