

Pleading with the Emperor: *Pax Americana* and the Transformation of Environmental Governance.

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Abstract

The combined effects of the globalisation and integration of productive networks of capital, the hegemony of neo-liberal discourse in the framing of policy toward capital markets, the unchallenged dominance of the US military, the establishment of the International Monetary Fund (IMF), World Bank (WB) and World Trade Organisation (WTO), and the more recent signing of bilateral free trade agreements (BITs) have circumscribed the ability of governments to exercise sovereignty in the creation of environmental policy. The resultant capacity to "insulate policy from the chaos of politics" (*Economist* 1994, 9) has prompted a number of authors to situate issues of global governance within the context of Empire.

In this paper, we chart the re-emergence of Empire as concept and phenomena. In the first section, we identify three schools of thought that invoke the concept of Empire: the image of *Pax Americana* held by US neoconservatives for whom Empire is a reality justified by the necessities of geo-political power; the liberal-humanitarianism of European foreign policy elites who argue for a multi-polar Empire to balance American power; and the complex multi-dimensional entity of domination depicted by the global justice movement. We reveal the tensions that exist between Empire's agents, most notably between a vision of a multi-polar Empire and that of *Pax Americana*. Through

the work of Hardt and Negri, Harvey and Foucault, we develop an operational concept of Empire to explore how the tensions between the agents of Empire manifest as a global system of governance. Drawing on this analysis, we discuss the implications of Empire for environmental politics and policy through a case-study of the Australian-United States Free Trade Agreement (AUSFTA) to illustrate the complex, multiform strategies of power operating in the maintenance and transformation of Empire.

Introduction

We're an empire now, and when we act, we create our own reality. And while you're studying that reality -- judiciously, as you will -- we'll act again, creating other new realities, which you can study too, and that's how things will sort out. We're history's actors . . . and you, all of you, will be left to just study what we do. (Attributed to a senior advisor to President Bush, by Ron Suskind, 'Without a Doubt', 17 October 2004, *The New York Times Magazine*.)

On the 27th of January 2003, Arundhati Roy, an Indian writer and political activist, rose to address a large crowd gathered in Gigantinho Stadium in Porto Alegre, Brazil to close the World Social Forum, the glamour event of an emergent movement for global justice. The theme of the event, as in the years before was 'another world is possible,' but Roy had another topic on her mind – confronting empire. "Our strategy should be not only to confront empire," she said, "but to lay siege to it. To deprive it of oxygen. To shame it. To mock it. With our art, our music, our literature, our stubbornness, our joy, our brilliance, our sheer relentlessness and our ability to tell our own stories" (Roy 2003).

Arundhati Roy's speech stood in response to the military build up and subsequent invasion and occupation of Iraq by the United States of America (US) and its close allies. The invasion was a demonstration of a new doctrine of 'pre-emptive war' and formed an important part of the reformulation of US foreign policy by the Bush administration into a quest to "extend the current *Pax Americana*", that is, American

Peace (Donnelly 2000, 11). '*Pax Americana*' is a term that recalls the imperium of ancient Rome where the peace enforced (through pacification of constituent societies) within the boundaries of the Roman Empire is known as *Pax Romana*.

While empire now characterises the guiding philosophy of US foreign policy and prominent members of the Bush administration have aligned themselves to a neo-conservative intellectual heritage that openly espouses global domination, Roy's speech did not simply refer to empire as a synonym for the projection of US power abroad. Roy is one of a number of theorists who have recognised that the current international order constitutes a broader ensemble of actors and practices, disparate with earlier manifestations of empire as world domination by a single nation-state. Such theorists have used Empire to refer to a complex sovereignty that includes "the global market and global circuits of production," in tandem with a "global order, a new logic and structure of rule—in short, a new form of sovereignty" (Hardt and Negri 2000, xi). They acknowledge the dominant role the US plays within Empire, particularly as it harbours a desire to construct an empire in its own image, but avoid equating the global hegemony of Empire solely with elite financial and administrative decision-making emanating from Washington.

The reference to empire as a concept of global order imagined by US neo-conservatives, for whom American Empire is a reality justified by the necessities of geopolitical power, and the dissidents that constitute the global justice movement, for whom Empire represents a complex multi-polar entity of domination that requires contestation and subversion, is complemented by that of a third group. In the aftermath of the Iraq war and the successful integration of the European Union (EU), an increasing number of European foreign policy elites have begun to advocate empire on the grounds of liberal humanitarianism. This school also imagines that the contemporary political environment consists of an encompassing global entity led by the United States, but that this entity

should be moderated by European partnership. Through a process of imperialism and intervention guided by universal humanitarian ideals, a co-operative empire would emerge and curb the vulgarities of raw American power.

Empire through these schools is experiencing a renaissance as an explanatory concept of global governance. Empires are "relationships of political control imposed by some political societies over the effective sovereignty of other political societies", and their extent covers "more than just formally annexed territories", but "less than the sum of all forms of international inequality" (Doyle 1986, 19). In this paper we reflect on Empire and the influences that such an imperial system has on environmental governance. The paper consists of three sections. The first traces the re-emergence of Empire within the three schools introduced above and reveals the tensions that exist between Empire's agents, most notably between the vision of a multi-polar Empire and that of *Pax Americana*. The second investigates the constitution of Empire. Here we argue that the contemporary mode of Empire departs significantly from nineteenth century European imperialism. We draw from Hardt and Negri, and use a Foucauldian model of power, where power is deployed through multiple practices at multiple sites, to adapt this conception of Empire to the reality of the current international system.

From the analysis of Empire's constitution that we develop in section two, we consider the transformations in environmental governance that have accompanied Empire's order. In this final section we use a case study of the Australia-United States Free Trade Agreement (AUSFTA) to examine how existing environmental laws must now accord to the logic of trade liberalisation. We conclude that the AUSFTA reduces the capacity of its signatories to enact effective environmental governance. The case study also highlights the agency of civil society groups who opposed the signing of the agreement to demand concessions that ultimately reduced the potential impact of the

agreement. The AUSFTA can be seen as an example of the power infused techniques deployed in sustaining Empire as a system of governance.

The Re-emergence of Empire

Perpetual War for American Peace

Whenever those states which have been acquired as stated have been accustomed to live under their own laws and in freedom, there are three courses for those who wish to hold them: the first is to ruin them, the next is to reside there in person, the third is to permit them to live under their own laws, drawing a tribute, and establishing within it an oligarchy which will keep it friendly to you. (Niccolò Machiavelli (1469-1527), in *The Prince*, Chapter V, 1513)

With the election of George W. Bush in 2000 the neo-conservative intellectual heritage that had been isolated during the Clinton Administration secured another turn in power and the opportunity to re-brand the already aggressive doctrines of corporate globalisation and humanitarian intervention, implemented in their absence, into an explicit quest for American Empire. Whilst exiled from the White House key Republican policymakers formed the Project for the New American Century (PNAC) an organisation with an aim "to make the case and rally support for American global leadership" (PNAC 1997). The organisation's Statement of Principles, written on June 3rd 1997, and signed by now prominent Republicans - Jeb Bush (Governor of Florida and brother of US President George W. Bush); Vice President Dick Cheney; Secretary of Defence Donald Rumsfeld; and former Deputy Secretary of Defence Paul Wolfowitz¹ - asks the question, "Does the United States have the resolve to shape a new century favorable to American principles and interests?"(PNAC 1997).

PNAC's chief policy document, *Rebuilding America's Defences* (Donnelly 2000) was released in the lead up to George W. Bush's first presidential race. The document

"outlines the large, 'full spectrum' forces that are necessary to conduct the varied tasks demanded by a strategy of American preeminence for today and tomorrow" (Donnelly 2000, 5). It cites the draft of the 1992 Defence Policy Guidance (DPG) report penned by then Under Secretary for Policy Paul Wolfowitz and US Secretary of Defence Richard Cheney as the template of the PNAC strategy. The draft DFG report states that the US must "endeavour to prevent any hostile power from dominating a region whose resources would, under consolidated control, be sufficient to generate global power. These regions include Western Europe, East Asia, the territory of the former Soviet Union, and Southwest Asia" (quoted in Burbach and Tarbell 2004, 87-88).

Rebuilding America's Defences widened this doctrine to specifically advocate strategies that realise "longer-term hopes to extend the current *Pax Americana*" (Donnelly 2000, 11). It states that the United States currently faces no global rival and that "America's grand strategy should aim to preserve and extend this advantageous position as far into the future as possible" (Donnelly 2000, i). Among the key findings of the report are: to increase military spending; build military capability; and "control the new 'international commons' of space and 'cyberspace'" (Donnelly 2000, v) which are "a key to world power in the future" (2000, 51).² "Securing the American perimeter today – and tomorrow", the report states "will necessitate shifts in U.S. overseas operations...they are the cavalry on the new American frontier" (Donnelly 2000, 15).

Rebuilding America's Defences also made reference to the term 'full spectrum', which earlier that year had made its way into the Joint Chiefs of Staff, *Joint Vision 2020* (CJCS 2000). Full spectrum dominance "implies that US forces are able to conduct prompt, sustained, and synchronised operations with combinations of forces tailored to specific situations, and with access to and freedom to operate in all domains - space, sea, land, air and information" (CJCS 2000, 6). In addition, according to *Joint Vision 2020*, due to the "global nature of our interests and obligations, the United States must

maintain its overseas presence forces and the ability to rapidly project power worldwide in order to achieve full spectrum dominance" (CJCS 2000, 6).

With the election of the Bush Administration key members of PNAC assumed positions of power within the new administration, and enshrined the principals outlined in *Rebuilding Americas Defences*, such as 'full spectrum' dominance and '*Pax Americana*', as well as a new strategy of 'pre-emptive military action' to remove threats to America's interests. For example the National Security Strategy of 2002 outlined policies indicative of Empire and introduced the doctrine of 'pre-emption' into official US policy (US Government 2002, 6). "We will promote economic growth and economic freedom beyond America's shores", the strategy states, including "policies to encourage business investment" and "free trade" (US Government 2002, 17), and to "[o]pen societies to commerce and investment" (2002, 22). The pre-emptive military doctrine was also practically demonstrated with the invasion of Iraq in March 2003.

Though similar policies of global domination have been articulated by earlier US Administrations³, the audacity and explicitness of the project as outlined by PNAC and others are unparalleled. Burbach and Tarbell (2004, 13) in *Imperial Overstretch*, argue that the actions of the neo-conservatives within the Bush administration have revealed a fundamental intent on "advancing the narrow interests of an imperial plutocracy that plunder's the planet's resources regardless of the political consequences". They note the change from what they call *laissez-faire*, or informal empire, to the Bush Administration's doctrine of pre-emption and occupation. The brazenness of the neo-conservative project has also drawn criticism from academics and policymakers across the political spectrum.⁴ Within Europe a number of theorists have been motivated to propose more palatable alternative proposals for the construction of Empire that account for the 'political consequences' while still retain access to the resources.

Co-operative Liberal Humanitarian Empire

The Making of the British Empire has been a great adventure of which we may well be proud—an adventure in which the manhood of the race has proved its mettle, time and time again, through many centuries and in many lands...The story of the Empire is a series of heroic biographies... (Sir Phillip Gibbs, *The Romance of Empire*, 1924:v)

In response to the American neo-conservative delirium of *Pax Americana* a counter school has emerged predominantly within European foreign policy and academic circles to promote the redefinition of Empire's order. Perhaps as a result of their imperial history or perhaps due to Europe's self-perceived status as a deputy, the school emphasises the desirability of multilateral power within Empire. The school holds that the international order has transformed into an encompassing global entity led by the United States but argues that order can be more successfully enforced in partnership with Europe and if informed by humanitarianism.

Pierre Hassner (2002) elaborates these concepts in an edition of the Chaillot Papers for the European Union Institute for Security Studies – a body that provides analyses and recommendations for the formulation of EU policies. He argues that while the United States' "imperial status blurs the distinction between the domestic and the inter-state" (Hassner 2002, 8) the consolidation and success of "Empire" will require multilateral input and an eventual multi-polar hegemony (2002, 47). Here, the EU's role as "a steadying influence" can "reduce tension between the United States and the rest of the world" (2002, 48). Despite apparent personal reservations over US foreign policy and deep antipathy within Europe over the Iraq occupation, Hassner (2002, 48) concludes that the EU should not repudiate the exercise of military force, either unilaterally or in concert with the United States, because to do so would jeopardise US and EU dialogue and possibly lead to "confrontation or even divorce." Such is the gravity of Empire's orbit.

Another European policy maker and theorist within this school is Robert Cooper,

a senior British diplomat in the employ of the Secretary-General of the Council of the EU and a former advisor to UK Prime Minister Tony Blair. In an essay titled 'The Post-Modern State', Cooper has called for the construction of a 'cooperative' empire from a process of "voluntary imperialism" and neighbourhood intervention. The essay appears in the pamphlet, *Re-ordering the World*, produced by the Foreign Policy Centre, alongside contributions by UK Foreign Minister Jack Straw and Prime Minister Blair. According to Cooper, imperialism in the traditional sense is dead as the most powerful states no longer desire war, conquest and the construction of a formal Empire, however "the opportunities, perhaps even the need, for colonisation is as great as it ever was in the 19th century" (2002, 17).

Due to the instability of the "old-fashioned" states outside of "postmodern" Europe ⁵ "defensive imperialism" may justify a reversion to the "rougher methods of an earlier era - force, pre-emptive attack, deception, whatever is necessary" (2002, 16). The challenge then posed for the "postmodern world" is to "get used to the idea" of such "double-standards" (Cooper 2002, 16). "Among ourselves", argues Cooper, "we keep the law but when operating in the jungle, we must also use the laws of the jungle" (2002, 16).

Two forms of "postmodern imperialism" are proposed. First, a "voluntary imperialism of the global economy" consisting of adherence to the capitalist market system and its international institutions, and second, "imperialism of neighbours" where intervention is advocated in dangerous neighbouring states to resolve instability and conflict (Cooper 2002, 18). Interestingly, Cooper (2002, 19) considers that "today all the world is, potentially at least, our neighbour," and thus is eligible for intervention. Through this process of "voluntary imperialism" the international order would come to represent a "co-operative empire" governed by the light hand of the "imperial bureaucracy" that like

Rome would offer its citizens "some of its laws, some coins and the occasional road" (Cooper, 2002, 12).

Cooper's views converge neatly with those of Niall Ferguson (2003), perhaps the most prominent of the liberal humanitarian advocates of Empire. Ferguson is the author of *Empire: The rise and demise of the British world order and the lessons for global power* (2003). According to Ferguson, British imperialism has enhanced global welfare and brought order, democracy and development to its colonies and thus should be considered "a Good Thing" (2003, xxiii)⁶. The British Empire was also unrivalled in its promotion of the "free movement of goods, capital and labour" and the imposition of "Western norms of law, order and governance around the world" (2003, xxiv). At his least compassionate, Ferguson asks if "there could have been a less bloody path to modernity?" (2003, xxix). However, with the decline of British imperialism, Ferguson has turned to the United States to continue the noble work of Empire building. He regards the United States as the heir to Empire (its offspring in the colonial era and its successor today) and coaches the US to become a more active agent of the Empire project.

An empire cloaked in humanitarian values, as these theorists advocate, may 'balance' American power and provide a more marketable order to sell to the global populace. However we would do well to note Eric Hobsbawm's caution that, "Few things are more dangerous than empires pursuing their own interest in the belief that they are doing humanity a favour" (Hobsbawm 2003).

The Rebellious Slaves Who Threaten Empire's Order

Empire is emerging today as the center that supports the globalization of productive networks and cast's its widely inclusive net to try to envelop all power relations within its world order—and yet at the same time it deploys a powerful police function against the new barbarians and the rebellious slaves who threaten its order (Michael Hardt and Antonio Negri, *Empire*, 2000, 20).

Synonymous with the increased usage of Empire by its advocates has been a growing discursive confidence by participants of an emergent movement for global justice to use Empire as a descriptor of global economic integration and contemporary power relations. Empire, according to this school of thought, has developed over the past half century (particularly with the establishment of the Bretton Woods institutions and a global capitalist market); is broader than the hegemony of the US; and should be confronted and transformed from below. The articulation of contemporary global order as Empire is the culmination of decades of critical reflection over corporate power, the policies of international financial institutions and neo-liberalism. While the institutions of corporate globalisation have been particularly targeted the movement has a diverse constituency and has focussed on issues of ecology, sexuality, race, Indigenous sovereignty, gender, peace, labour rights, and human rights.

Substantial critiques of the IMF and WB, began with Payer (1974; 1982) and were followed by Bello et al. (1982), and George (1988). This body of critique was coupled with the more than 100 protests against the policies of the IMF and WB that have occurred in dozens of countries since 1976 (Global Exchange 2001, 3). The creation of the WTO in 1995 intensified the criticism levelled at international financial institutions. In November of 1999, 50,000 people mobilised against the WTO ministerial in Seattle and brought the role of these institutions to the attention of the First World. Subsequent mobilisations⁷ consolidated the movement and demonstrated the extent of discontent.

While the movement had framed itself in response to corporate globalisation, Hardt and Negri (2000, xii), in *Empire*, conceptualised the new global form of sovereignty "composed of a series of national and supranational organisms" as Empire. *Empire* (Hardt and Negri 2000), along with Samir Amin's *Empire of Chaos* (1992) and Noam Chomsky's, *Year 501* (1993) articulated this new conceptual approach. Empire has also

served as an intersection between the writings of the classical anti-imperialist tradition and contemporary movements.⁸ By 2003, Empire had substituted globalisation in the discourse of the global justice movement. This is evidenced by the focus of keynote speeches at the World Social Forum, such as Arundhati Roy's speech that railed against Empire's "obscene accumulation of power" that "greatly increased distance between those who make the decisions and those who have to suffer them" (Roy 2003).

Empire, in this context is regarded as a 'streamlined version' of earlier systems of domination (Roy 2004). According to Bensaid (2003, 321-322) "Imperialism has not disappeared rather it has transformed itself under the impact of the expanded circulation of capital, commodities, information and violence," though it "remains a system of domination – economic, military, cultural and environmental – as public goods are increasingly privatised."

The Constitution of Empire

Though there are marked differences in their respective assessments of the current global political context, all three of these schools converge on the point that it can be best understood through the explanatory concept of Empire. There is also a tacit admission in each of these appraisals that the contemporary mode of Empire is qualitatively different from its earlier manifestations in the colonial aspirations of European nation-states. Contemporary Empire is regarded to be as much cultural in its ambitions as it is politico-economic, as much ideational in its presence as physical, as much productive in its effects as it is repressive. If we are to assess the impact of Empire on policies and governance, we must work with an operational concept of Empire that reflects this transition, and that can conceive of power other than military and economic. Additionally, to understand the impact of Empire on environmental governance, we must be able to work with a conception of power that is deployed through multiple practices at

multiple sites, and that is consistent with each of these schools. To facilitate this analysis, we have developed a conception of Empire drawing on Hardt and Negri (2000); the post-Marxist ontology of Harvey (1996) and Foucault's approach to power (1990; 1980; 1972).

In the landmark text *Empire* (2000), Hardt and Negri use the concept of Empire to capture the new form of sovereignty in the global system that emerged commensurately with the geographically dispersed and globalised circuits of capital and production. In conjunction with these global economic shifts, they argue, has emerged "a global order, a new logic and structure of rule" which is "composed of a series of national and supranational organisms" (2000, xi-xii). More than this, though, they present Empire as the *political subject* that effectively regulates and governs the globally integrated systems of exchange (2000, xi). Hence, in Hardt and Negri's notion of Empire there are two complementary dimensions of the concept: a coherent regime of global governing power; and the agency of that system, comprised of "hybrid identities, flexible hierarchies and plural exchanges through modulating networks" (2000, xii). In developing our conception, we elaborate briefly on the nuances of agency and power in contemporary Empire.

From Hardt and Negri's work, we draw their explication of the complex system of agency in Empire to advance an approach that emphasises the heterogeneity of its constituent elements and projects. Rather than examining Empire only as an expansion project of a single nation-state, we are interested how the interconnections between the multiple political (social, economic, cultural) elements of Empire establish it as an intelligibly unified regime of power. This focus on the relations between its component elements has powerful resonances with Harvey's appeals for "dialectical enquiry", in which he argues the ontological point that "elements, things, structures and systems do not exist outside of or prior to the processes, flows, and relations that create, sustain or

undermine them” (1996, 49). In dialectical inquiry that endorses this ontology, ‘things’ like Empire are regarded as “constituted out of flows, processes, and relations operating within bounded fields which constitute structured systems or wholes” (1996, 50). Under this approach, we still use the category of Empire to refer to a specific form of sovereign political power; what we reject is the notion that this form of power emanates from an integrated and structured entity, unified and governed by a singularly consistent logic. Instead, we use Empire to refer to a complex configuration of power, constituted in an amalgam of diverse, and often contradictory, norms, practices, institutions and agents, and whose stability, durability and coherence derives from the multiple processes and dynamic relations between those elements.

Our analysis of Empire is further extrapolated by adopting Foucault’s approach to power generally (1980; 1990). For Foucault, power is ubiquitous, dispersed and coextensive with the social body. There are no relations in the social field (including economic, ecological, kinship, cultural, religious, productive and so forth) that are not also and imbricated in relations of power (1980, 142). These other seemingly ‘non-political’ relations are regarded in Foucault as in essence and inexorably power determined – at once expressions or effects of power relations, *and* an instrument in their sustained operation. Significantly, interconnections and integration between dispersed relations of power can be engendered through political practices. The system of interconnections between concentrated relations of power establishes the general conditions of domination in a given political space. These conditions of domination are contingent, because from within these conditions, relations of power can be marshalled and organised into more or less coherent strategies in order to achieve particular purposes. Relations of power, and the attendant apparatus that sustain those relations, necessarily pre-exist any political project. Any attempt to reconfigure and organise power relations is always already ensconced in a multifaceted regime of power, and must

deploy techniques “producing cleavages in a society that shift about, fracturing unities and effecting regroupings” (1990, 96).

In these terms, Empire refers to a specific project of reorganising power relations. Empire can be described as the agency within the “heterogenous ensemble” of agents, institutions, discourses and practices that attempts to (re)configure extant power relations in pursuit of a more or less coherent strategy (1980, 194). Empire does not possess power as such, nor does it have a “centre” that orders the pursuit of power in a unitary way. Rather it consists in the techniques and agencies that seek to enact a system of relations between prevailing power relations to manipulate and redirect them towards specific ends. What distinguishes Empire from other political enterprises is that by definition the scope of its aspirations is global. Global here is used in both literal and metaphoric senses. That is, the pivotal aim of Empire is the elimination of spaces, physical and ideational, that can be legitimately conceived of as ‘not Empire’. Through the strategic operations of Empire, “dispersed, heteromorphous, localised procedures of power are adapted, re-inforced and transformed by these global strategies” (Foucault 1980, 142).

We should carefully avoid here the assumption that the strategies of Empire are unilateral, because the resistances to Empire are partially constitutive of its identity. Like any given political enterprise, Empire is invariably:

accompanied by numerous phenomena of inertia, displacement and resistance; hence one should not assume a massive and primal condition of domination, a binary structure with ‘dominators’ on one side and ‘dominated’ on the other, but rather a multiform production of relations of domination which are partially susceptible of integration into overall strategies. (Foucault 1980, 142)

How the strategies of Empire modify, transform, subjugate, resist (and are resisted by) existing power relations, and by implication the entire field of social relations, are empirical questions in any given instance.

Conceiving of Empire as a system of relations between multiform strategies of power renders explicit the techniques at operation in the strategy of contemporary Empire. Empire does not seek to completely dismantle existing systems of power relations, and impose alternative institutions in its own image. Rather Empire isolates specific elements of the existing power relations, and intervenes in and appropriates those relations. In enacting itself along the vectors of vested power, Empire inhabits the prevailing power relations from the 'inside out' (Treichler 1990). In this way, existing political and economic infrastructure is recruited and marshalled in pursuit of the ambitions of Empire. Further, because Empire is predicated upon embedded power, it becomes increasingly impossible to delineate its boundaries to determine the exercise of power that is 'not Empire'.

The tensions over what is and is not Empire play out at the level of the nation-state. The mechanisms of authority, domination and control in a nation-state in our view can be considered the very agents of Empire. This point is counter-intuitive to those who would perceive the nation-state and Empire as oppositional poles. The apparatus of the nation-state is not in an antagonistic relation with Empire, but, to use Foucault's phrase, the "surfaces of emergence" for the enactment of Empire (1972, 41). Surfaces of emergence refers to the conditions and locations in which it became possible for an object to come into existence, and be rendered manifest, nameable and describable (1972, 41). As Foucault identifies "it is not easy to say something new; it is not enough for us to open our eyes, to pay attention, or to be aware, for new objects suddenly to light up and emerge out of the ground" (1972, 44-45). The emergence of Empire within

an existing system of power relies upon a precise set of conditions, power relations, institutional frameworks and epistemological assumptions into which it may surface.

The embeddedness and resilience of Empire derives from the way that it recruits the extant networks of power to its ends. It is this that makes Empire such a pervasive force. Conversely, it also makes Empire an apparently acceptable operation of power, or, more accurately, no less acceptable than the system of power relations that preceded it. Empire appears as a coherent elaboration of the logic of the existing system, whilst fundamentally re-ordering the character of that system. This point is reflected in the orientation of the European liberal humanitarian advocates of Empire, who recognise the strength in imperial subtlety.

Our conception of Empire can thus move beyond those rudimentary analyses that equate Empire with the US and George W. Bush as Emperor, or with the intentions and practices of an aggregated entity, such as multi-national corporations, The West, Neo-liberalism, Capitalism, Industrialism and so forth. Unquestionably, each of these agencies is present to greater and lesser degrees in the current form of Empire, and the analysis of their respective roles and investment in the strategies of Empire contributes to our understanding the affect of Empire on the body politic. Such analysis, however, can be at best partial and fragmentary. To the extent that Empire does possess some form of agency, it is less attributable to the agency of its components in isolation, and more to the complex of interconnections and relations between those component parts. By examining Empire as derived from the system of relations between its constituent elements, we can develop a greater sensitivity to the ways that the conflicting, and sometimes contradictory, impulses and agendas of its component parts are reconciled in a coherent strategy of power. Not only does this allow here for a more nuanced understanding of the effect of Empire on environmental governance, it also intimates

towards the possibilities for engagement with and resistance to Empire. Such insights are precluded if Empire is conceived in monolithic military or economic terms.

In accordance with the conception of Empire advanced here, we are able to make two observations regarding the three emerging schools of Empire. First, a combination of post-War economic restructuring, the expansion of the Bretton Woods system of market integration, its accompanying supranational organisations such as the IMF, the WB, the Bank for International Settlements and the WTO, established a complex system of global governance, operating under the twin-gun rubrics of development and economic liberty. According to our analysis, the resulting power regime signifies the enactment of Empire. The interconnections between these elements not only transformed the 'anarchic' system of international relations into a globally integrated economic space, but also established an order to the international system that redirected previously autonomous systems of sovereignty. This mode of Empire operated precisely in the manner described above – it redirected the systems of governance in given nation states towards a new end. It is this regime of power in which the three contemporary schools of Empire emerge – not as unique and originary projects, but as responses, appropriations, engagements and resistances to the extant system of global power established through the expanding frontiers of international finance regulation.

On this basis, it is possible to secondly observe how the contemporary schools of Empire are attempting to enact transformations to the existing regime. For the remainder of the paper, we want to focus on the *Pax Americana* school, and its brazenly overt attempts to reconfigure Empire in accordance with US interests. It is worth noting the radical departure of the *Pax Americana* approach from the techniques deployed in the system of global governance that predominated the latter twentieth century. The legitimacy of the governance system established through Empire was essentially derived from its apparent neutrality – whilst it pursued the interests and agendas of specific

agents, it was nonetheless seen to be a politically detached facilitator of trade and exchange. Through the doctrine of pre-emptive intervention, through its policy position on supranational trade and governance organisations, and through its foreign policy generally, the US is dissolving the appearance of neutrality that had been patiently cultivated by Empire, and in turn systematically undermining the legitimacy of its sovereignty.

The appointment of Paul Wolfowitz (Former US Deputy Secretary of Defence and architect of the Iraq occupation) to head the WB can be seen in this context. The WB has traditionally functioned through the issue of loans for development infrastructure and draws much of its success as an arm of Empire from the utilisation of debt leverage over heavily indebted economies to pursue, together with the International Monetary Fund, programs of structural adjustment towards neo-liberalism. The Bush administration has signalled a desire to downscale this loan function (Ziegler 2005) in preference of more flexible and easily politicised grants. The attempt to moderate the WB within the logic of *Pax Americana* ultimately reduces the efficacy of Empire's strategy on two counts. First it reduces a technique that has been devastatingly successful at expanding the frontiers of Empire. Second, such an obvious endeavour to direct the WB to pursue an American neo-conservative agenda removes the legitimacy that comes with the appearance of the WB as neutral. As former British minister and international development secretary Clare Short remarked upon Wolfowitz's nomination, "It's as though they are trying to wreck our international systems". "If Europe accepts this" she continued, "then forget your multi-polar world, forget Europe balancing America, the American empire can do what it likes" (quoted in Allen 2005).

Empire and Environmental Governance

Our objective with the FTAA [Free Trade Agreement of the Americas] is to guarantee control for North American businesses over a territory which stretches from the Arctic to the Antarctic, free access, over the entire hemisphere, without any difficulty or obstacle, for our products, services, technology and capital (US Secretary of State Colin Powell quoted in Ainger 2002, 7).

For the purposes of this paper, we will define environmental governance as the policies, decision-making and practices that regulate human behaviour in relation to biogeophysical systems and landscapes. Particularly amongst third-world theorists, there is a significant corpus of literature that explores how corporate globalisation, colonial aspirations and developmentalism have transformed the environmental governance of nation-states, especially through the paradigm of Environmentally Sustainable Development (ESD). Writers such as Escobar (1996), Sachs (1993) and Leff (1993; 1995) have argued convincingly that sustainability rationalises intervention in the economic and political systems of Third World countries. According to these theorists, what is at stake in the process is not the sustainability of the Third World as such, but the sustainability of the global economic system given ecological limits. There is much to commend this argument. For example, the World Commission on Environment and Development Report *Our Common Future* (WCED 1987, 89) explicitly states that rectifying environmental degradation requires “more rapid economic growth ..., freer market access for the products of developing countries, lower interest rates, greater technology transfer, and significantly larger capital flows”. Clearly, sustainability can be thought of inhabiting a space within Empire, as we have defined it in this paper. Rather than recapitulate this body of literature through the category of Empire, however, we explore the mutation of Empire through the project of *Pax Americana*, as it manifests in the context of environmental governance.

In 1995 the multi-lateral program of trade liberalisation culminated in the establishment of the WTO. The WTO, together with the IMF and WB were envisioned to work in concert to provide a framework of international economic governance. However, following the Asian financial crisis of 1997, and the collapse of the WTO's 3rd ministerial in Seattle in December 1999 a number of commentators signalled a broader 'crisis of the globalist project' (Bello 2004). The collapse of the Seattle ministerial occurred amid civil society opposition and resentment by the countries and citizens of the global 'South' to the Uruguay round agreements of 1995. This resentment has since spilled over to the 5th ministerial in Cancun, Mexico, that also ended in collapse when an alliance of 'Southern' countries (the so called Group of 22), that includes Brazil, India and China, opposed the launch of new negotiations on investment, competition, trade facilitation and transparency in government procurement until more basic issues, such as agricultural protectionism are resolved (Mittal 2003).⁹

The relative breakdown of the multi-lateral WTO process, due in part to the assertion of political and economic rights by the global 'South', was also accompanied by an increasingly unilateralist tendency by the US administration in their approach to economic and foreign policy. The result has been a preference for regional and bilateral investment treaties (BITs), negotiated outside of the formal WTO process. These agreements seek the removal of trade tariffs and increased market access for investors however they hold more significance than mere economic harmonisation. In a speech to the Institute for International Economics, US Trade Representative Robert Zoellick is reported to have said that potential candidates for a free trade agreement (FTA) with the US "must pass muster on more than trade and economic criteria in order to be eligible. At a minimum, these countries must cooperate with the United States on its foreign policy and national security goals, as part of 13 criteria that will guide the U.S. selection of potential FTA partners" (quoted in Inside US Trade 2003). BITs negotiated by the

United States can thus be viewed as an extension of US foreign policy and their preference a symptom of the divergent visions of multi-lateral Empire and *Pax Americana*. It is in these circumstances that the AUSFTA was negotiated.

The AUSFTA came into force on January 1st 2005 after negotiations were finalised in February of 2004 and the agreement signed in mid-May. The AUSFTA was argued by the Australian Federal government to be the consequence of strong military and economic ties between the two states. The conservative Howard government has followed a foreign policy in close step with the US Administrations. In 1999, Prime Minister Howard famously described Australia as a 'Deputy Sheriff' to the US in the Southeast Asian region. With the events of September 11th 2001 the Howard Government evoked the Security Treaty between Australia, New Zealand and the US (ANZUS) and committed troops to the operations in Afghanistan. Australia also became part of the 'Coalition of the Willing' that invaded Iraq in 2003.

The AUSFTA was supported by both of the major Australian and American political parties, who all share, to varying degrees neo-liberal economic positions. In particular the US sought: improved protection of intellectual property rights; the elimination of restrictions on US service providers; the elimination of Australian government export monopoly arrangements for agricultural products such as wheat; and the elimination of 'unjustified' technical barriers to trade such as those relating to labelling requirements for agricultural products produced through biotechnology (Zoellick 2002). Australia primarily sought the elimination of US agricultural subsidies and other barriers facing Australian exports (Vaile 2003).

Civil society organisations in Australia and the United States opposed the signing of the AUSFTA, particularly environmental NGOs, such as the Sierra Club and the Australian Conservation Foundation.¹⁰ They cited the potential erosion of political sovereignty over environmental matters and based part of their analysis on the

experiences of the North American Free Trade Agreement (NAFTA). In order to fully understand the trajectory and outcomes of the AUSFTA negotiations a brief introduction to the impact of the NAFTA is necessary.

The NAFTA was officially implemented on January 1st 1994 and was negotiated between the United States, Canada and Mexico. The agreement, binds the parties to “institutional, quasi-constitutional protection for foreign investment”(Starner 2002, 417) and according to Mark Weisbrot (2002, 6), co-director of the Center for Economic Policy Research in Washington, “the most important provisions in the North American Free Trade Agreement (NAFTA) had nothing to do with the removal of tariffs, but has instead the exalted goal of a more secure investment climate for U.S. corporations.” Corporations have used the NAFTA agreement, specifically the investment chapter (Chapter 11) to override existing environmental legislation. Under Chapter 11 of the NAFTA an investor-state mechanism was introduced that allows corporations to directly sue governments for regulations that cause expropriation or lose of profits.

The first case to use this mechanism was filed on January 2, 1997. The Metalclad Corporation, a US corporation, filed a claim against the Government of Mexico with the International Center for the Settlement of Investment Disputes, the tribunal responsible for enforcing the NAFTA (Starner 2002, 423). Metalclad was claiming for lost investments after being blocked from opening a hazardous landfill in the Mexican town of San Luis Potosi. The hazardous wastes landfill that had previously operated on the site before its purchase by Metalclad had provoked bitter conflict with the local community. Officials blamed the site for health problems in the local community, including a high rate of birth defects and chronic breathing disorders (Dhooge in Harbine 2002, 379-380). The community was vehemently opposed to the reopening and expansion of the site by Metalclad, scheduled to occur in March 1995. Local demonstrators blocked access to the site, preventing its operation until November 1995

(Dhooge in Harbine 2002, 380). The community struggle and the revelations that the site lies atop an ecologically sensitive underground alluvial stream prompted the municipal government of Guadalcazar to enforce existing environmental regulation and impose a ban, in turn forcing the state Governor to respond by refusing to allow Metalclad to reopen the facility. Eventually, the governor declared the site part of a 600,000 acre ecological zone (Knight 2000).

In its defence to the NAFTA tribunal, Mexico claimed in part that the regulation was a legitimate exercise of environmental regulations. However, the final decision of the tribunal released in September 2000, found in favour of Metalclad, awarding \$16.7 million in damages that was later reduced to \$15 million on appeal by The Supreme Court of British Columbia (Starner 2002, 423). The case defined expropriation to include incidental interference with the use of property that may deny the owner, in whole or part, from reasonably-to-be-expected economic benefit (ACF 2004, 4). The ruling in favour of Metalclad overruled the legitimacy of the environmental regulation, as well as the community struggles that brought this legislation into being (Greenfield, 2001), by elevating foreign investors' rights over the obligations of governments to protect human health and the environment (Harbine 2002, 371).

The inclusion of investor-state dispute mechanisms in regional and BITs according to Weisbrot is equivalent to "a continental coup d'etat for corporations, elevating them to the level of sovereign nations—something they never had achieved either under the General Agreement on Tariffs and Trade (GATT) or through the World Trade Organisation (WTO)"(2002, 6). Certainly BITs are limited in geographical scope, and it would be far preferable for the US to be in control of a GATT or GATS (General Agreement of Trade in Services) with widespread jurisdiction. But the ability for corporations to intervene directly in the policy-making process of nation states that has resulted from the investor-state dispute mechanism would not have been as easily

implemented in the more turbulent multi-lateral political environment of the World-Trade Organisation.

With the negotiation of the AUSFTA, environmental NGOs and the Australian State governments mobilised to encourage the Australian Federal government to seek the removal of investor-state dispute mechanism from any potential agreement. The US was also under pressure from civil society organisations and local and state legislators for removal of the provision (Capling and Nossal 2004, 23). During the negotiations the Australian government took the position that foreign investment provisions must address "community concerns" (Vaile 2003) and upon completion of the negotiations it was revealed that the investor-state dispute mechanism had been abandoned, upon request by Australia. Capling and Nossal (2004, 20) argue that the United States negotiators viewed the provision as a potential 'deal-breaker' and opted to concede its removal in lieu of the other benefits of the agreement. The scrapping of this mechanism was a win for the civil society organizations who had opposed its inclusion and an example of the agency that such groups can possess in the outcomes of BITs. However it is also an example of their limitations. Importantly the decision was made, according to the United States Trade Representative (2004), "In recognition of the unique circumstances of this Agreement – including, for example, the long-standing economic ties between the United States and Australia, their shared legal traditions, and the confidence of their investors in operating in each others' markets". In other words the parties had reasoned that the judicial environment in Australia and the United States was sufficient enough to offer protection to corporate investors.

Furthermore the agreement as it stands still poses significant threats to environmental governance. Chapter 11 requires the parties to compensate investors if laws, including environmental, human rights and labour laws significantly interfere with their investments (ACF 2004, 2). This compensation can be claimed through a state-

state dispute mechanism. The expropriation clause for the AUSFTA (article 11.7) also remains similar to the NAFTA and is likely to be interpreted in the same way, that is, to include incidental loss of reasonably-to-be-expected economic benefit (ACF 2004, 4). These conditions make the investment chapter a significant inhibitor of the policy objectives of environmental regulation.

The chapter on trades and services also commits the parties to ensure that domestic regulation does not constitute "unnecessary barriers to trade in services" (AUSFTA 2004, Article 10.7-2). Regulation must not be "more burdensome than necessary" meaning in practice that laws are open to challenge by each party on behalf of disgruntled corporations (AUSFTA 2004, Article 10.7-2). Acceptability is measured by a special arbitration panel, where regulators may be asked to prove that the environmental law is based on evidence; its outcomes scientifically ascertainable; and that the laws are the least burdensome available (ACF 2004, 5). This directly contradicts the Precautionary Principle that was enshrined in the *Australian Environmental Protection and Biodiversity Conservation Act 1999*. These measures can also lead to a situation dubbed 'regulatory chill'. This occurs when legislators refrain from implementing appropriate regulation for fear of contravening the trade agreement. Where regulation is implemented the parties are encouraged (though not bound) to develop "flexible, voluntary and market-based mechanisms" (AUSFTA 2004, Article 19.4).

The AUSFTA thus transforms the sovereignty of each of the binding states through restrictions on existing environmental policy and the ability to make future policy that may impinge on the potential future earnings of corporations. The ramifications of this process are that it extends the domain of culpability and risk that comes with legislation; this curtails government proclivity to legislate on behalf of the environment. But it is important to note that the AUSFTA does not seek the elimination of nation-state sovereignty. BITs contribute to a harmonisation of existing conditions, but rely on such

conditions to provide the framework for trade of market goods in the first instance. The apparatus of the nation state is thus unlikely to wither under Empire. Environmental regulation, despite the preference for market mechanisms is also tolerated by the agents of Empire provided the regulation is targeted to meet Empire's needs. Our analysis of the AUSFTA demonstrates that Empire is as much the conditions, circumstances and alignments that give rise to agreements such as the AUSFTA as the agreement itself. The neo-liberal political and legislative environment, that is known in the business press to "insulate policy from the chaos of politics" (*Economist* 1994, 9) and government-corporate partnerships are important supportive conditions to the more explicit international institutions and agreements. As we have argued, it is the complex relations between these imbricating elements that enacts Empire.

Conclusion

In this paper, we have identified four instances of transformation concerning Empire and environmental governance.

1. Transformation of International Order into Empire

Following on from current critical theory, foreign policy documents and the rhetoric of the global justice movement, we have argued that Empire is the most accurate conceptual apparatus to characterise the current international system. Here, we conceive of Empire as something other than the single nation-state policy, and use the term to refer to a multiform strategy of globalising power pursued in multiple sites and according to often competing political visions. We argue that the project of Empire includes multi-lateral economic systems and institutions built since the Second World War, the ideologies of neo-liberalism and trade liberalisation, expansion of corporate power, and also the various

foreign and economic policies pursued by nation-states. We suggest Empire refers to the amalgam of these heterogenous elements into a global strategy of power that requires we operationalise a new conception of sovereignty.

2. Transformation of Empire by *Pax Americana*

The three schools of Empire we have outlined – the *Pax Americana* vision of US domination, the liberal-humanitarian vision of European powers, and the emancipatory resistance strategy of the global justice movement – all seek to transform the system of Empire established in the latter half of the twentieth century. In this paper, we have focused on the mutation of this global governance by the current US administration through the *Pax Americana* project. In pursuing an overt foreign policy of ‘full spectrum dominance’, they have sought to inhabit and redirect the agents of Empire to achieve US pre-eminence. This approach is in stark contrast to the mode of Empire established meticulously over the last fifty years, document by document, commission by commission, so as not to be visibly in the interests of its key agents and agenda setters. Not only does *Pax Americana* undermine the Empire project, it systematically demystifies the legitimacy and neutrality that it had accrued. In this way, the policies of the current US administration render the otherwise hidden and often oppressive power relations inhering in Empire visible.

3. Transformation of Environmental Governance by Empire

Though we have not dealt directly with this aspect, we have alluded to the substantial body of literature that explores how Empire has been enacted through and within environmental governance, particularly in Third World nation-states. According to this literature, the mechanisms for the achievement of sustainable

environmental outcomes are transformed to be part of a system of governance for outcomes conducive to and beneficial for Empire. The policies and practices under frameworks such as Agenda 21 and the WTO, “reproduces central aspects of economism and developmentalism” central to Empire, “unfolding a new field of social intervention and control” (Escobar 1996, 51-52).

4. Transformation of Environmental Governance by *Pax Americana*

Finally, we have observed the breakdown of the multilateral dimension of trade liberalisation and the concomitant ascendancy of BITs as a method of market integration as partially a consequence of *Pax Americana* and the unilateralism of the US Bush administration. BITs ratified by the US administration, such as AUSFTA, transform Empire into a power regime more favourable to the interests of the US, and consolidate strategies of dominance more comprehensive than those possible through multi-lateral means. Through our analysis of the AUSFTA, we have shown that the relationship between Australia and the US has been established in a way that changes the very basis of trade power. On the one hand, the bi-lateral trade agreement is a simple extension of the field of political and economic apparatus previously established in order to facilitate trade and commerce. On the other hand, however, the AUSFTA recruits this apparatus, fundamentally reordering the policy landscape, including that of environmental governance. The policy context in Australia, cultivated by a twenty-year project of neo-liberalism pursued by both major political parties, has facilitated the conditions for AUSFTA to operate as one element within the *Pax Americana* reconfiguration of Empire.

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Notes

¹ Other members of PNAC who have served in the Bush Administration include: Peter W. Rodman – Assistant Secretary of Defence for International Affairs; William Schneider Jnr – Chairman Defence Science Board; Richard Perle – Chairman Defence Policy Board; Randy Scheunemann – Consultant to the Office of the Secretary of Defense; Richard Armitage – Deputy Secretary of State; Paula J. Dobriansky – Under-Secretary of State for Global Affairs; John R. Bolton – Under-Secretary of State for Arms Control and International Security; and Elliot Abrams – Special Assistant to the President and Senior Director for Near East and North African Affairs (Burbach and Tarbell 2004, 90).

² Incidentally, the document also pre-empts the US occupation of Iraq in March of 2003 and undermines the stated case for war by arguing: "the United States has for decades sought to play a more permanent role in Gulf regional security. While the unresolved conflict with Iraq provides the immediate justification, the need for a substantial American force presence in the Gulf transcends the issue of the regime of Saddam Hussein" (Donnelly 2000, 14).

³ For example see: the 'Review of Current Trends in U.S. Foreign Policy' written by George Kennan (1948), the Director of the Policy Planning Staff to the Secretary of State. The document notes that the US has: "about 50 per cent of the world's wealth but only 6.3 per cent of its population...In this situation we cannot fail to be the object of envy and resentment," and argues that, "Our real task in the coming period is to devise a pattern of relationships which will permit us to maintain this position of disparity without positive detriment to our national security. To do so...our attention will have to be concentrated everywhere on our immediate national objectives. We need not deceive ourselves that we can afford the luxury of altruism and world-benefaction." As part of this reasoning the report observed: "We should cease to talk about vague and- for the Far East- unreal objectives such as human rights, the raising of living standards and democratisation. The day is not far off when we are going to have to deal in straight power concepts." Another example is the declassified US government report of the Special "Ad Hoc" Committee of the State-War-Navy Coordinating Committee (SWNCC 1947). This report states that "[i]t is important to maintain in friendly hands areas which contain or protect sources of metals, oil and other national resources, which contain strategic objectives, or areas strategically located, which contain a substantial industrial potential, which possess manpower and organized military forces in important quantities."

⁴ Such as the Coalition for a Realistic Foreign Policy, a group of conservative to centre-left American policy makers and intellectuals who believe "American foreign policy is moving in a dangerous direction toward empire" (2004).

⁵ According to Cooper (2002, 15) the Post-modern States also include Canada, Japan, and possibly the US, though Cooper questions whether the US administration shares the values of interdependence to the same extent as the EU.

⁶ Ferguson (2003) is reminiscent of the writings of Sir Phillip Gibbs (1924) in *The Romance of Empire*. For Gibbs' (1924, 483) the British Empire "stands in the world as a great assembly of free nations bound together...by the remembrance of all that blood and sacrifice in defence of their life and ideals and common interests." Gibbs' lamented the fall of empire and the "impulses toward self-government which began to stir in the separate states of the Empire before the war." He acknowledged that change was inevitable but "not without misgivings for the people as a whole", having "cleansed [them] of many corruptions and cruelties" (Gibbs, 1924, 483).

⁷ Examples of these mobilisations include: Buenos Aires, 800,000 people in response to neoliberalism and the policies of the IMF in May 2000; Prague, 20,000 people in response to IMF and World Bank policies in

September 2000; India, 1,000,000 people in response to World Bank Policies in December 2000; and Genoa, 200,000 people in response to the G8 in July 2001, to name but a few.

⁸ See, *The Politics of Empire: Globalisation in crisis*, edited by Freeman and Kagarlitsky (2004).

⁹ The assertion of political rights by the Group of 22 at Cancun is a testament to the agency of developing countries and their constituent movements and highlights the complex sovereignty of Empire.

¹⁰ In late 2003, Defenders of Wildlife, Friends of the Earth (US), National Environment Trust, National Wildlife Federation, Natural Resources Defence Council & Sierra Club, sent a letter to Australian legislators expressing concerns over the AUSFTA Agreement. In the letter they urged particular caution on the outcomes of the investment chapter (Defenders of Wildlife et al. 2003).