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# THE LIBERAL STATE VS THE NATIONAL SOUL: MAPPING CIVIL SOCIETY TRANSPLANTS

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## ABSTRACT

The story of the liberal agenda in the former Yugoslavia and other 'societies in transition' is a process involving a unity of opposites – of particularism and universalism; local nationalism and global liberalism. This essay suggests a set of tools with which to re-examine the work of foreign actors engaged in 'rule of law' and 'civil society' projects in countries such as the former Yugoslavia. The essay examines three orientations of the dominant paradigm informing the work of foreign intervenors and asserts counter-orientations. The author argues that there has not been a convergence to a liberal ideal; the liberal agenda cannot be transplanted wholesale to 'societies in transition' as localisms, including nationalisms, challenge claims to universalism. Both liberalism and nationalism have the potential to be either liberatory or oppressive forces; however, no solution can be viable without an accommodation of both. To better examine the liberal campaign, the essay charts the actors at play, the rhetoric they use and the stakes at hand. The goal of such a mapping is to provoke the kind of inquiry that could change the plot, or at least give some of the minor characters a more major role in the production.

ATTEMPTS TO (re)construct the states and territories of Eastern Europe have called into action numerous civil actors, foreign and local, stridently non-governmental and quietly government-sponsored, geographically bounded (intra-territory or intra-state) and boundary crossing (inter-territory or inter-state). Despite their seemingly disparate appearances, the great majority of these actors share a common ideology or, at least, a perceived need to accommodate or struggle against a controlling paradigm. Two dominant competing ideologies are at play in most of Eastern Europe: liberalism<sup>1</sup> and nationalism.<sup>2</sup> In a complex and dynamic process, 'civil foreign intervenors' – non-military groups, from human rights and humanitarian non-governmental organizations, to religious

groups, to democratization and education projects – participate in the ways these ideologies are produced, interpreted, transformed and/or rejected by the local communities (Alger, 1992). A central role in this process is played by a complex and shifting array of 'legal fields' – the ensemble of institutions and practices through which law is incorporated into social decision-making. (Trubek et al., 1994; for this process in Eastern Europe see Ajani, 1995; Berman, 1996).

The civil foreign intervenors portend to act on their own behalf, and indeed many of them disclaim any association with the broader goals of any state. Nevertheless, the actions of foreign intervenors, taken together, serve to create a dichotomy between benefactor and client, perpetuating the belief that the client is simply a 'society in transition' – transiting, that is, to the neo-liberal model endorsed by the home governments of the intervenors.

Civil foreign intervenors alter local discourse by offering incentives for adoption of a set liberal formula, including an investment in both social democracy and the market-economy view of the good society (MacCormick, 1996: 35). Key elements of 'democracy' for many civil intervenors include principles of legitimacy, accountability and participation (Smillie, 1996: 10). An important component of encouraging citizen participation is the fostering of 'civil society,' commonly defined as 'the realm of organized social life that is voluntary, self-generating, largely self-supporting, and independent of state and political parties' (Diamond, 1996: 91–2). In the words of one major donor agency:

[C]ivil society is, together with the state and market, one of the three 'spheres' that interface in the making of democratic societies. Civil society is the sphere in which social movements become organized. The organizations of civil society, which represent many diverse and sometimes contradictory social interests ... include church-related groups, trade unions, co-operatives, service organizations, community groups and youth organizations, as well as academic institutions and others ... (UNDP, 1993)

Strong associational life is to promote legitimate, accountable, competent governance and a strong economy (Putnam, 1993).

Bending to outside and internal pressures, a growing number of state and individual actors have come to the conclusion that maintaining power in an increasingly globalized<sup>3</sup> and regionalized<sup>4</sup> world entails propagation and perpetuation of the liberal program. Yet, at the same time, many local leaders in Eastern Europe also gain power through creating and manipulating nationalist discourse and, accordingly, the metamorphosis of civil society in Eastern Europe reflects this desire to accommodate nationalism. The potentially contradictory tendencies of liberalism and nationalism thus exist simultaneously in Eastern Europe, despite the attempts of civil foreign intervenors to steer societies away from nationalism and toward a set liberal agenda.

Both liberalism and nationalism have the potential to be liberatory or oppressive forces. Both ideologies present a danger of a regressive transformation that is particularly acute for women and members of ethnic,

national,<sup>5</sup> religious, and linguistic minorities as members of such groups tend to lose the most through times of rapid economic and social change (see e.g. Mertus, 1998; Taylor and Pieper, 1996; Moghadam, 1992; Salecl, 1993). As the work of civil foreign intervenors necessarily collaborates with the ideologies of liberalism and nationalism, through direct promotion or oppositional resistance, they can also be as likely liberating or regressive. Pushing foreign actors in the right direction, I argue, requires rethinking many of the methodological and strategic assumptions of the dominant paradigm that informs their work.

This article suggests a set of tools with which to rethink the work of civil foreign intervenors pushing a 'rule of law', democracy or 'civil society' agenda on Eastern Europe or in other so-called 'societies in transition'.<sup>6</sup> I ground my analysis with reference to specific examples from my fieldwork in the former Yugoslavia, but my observations and conclusions may be applied to many other parts of Eastern Europe and, indeed, to other areas in the world undergoing an influx of civil outsiders intent on remaking their society.<sup>7</sup> Through a mapping of the protagonists, I then show how acceptance of the counter-methodologies opens analysis of the liberal agenda. I chart the actors, the rhetoric they use and the stakes at hand, and suggest ways in which legal fields<sup>8</sup> overlay the entire map. My goal is to provoke the kind of inquiry that could change the plot, or at least give some of the minor characters a more major role in the production.

#### RE-EXAMINING METHODOLOGICAL ASSUMPTIONS

Despite their best intentions, civil foreign intervenors tend to labor under assumptions that undercut their ability to act as a positive, transformative force. Three such assumptions can be identified as follows:

1. Ideologies have converged into one alternative: liberalism.
2. Knowledge is located in one form and one place.
3. Political space can be compartmentalized between the local and global; the state, individual and international.

Each of these will be discussed in turn in this article, and explained with reference to specific examples in the former Yugoslavia.

#### THE NOTION OF CONVERGENCE

To date, the dominant program throughout Central and Eastern Europe has been based on the idea of convergence, that is the notion that communism has been defeated and that all political, legal, economic and social programs are merging into what is now the only available alternative: liberalism. (Spybey, 1996: 48–9; de Cruz, 1995: 477–85). Francis Fukuyama popularized