# Book review

## SERVING WHOSE INTERESTS? THE POLITICAL ECONOMY OF TRADE IN SERVICES AGREEMENTS

***Jane Kelsey***

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Down here at the edge of the world, New Zealanders tend to see international trade agreements as the solution to all economic problems. We seldom consider their often negative impacts on developing countries, or even the downsides we experience ourselves. Few of us are interested in the complexities of trade negotiations or understand their implications for domestic regulation and policy. But more of us should be. Trade agreements are no longer just about the exchange of goods like lamb and dairy products – they are also about the commodification and 'marketisation' of services, including public and social services.

Trade agreements, as Jane Kelsey explains, make the world a better place for global corporations, with their enormous resources, marketing power and policy influence. *Serving Whose Interests* explains how the World Trade Organization's trade-in-services regime came about, how it works and how it is impacting on developing economies and the livelihoods of women around the world.

Jane Kelsey, professor of law at Auckland University, is an internationally known expert on neo-liberal policies, globalization and trade. She has monitored and critiqued New Zealand's negotiations under global, regional and bilateral trade agreements. Readers will be aware of her work on New Zealand's lingering 'experiment' with neo-liberalism and earlier investigative work on government policies related to the Treaty of Waitangi. This latest book is addressed to an international audience and focuses on the significance and impacts on developing nations of trade in services agreements under the World Trade Organisation.

### The global trade agreements

The Global Agreement on Trade and Tariffs (GATT) was signed in 1948. New Zealand was a founding member. After the Second World War, economic power shifted from Britain to the USA and the Bretton Woods summit instigated new institutions: the International Monetary Fund and the International Bank for Reconstruction and Development (now the World Bank), with the aim of rebuilding war-torn Europe and guiding poorer nations to become agents of their own development through international trade. As Kelsey sees it, the change redefined the political hierarchy of imperial powers and former colonies as abstract contractual relations with the lending institutions. By the 1970s a resistant 'third world' bloc had developed within this framework, arguing for commodity price stabilisation, protection of infant industries and preferential access to First World markets – with little success. In the 1980s and 1990s, third

world debt to the lending institutions provided a lever to require 'structural adjustment' to the demands of the global economy. As a result of public pressure, debt relief is now available to reduce poverty but, Kelsey reports, this is similarly conditional on 'good governance' and policy adjustments.

In explaining the history and workings of the IMF, World Bank, the WTO and the Global Agreement on Trade in Services (GATS), Kelsey demonstrates the synergy of ideology and policy advice across these institutions. For more developed economies such as New Zealand, guidance has also come from the OECD. The advice has been pretty much the same from all these institutions: fiscal austerity, anti-inflationary monetary policy, liberalisation of capital flows, deregulation, privatisation, labour market deregulation and consumption-based taxation. Sound familiar? I remember in 1983 reading the IMF's economic recommendations for Bolivia summarized in La Paz's English language newspaper, then a few months later the same advice in the *New Zealand Herald*. Rogernomics and free trade agreements followed. Kelsey quotes the OECD saying there is 'a virtually complete parallelism between adjustment policies and the objectives set at international level for trade policies'.

GATT requires member countries to open their markets by abolishing import licensing, progressively removing tariffs and ensuring equal treatment of foreign and domestic products ('non-discrimination', granting 'most favoured nation' treatment to GATT member countries). In 1994, after decades of private sector lobbying led initially by US financial corporations, this global trade in goods was expanded to trade in services with the signing of GATS. At the same time, free trade rules and principles were institutionalised in the creation of the World Trade Organization. In Kelsey's analysis, this created a 'fictitious legal universe' that reflects (but drops from discourse) the strategic, political and economic interests of the major powers.

Services traded under GATS include many vital to the global expansion of corporations, such as financial services, data exchange, transport, energy and telecommunications. Also included are public and social services that we are unaccustomed to thinking of as tradable commodities – such as education, the media or midwifery. International supply of a service includes 'production, distribution, marketing, sale and delivery'. The GATS text defines trade in services abstractly, in terms of cross-border movement of factors of production – information, capital and labour – through four 'modes of supply' for international trade in services:
Mode 1: supply of a service across a border (internet, capital, financial services)
Mode 2: consumption of a service abroad (e.g. by tourists, students)
Mode 3: establishing a commercial presence (foreign direct investment)
Mode 4: temporary presence of foreign personnel (e.g. consultants, migrant workers).

On joining GATS or in later negotiations, member countries make commitments on particular modes of supply of particular services, as defined in a classification list ('W/120'). In addition, GATS specifically allows foreign companies access to markets for government procurement and also for public services – all services provided by government from our taxes – if these are in part delivered by private providers or contractors; that is, already partially 'marketised'.

Both GATT and GATS require 'progressive liberalisation' through successive rounds of negotiations. GATT applies to everything not specifically excluded ('excepted' or on 'negative lists') and any exceptions are expected to be temporary only – for example, to allow an adjustment period for vulnerable local industries. 'Everything except' coverage means governments have not always fully considered the implications and policy contradictions of increased sales and marketing by global corporations in some items – say, alcohol, tobacco or 'shonky' pharmaceuticals. Dissatisfaction led to GATS being based on 'positive lists' of committed services, with further inclusions expected. Negotiations are complex and even the US has been caught

out, inadvertently allowing off-shore gambling services that are contrary to domestic policy. It is possible for a government (or future government) to withdraw a commitment only if an alternative concession is made.

Full market access means reducing, then eliminating, all tariff and non-tariff barriers to provide equal treatment for foreign or domestic goods, services or companies within the domestic market. Non-tariff barriers are any government policies seen as restricting market access or competition for the foreign product, service or company. Complaints can be taken to the WTO which – unlike most other UN institutions – can impose sanctions. GATS (and recent bilateral agreements) do allow exceptions to these trade principles for government measures to protect human, animal or plant life or health and public morals or public order (Article IV). However, researchers report 'extraordinary difficulty' in using exceptions processes to protect public health, and the possibility or threat of an expensive case before the WTO is having a chilling effect on many national domestic policies (Gould 2005a; Gould 2005b; Grieshaber-Otto et al. 2006).

While governments' right to restrict availability and marketing of certain products or regulatory services to protect public or environmental health have been upheld, any such policies must be, in the view of the WTO, justifiable and proportionate to policy goals. GATS goes so far as to dictate how member governments should and shouldn't formulate domestic regulation (Article VI). Any monopoly (including state provision of services) must not undermine 'equal treatment' obligations (Article VII), with the underlying aim, says Kelsey, of opening up profitable aspects to competition and foreign ownership. Equal treatment includes equal subsidies for foreign competitors – politically distasteful – or removing them, even though tax-funded subsidies are a democratic collective investment in social objectives. Kelsey is by no means the only critic to consider these trade rules to be an intrusion on national regulatory sovereignty.

Open deregulated markets are a prerequisite for corporate globalization in goods, and now in services. Kelsey quotes the European Commission that the GATS is 'not just something that exists between governments; it is first and foremost an instrument for the benefit of business'. The legal contract of a trade agreement, with the above principles and regulatory rules, cements in place neo-liberal policy regimes that will be very difficult for future governments to change. Regulatory power shifts to the trade bureaucracy, away from specialist departments such as Health or Energy. Kelsey quotes the WTO secretariat itself: 'Bindings undertaken in the GATS have the effect of protecting liberalisation polices … from slippages and reversals and thus improve domestic conditions for investment, trade and growth'.

Not every government sees global free trade as in its best interest. Despite the promises of the Preamble, the progressive liberalization under GATS opens developing countries to the global services economy but has provided few opportunities or rights for them to access the agricultural and other markets of the rich member countries that dominate trade talks. Insistence on a 'single undertaking' on agriculture, as well as services, has stalled the 'Doha round' of negotiations for nearly a decade. 'New issues' that included investment were rebuffed in 2003, as the Multilateral Agreement on Investment had been in 1998. But GATS allows foreign investment under Mode 3 as a 'commercial presence' to provide services. That may be most easily achieved by buying up a local competitor. This occurred in New Zealand following exchange deregulation and Closer Economic Relations with Australia (Jesson 1987), and is currently the strategy of the global alcohol companies targeting developing countries (Hill 2008).

Nevertheless, developing countries continue to join the WTO in the hope of economic benefits and under pressure from the financial institutions. Each new member is automatically covered by GATT and GATS and is obliged to use the principles and provisions of GATS

as a minimum for any regional or bilateral trade agreements it negotiates. There are already more than 200 GATS-compatible and 'GATS-plus' agreements, that could eventually link up at global level. Kelsey refers to them as 'GATS on steroids', creating a 'spaghetti bowl' of pragmatic and inconsistent rules that nevertheless operate within the same neo-liberal paradigm.

In Kelsey's view, the neo-liberal services paradigm will fall victim to two delusions: that a pro-business global market in services-as-commodities can displace their essentially social nature, and that enshrining this illusion in legal treaties can change the social relations, culture and politics in which public services are embedded. The social essence of services, the negative impacts of marketisation and resistance to this new form of imperialism makes these new trade agreements highly political and therefore unstable. She sees this contradiction at the heart of trade in services as part of a growing crisis in neo-liberal globalisation. I hope she's right.

**Impacts of free trade on women's lives**

What relevance do the trade technicalities of GATS or 'GATS-plus' agreements have for women's studies? Women's wellbeing and that of their children is linked to the local availability and affordability of community services. Labour content (wages as a proportion of costs) is typically higher for services than for goods and women are disproportionately employed in service provision and, in particular, in publicly funded services such as health and education. A political paradigm that reclassifies public infrastructure and social services as products and views them as opportunities for international trade, competition, cost cutting and private profit, with public good or community wellbeing dimensions somehow 'external' to a market transaction, is of deep concern to feminists.

Each of Kelsey's chapters explaining GATS and similar agreements is followed by case studies that bring trade issues to life. The first chapters cover GATS as ideology, history and trade-related development, with case studies on the politics of negotiations and of resistance. Later chapters address different kinds of services: their reconceptualisation as markets, the state of GATS play in 1994 and 2000, and two illustrative case studies. These include privatisation of public services (with case studies on water and health care services including midwifery); the global infrastructure of finance and telecommunications (pensions, gambling), labour services (call centres, nursing); tourism, food and natural resources (Wal-mart, tourism impacts in Cancun); the 'energy wars' (Latin America, the Gulf states); and global markets in education and culture (higher education, the counter Convention on Cultural Diversity). Women's Studies Association members will be familiar with the marketisation of New Zealand education since 1988, but may be less aware of the role GATS plays in this and the aggressive way New Zealand has pushed other countries to make GATS commitments on education.

Space allows me to highlight just two case studies that show the adverse impacts of trade in services on women's lives.

Superannuation policy is a worldwide feminist issue, as women are less likely to be in formal employment, are paid less on average and live longer than men. Tax funded non-contributory schemes work best for us. New Zealand's was implemented as 'social security', how we make sure our old people are taken care of, not as something you buy. The World Bank's 1994 report Averting the Old Age Crisis recast pensions as a financial market commodity which was given high priority under GATS (global finance and insurance companies were among the original lobbyists for trade in services). The change from end-benefit-based policy to contribution-based private schemes shifts the risk onto individual pensioners instead of the whole society and economy, at the same time shifting large profits into the pockets of a growing pension

management industry, a major beneficiary of GATS. These pre-funded pensions have created a 'staggeringly large' pool of investment capital for finance markets and – in case we haven't noticed how unstable finance markets can be – Kelsey has cautionary tales on how UK and Chilean markets have lost people's retirement savings.

Trade in labour services is trade in people, predominantly women, on temporary contracts (mode 3). Third world governments have sought access to these opportunities under GATS and the resulting remittances because earlier trade agreements have led to considerable loss of local livelihoods. We all know of the Latina and Filipina women who work as domestic servants in rich countries to support their children and parents at home, looked after by other women. This GATS category includes New Zealand's recent supply of Samoan workers, brought in for fruit-picking contracts. Kelsey gives examples of Fiji-trained nurses, caregivers and teachers working in New Zealand, Australia, the US and the Gulf states, and Fijian men who join the UN and British forces. She documents training funded by family borrowing, parasitic recruitment practices and lack of protections by government. On World Bank and Asian Development Bank advice, the Fiji government embraced remittances as a positive development strategy and made entry quotas a prerequisite in current negotiations for New Zealand and Australia to join the Pacific Island Countries Trade Agreement. Yet it is estimated that, directly and indirectly, human capital outflow – particularly of nurses – costs the Fijian economy around $US 28 million a year.

### The political economy of trade

Until a decade or so ago, I took little interest in the international level of politics – the decision making processes were so slow, the conventions so ineffectual, the PR so bland. What makes it interesting is Kelsey's title question: who does it serve? Kelsey's answer is clear: the global corporations.

Kelsey gives us the political economy of international trade, in fascinating detail that links it to local issues that concern many of us. She sees global trade arrangements as the latest move in class, capitalism and colonisation, and this book is part of the resistance.

It provides a wealth of information. The first and last chapters are a little abstract, but the thinking is interesting. Most chapters are written in a straightforward readable style, well structured to lead you through to the case study stories, where relevance to women becomes clear. This is essential reading for feminists interested in economics and development but I also recommend it to anyone who seeks a better understanding of how the world ticks these days. I learned a lot.

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*LINDA HILL's recent research has involved monitoring the globalization strategies of major alcohol companies as they target new markets in developing economies.*