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NEW INTERNATIONAL SOCIAL AND ENVIRONMENTAL RULES: PUTTING PEOPLE OVER PROFIT?

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Contents

- 4 GONZALO DURÁN, JOHANNES JÄGER, LUKAS SCHMIDT
The EU CSDDD: Potential Entry Points for Transferring Power
Resources within Global Value Chains
- 23 CHRISTOPH SCHERRER
International Workers' Rights in the Current Geopolitical Context
- 39 MARÍA GÓMEZ OJEDA, NADINE REIS
USMCA Labour Provisions and Their Impact on Working
Conditions in the Mexican Automotive Industry: An Initial
Assessment
- 66 OLIVER PYE
Transnationalising Trade Union Strategic Capacity: Using Supply
Chain Due Diligence Legislation to Build Workers' Power in the
Palm Oil Global Production Network
- 89 MARIETA KAUFMANN
On the Liability of EU Corporations for Human Rights Abuses in
their Supply and Value Chains: A Legal Analysis of the EU Supply
Chain Directive from a Remedial, Victim Protection Perspective
- 109 GONZALO DURÁN, PAULA VIDAL MOLINA
Transferring Institutional Power Resources? Insights into Chilean
Labour Struggles Under the EU-CSDDD and a Closer Look at Two
Highly Unionised Sectors
- 127 Editors and Authors of the Special Issue
- 131 Publication Detail

CHRISTOPH SCHERRER

International Workers' Rights in the Current Geopolitical Context

ABSTRACT The paper outlines the current status of workers' rights in international law, presents the steps taken in recent years to enforce these rights on a global level, and discusses the general challenges to their enforcement in light of new geopolitical tensions, explaining these challenges as a consequence of capitalist competition. The central thesis is that the competitive principle of capitalism has an inherent tendency to transcend borders while mobilising social forces on a national scale. Under certain conditions, such national mobilisation leads to aggressive hyper-nationalism. At the present juncture, progress towards better enforcement of workers' rights seems to be countered by heightened distributional conflicts in the capitalist heartlands and their peripheries.

KEYWORDS labour standards, enforcement mechanisms, uneven development, geopolitical conflicts, friendsourcing

Since the 1980s, neoliberal policies such as trade and capital account liberalisation and privatisation have undermined workers' power in much of the world. This has weakened the ability of workers to defend their rights. In recent years, one plank of the neoliberal agenda, the dream of a borderless world, has lost its appeal. Nationalism is resurgent, as are tensions between states. While a hot war is being fought in Europe and the Middle East, a new cold war is emerging. These new tensions between capitalist states are commonly subsumed under the term 'geopolitics'. The term is often used to naturalise interstate conflicts (Sharp 2020). Here, it denotes merely the current state of inter-capitalist conflicts in the context of geographically defined states.

During the Cold War, some groups of workers succeeded in expanding their rights and improving their livelihoods. Reflecting on this experience, Frederick Harry Pitts and Huw Thomas have raised the question of whether the new Cold War might usher in a new era of workers' power (2025). Since predicting the future is always fraught with error, I will take a step back and first outline the current status of workers' rights in international law, present the steps taken in recent years to enforce these rights globally, and discuss the general challenges to their enforcement. I will then turn to the new geopolitical tensions and explain them as a consequence of capitalist competition. The central thesis is that the competitive principle of capitalism has an inherent tendency to transcend borders while mobilising social forces on a national scale. Under certain conditions, such national mobilisation leads to aggressive hyper-nationalism. Returning to the issue of global enforcement of workers' rights, I will discuss the likely impact of a key response to the new geopolitical tensions, namely the restructuring of global supply chains. At the current juncture, progress towards better enforcement seems to be countered by heightened distributional conflicts in the capitalist heartlands and their peripheries.

1. Labour standards and workers' rights in international law

In its more than 100 years of existence, the International Labour Organization (ILO) has developed standards and formulated rights that commit the ratifying member states to protecting their respective working age population from various sources of harm. As of 2024, the ILO had 187 member states and had adopted 191 conventions. As the relevance for international standards increased with the second wave of globalisation in the 1990s, the ILO, in a defensive move, elevated eight Conventions to the status of core Conventions in 1998: freedom of association (Convention 87); the right to organise and bargain collectively (Convention 98); and prohibition of forced labour (Conventions 29 and 105), discrimination in employment (Conventions 100 and 111) and child labour (Conventions 138 and 182). In 2022, the conventions regarding occupational health

and safety (Conventions 155 and 187) were added. Following the identification of core Conventions in 1999, the ILO announced its Decent Work Agenda, which not only reiterated the importance of the core Conventions but formulated four strategic objectives: (i) International labour standards and fundamental principles and rights at work, (ii) Employment creation, (iii) Social protection, and (iv) Social dialogue and tripartism. Decent Work has become an item in the 2030 Agenda for Sustainable Development as Goal 8: “to promote inclusive and sustainable economic growth, employment and decent work for all.” In sum, basic workers’ rights are an inseparable part of human rights.

While the mainstreaming of labour concerns into the United Nations agenda can be attributed to the ILO’s strategic focus on decent work, the world has not moved closer to the fulfilment of the Decent Work Agenda. In a September 2023 update on progress towards SDG 8, the ILO wrote: “Prospects for achieving SDG 8 are estimated to be ‘good’ or ‘moderate’ on only eight of 23 indicators based on the 2010 to 2022 trend. In other words, the world is well off track on nearly two-thirds of these SDG 8 indicators of progress.” (ILO 2023: 4)

In our unequal world, as the ILO points out, it is “low-income and lower-middle-income countries [that] face the direst prospects for achieving the social dimension of SDG 8 and related goals.” (ILO 2023: 9)

2. Progress in the enforcement of workers’ rights

The ILO’s sanctioning powers are quite limited and essentially amount to monitoring, naming and shaming (Marginson 2016). Does the inclusion of the ILO’s decent work agenda in the Sustainable Development Goals contribute to its realisation?

From the perspective of sociological and historical institutionalism, international organisations can be effective. Social cooperation is possible in an international society characterised by norms and rules. By means of persuasion in the form of ‘monitoring’, ‘shaming’ and ‘blaming’, the normative order of preferences could be changed through the internali-

sation of norms. International law develops its binding force through the diffusion of norms (Finnemore/Sikkink 1998). However, even from their own theoretical perspective, Finnemore and Sikkink overlook an important fact, namely that these international norms are not the only norms that guide important actors in the field of industrial relations. While in today's business world the main social obligation is to comply with the relevant laws, it is also accepted that business people try to interpret the law in their favour or to find loopholes that exempt them from the law (van Staveren 2020). Some governments, in the interest of attracting foreign direct investment or maintaining authoritarian rule, either fail to enforce the ILO Conventions they have ratified or fail to ratify them at all.

Julia Drubel and Janne Mende (2023) explain the gap between the universal recognition of decent work and the widespread decent work deficits, in other words the gap between the institutional and discursive acceptance of the decent work norm and the lack of compliance with this norm, by pointing to the hidden discursive contestation of the decent work norm. Governments and business organisations are not challenging the norm *per se*, but they are deflecting their responsibilities.

Mainstreaming ILO Conventions could, however, make a difference. Ulrich Mückenberger (2016) has convincingly argued that the fact that core conventions have found access to other sources of law has increased their global legitimacy and effectiveness. When other legal instruments incorporate ILO Conventions, the Conventions enter the jurisdiction of these legal instruments and thus gain access to additional means of enforcement. While the inclusion of the decent work agenda in the Sustainable Development Goals does not give them additional enforcement powers, it does give them additional legitimacy. This enhanced legitimacy increases the likelihood of the ILO Conventions inclusion in legal instruments that commit nation states to their enforcement. A prominent example is the growing number of trade agreements that include labour rights chapters that explicitly refer to ILO Conventions (Corley-Coulibaly et al. 2023).

While the example of the inclusion of labour rights clauses in trade agreements supports Mückenberger's argument, it also shows its limita-

tions. The inclusion of labour rights clauses was certainly helped by the legitimacy of the ILO Conventions, but they were mainly the product of intense lobbying by trade unions and labour-oriented NGOs (Greven 2003). Most of these clauses do not provide access to the dispute settlement procedures reserved for the other chapters of the trade agreements, i.e. they lack the sanctioning power usually ascribed to trade agreements (Corley-Coulibaly et al. 2023). In the few cases where the activation of labour rights clauses has had a positive impact on workers whose rights have been violated, this positive outcome has been the result of workers' resistance and trade union campaigns (Zajak 2017).

The most recent labour-related clauses in the 2020 USMCA address some of these shortcomings. The likely effectiveness of the USMCA's clauses on reforming Mexican labour law in line with ILO conventions is enhanced by its ex-ante conditionality, workers' direct access to a grievance procedure, and a Rapid Response Labor Mechanism for on-site verification of labour rights violations. While the monitoring and complaint procedures are 'rules-based' and thus represent a significant improvement over the vague language on dialogue in most labour rights clauses, the ultimate power rests with the U.S., as the final decision is in the hands of U.S. interagency committees (Polaski et al. 2022; Scherrer 2020).

Another step toward better enforcement of labour rights has been taken by recently enacted corporate due diligence laws based on the United Nations Guiding Principles on Business and Human Rights. Using the German law on due diligence in supply chains (2023), Christian Scheper (2025) shows that the effects on enforcement remain somewhat ambivalent, as they do not necessarily shift the balance of power between labour and capital. Moreover, issues of agency and accountability are not sufficiently addressed.

The need to mobilise workers in order to secure their rights points to the limitations of the mainstreaming process. Its positive contribution is to give legitimacy to workers' struggles for their rights, but it does not replace workers' efforts. Ludwig and Webster (2020) have convincingly argued that the Decent Work Agenda and its mainstreaming is an important organising tool for workers, but not a substitute for organising.

3. General challenges for global workers' rights

Decent work deficits have their roots in colonialism. Colonialism had enforced a global division of labour that left most of the world in the position of raw material suppliers. Displacement in agriculture and rapid population growth (driven in large part by increases in life expectancy) fuelled a labour surplus that was much less absorbed by industrial development than in the days of the early industrialisers. The high productivity levels of modern industry require far fewer workers to produce the same output. Moreover, the migration safety valve is not as open as it was for the early industrialisers; and, the latter have imposed global economic rules that favour them and make it difficult for other countries to catch up (Scherrer 2018).

The end of the Cold War affected the position of the working class. The opening of the People's Republic of China to capitalist relations as early as the early 1980s and the opening of India to world capitalism after the collapse of the Soviet Union gave transnational corporations access to the labour force of almost the entire world. Enabled by the spread of neoliberal policies, the emergence of global chains of exploitation promoted labour competition on a global scale. The impact has been felt, especially among low-skilled workers in the capitalist centres, but even more so in the capitalist periphery (Bremen/van der Linden 2025). Competition is fiercest among producers producing with similar factor endowments (labour and capital) and targeting similar market segments (Scherrer 2017).

The one country among the few that has succeeded in challenging the technological supremacy of the early industrialisers, China, has achieved this feat in no small part by setting the rules of engagement with transnational corporations (Weber 2021). From a decent work perspective, however, China's success has also been based on the exploitation of its migrant workers and the continued suppression of the key dimension of the decent work agenda, namely freedom of association and the fundamental human right to freedom of expression (Hui 2018). Moreover, the scale of its industry and its international competitiveness have exerted considerable pressure on other countries seeking to enter low- and medium-tech markets (Jenkins 2016). In doing so, the PRC has made it more difficult

for other countries to implement the decent work agenda, while its success encourages elites in some of these other countries to also pursue economic catch-up through authoritarian means (Duggan 2020).

4. The new geopolitical context

Apologists for capitalism spread the argument that not only does trade make everyone better off (Ricardo), but it also tends to make compromise possible. This is because money is divisible (Hirschman), unlike aristocrats' feudal honour. They overlook the fact that the principle of competition inscribed in capitalism produces losers who do not always peacefully accept the market outcome that is unfavourable to them, for those who cannot compete will be tempted to keep competitors out of their traditional market through instruments such as import bans, tariffs, and national technical standards. None of the leading industrialised countries has done without such protectionist instruments during their economic rise (Chang 2002). At the same time, the already successful companies will try to keep the catch-up competition down with the help of their respective states. Today, this is done primarily through measures to protect intellectual property and by branding products (Klein 2000).

Kees van der Pijl's concepts of "capitalist heartlands" and "contender states" (2006), while certainly over-simplifying the complexity of inter-capitalist, inter-national relations, can be used to show the danger to the cross-border division of labour that arises when countries try to catch up economically with the hitherto leading powers. He sees the conflicts that have threatened the international division of labour since the beginning of capitalism in England as a consequence of the contrast between an expanding "Lockean heartland" and a changing group of "Hobbesian peripheral states" or "contender states". In the heartland, Locke's ideas about the separation of private and public spheres were realised. The rich states with technological leadership were committed to a liberal world economic order, even by military force. The contender states, on the other hand, caught up with industrialisation by means of an authoritarian mobilisation of social forces. Their "Hobbesian model" is characterised

by extensive state control of the economy and society. The state is characterised by a hierarchical social and political system, top-down mobilisation of social classes, national strength and a repressive state apparatus. Germany, which fought World Wars I and II in the first half of the 20th century, was one such contender. West Germany was then integrated into the Lockean heartland.

Applied to the present day, there are two contender states: Russia as an old, now revanchist contender and China as a new contender. Their respective attitudes to globalisation are ambivalent. These attitudes are based on the Friedrich List tradition of thought that countries should open their borders to advanced foreign competition only after their own capitalist modernisation process has produced competitive enterprises. This insight, however, does not prohibit them from using the world market for their own export economy. On the contrary, it encourages them to do so. As members of the World Trade Organization (WTO) - China since 2001 and Russia since 2012 - these contender states benefit from trade liberalisation under the leadership of the United States. Thus, while they support the globalisation process, they try to protect their industries as much as possible from established foreign competition. At the same time, they are liberalising their domestic markets and increasing their competitiveness by investing in infrastructure and education. The extent to which the latter is successful depends on the political and economic circumstances, as the differences between the two countries show. For a resource-rich country like Russia, industrial competitiveness is more difficult to achieve because exports of raw materials lead to a high exchange rate for the national currency, which is unfavourable for industrial exports and raises wage levels (Kalcheva/Oomes 2007).

Catch-up economic development requires a collective effort, which can only succeed in a national context if the majority of the population sees itself as a nation distinct from others. Therefore, the “Hobbesian contenders” tend to be overly nationalistic (which, of course, is not limited to contender states; for the mobilisation of nationalism in Russia see Bluhm 2023, for China Ho 2022). This is usually accompanied by a high regard for the military, and even militarism. In a resource-rich country, the military is needed to control access to those resources. While for the Lockean heartlands it is primarily important that raw materials are freely available

to all who have the purchasing power, in resource-rich challenger states the territorial logic prevails: access should be under national control. Accordingly, the global military presence of the United States, whose defence of capitalist freedom includes the protection of free trade routes, is less popular, especially in the former socialist states. Both the Russian and Chinese militaries have survived the systemic changes in their countries largely intact, so that their perception of the enemy has hardly changed.

The economic and military rise of the contender states has not gone unnoticed in the heartland. This is particularly evident in the U.S.'s relationship with China. As long as China served primarily as an extended workbench and marketplace for U.S. and other 'heartland' companies, its exports were welcome. That changed, however, when it became clear that the Chinese government aspired to leadership in the high-tech sector. Besides punitive trade measures against China (Scherrer 2022), the U.S. continues to build up its military at a high level, both with a view to the Indo-Pacific and in response to Russia's aggression against Ukraine. This renewed military confrontation between heartland and challenger states has implications for the global enforcement of workers' rights.

5. Geo-political tensions' likely impact on workers' rights

The impact of geopolitical tensions on decent work is mixed. In the contender states, freedom of expression and association are increasingly suppressed (Freedom House 2023), while working conditions and living standards remain the same or even improve (WB 2023). In the capitalist heartlands, IT professionals and defence workers could benefit from increased defence spending and the new wave of industrial policies embodied in the U.S. Inflation Reduction Act (Pitts/Thomas 2025).

Unlike the U.S. economy, the German economy has been directly affected by heightened geopolitical tensions. One of the factors contributing to its success had been access to cheap fossil fuels for its manufacturing industry. The Russian attack on Ukraine in February 2022 led to the decision to no longer source gas from Russia. Another success factor was the complementary industrial profile to the dynamically growing Chinese economy. However, China's industry is now challenging the heart

of German industry, the automobile manufacturers, with low-cost, high-performance battery-powered vehicles. Tensions between the U.S. and China pose another challenge to the German economy.

These challenges for the German economy limit the material scope for distribution. In the absence of a political majority for higher government debt in the medium term and for higher taxes on higher incomes and wealth, distributional conflicts will intensify. One casualty of these conflicts could be the European Union's (EU) Due Diligence Directive. German business associations are mounting a strong lobbying campaign to repeal this directive as well as the preceding German Due Diligence Act.

Again, in contrast to Germany, the U.S.'s willingness to enforce certain workers' rights outside its jurisdiction has been fuelled by fears of China's rise. Between 2000 and 2016, not a single withholding order was issued under the Tariff Act of 1930, which prohibits the importation of products made in whole or in part with forced labour. As a result, companies faced little pressure to conduct due diligence (Gray 2023 et al.). This changed when the Uyghur Forced Labor Prevention Act (UFLPA) went into effect in June 2022. The law states that goods produced in whole or in part in Xinjiang, where the Uyghur ethnic group is likely to be subjected to forced labour (OHCHR 2022), are inadmissible into the United States unless it can be shown that the goods were not produced with the use of forced labour. U.S. Customs and Border Protection detains not only products coming directly from China, but also, and primarily, products coming from Malaysia or Vietnam with many parts originating in China (CBP 2023). U.S. concern about labour practices abroad does not necessarily mean that U.S. labour practices are in line with the decent work agenda. Forced labour is a practice which is particularly prevalent in immigrant detention centres (Scherrer/Shah 2017).

Whether the U.S. trade measures on forced labour have caused the Chinese government to change its treatment of Uyghurs is unknown. Given the Chinese government's denial of using forced labour, a change in policy is unlikely. One known effect, however, is the redirection of trade flows. Under the banner of 'friendshoring', the US is deepening its relationship with "a group of countries that have strong adherence to a set of norms and values about how to operate in the global economy and how to run the global economic system" (Yellen 2022). For the U.S. secretary of the

treasury, Janet Yellen, friendshoring does not mean a complete decoupling from China, but rather what European Commission President Ursula von der Leyen called “de-risking” (which could lead to new risks due to heightened trade tensions). Before President Trump’s trade war against China, Chinese shipments accounted for about 19.2% of U.S. imports of goods in 2017, which Washington now wants to shift to friendshoring. By mid-2023, this share had fallen to 15.2% (Graham/Rashid 2023).

Shifting production from China to its neighbours does not necessarily lead to better compliance with international labour rights. The preferred country, Vietnam, is not itself a democracy. Neither Vietnam nor India, another new hub for global supply chains, are known for decent work practices (Anner 2018, 2019). Labour protections have been weakened in India’s formal economy, and repression of workers’ struggles is on the rise as part of a general shift toward authoritarian politics (Karatepe 2021).

Friendshoring also includes nearshoring. International companies, including Chinese firms, are increasingly setting up production facilities in Mexico to gain secure access to the US market (Artecona et al. 2023). Accordingly, U.S. imports from Mexico have risen sharply in recent years (Kearney 2023). This is good news for the decent work agenda, because, as noted above, the current Mexican government has strengthened the rights of independent unions and the USMCA contains improved labour rights clauses. In the light of the European social dialogue, nearshoring within the EU holds out the promise of better enforcement of decent work, but it does not guarantee it (Erne et al. 2025).

De-risking from China has yet to show results for the European Union. Total imports from China have increased over the years. Contributing to the slow process of de-risking are not only European industry’s interest in cheap inputs and end consumers’ interest in affordable products, but also European multinationals that do not want to lose access to the profitable Chinese market. The latter is particularly true for German car and chemical companies (Germann 2023). However, in recent years, slightly less apparel and clothing products have been sourced from China (García-Herrero 2023). Nearshoring has become increasingly important for European apparel and textile companies. They are increasingly ordering from countries such as Turkey, Romania, Portugal and from North African countries (CBI 2019). This nearshoring does not necessarily translate into

decent working conditions for garment workers. The Turkish garment industry, which employs large numbers of Syrian refugees, does so at very low wages and with few rights (Korkmaz 2019). Decent work deficits can also be found in garment factories in South-Eastern European countries (Musiolek et al. 2019). Moreover, given this region's proximity to Russian aggression, brands are reluctant to make greater use of its labour (Consul-tancy.eu 2022).

6. Some final thoughts

Returning to the question of the opportunities for better enforcement of workers' rights in an era of a new Cold War, the answer depends very much on whether the cold turns hot. Remaining optimistic that peace will return to Ukraine and that tensions between China and the United States will not escalate, I can summarise the previous arguments as follows: friendshoring has the potential to improve the enforcement of workers' rights, but at the same time, the inter-capitalist tensions to which friendshoring policies are a response limit distributive space not only in the heart-lands but also in their peripheries, and raise the spectre of authoritarianism.

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ABSTRACT *Mein Beitrag skizziert den aktuellen Stand der Arbeitnehmer*innenrechte im internationalen Recht, stellt die in den letzten Jahren unternommenen Schritte zur weltweiten Durchsetzung dieser Rechte vor und erörtert die allgemeinen Herausforderungen für ihre Durchsetzung im Lichte neuer geopolitischer Spannungen, die als Folge des kapitalistischen Wettbewerbs erklärt werden. Die zentrale These ist, dass das Wettbewerbsprinzip des Kapitalismus eine inhärente Tendenz hat, Grenzen zu überschreiten und gesellschaftliche Kräfte auf nationaler Ebene zu mobilisieren. Unter bestimmten Bedingungen führt eine solche nationale Mobilisierung zu einem aggressiven Hyper-Nationalismus. Gegenwärtig scheinen Fortschritte bei der besseren Durchsetzung von Arbeitnehmer*innenrechten durch verschärfte Verteilungskonflikte in den kapitalistischen Kernländern und ihren Peripherien konterkariert zu werden.*

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