

International Labour Review

SPECIAL ISSUE

**Transnational futures
of international labour law**
Guest Editor: Adelle BLACKETT

Contents

- 455 **Introduction: Transnational futures of international labour law**
Adelle BLACKETT
- This Special Issue on transnational labour law is placed in the context of the ILO centenary and the challenge of achieving the objective of decent work in a new century, under distinct transnational pressures. The author argues that international labour law, as the normative core of transnational labour law, can play a crucial role – in conjunction with a wide range of actors and the ILO in its standard-setting and convenor capacities – in addressing this challenge and in reshaping the transnational legal architecture.
- Keywords: international labour law, transnational labour law, globalization, trade, normative conflict, governance, social justice, role of ILO.
- 463 **Engagement with sustainability at the International Labour Organization and wider implications for collective worker voice**
Tonia NOVITZ
- Sustainability objectives have been recognized by the ILO primarily in terms of the impact of environmental protection in the form of “just transition” and “green job” initiatives. Arguably, the Sustainable Development Goals (SDGs) now offer richer scope for ILO engagement with social sustainability. This can be attributed to the prominent recognition of “decent work” in SDG 8 and the need for “responsive, inclusive, participatory and representative decision-making at all levels” in SDG target 16.7. This article

examines how the ILO could further promote collective worker voice in the context of debates over a sustainable “future of work”, particularly considering to whom voice is given and how it is exercised.

Keywords: sustainable development, environmental protection, social sustainability, workers’ participation, SDG, role of ILO.

483 **The relationship between international law and European labour legislation and its impact on the development of international and European social law** Sophie ROBIN-OLIVIER

This article draws on observations of how European Union law takes account of international worker protection instruments and the activities of international organizations to protect social rights to establish a typology of the links – often close but also very diverse – between European law and “international labour law” in the broad sense.

Keywords: European Union, ILO standards, social rights, international labour law, European Union social policy.

505 **On the International Labour Organization and prison labour: An invitation to recalibrate** Faina MILMAN-SIVAN and Yair SAGY

This article re-examines the ILO’s normative outlook on prison labour, arguing that it is out of touch with the realities on the ground, where public/private hybrid forms of prison labour are proliferating. The authors bring to light the controversy surrounding the position taken by the ILO, as member States repeatedly demand that it relax, and increasingly defy, its dichotomous stance. They illustrate the heavy price to be paid if the ILO stays on its current course, but also if it adopts the position favoured by some of these member States. Instead, they point to two alternatives that go beyond these conflicting positions.

Keywords: ILO standards, role of ILO, forced labour, prison labour, privatization, public/private divide.

525 **From Geneva to San José: The ILO standards and the Inter-American System for the protection of human rights** Bernard DUHAIME and Éloïse DÉCOSTE

This article analyses how the Inter-American System for the protection of human rights has used ILO standards as a reference on matters relating to freedom of association and the rights of indigenous peoples. Having established the limits to their use, the authors also analyse how these standards have influenced recent Inter-American jurisprudence in relation to certain economic, social and cultural rights. They argue that such cross-referencing is both desirable and useful, since it allows the Inter-American bodies to base their arguments on the interpretation of specialized authorities, thereby reinforcing the credibility, normative legitimacy and universality of their decisions.

Keywords: Inter-American System for the protection of human rights, ILO standards, freedom of association, right to organize, indigenous peoples, right to work, economic, social and cultural rights, Latin America.

545 **The Rana Plaza disaster seven years on: Transnational experiments and perhaps a new treaty?** Anne TREBILCOCK

This article examines several noteworthy initiatives that were implemented following the deadly 2013 Rana Plaza disaster in Bangladesh. They broke new ground in transnational labour law. The ILO-backed initiatives were largely successful but remain insufficient to achieve lasting change in the ready-made garment industry, where global brands’ supply chain buying practices constrain investment in occupational safety and health. A proposed United Nations treaty on business and human rights now seeks to enhance corporate accountability. Although promising, as part of a smart mix of multi-level public and private solutions, the treaty needs fine-tuning in the light of lessons learned from post-Rana Plaza experiments.

Keywords: business and human rights, global supply chain, ILO, international labour standards, OSH, Rana Plaza.

569 **The trade–labour relationship in the light of the WTO Appellate Body’s embrace of pluralism?** Joanna LANGILLE

Labour lawyers have raised concerns that the law of the World Trade Organization (WTO) has the potential to limit member States’ ability to respond to violations of (international) labour rights/standards, both at home and abroad. But its Appellate Body has interpreted WTO law to “permit pluralism”, preserving Members’ right to regulate. This jurisprudence has carved out “policy space” for Members, broadened the scope of doctrinal exceptions and blunted the force of disciplines that seek deep integration through regulatory coordination/coherence. These moves mean that numerous labour-protecting measures are likely to be legal under WTO law, diminishing the potential conflict between multilateral trade law and labour law.

Keywords: WTO, international trade law, international labour law, labour law, core labour rights/standards, trade/labour nexus, Appellate Body, pluralism.

591 **On social regionalism in transnational labour law** Adelle BLACKETT

This article historicizes social regionalism as a principled and pragmatic response to the breakdown of the embedded liberal bargain and the encasing of an international economic order that was designed to prevent, transnationally, the governance of the social in the economic. Seen in historical context, the first labour chapter Arbitral Panel report under the Dominican Republic–Central America–United States Free Trade Agreement (CAFTA–DR) illustrates the need to shift focus to social regionalism. The latter enables trade treaty interpretation to focus on shared objectives. It moves beyond treaty interpretation, to promote redistributive mechanisms and also international solidarity within trade agreements.

Keywords: social regionalism, transnational labour law, distributive justice, trade regulation, embedded liberalism, treaty interpretation, inequality, international solidarity.

Special Issue tribute

615 **Short tribute to Sir William Randolph Douglas, KCMG, PC**
Adelle BLACKETT and Julia SELMAN-AYETEY

Communications

617 **Editorial reviewers**

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