

GUEST ESSAYS CIVIL SOCIETY & THE PRIVATE SECTOR

IMPROVING CORPORATE LABOUR PRACTICE: A GLOBAL EFFORT

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Globalisation's great promise was to deliver growth, prosperity and lift people out of poverty. The global trading system was set to share the gains across national borders. However, the gains have failed to 'trickle down' and the conditions for economic, environmental and social justice have not been secured. We are faced with the greatest ever levels of inequality within and between countries, and production and consumption systems are testing the limits of our finite planet. While increasing attention is given to the symptoms of these crises, the political will to implement solutions that address abuses of fundamental labour and human rights is lacking. This contribution to the 2017 State of Civil Society Report provides an overview of global labour relations and what can be done to improve them.

THE STATE OF PLAY

Shrinking civil society space is leading to the criminalisation of protest and dissent. Industrial action and workers' strikes are denied legal protections in countries all over the world, global south and global north. The world of austerity budgets undermines the rights to bargain collectively and workers' fundamental rights are increasingly being [violated](#).

The ITUC's [Global Rights Index 2016](#) highlighted that demonstrations were halted and workers suffered retaliation for expressing their views in 50 countries: nine more than in 2015. It also revealed that the right

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to collective bargaining is denied in 57 per cent of countries, and 58 per cent of countries do not ensure the freedom of association.

The [International Labour Organization](#) (ILO) estimates that there are 21 million people in forced labour, producing goods and services that earn US\$150 billion a year in illegal profits. Meanwhile, child labour sees [168 million children](#) at work rather than in school. Discrimination against women persists in the labour market, with a global [Gender Pay Gap](#) of 31.7 per cent. It is estimated that [over a third of women](#) experience sexual harassment at work.

The informal economy accounts for [over half](#) of the global workforce and denies people fundamental rights, minimum wages and social protection. Nearly 200 million people are [unemployed](#), a figure which is expected to rise by 3.4 million this year. Of the estimated 247 million international migrants globally, [90 per cent](#) migrate in search of work. Refugees are denied not only safe haven, but also the right to decent work and equal treatment in the labour market. All of this is synthesised in Oxfam's recent [exposé](#) that eight of the world's wealthiest men now own as much as half of the world's population.

These problems are not confined to an individual country or company. Global supply chains tie workers and consumers alike to a earth-spanning web of interdependent relationships. Multinational enterprises (MNEs) build and oversee these relationships in the pursuit of raw profit, often driven by low wages and poor working conditions, resulting in indefensible workplace injuries and deaths. Furthermore, profits often go under-taxed and evade monitoring by being sent offshore. The lack of transparency in ownership structures and increased outsourcing to multiple tiers of production mean that invisible connections serve to conceal responsibility for injustices. This allows for wealth to accumulate at the expense of working peoples' rights and freedoms. As a result, rentier capitalism is on the rise and income is more than ever defined not by the quality or quantity of one's work, but by what one owns.

Corporate transparency is critical if these abusive practices are to be accounted for. One of the greatest threats to workers' human rights is companies seeking to escape their responsibility for the people who do the work, by outsourcing and indirect employment. Today's global supply chains are characterised by exploitation and precarious, often unsafe, work. The ITUC's 2016 [Scandal Report](#) revealed that 94 per cent of the workers that generate the profits of MNEs through global supply chains are employed indirectly. These companies, for the most part, have little to no legal responsibility for these people – for their wages, their working conditions or their rights. Without this fundamental recognition, these workers amount to a hidden workforce.

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A rapidly modernising world is shaking the world of work to its very foundations. The rise of the ‘gig economy’, in which people are classified as self-employed or ‘independent contractors’, hired via digital platforms, allocated tasks through algorithms and working precariously, questions the very notion of an employee. Technological developments have given additional flexibility to both the consumer and worker. This model of business platforms, such as Uber and Deliveroo, have claimed these advances in ‘innovation and flexibility’ as their own, but all the expenses and all the risk associated with the work are heaped onto their workers.

WHAT SHOULD BE DONE?

Despite the gendered language, it is worth recalling Article 23 of the Universal Declaration of Human Rights:

“Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity and supplemented if necessary by other means of social protection.”

The path to decent work in supply chains is not so complicated. People recognise that responsibility lies not just with governments, but also with businesses. The 2016 [ITUC Frontlines Poll](#) of people in nine G20 countries found that 82 per cent of people consider that companies should be accountable for the actions of their subcontractors and 77 per cent want companies to be open and transparent about their subcontractors in global supply chains. The ITUC has set out five recommendations for companies to address the scandalous state of global supply chains:

- Transparency: know whom you contract from and publish this information;
- Safe work: inspect sites, fix hazards and recognise workers’ rights to safety committees;
- Secure work: minimise the use of short term contracts;
- Minimum living wages: pay wages on which people can live in dignity;
- Collective bargaining: enable collective bargaining for wage share and decent wages and working conditions.

There is an obvious increased power shift away from national governments, which have been the traditional guarantors of the rights of workers. MNEs now make up [69 of the top 100 economies](#), up from 63 in 2015, compared with only 31 countries. In many cases the revenues of MNEs vastly exceed the GDP of global south countries. The influence they have bears heavily on Organisation for Economic Co-operation and Development (OECD) member countries too. The case of [Samsung](#), which has a revenue equivalent to 17 per cent of South Korean GDP and has been using its influence

to suppress the rights of working people there, bears witness to this. Further to that, countries are in direct competition with each other to attract investment, resulting in de-regulation and social dumping - the practice of lowering labour, environmental and other standards - in order to attract investment.

Rather, governments should ensure that universal standards are applied universally - that corporations, no matter their ownership status or political influence, abide by the rule of law and comply with enforceable standards and mandate responsibility. Governments should not use the power of business as an excuse not to do their 'state duty' to protect human rights. Businesses should not be allowed to use the failure of the state to do its duty to protect as an excuse to avoid their responsibility to respect human rights. Both business and government should fully respect human and workers' rights. States have the responsibility to formalise work with legal rights, a mandated minimum wage and social protection. Meanwhile, businesses contracting work through supply chains must afford rights, including the fundamental right to bargain collectively and non-discriminatory wages and conditions.

WHAT IS BEING DONE?

As has been outlined above, it has long been the territory of national governments to ensure workers' rights. Over time, many countries have implemented innovative approaches to ensure that the voice of working people is integrated into decision-making structures. Social dialogue has emerged as a decision-making tool that promotes workplace and societal accountability. It offers a form of multi-stakeholder engagement and agreement-making that brings together workers, employers and governments as social partners. The following three examples of the impact of social dialogue at the national level highlight its relevance across very different contexts.

Ghana's December 2016 presidential election, which saw the election of opposition leader Nana Akufo-Addo, confirmed the country's commitment to democracy. However, this commitment goes well beyond the occasional election. The key to Ghana's democratic robustness lies in its promotion of social dialogue. Bringing workers and employers together when making decisions that affect them has built a national consensus and reinforced the institutional stability that maintains Ghana as one of the healthiest democracies in Africa. At the national level, tripartite consultations have resulted in a 1,500 per cent increase in the national daily minimum wage over the last 15 years. It is noteworthy that the Ghanaian economy has experienced a steady growth of seven per cent per year since 2005. As a [recent study](#) by the Labour Research and Policy Institute of the Ghana Trades Union Congress (TUC) put it:

"Social dialogue is well-rooted in Ghana and encourages the development of shared consensus among social partners in the country, which in turn eases policy implementation."

Uruguay also provides a useful example of the contribution of social dialogue to ensuring inclusive growth. In 2005, the country was recovering from a deep economic crisis, with public debt exceeding 100 per cent of GDP, unemployment at 20 per cent and poverty affecting one in three people. The deregulatory policies pursued by previous governments had caused the weakening of trade unions, a depreciation of the minimum wage and an increase in informal work, deepening the crisis in the labour market. In spite of this, the Uruguayan trade union movement maintained strong coverage. It went on to play an important role in the subsequent dialogue on labour policy as well as on other economic and social issues that contributed to development and improved social inclusion. As a result, the labour market became a key contributor in the rise of the standard of living of the population, as well as in overall poverty reduction and more equitable income distribution. Real wages increased for 10 consecutive years, with an increase of 51.5 per cent across the decade. The Wages Council, a tripartite collective bargaining forum, played an instrumental role in this development.

Germany too has a noteworthy commitment to institutionalised social dialogue. It was the first country to implement the innovative [codetermination policy](#). This policy, introduced in 1976, effectively integrates social dialogue into the management structures of private companies. It requires that every company include workers in its management structure. For larger companies (of more than 2,000 employees), the policy requires that half of supervisory board members be nominated by the company's employees. Other countries have since adopted similar codetermination laws, the implementation of which is proven to contribute directly to higher income equality.

While providing examples of how to ensure the protection of basic rights and the promotion of inclusive societies, these national efforts alone are not enough to deliver the change that is needed. In an effort to fill that gap, certain steps are being taken at the international level. The UN's Guiding Principles on Business and Human Rights are the most significant international instrument addressing business behaviour in over 30 years. The Guiding Principles promote the concept of 'due diligence' as an ongoing process undertaken by a business enterprise to identify, prevent, mitigate and account for how it addresses actual and potential adverse human rights impacts. The Guiding Principles, for the first time, provide a consensus that businesses have a responsibility for human rights violations in their supply chains. Responsibility is a mandatory provision: it is not optional and cannot be outsourced.

The OECD Guidelines for Multinational Enterprises provide additional principles and standards for responsible business conduct in a global context, consistent with applicable laws and internationally recognised standards. The OECD has been developing guidance on what constitutes due diligence in specific sectors of industry. The Due Diligence Guidance for Responsible Supply Chains in Garment and Footwear Sector was agreed in 2016 and is set to be completed during 2017. It builds on those on the supply chains of the extractive industries and agricultural sectors.

The ILO's core labour standards cover the fundamental rights of workers, including the freedom of association and the right to collective bargaining.

They set out to eliminate forced labour and child labour, and ensure equal remuneration and protection against discrimination. These core labour standards do not require ratification. All countries must adhere to them. Under current discussion, and with support from the labour movement, is a proposal to introduce a Convention on Gender-Based Violence and a new standard on decent work in global supply chains.

Built on top of individual conventions are the ILO Protocols. Forms of forced labour have evolved since the signing of the Forced Labour Convention in 1930, demanding that additional measures be taken. In order to do so, the ILO's Forced Labour Protocol was adopted in 2014. This bolsters previous commitments by imposing stronger inspection criteria, guaranteeing the victims access to justice and cracking down on abuses and fraudulent practices by recruiters and employment agencies. With its '[50 for Freedom](#)' campaign, the ILO, with the support of trade unions, is now pushing for countries to ratify the protocol and has set the target of ratification by 50 countries by 2018.

A further effort to bring about change is embodied by the 2030 Agenda for Sustainable Development, which is the reference document on development priorities at the international level. The 2030 Agenda contains a set of shared objectives, the Sustainable Development Goals (SDGs), to which all countries have committed. They cover issues highly relevant to the work of trade unions, including the promotion of decent work and the fight against inequalities and climate change. The SDGs also recognise the need for greater gender equality, better quality education and stronger institutions.

The ultimate goal of trade unions is to ensure that people have access to decent work. While this is not a new goal, it has a new framing in the context of the SDGs: SDG 8 is dedicated to the achievement of decent work for all. In addition to SDG 8, many of the other SDGs are impacted on by labour conditions. In particular, this applies to SDG 1 on ending poverty, SDG 5 on gender equality, SDG 10 on reducing inequalities, SDG 13 on climate action and SDG 16 on institutional stability and democracy.

Through their everyday work in upholding the freedom of association and collective bargaining rights, and in promoting decent work and the rights of working people, trade unions are essential actors to achieve these development objectives and ensure no one is left behind. Through social dialogue, unions further enhance the democratic ownership of projects, put the focus on the real impact on the ground and boost the accountability of other actors involved, such as the private sector. Additional recognition of this contribution is needed at the implementation level. Ensuring that working people

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are empowered to identify and fight for their interests is fundamental to the achievement of the SDGs. Without it, the interests of the majority will remain underrepresented.

WHAT MORE NEEDS TO BE DONE?

In spite of the efforts outlined above, huge gaps in global governance and compliance remain. The responsibility of companies for the acts of their subsidiaries or contractual suppliers is recognised but largely addressed through voluntary guidelines. Unions want to see that companies are held to account for their contributions to violations in any country, as well as for the adverse impacts of their business partners.

It is time for a change of strategy: mandatory due diligence is one way of ensuring accountability. This would mean that all companies, or at least companies of a certain size, would be required to have a human rights due diligence policy and implement it transparently throughout their supply chains; address adverse impacts on labour rights in consultation with affected workers; and disclose due diligence reports and remediation plans. Due diligence is now increasingly recognised as a vital tool for ensuring that the rights of workers are respected.

Corporate social responsibility has been hailed by industry as the answer. It highlights when companies 'do the right thing', often validated by a process of social auditing. But this cannot be a substitute for public labour inspections for the simple reason that it does not carry legal responsibility. This form of voluntary responsibility places little to no obligation on the shoulders of MNEs. The simplest way to ensure the most basic of workers' rights is to impose mandatory due diligence within supply chains. Linking profit and responsibility in this way ensures that MNEs are accountable to the people who work for them and the communities their operations impact upon. It shifts the focus to rights holders and foresees compensation where rights are violated.

Instead of attempting to reinvent the wheel, one element of the solution would be to adapt old and proven methods to the new context. The optimism with which trade unions greeted the SDGs has become more cautious with the increased prominence being given to the role of the private sector in development, one which trade unions feel is not accompanied by sufficient accountability mechanisms. There are concerns that the heightened role of the private sector in the SDGs will open the door for MNEs to gain additional levers of influence over developing countries as well as monopolise vital resources intended for development and industrial transformation.

The same problems have led some governments to integrate social dialogue across the board, something that has proved to be an effective solution. For example, the [Global Deal](#), an initiative launched by the Swedish government in 2016, promotes the role of social dialogue as an engine for decent work and inclusive societies.

CONCLUSION

The coordinated participation of civil society has been instrumental in achieving progress to date. The demands for corporate accountability will require the active participation of civil society and trade unions in shaping both company and public policy and practice. Civil society needs to be clear about its common objectives and strategies for ensuring that companies are attributed their due responsibility for the impact of their practices and comply with the social and environmental standards required as a part of its social contract and in international law.

This is what will determine whether the state's duty to protect human rights and the private sector's responsibility to respect are realised. We need greater effectiveness of civil society as campaigners, in monitoring agreements, and calling governments, business and other institutions to account. In partnership with trade unions, civil society's collective efforts will greatly determine how the future world of work delivers dignity and prosperity to people in workplaces and communities globally.