University of Otago
Te Whare Wānanga o Otāgo
New Zealand

Media, Film and Communication

MFCO Working Paper Series

SPECIAL ISSUE: ENVIRONMENTS, SPACES AND TRANSFORMATIONS

Free trade in labour: A new global space for workers' rights?

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Abstract: This paper focuses on the nexus between international labour standards and international trade governance, as labour rights provisions (applicable to both local and migrant workers) are increasingly being included in free trade agreements. Nevertheless, for the past few decades, the preservation of working rights and social provisions is increasingly becoming economically unsustainable across the globe. At present, the likely directions in the global governance of labour markets stand at a historic crossroad and face urgent questions posed by the disengagement of the measure of value from the concept of labour. Barriers to human mobility facilitate capital in superseding labour as the only price discriminant in the compensation of both local workers confined to over-supplied domestic labour markets, and cross-border workers confined to a temporary or undocumented status. Over the long term, the failure in the global management of labour markets may also result in labour rights being socio-economically unsustainable, although still necessary for maintaining or improving the current levels of human development across the globe. In the absence of any value-driven dimension of labour, echoed in the decline of large-scale state-subsidised social security systems, international trade law might well be capable of becoming the strongest tidal current changing the patterns of labour governance globally and streaming through the international apparatus of working rights. The overall issue considered here revolves around the question as to whether international trade law provisions on labour rights are a solution or are inconsistent with workers' problems

globally. This is ultimately a matter related to seeking a new space for the transforming notion of labour at the intersections of law and society in a globalised environment.

Introduction

This study focuses on the nexus between international labour standards and international trade governance, as labour rights provisions (applicable to both local and migrant workers) are increasingly being included in free trade agreements. This is promoted especially by industrialised countries, which claim that a balanced approach to labour migration management is an essential element of good governance, signifying to traders and investors that the State concerned is an acceptable place to do business in the long term. Accordingly, preventing trading partners from ignoring labour regulation is regarded as in the interest of stimulating and not distorting international trade.

Conversely, most developing countries and their advocates oppose this trend by calling into question the advanced countries' special interests at home, which struggle against the predatory pricing policies of export-based economies that benefit from lower labour rights standards.

Nonetheless, for the past few decades, the preservation of working rights and social provisions is increasingly becoming economically unsustainable across the globe. Where the migrant labour cost is not able to compete with the sum of outsourced labour and logistics expenses, exporting production is more advantageous than importing labour. Hence, industry production has been largely reallocated to countries that have abruptly improved their socio-economic development, skipping the intermediate steps of the modernisation process that beforehand took the outsourcing countries more than a hundred years to achieve.

At present, the likely directions in the global governance of labour migration stand at a historic crossroad. On the one side are the orthodox means and definitions made to fit a fading society founded on work ethic; and on the other side are the more relevant needs to be considered in connection with the new conditions of a thriving society built on consumerism. At the theoretical level, new solutions may well address the urgent questions posed by the disengagement of the measure of value from the theory of labour.

In this connection, international trade law appears to be the spearhead of a process that is extending the concept of a global labour market, based upon cross-border trade, beyond that traditionally recognised by the social drivers based on cross-border work.

In the absence of any value-driven dimension of labour, echoed in the decline of large-scale state-subsidised social security systems, international trade law might well be capable of becoming the strongest tidal current changing the patterns of labour migration governance globally and streaming through the international apparatus of working rights. The overall issue considered here revolves around the question as to whether international trade law provisions on labour rights are a solution or are inconsistent with migrant workers' problems. This study looks at specific public policies, such as short-term visas, and not voluntary or opportunistic movements of labour such as nurses in a certain domestic health system. The conclusions of this study also take into account the often under-estimated social capital created by transnational migrant labour in our society. Considering this may help us understand why both old and new immigration countries are not advancing a thoroughly integrated and far-sighted approach to global labour migration affairs.

At this present stage, the pivotal matter appears to be that these countries are merely taking advantage of an historical juncture. In other words, immigration countries are still enjoying the migrants' social capital (i.e. the value of migrants' social relations and cooperation) transferred through generations of labour migration. However, this social capital is withering away because broad demographic policies are cutting or not bearing the social costs of workers on the move. A practical example of this context is the Schengen system in Europe, which provide common rules regarding visas, carriers' sanctions, and police cooperation in view of the abolition of internal border controls, however, without affecting the member countries' prerogative to exercise police powers in the border regions and security checks at ports of entry or to reintroduce internal barriers in exceptional circumstances relating to public policy or internal security (European Parliament and Council 2006). As recently proposed at the EU/Schengen level, the common border management system would include a visa safeguard clause for suspending migrant workers' entries in the event a member country is being confronted by an emergency situation characterised by the occurrence of a significant increase over a short period of time of the number of either: i) individuals found to be staying and working without authorisation; or ii) rejected

readmission applications submitted by a member State to another member State for its own nationals (European Commission 2011).

Such a short-sighted approach may well present in the near future the awkward situation in which the social costs of labour migration will no longer be sustainable, while its entire social capital will be lost irreversibly. Over the long term, the failure in the global management of labour migration may also result in developed societies not being socio-economically sustainable, nor able to grow, without cross-border migrant workers. In other words, immigration may become socio-economically unsustainable, although still necessary for maintaining the current levels of human development in receiving countries. Open-ended configurations of transnational production and variable processes of economic globalisation are increasingly putting a strain on the already weak capability of domestic labour law to ensure justice at work for migrants.

According to the critical approach of this study, labour law regulating transnational corporate activity is required for establishing firm footholds in international law and human rights. In fact, the distinction between domestic and international labour law dims where innovative regulations empower a State to require all corporations operating within its jurisdiction, as well as those seeking domestic market access but operating outside of its jurisdiction, to abide by the locally enforceable provisions that protect internationally recognised labour rights.

Perspectives and prospects for the international trade law of migrant workers

Similar to international human rights law, a good deal of international trade law performs its role as a counterbalance to state sovereignty established in the apparatuses of public international law. Sovereignty provides States with the means to protect the interests of their members from the inside, even at the expense of non-members on the outside; whereas the same concept of pursuing national interest can be seen as protectionism in the field of international trade (McCrae 2000, p. 29).

International trade law advocates trade liberalisation on the ground that free trade improves global productivity by enabling firms to produce at a lower cost through liberalised access to resources and regulations associated with the national economies in which

production takes place (Trebilcock and Howse 1999, p. 4). Free international trade essentially consists of reciprocal tariff reductions and the elimination of non-tariff import barriers (arguably including labour rights provisions).

In this respect, international trade law singularly displays the same features of international human rights law in terms of restricting the exercise of state sovereignty on the basis of values having international legal significance. This is evident in the context of regulatory initiatives intersecting trade liberalisation and international labour rights protection. For instance, the EU has a Generalized System of Preference for promoting labour standards in non-EU countries, as the European trade liberalisation and integration process is mandated to enshrine the harmonisation of social policies, including labour standards (see European Union, Council Regulation No. 03281/94, OJ L 348, Council Regulation (EC) No. 2820/98 (21 December 1998).

The recent upsurge of trade-labour linkages at domestic, regional and international levels is establishing the conception of a composite normative system, in which free trade is complementing, if not superseding, the traditional role of capital in terms of productivity and socio-economic interrelation with labour. At the domestic level, traditionally the most significant reference to labour standards in national legislation governing international trade is s 301 of the US Trade Act, which validates unilateral trade sanctions against other countries that neglect to comply with labour standards. In addition, the US Generalized System of Preferences reserves preferential access to the American market for countries that comply with internationally recognised labour rights. Besides the ideological value of these measures, it is also noteworthy that from time to time such initiatives have been deployed in practical politics as a convenient legal front for preserving influence over weaker and price-taking trading partners (Scheuerman 2001, p. 14).

The largest flows of cross-border migration for employment take place between developing countries; in this case, the destination country normally hosts the foreign production of industries based in developed countries. Therefore, justice at work for migrants is growing to be a critical factor in the definition of unfair practices distorting free trade at the international level. Hence, the failure to protect and uphold migrant workers' rights and standards is potentially sanctionable and enforceable by the World Trade

Organization (WTO). Although art III of the GATT clearly states that a Member State cannot discriminate against like products imported from another Member State in a way that benefits national producers, it is still unclear under the available case law whether legislation requiring domestic and foreign producers alike to respect international labour standards is to be regarded as discrimination within the scope of art III of the GATT. In the past decade, only in a few cases has the WTO Appellate Body found that an importing State can legitimately impose trade barriers on the grounds of social dumping. The most egregious example is: *Canada - Certain Measures Concerning Periodical, 1997* (Hudec in Bronckers and Quick 2000, pp. 187-217).

The WTO/GATT is the legal foundation of the system of rules that promote and enforce trade liberalisation globally through the members' reciprocal reduction of import tariffs. To verify that Member States do not set up protective measures through means other than tariffs, the WTO framework presents three standard sets of obligations, the ultimate objective being the non-discriminatory treatment of products in the markets of Member States. Market Access (MA), Most Favoured Nation (MFN) status, and National Treatment (NT) of imported and locally produced goods are the so-called three pillars of the WTO system, enabling foreign producers to compete equally with domestic producers within members' markets. However, in the majority of cases, the WTO panels of experts affirmed that art III of the GATT only compares treatment accorded to like domestic and imported products and not also the labour policies or practices in effect at origin and destination. For example: 'Article III: 4 does not permit treatment of an imported product less favourable than that accorded to a like domestic product, based on factors not directly relating to the product as such', found in *United States - Taxes on Automobiles (1994, not adopted)* at para 5.54.

Provided that labour rights standards are linked with free trade targets, each WTO pillar displays the capacity to advance and complement the global governance of migration well beyond the traditional domain of both domestic and international labour law.

When States open their markets under the condition that the goods seeking access are produced in accordance with international labour rights, another front is open in the mainstream international trade debate of protectionism versus predatory pricing. This is

also known as 'dumping', which in the context of international trade law conventionally refers to 'selling abroad below cost or at lower prices than charged in the home market' (Grossman and Koopmann 1996, p. 116).

Generally speaking, export-driven countries, which have been lobbied by large multinational corporations enjoying delocalised production, argue that trade barriers based upon the protection of labour rights provide covert forms of protectionism advantageous to domestic over foreign producers (Srinivasan 1996, p. 219). Conversely, reluctant importing countries and their local producers claim that foreign production not compliant with international labour rights represents an unfair strategy of predatory pricing, which involves cutting production costs by means of 'social oppression', also called 'social dumping' (Grossman and Koopmann 1996, p. 115). An immediate effect of social dumping is the undervaluation of the cost of migrant labour, which allows a competition not based on productivity, but rather on paying migrant workers less than local workers who are similarly skilled and capable of comparable productivity levels. In employment law terms, allowing migrant labour undervaluation amounts to disregarding international labour standards relating to the clause of equal pay for equal work of migrants and nationals in domestic markets, in terms of art 6 of the Convention concerning Migration for Employment (ILO C097, Revised 1949).

In international economic law terms, States not protecting against this form of social dumping enjoy a *comparative advantage* over States that decide to do so. While international trade law aims to promote cross-border competitive pricing, at the same time it does sanction States that unfairly subsidise the costs of production. The lack of enforcement of migrant labour undervaluation may well be regarded as a state subsidy on account of being discriminatory against foreign producers that cannot access the advantageous undervaluation enjoyed by domestic producers. On the other hand, social security benefits to low paid workers (usually with families) could also be similarly considered a governmental subsidy distorting foreign trade.

On a political economy level, States neglecting protection against migrant labour undervaluation fear that linking the respect of international labour standards with production would diminish their comparative advantage in terms of foreign direct

investment crucial for economic development and prosperity. Moreover, determining the cost of labour by reference to productivity, as based on a globally set criterion of undervaluation, would conflict with the international trade principle of comparative advantage, which is founded on national dissimilarities rather than international uniformity (Trebilcock and Howse 1999, p. 136).

In addition, research shows that production costs do not differ as much as labour costs do between rich and poor countries, owing to productivity differences (Golub 1999, p. 48) and to the lower standards of social security protections of cross-border workers of temporary and irregular status within developed countries. On the contrary, since the last decade, statistical analyses and simulated models indicate that the promotion of international labour rights often leads to improved productivity, attracts foreign investment and facilitates domestic adoption of free trade measures (Campbell 1998, p. 237).

WTO rules and the social clause on international labour standards

The inclusion of trade barriers related to migrant labour undervaluation within the WTO rules, as identified in the previous section, is controversial and open to differing interpretations. On one side, there is the argument that such trade barriers promote international labour rights. Conversely, it is argued that, at the same time, trade barriers advantage domestic over foreign producers. For reasons that will be further outlined below, developing countries traditionally oppose proposals to include a social clause within the international trade framework, even if just referring to a few basic labour rights lacking significant enforcement measures. This rather conservative position is rooted in the arguable belief that free trade brings about the promotion of labour standards and not the other way around, and that higher working standards are merely a pretext for protectionist measures benefiting mainly developed countries.

Since early meetings after its establishment, the WTO dismissed diplomatically any intervention in the area of labour rights, as expressed in the 1996 Singapore Ministerial Declaration, at paragraph 4:

> We renew our commitment to the observance of internationally recognized core labour standards. The International Labour Organization (ILO) is the competent body to set and deal with these standards, and we affirm our support for its work in

> promoting them. We believe that economic growth and development fostered by increased trade and further liberalization contribute to the promotion of these standards. We reject the use of labour standards for protection purposes, and agree that the comparative advantage of countries, particularly low-wage developing countries, must in no way be put into question. In this regards, we note that the WTO and the ILO Secretariats will continue their existing collaboration.

As a result of this stance and despite the efforts of countries such as France and the US to include a social clause in the General Agreement on Trade and Tariffs (GATT) (McCrudden and Davies 2000, p. 44), the debate was confined to merely understanding whether existing WTO rules allow domestic legislation to restrict market access with respect to the infringement of international labour rights (Howse and Mutua 2000). However, a system of borderless labour rights reliant only on free trade sanctions appears to be incomplete because it is aimed only at foreign production destined for export, and it could be enforced realistically only by those States with strong enough political and trading power.

At the WTO Ministerial Conference of 1999 convened in Seattle, for the first time important members such as the US, the EU and APEC countries sought to include in the agenda issues of ethical trade, based on reviews of liberalisation for particular sectors such as agriculture and services that were agreed as part of the Uruguay Round in 1994. Due to deep disagreements with developing countries over their WTO obligations, the meeting was unable to launch a world trade round. As a result, the developing countries first had the opportunity to form their own negotiating bloc at the free trade level. Thus, it is significant that when the WTO negotiations reconvened in Doha two years later, the eponymous Development Round was based on concessions aimed at including the interests of the developing countries.

Although the Seattle Conference failed to launch a new 'Millennial' round of trade negotiations, it is worthwhile analysing the controversial debate on the trade-labour linkage that influenced the negotiations in Seattle, which still has a deep impact on the current Doha Development Agenda. At the international political level, the trade-labour linkage is one of the main factors underlining the contentions between the developed world represented by the US and the EU, and the major developing nations led by the rising

economic powers of China, India and Brazil, with the minor developing countries swayed by either of the blocs.

Like political debate, research is divided internationally into the 'North-South' blocs, as initiated by two topical documents published in the aftermath of the Seattle negotiations: the controversial *'Third World Intellectuals and NGOs Statement against Linkages'* (TWIN-SAL of trade with environment and labour), and its subsequent response *'Enough Exploitation is Enough'* prepared by the former International Confederation of Trade Unions (ICFTU 1999).

The TWIN-SAL asserts that trade and labour standard linkages originate from the combination of misguided human rights interests and corporate protectionism within developed countries. On the whole, Third World intellectuals call for a human rights approach that reflects a comprehensive commitment to the full range of rights at stake, claiming that sanctions tend to be enforced asymmetrically and disadvantage developing countries only (Murphy 2010, p. 170; Pethig and Rauscher 2003, p. 235). The underlying principle is that 'you cannot kill two birds with one stone', as the moral agenda of labour standards would be contaminated and encumbered by their association with trade and competitiveness. Instead, 'another stone' should be provided to the most appropriate institutions dedicated to impartially upholding labour standards internationally. In particular, the TWIN-SAL advocates the empowerment of the ILO through innovative reporting systems on members' conformity with core standards, to be drawn on, but not enforced by, the WTO's trade policy review mechanism (Bhagwati et al. 1999).

Shortly after the publication of the TWIN-SAL, the ICFTU responded that 'far from being a non-trade issue, core labour standards are intimately affected by and related to the present system of international trade and investment' (ICFTU 1999). Overall, the ICFTU's response called for the involvement of the international community at large, thus including all trading actors globally, in the protection of the ILO's basic labour standards. In particular, the ICFTU proposed to incorporate a labour standard clause into WTO mechanisms and processes through a joint and equal ILO-WTO work programme in areas such as trade policy reviews and dispute settlement procedures. The ICFTU maintained that the TWIN-SAL conclusions were 'seriously inadequate' because they proposed to 'perpetuate the present

freedom for repressive governments and companies to continue to use repression of workers' (ICFTU 1999) rights as a tool for export maximisation, while continuing to leave the multilateral system powerless to take any effective measures to redress that exploitation'. Conversely, the ICFTU argued that the problems created by free trade should be addressed within a multilateral trading system also at the social level. The ICFTU's response pointed out that, although not all those who oppose the trade-labour linkage represent multinational corporate interests and repressive governments, it is precisely 'those parties which have most to gain from the perpetuation of a status quo which enables them to continue their exploitation of workers without any constraints' (ICFTU 1999).

After more than a decade, the above opposing views and positions at both the political and academic level remain the benchmark for two very diverging visions of international labour law, with significant consequences for the directions and approaches that are being taken in the global governance of labour migration. Understanding this is of paramount importance for the analysis of the new fronts that are continuously being opened in relation to the international economic law of migration.

As a result of the concatenation of social, political and economic circumstances previously outlined, the legal apparatus of international trade is currently situated at a historic crossroads in terms of global governance in economic migration. Crucial directions are being taken that may lead to either cementing the actual situation based on scattered bilateral and regional migration agreements within a weak international labour law framework, or lifting the social and political pressure from the traditional corridors of migration. Therefore, international trade law has the potential to offer an innovative regulatory scheme interweaving trade and employment affairs, at the same time disentangling the most controversial working rights-related issues from the purely economic aspects of free trade. Nevertheless, as one of the most controversial aspects of international trade, cross-border labour is also one of its least addressed matters.

Not surprisingly, in times of economic turmoil, governments appear to regulate such aspects at the domestic legislative level, and leave intergovernmental organisations to deal with liberalisation and market access expectations. Therefore, liberalisation is never easy to achieve locally, as in principle it can be a good card to play locally before the polls (when not

affecting employment), but in practice is easy to discharge, postpone or disempower internationally. For instance, in some developed countries, including Australia, Canada and New Zealand, the preference for high-skilled workers is implemented through a points system. Special working visas are thus flexibly implemented, as the formulae take into account such characteristics as education, occupation, language proficiency and age. This confers some objectivity to what otherwise might seem an arbitrary selection process, although other countries attract large numbers of graduates without a point-based system (Jasso and Rosenzweig 2008, 3564). Accordingly, the degree of liberalisation achieved thus far with respect to the transitory movement of natural persons is less than comprehensive, to the disappointment of developing countries in particular, which believe in its economic benefits, on the assumption that it would allow human resources to move freely to areas where they can be more productive (Young 2000, p. 184). This creates a complex situation whereby it is very difficult to achieve consensus at the WTO on what limitations on the movement of natural persons should exist, as members swing between protectionist and liberalising positions.

As in the context of EU/Schengen policy implementation seen above, the most recent bilateral and regional migration agreements generally integrate labour migration with diplomatic goals, such as those centred on security affairs, for example, which become the fulcrum of signatories' joint governance in operational procedures for border control and prevention of irregular stays.

However, the bilateral agreements still focus mainly on the border-based logic of immigration authorities. Thus, despite the above measures favourable to migrant workers, as well as the shared operational responsibility between sending and receiving countries, the regulation process of bilateral migration agreements is virtually unilateral, as the host countries generally control labour market access levels and conditions through their choice of penalties and incentives, which are unaccountable to sending countries (Carzaniga 2009, p. 500).

However, the policy stance of many developed countries is to open their labour markets to low-skilled migrants through bilateral migration agreements, thus reflecting recent trends to reactivate the quota-based recruitment system of the post-war period.

Although it may entail a certain degree of reciprocity, such 'bilateral' labour movement liberalisation is in general unilaterally conditioned by occupation shortages in host countries, and is preferential to source countries that collaborate in preventing undocumented migration. Conversely, the lack of a coherent structure of multilateral norms results in regulatory loopholes and overlapping provisions on migration that fail to give a defined colour to the grey area between free trade and international labour mobility.

Conclusion

Short-sighted and faulty development policies risk rendering migrant labour temporary and illegal in the present century. Yet, the inescapable globalising trend of trade and technology demands higher levels of exchange from one domestic economy to another, including transnational labour mobility (Wickramasekara 2011, p. 8). The liberalisation of international trade and protectionist domestic immigration systems creates serious governance imbalances. The reality of transnational economic forces amplifies vulnerability for the exploitation of labour migrants, who are to a greater extent forced to move illegally or temporarily, without expectations of ever becoming regular and permanent members of the host society, despite government guidelines.

Full and equal access to the benefits of migration is paramount to ensure the protection of basic human and labour rights for those who cross borders. The full liberalisation of labour is also undermined by the above-mentioned failures of international trade law to frame, implement and enforce a global system removing the constraints to labour market access. In terms of transnational mobility, labour appears to be far less free and accessible than the other social and economic inputs to the redistributive vision for global development. Multilateral trade liberalisation policies and initiatives based on this model concentrate on promoting the free movement of goods, capital, services and ideas, but tend to neglect the liberalisation of cross-border labour.

The multilateral trading system is failing to impose mandatory global labour standards also because of resistance from individual States in addressing such labour standards as part of trade liberalisation initiatives based on the existing and unsatisfactory domestic dynamics in labour. Another undermining factor is that the trading arrangements between labour-rich sending countries and labour-poor host countries reflect the traditional

immigration vision of keeping the migrant worker as long and as much as possible an outsider. Thus, the cross-border worker is not entitled to the rights and privileges that come only with full membership of the host country (Grugel and Piper 2011, p. 435).

Within destination States, the imposition of temporariness relegates migrants to indentured dependence on employers for the continued legality of their presence, cementing their unequal bargaining power and further limiting their access to the social rights of the host country. Correspondingly, within origin (and often developing) States, the over-supply of the workforce exacerbates the lack of free mobility and immobilises and facilitates the exploitation of local cheap labour by both domestic and foreign capital.

The resulting global labour model created by the combination of domestic immigration law and multilateral trade law systems, in neglecting to liberalise workers' movements, clearly encumbers the ability of labour to participate actively and autonomously in economic globalisation. Maybe this is the root issue of labour in relation to international trade: should labour be treated as a commodity or be autonomous, therefore threatening each State's (economic) sovereignty?

Despite restrictive immigration policies at the national level, the transnational movement of labour responds to economic stimuli available in global markets. Therefore, the transnational labour supply chain veers between loopholes and blind spots of applicable legal frameworks, and also trade liberalisation policies in search of the necessary flexibility to respond to the rapid changes in the labour demand of global economies.

Plainly, labour immobility cannot face this challenge, and migration protectionism is inadequate on a purely economic level. Instead, thorough labour liberalisation would better solve the imbalances of the global labour market by helping the over-supply from labour-rich economies find employment in labour-poor and intensive production economies.

Liberalisation policies would be able not only to increase the supply of labour where needed, but also start a beneficial circle in terms of comparative advantage of production inputs. For instance, the free trade concept of comparative advantage previously outlined may be applied to labour as a benchmark for governmental and industrial training intervention in upgrading labour skill levels. This is especially viable in economies that are

rich in labour, but need to import capital to adjust their production inputs for the upgrade of their comparative advantage to more sophisticated capital-intensive products.

In addition, the flexibility of a liberalised labour market would respond more effectively to the growing transnational competition in production inputs (i.e. resources to create a good or service that is suitable for use or exchange in a market economy), consumption outputs (i.e. the aggregate of all economic activity that does not entail the production of goods and services), and capital attraction. Protectionist policies prevent domestic labour markets from competing globally (and not only individually) and achieving the opportunities created by a freer exchange of goods, services, capital and information. In times of highly mobile production, the international economic law system has failed to fully exploit the free movement of labour as a factor correlating to innovation and development in production.

The current model of trade liberalisation addresses labour as subsumed within the production of goods and services as, in political economic terms, labour is rooted in the marginal utility and productivity theories. Hence, the movement of labour is not sufficiently addressed at the dominant trade liberalisation policy level. Nevertheless, at least in theory, it is mainly within the free trade system that labour appears to be somewhat recognised and associated with capital as a fundamental factor of the economic nature of human productivity. In reality, the transnational *labour trading* demand of States and capital uncovers the shortcomings of the free trade system in ensuring the equal status of labour as a factor of production. As a result, unlike within the international human rights law framework, labour lacks a comprehensive conceptualisation in terms of international economic law. Therefore, failing to achieve labour liberalisation is also likely to undermine the conceptual basis of the free trade movement.

In connection to what was discussed above on distorted trade and low standards of labour rights, barriers to human mobility facilitate capital in superseding labour as a cause of social dumping. Thus, capital becomes the only price discriminant in the compensation of both local workers confined to over-supplied domestic labour markets, and cross-border workers confined to a temporary or undocumented status.

Biography

Giovanni graduated in Law in Italy, where he practised as a solicitor for a short while. He soon moved into the international trade and logistics sectors while covering various corporate roles across Europe, the USA and Asia. Living and working across the globe sparked Giovanni's ambition to develop scholarship in the socio-legal area of cross-border human mobility. In 2014 Giovanni completed a PhD in law at the University of Otago and he is currently based in Melbourne, where he is a lecturer in law at Navitas College of Public Safety.

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