Cover image: Photograph by Christoph Scherrer.

Published by
Edward Elgar Publishing Limited
The Lypiatts
15 Lansdown Road
Cheltenham
Glos GL50 2JA
UK

Edward Elgar Publishing, Inc.
William Pratt House
9 Dewey Court
Northampton
Massachusetts 01060
USA

A catalogue record for this book
is available from the British Library

Library of Congress Control Number: 2024948184

This book is available electronically in the Elgaronline
Business subject collection
https://doi.org/10.4337/9781035300907

ISBN 978 1 0353 0089 1 (cased)
ISBN 978 1 0353 0090 7 (eBook)

In memory of Eddie Webster

The embodiment of activist-scholarship

Contents

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32. Regional integration: a promising tool to advance the international decent work agenda?[1]

Roland Erne, Mark Anner, Michele Ford, Tamara Kay and Vincenzo Maccarrone

World leaders founded the International Labour Organization (ILO) in 1919 to guide the reconstruction of a just social order to address the disruptive effects of rampant capitalism in the lead-up to World War I. After World War II, the ILO restated its commitment to just international labour standards to ensure that labour would not be treated as a commodity (Supiot, 2020). However, although the ILO's constitution highlights the crucial importance of workers' rights, its founders failed to develop effective tools to enforce them. To advance labour standards, the ILO merely provides member states with a menu of international conventions, which they are free to choose to ratify and enforce, or not. Given this lack of compulsion, it is perhaps not surprising that even some of the world's biggest economies, namely the US and China, have failed to sign even the core conventions (Erne, 2023, table 15.2). Furthermore, national procedures are required to enforce these conventions, as the ILO can only name and shame states that do not implement them. The Sustainable Development Goals (SDGs), adopted by the General Assembly of the United Nations (UN) in 2015, are even more toothless. Besides being merely aspirational, their wording is imprecise: for example, it is not very clear what SDG 8 – 'Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all' – means in practice. This does not necessarily mean that ILO conventions or SDGs are irrelevant, as unions, social movements and advocacy groups can use them to hold governments and corporations to account. But what are the prospectives for the decent work agenda, given the weak constraining power of ILO conventions and SDGs?

In this chapter, we assess whether regional integration processes provide more promising supports for the agenda's advancement. Regional policy frameworks may be more precise and constraining, but this does not mean that they are always more socially oriented. In exploring their impact, we outline and compare the policy direction of regional integration frameworks in the labour policy field and the transnational activism that they have triggered. These are the European Union (EU); the North American Free Trade Agreement (NAFTA), the US–Mexico–Canada Agreement (USMCA), and the Dominican Republic, Central America, and United States Agreement (CAFTA-DR); and Association of Southeast Asian Nations (ASEAN) Economic Community.

Our analysis shows that the greater vertical policy enforcement power of the EU has triggered significant transnational counter-movements by trade unions, social movements and advocacy groups, which sometimes convinced EU leaders to set supranational EU labour standards and social rights (Erne, 2008; Erne et al., 2015; Erne & Nowak, 2022). This, however, does not mean that the EU is necessarily the most socially oriented regional organisation, as its vertical policy interventions have also created the world's most integrated transnational market, which

exposes workers to greater horizontal market integration pressures across borders (Erne, 2019; Erne et al., 2024). Transnational trade union action and the labour-side agreements and social clauses of the American free trade agreements also play a greater role in curbing the race to the bottom in labour standards compared with ASEAN's commitments to the UN's SDGs. Accordingly, we found that international pressures on ASEAN countries from trading partners, such as the EU and the US, and to some extent international labour movement and human rights activists, play a greater role in supporting the decent work agenda than ASEAN's SDG commitments.

DECENT WORK AND THE EUROPEAN INTEGRATION PROCESS

The EU is one of the world's most influential economic regions. In 2022, it accounted for 14 per cent of all world exports, whereas the US accounted for 10 per cent and China for 18 per cent. Most importantly, the value of trade in goods between EU states largely exceeds the value of their trade outside the EU: in 2022, trade in goods between EU states was 64 per cent larger than their exports to non-EU states (Eurostat, 2023). What makes the EU stand out among regional integration efforts such as the NAFTA or the ASEAN, however, is its degree of political integration.

The EU has a long history. In 1957, the BENELUX countries (Belgium, the Netherlands, Luxembourg), and France, Italy and West Germany, which had created the European Coal and Steel Community in 1951 to oversee the reconstruction of these sectors after World War II, established the European Economic Community (EEC). The EEC Treaty assigned only limited tasks in the social field to its executive body, the European Commission, but there were exceptions, notably those linked to workers' freedom of movement within the EEC. This led to the adoption of European laws that facilitated mobile EEC workers' access to social security and public healthcare in other member states. The EEC Treaty also empowered the Commission to draft legislation on equal pay for equal work for men and women.

Until the 1970s, supranational economic integration and the construction of national welfare and industrial relations systems developed in parallel (Giubboni, 2006; Ashiagbor, 2013); but this hardly mattered. Mirroring the post-World War II class compromise between capital and labour, European market integration was meant to produce the economic growth that would enable the rise of national welfare states (Milward, 2000). This seemed to work as, by 1973, Denmark, Ireland and the UK had also joined the EEC. In the late 1970s, however, this class compromise started to unravel. The ensuing shift to neoliberal policies at the national level also affected the European integration process.

In 1986, EEC member states adopted the Single European Act (SEA), which was meant to remove non-tariff barriers between them. In 1992, the then 15 member states adopted the Maastricht Treaty, which created the EU and set out the pathway for the creation of its common currency, the Euro. The implementation of the SEA's single market programme encroached on national welfare and industrial relations systems by putting EU countries in competition with each other (Streeck, 1998). Commodifying pressures on national industrial relations increased further after the adoption of the Maastricht Treaty, which imposed binding convergence criteria on public finances and inflation rates for countries to join the monetary union. To increase the EU's legitimacy, the Maastricht Treaty also introduced qualified majority voting in some labour and social policy areas.

Subsequently, the Council (of national ministers) and the European Parliament adopted decommodifying laws on health and safety and working conditions, such as the Working Time Directive and the directive protecting the rights of pregnant workers. The Maastricht Treaty also gave a formal role to collective bargaining between the European umbrella organisations of labour and capital, the so-called European Social Dialogue. European social partners were granted the power to draft joint agreements in the social field, which the EU could then turn into binding laws. Social Dialogue led to agreements on parental leave, part-time work, and fixed-term work.

When social partners failed to reach an agreement, the Commission would take the lead and propose the adoption of a corresponding EU directive, as happened in the cases of the EU directives establishing European Works Councils, employee involvement within European companies, and information and consultation of employees at national level. In 1986, the accession of Portugal, Spain and Greece – countries where average wages were considerably lower – raised the spectre of a race to the bottom in wages and working conditions through the temporary posting of workers by their employers to provide services in other member states. At least some of these concerns were addressed by three directives on posting workers, which incrementally established the principle of equal pay for equal work in the same place. After the dissolution of the Soviet Union, EU leaders also agreed new accession criteria, which define whether a country is eligible to join the EU. The criteria require that a state has the institutions to preserve democratic governance, has a functioning market economy, and has already implemented the entire body of existing EU laws (Holman, 2001). The first eight Central and Eastern European states were able to join the EU as members only in 2004, along with Cyprus and Malta. Romania and Bulgaria joined in 2007 and Croatia in 2013.

Although the EU's social provisions only partially alleviated the increased horizontal market pressures created by the European Single Market and Monetary Union (Maccarrone, Erne & Golden, 2023), the EU's embedded neoliberalism (van Apeldoorn, 2002) differed from the more radical assaults on labour and industrial relations institutions that took place elsewhere. However, horizontal market pressures on wages and working conditions increased further after the launch of the Euro in 1999. In the meantime, the legislative impetus for decommodifying EU legislation on labour policy had disappeared in the face of growing opposition from employers and an ideological shift within most European social-democratic parties towards supply-side economics. The EU's new growth strategy instead hailed a 'flexicurity' approach to labour policy, with the balance tilted heavily towards the 'flexibility' side (Hyman, 2005).

After the outbreak of the 2008 global financial crisis, EU leaders feared that it might lead to the breakup of the Euro or even the entire EU. To prevent that from happening the Council and the European Parliament adopted a new economic governance (NEG) regime, which enabled the European Commission and Council to issue constraining country-specific policy prescriptions in all areas to ensure the 'proper functioning' of the EU's economy (Erne et al., 2024, chapter 2). The EU interventions in the world of work and employment subsequently reached new heights, but not in support of the international decent work agenda. The European Commission and Council identified the roots of the crisis in the apparent lack of member state competitiveness (Jordan, Maccarrone & Erne, 2021). Their country-specific NEG prescriptions on employment relations and public services thus followed an overarching commodifying script (Stan & Erne, 2023: Erne et al., 2024).

This development undermined the decent work agenda regarding several aspects. First, seven member states were forced to rely on loans from the EU and the IMF, which were conditional

on the implementation of austerity policies and commodifying labour market reforms, akin to what had happened in the Global South during the structural adjustments programmes of the IMF and the World Bank (Anner & Caraway, 2010). Since 2011, similar policy prescriptions have fed into the yearly country-specific recommendations (CSRs) that the Commission drafts and the Council adopts as part of the European Semester, a mechanism to coordinate national macroeconomic and social policy (Erne, 2015). The non-implementation of these CSRs could entail substantial fines. In short, the development of the NEG regime entailed a further leap from horizontal integration driven by competitive transnational market pressures towards vertical integration, whereby workers and unions in the EU were constrained by direct, vertical interventions by a supranational authority (Erne, 2019; Erne et al., 2024).

The NEG regime provoked a backlash, leading to the rise of labour protests (Bremer et al., 2020; Erne & Nowak, 2022) and of both left- and right-wing Eurosceptic parties in successive European and national elections. It is in this context that we must understand the EU's renewed interest in promoting decommodifying EU legislation on labour policy. In 2022, EU legislators adopted the directive on adequate minimum wages, which stipulates EU-wide benchmarks for national statutory minimum wage levels (60 per cent of the national median wage) and national collective bargaining coverage rates (80 per cent of the workforce). In 2023, EU legislators approved other decommodifying measures including the Pay Transparency Directive, which foresees mandatory audits of companies' payroll accounts to ensure equal pay for men and women. In December 2023, the European Parliament and Council negotiators also reached an agreement on a new EU directive intended to increase workers' rights in the platform economy and to regulate the use of algorithms by digital labour platforms. This, however, triggered fierce opposition from platform companies, such as Uber. In 2024, the platform companies almost succeeded to prevent the law's adoption in the Council. But just before the EU elections of June 2024 the European Parliament and Council nonetheless endorsed the Platform Work Directive against the will of the neoliberals in the French and German governments. Most importantly, from a global decent work and SDGs perspective, EU policy makers also envisaged new laws to promote workers' rights along transnational supply chains. The Commission's Communication on Decent Work Worldwide ambitiously states that the 'EU aspires to champion decent work both at home and around the world' and sets out several new initiatives to this end. In 2022, EU legislators approved the Corporate Sustainability Reporting Directive (CSRD), which requires all large companies operating in the EU (including foreign ones) to report on sustainability topics, including on workers' rights along their value chains. As the reporting is subject to the companies' own risk assessment, the practical significance of the CSRD is still unclear. After lengthy negotiations with the more progressive European Parliament and some very reluctant governments, on 13 June 2024 the European Parliament and Council also adopted the Corporate Sustainability Due Diligence Directive (2024/1760) (CSDDD). Until June 2026, all EU member states must thus transpose this new EU law into their domestic law, whether their governments supported it or not.

The CSDDD goes well beyond reporting requirements of the CSRD, by mandating large companies and their suppliers up and downstream to adopt measures to curb human rights abuses; including forced labour, child labour, inadequate workplace health and safety or the exploitation of workers, for example, by not granting them an adequate living wage, the right of association and collective bargaining, or other workers' rights outlined in Annex, Part I, CSDDD. In addition, corporations must also curb activities that negatively affect the environment (Annex, Part II, CSDDD). Like the EU directive on platform work, however,

this proposal also triggered the fierce opposition of some capital fractions and their political allies. As a result, the Council reduced the scope of the CSDDD significantly. By contrast to the Commission's initial draft, only the upstream but not the downstream part of the chains of activities of financial undertakings are covered by the CSDDD. Article 2 of the final version of the CSDDD also limited its application to very large corporations; i.e. to European companies if they (or their ultimate parent companies) employ at least 1,000 employees in the EU and report a *global turnover* of more than €450 million in the last financial year; and to third-country corporations (or their ultimate parent companies) with *EU-wide turnover* of more than €450 million regardless of their employee numbers within the EU.

Despite these limitations, the adoption of CSDDD created a significant precedent, by establishing civil liability (Art. 29, CSDDD), a European Network of Supervisory Authorities (Art 28, CSDDD), and hefty administrative penalties of up to 5 per cent of the net worldwide turnover of a corporation's ultimate parent company for violations of their due diligence obligations (Art. 27 (4) CSDDD). It remains to be seen to what extent these new EU laws will be more effective in advancing workers' rights by comparison to earlier tools, such as labour clauses in EU multilateral trade agreements, whose success has been proven to be limited (Smith et al., 2022). Be that as it may, the ongoing contentious public debates about the CSDDD have already turned the EU into a significant battlefield for the advancement of the ILO's decent work agenda and the SDGs.

DECENT WORK AND REGIONAL INTEGRATION IN THE AMERICAS

In contrast to the European integration process, in North and Central America, economic integration has been linked to the economic liberalisation and globalisation agenda from its beginning. Unlike their European counterparts, which supported the SEA and the Maastricht Treaty, US, Mexican, Canadian, and Central American unions have therefore resisted regional integration through free trade agreements. For the last 30 years, economic integration across North and Central America has been dominated by business interests in the US and has been vertically structured based on free trade agreements and restrictions on the movement of workers. This structure has prevented the emergence of robust mechanisms that could potentially further the SDGs and the ILO's decent work agenda. To the extent that progress has been made on these goals, it has been achieved by mobilisation and pressure from labour unions, social movements, advocacy organisations, and their political allies, often utilising opportunities provided by leveraging labour guarantees and protections in ILO conventions and free trade agreements.

The North American Free Trade (NAFTA) and US–Mexico–Canada (USMCA) Agreements

Between 1993, the year that NAFTA was negotiated – and 2018, trade between the US, Canada, and Mexico quadrupled from approximately USD 290 billion to more than USD 1.2 trillion, or almost 75 per cent of the total trade between the US and the 20 other nations with which it had free trade agreements (United States International Trade Commission 2019: 22). Despite these numbers, scholars disagree about NAFTA's impact on a range of outcomes.

Whereas Hufbauer and Schott (2005) argued that the agreement fostered competition and investment that increased efficiency and productivity, the US Congressional Budget Office found minimal aggregate labour impact, and McLaren and Hakobyan (2010: 1) found a 'dramatically lowering wage growth for blue-collar workers in the most affected industries and localities'. However, Gordon Hanson (2003) found that more skilled workers and those in Mexican states with more exposure to globalisation did experience a relative wage increase after NAFTA's passage.

The outcome around which scholarly opinion converges is NAFTA's effect on increasing inequality across the continent. As economists at the Economic Policy Institute reported in 2006: 'Twelve years later, it is clear that the costs to workers outweighed the benefits in all three nations … In each nation, workers' share of the gains from rising productivity fell and the proportion of income and wealth going to those at the very top of the economic pyramid grew' (Scott, Salas & Campbell, 2006: 1). Sandra Polaski (2006: 21) and economist J. Bradford DeLong (2006), who originally supported NAFTA, made similar assessments.

In terms of NAFTA's political effects, there is consensus among scholars and activists that, although the labour-side agreement (North American Agreement on Labour Cooperation or NAALC) positively and unintentionally benefited the North American labour movement by catalysing transnational relationships among key unions (Kay, 2005; 2011), it did little, if anything, to improve workers' rights and working conditions. Strides have been made not by utilising the mechanisms embedded in free trade agreements, but by utilising adjudicatory mechanisms in global governance institutions to push legal protections forward, at least on the books.

In 2002, for example, the US Supreme Court ruled in the Hoffman Plastics case (*Hoffman Plastic Compounds, Inc. v. NLRB*, 98 F.3d 1570 [D.C. Cir. 2001]) that an undocumented worker illegally fired for union organising is not entitled to back pay for lost wages. Politicians, labour activists, and scholars in the US and Mexico expressed concern that the decision would lead to even more discrimination against migrants in the US, and complaints were filed with the Inter-American Court of Human Rights (IACHR) and the ILO (see Watts, 2003). In 2003, the IACHR ruled in an advisory opinion that:

> If undocumented workers are contracted to work, they immediately are entitled to the same rights as all workers … This is of maximum importance, since one of the major problems that come from lack of immigration status is that workers without work permits are hired in unfavourable conditions, compared to other workers.[2]

The ILO Committee on Freedom of Association ruled in November 2003 that the Hoffman decision violated international standards and obligations that protect a worker's right to organise unions and urged Congress to pass legislation to bring US law 'into conformity with freedom of association principles, in full consultation with the social partners concerned, with the aim of ensuring effective protection for all workers against acts of anti-union discrimination in the wake of the Hoffman decision' (Human Rights Watch, 2005). As of this date, Congress has not passed any legislation to do so.

The discontent of various constituencies, but primarily of a US president – who had built his presidential campaign around it – led to NAFTA's renegotiation in 2017. The new United States–Mexico–Canada (USMCA) agreement has stronger labour protections and standards (Polaski et al., 2022) that disproportionately and positively impact the lives and working conditions of workers in Mexico, where historically the right to organise and negotiate collective

bargaining agreements has been severely limited. Independent and democratic unions are thwarted by widespread state interference, voter intimidation and retaliation.

The stronger labour rights and protections in the USMCA emerged not simply from US pressure, but rather from ongoing and intense mobilisation by Mexican democratic unions, labour lawyers, academics and citizen organisations that exploited opportunities provided by labour guarantees in ILO conventions and free trade agreements to implement labour reform. In 2016, the Office of the US Trade Representative pressured Mexico to adopt international labour standards on freedom of association and collective bargaining prior to negotiating the Trans-Pacific Partnership (TPP). Rather than accept a US Trade Representative directive to change its labour laws, Mexico instead initiated a domestic reform process that resulted in a transformation of the labour justice system: the Mexican Congress passed a reform to the labour articles of the Mexican Constitution that was ratified by Mexico's states and became federal law on 24 February 2017. Implementation of the reform, and therefore the transformation of the Mexican labour regulations system, still depended on the creation of secondary legislation at both federal and state levels.

This effort was well under way when the renegotiation of NAFTA began, and discussions on revising NAFTA's labour-side agreement focused almost exclusively on Mexican labour practices, framing them as sources of unfair competition for US workers. Eventually, an Annex on Worker Representation in Collective Bargaining in Mexico – approved by Mexican and US labour advocates – was attached to the USMCA's new labour chapter. It provided guidelines on the content of the secondary legislation and then tied the USMCA's entry into force to Mexico passing secondary legislation that met those criteria, which it ultimately did in 2019. The new labour reform legislation went into effect in 2023, and, in addition to guaranteeing basic labour rights, it established independent labour courts to replace labour boards and impartial organisations to register union elections, and it required unions to ratify, by the direct secret vote of each worker, all existing collective bargaining agreements before 1 May 2023 (AFL-CIO, 2020).

Together, the confluence of both domestic and international forces created the conditions for the wholesale transformation of Mexico's labour relations system towards a new system that is more representative, impartial, transparent, independent and democratic. Evidence suggests the new system is having a positive effect on labour rights in Mexico, and key labour unions in all three countries have registered their satisfaction with its results thus far (Polaski, 2023: 19).

The Dominican Republic, Central America, and United States (CAFTA-DR) Agreement

On 5 August 2004, the five countries of Central America, the Dominican Republic, and the United States signed the Dominican Republic–Central America–United States Free Trade Agreement (CAFTA-DR), which is the second largest trade agreement of the Americas following the USMCA. The agreement was significant for the Latin American countries, because one-third to one-half of their exports go to the US. In contrast, less than 3 per cent of US goods exports go to the CAFTA-DR region. The US's very limited dependence on the regional markets and the region's high dependence on the US market gave the US government considerable power when negotiating the terms of the agreement. Central American trade unions and their allies fought adamantly against the agreement, arguing that they were an

extension of US-dominated neoliberal market liberalisation in the region, an extractive model built on low-paid wages in garment export-processing zones and agriculture export crops such as bananas (Anner, 2022; 2023).[3]

Scherrer (2007) has argued that trade liberalisation has been more about unleashing downward pressure on labour and less about the mitigating impact of labour chapters. In the case of CAFTA, O'Connor and Nolan García (2015: 24) note, '[I]t is not clear that labour rights practices have improved considerably either in the region, or in any particular country, during the time that CAFTA-DR has been in effect. In some countries, we note the deterioration in labour rights standards, especially in protection of the right of association and collective bargaining'. The Penn State Labour Rights database[4] provides additional support for this finding, particularly in countries highly dependent on garment and agriculture exports. Honduras, which is the largest of the region's apparel exporters to the US, saw its level of worker rights violations increase the most. Guatemala, which is the second largest apparel exporter in the region, had the second top score for worker rights violations in the region. What is also notable is that, despite the CAFTA trade agreement, garment exports from CAFTA-DR countries have not grown substantially since 2006. Rather, CAFTA garment exports are largely flat or in decline, with growth in the sector concentrated in Asian exporters.

Unlike NAFTA, CAFTA includes a labour chapter and a binding arbitration provision pertaining to internationally recognised labour rights, including freedom of association and collective bargaining rights. However, the mechanism has been slow and largely ineffective. Significant hurdles for submissions include demonstrating that worker rights are 'sustained or recurring', and that violations occur 'in a manner affecting trade' (Drake, 2017). As a result of these challenges, only four submissions have proceeded to date in Guatemala, Costa Rica, the Dominican Republic, and Honduras. No submissions have been made for violations in Nicaragua and El Salvador.

In April 2008, the US Department of Labour's Office of Trade and Labour Affairs (OTLA) received a submission from AFL-CIO and six Guatemalan worker organisations, indicating that Guatemala had violated its obligation under the CAFTA-DR Labour Chapter to enforce workers' rights. In June 2017, following a *nine-year* review, an international arbitration panel found that Guatemala's failure to effectively enforce its labour laws did not adversely affect trade (Gottwald, Vogt & Compa, 2018). The panel decision was final, and there was no appeal process. Tequila Brooks (2022: 314) observes, 'The outcome of the case was devastating to those who believed that labour provisions would be effective tools for improvement of worker rights if they only had parity of placement with other provisions in FTAs.'

The OTLA received a submission from US and Costa Rican port workers in July 2010 alleging violations of workers' rights in the port sector regarding a fraudulent election for the union leadership. The following month, the Costa Rican Supreme Court ruled to reinstate the ousted board. Subsequent union elections were held without incident, and in April 2011, the unions notified the Department of Labour of their decision to withdraw the submission (ILAB, 2021). In December 2011, OTLA received a submission alleging that the Government of the Dominican Republic failed to enforce its labour laws relating to workers' rights in the sugar sector. The US Department of Labor (USDOL) issued a report on its findings in 2013, noting 'apparent and potential violations' of child labour, forced labour, and freedom of association rights (USDOL, 2021: 10). It provided 11 recommendations to the Government of the Dominican Republic. Since it issued its report, USDOL has argued that progress has been

made on several issues. However, other issues remain, notably in the area of labour inspection, which is underfunded and lacks economic sanctioning power (USDOL, 2021: 11).

A significant CAFTA-DR labour complaint was initiated by the AFL-CIO, and 26 Honduran labour unions and civil society organisations filed a submission in March 2012 in which they documented a series of worker rights violations, many of them in the garment export sector. The submission also indicated that the Honduran government failed to investigate, sanction and remediate violations. In early 2015, OTLA issued a public report indicating that it had 'serious concern regarding the protection and promotion of internationally recognized labor rights in Honduras' (OTLA, 2015: i). This led to a joint government Monitoring and Action Plan, which was followed by enactment of the Honduran Comprehensive Labor Inspection Law in 2017 and an increase in the country's total number of labour inspectors from 137 in 2014 to 169 in 2018. In 2019, the Honduran Secretariat of Labour and Social Security released implementing regulations to collect significant monetary penalties for freedom of association violations. However, the government failed to collect those fines (US Department of State 2020: 25). Moreover, as observed by Olvin Villalobos Velásquez, Minister of Labor and Social Security (2020–2021), although Honduras was now able to fund 169 workplace inspectors, the country needs 600 to adequately protect workers (cited in Anner, 2022: 10).

Despite the limitations of the CAFTA-DR labour rights process, activists in Honduras mobilised with transnational allies to organise at Fruit of the Loom (FoL) factories and achieve a binding agreement with the FoL that ensured the recognition of a union in one factory and union access and company neutrality in other facilities. Soon, organising extended to other FoL facilities in the country and then to other facilities to the point that, by 2021, 44 per cent of the 105,000 garment workers in Honduras had trade union representation and were covered by collective bargaining agreements with substantially improved terms and conditions of employment (Anner, 2022). The 2012 CAFTA labour complaint and the US and Honduran governments' responses contributed somewhat to this expansion in collective bargaining, but they were not the main driving forces.

In sum, much as in the NAFTA case, progress in the areas of workers' rights and decent work has largely been the result of worker organising and transnational advocacy.

DECENT WORK AND REGIONAL INTEGRATION IN SOUTHEAST ASIA

Originally consisting of Indonesia, Malaysia, the Philippines, Singapore and Thailand, ASEAN was established in 1967 as a bulwark against the spread of Communism. It has since expanded its mandate across three pillars – 'political-security', economic and sociocultural – that it pursues through a complex array of regional agreements, meetings, declarations, guidelines, and other mechanisms that seek to influence member state behaviour while at the same time respecting the autonomy of those member states. However, as Marx et al. (2021: 435) observe, 'the loose and minimal institutionalization of ASEAN has direct impacts on the roles it performs'. As a consequence, it offers unions and social movements limited opportunities to advance a decent work agenda.

Efforts to transform ASEAN into an economic bloc began in earnest with the establishment of an ASEAN Free Trade Area from 1992, but it was not until 23 years later that the ASEAN Economic Community (AEC) came into effect (Chen & Lombaerde, 2019). Collectively,

the ASEAN states are predicted to become the fourth largest economy in the world by 2030 (AUSTRADE, 2021). In 2022, the region's total trade in goods was worth USD 3.8 trillion, with a trade surplus of USD 77.9 billion (ASEAN, 2023a). Heralded as 'the realization of the region's end goal of economic integration', the AEC 'envisions ASEAN as a single market and product base, a highly competitive region' (ASEAN, 2023b). But when compared to the EU and the Free Trade Agreements in the Americas, the steps taken by the AEC to achieve its vision have had very limited effect.

The AEC initially aimed to achieve free flows of capital, goods, services, investment and skilled labour within the region. However, imbalances in economic power and national concerns about open markets led ASEAN states to focus on a Regional Comprehensive Economic Partnership and a series of ASEAN+1 Free Trade Agreements (Das, 2016). These ongoing barriers to greater integration are reflected in intra-regional trade, which accounted for just 22.9 per cent of ASEAN trade in 2022 (ASEAN 2023a).[5] Most of this inter-ASEAN trade involves trade in goods, with extensive non-tariff barriers limiting trade in services. Labour mobility is even more restricted, especially in skilled occupations, although growth triangles and other kinds of special economic zones act to bring ASEAN workers into the regional economy. In terms of actual labour migrants, however, the vast majority are employed on temporary visas in low-skilled occupations (Ford, 2019).

Internally, the most fundamental issue relates to the vast economic disparities between countries in the region. Indonesia is ASEAN's largest economy by far. In 2022, its GDP of USD 1,317 billion was well over twice as large as that of Thailand, the region's next-largest economy. At the other end of the spectrum, Cambodia's GDP in that year was just USD 29 billion. In terms of GDP per capita, Singapore dominates the region at USD 82,795 per capita, followed by Brunei at USD 37,446 and Malaysia at USD 12,468. Six of the remaining seven ASEAN countries have a GDP per capita of less than USD 5,000, with Myanmar the lowest at just USD 1,129 (ASEAN, 2023a).

Externally, ASEAN's key political and economic challenge involves managing China's growing focus on Southeast Asia. The US and the EU continue to play a strong role in relation to the decent work agenda in several ASEAN states because of the conditions that they impose on trade and on the behaviour of global value chains headquartered in the US and Europe (Ford, Gillan & Thein, 2023). However, in recent decades, China has targeted ASEAN countries as part of its Belt and Road Initiative, not only growing its trade but also aid and investment to the region (Heiduk, 2022). As an economic bloc, ASEAN has responded by strengthening broader trade relationships, for example, through the Regional Comprehensive Economic Partnership (Chen & Lombaerde, 2019), which had been signed by all the ASEAN+6 countries, except India, by 2023.

The SDGs are a significant focus for ASEAN, with the ASEAN Community Vision 2025 emphasising its complementarity with the UN 2030 Agenda for Sustainable Development (ASEAN, 2015). ASEAN's engagement with the international community on the SDGs is led by Thailand, as ASEAN Coordinator for Sustainable Development Cooperation, and driven by the ASEAN Forum on SDGs with national development planning agencies. Most member states also refer to the SDGs in their national development plans. As Holzhacker (2018) reminds us, however, even ESCAP acknowledges the numerous and multidimensional capacity gaps impeding implementation within Southeast Asia. A major report on the challenges and priorities of implementation identified broad-based economic progress with decent jobs as one priority on ASEAN's list of outstanding aims (ESCAP, 2017). But ASEAN's efforts to

address the SDGs are focused primarily on poverty reduction, infrastructure and connectivity, sustainable management of natural resources, sustainable consumption and production, and resilience, rather than on the decent work agenda (Holzhacker, 2018). Where they do deal with labour, they are focused primarily on inter-regional labour migration.

This is not to suggest that ASEAN has been entirely silent on formal sector work. In 2010, the ASEAN labour ministers' meeting declared that ASEAN recognises freedom of association and other basic labour rights and promotes bipartite and tripartite social dialogue to address workers' grievances (Ofreneo & Abyoto, 2015). More recently, the ASEAN Intergovernmental Commission on Human Rights (AICHR) called for ASEAN to 'play a greater role in providing guidance on ways businesses can respect human rights throughout their operations, and to advance responsible and sustainable business practices' (AICHR, 2023). Importantly, however, ASEAN has no mechanisms to enforce compliance, and thus regional-level statements can at best exert only moral pressure on member states.

Indeed, the strongest drivers of employer compliance with the decent work agenda in Southeast Asia are neither ASEAN nor even national governments but rather pressure from trading partners and from multinational enterprises concerned with complying with international labour standards. Jäger et al. (2023) argue that international labour standards have had a weak impact in Southeast Asia. This may be true in terms of adherence to ILO conventions, but their translation through requirements of other states and even multinational enterprises is nevertheless significant. From the mid-1980s, the United States and later Europe linked labour rights and trade through their Generalised System of Preferences mechanisms (Compa & Vogt, 2001; Portela & Orbie, 2014), which influenced the approach taken to international labour standards by a number of Southeast Asian governments. Bilateral trade agreements have also been used for this purpose. For example, the United States–Cambodia Bilateral Textile Agreement led to the establishment of Better Factories Cambodia, a programme tasked with labour rights monitoring in garment factories in that country (Ford, Gillan & Ward, 2021). Other important initiatives include the TPP, an economic bloc driven by the US that was to include Brunei, Malaysia, Singapore and Vietnam alongside several other countries in the Asia-Pacific, but not China. Although the TPP collapsed upon the US's withdrawal, its negotiation brought renewed pressure on labour standards in countries like Vietnam, where it led to unprecedented discussions on freedom to organise (Marslev & Staritz, 2023). The EU's due diligence requirements are among the most recent attempts to leverage trade relationships to improve labour rights globally, including in Southeast Asia (Jäger et al., 2023). It is already clear that they, too, have the potential to drive change in the region.

To a lesser extent, pressure to ensure compliance with international labour standards also comes from local and international unions and other non-government actors. Transnational labour activism at a regional level within Southeast Asia is dominated by non-governmental organisations (NGOs) concerned with temporary labour migration, most often of women employed as domestic workers but also increasingly of men in industries like construction (Ford, 2019). These NGOs engage regularly with ASEAN as an institution, promoting a regional approach to the protection of migrant labour rights, sometimes in collaboration with union allies.

There are also two regional union bodies in ASEAN: the ASEAN Trade Union Council (ATUC) and the ASEAN Services Employees Trade Union Council (ASETUC), a product of collaboration between the regional offices of three global union federations. ASETUC is not formally recognised at the ASEAN level, but nevertheless participates in ASEAN activities

including those run by the ASEAN Secretariat, the Senior Labour Officials Meeting, and the AICHR. While the ATUC maintains a Facebook page but little else, Serrano identifies several instances where ASETUC 'has been able to raise a legitimate voice "of and for" labour' within ASEAN, though she acknowledges that these accomplishments 'may seem abstract in terms of their concrete impact' (2017: 11).

Mirroring the flow of influence on member states' approach to decent work, Southeast Asian unions more often engage with one another through external mechanisms – in this case, the global unions' regional representative structures and networks – than through ASEAN-focused regional bodies or networks. These structures and networks produce and operationalise regional strategies, but their focus is on the nexus between international labour standards, global production networks, and national action rather than on the regional level per se. This focus is entirely understandable, as it reflects the partial nature of economic integration and the absence of mechanisms within ASEAN to support and enforce practices that promote decent work in member states.

CONCLUSION

Our comparison of different regional integration processes across time and continents has shown that regional institutions per se do not advance a decent work agenda either directly or through promotion of the SDGs.

Under NAFTA, there has been an increase in inequality across North America. And, NAFTA did little, if anything, to improve workers' rights and working conditions. The USMCA has stronger labour protections and standards as a result of US pressure and most importantly from intense mobilising by democratic unions and civil society in Mexico. CAFTA, unlike NAFTA, includes a labour chapter and a binding arbitration provision for violations of recognised labour rights. However, the mechanism has been slow and largely ineffective. As in the case of NAFTA, what progress has been achieved on workers' rights and decent work mostly has been the result of worker organising and transnational advocacy. ASEAN lacks mechanisms to support and enforce practices that promote decent work in Southeast Asia. As a regional association, the AEC has focused primarily on inter-regional trade, infrastructure, sustainability and poverty reduction. Where it has paid attention to workers, most efforts at the ASEAN level have focused on inter-regional labour migrants rather than on the rights of workers more generally.

At each stage of its development, the EU became an ever-more supranational organisation with greater state-like features. This made the EU the 'most developed instance of regional regulation in the world' (Marginson, 2020: 239). Although the EU has often been portrayed as the most progressive and most effective regional organisation in terms of decent work, the NEG regime adopted after the global crisis of 2008 hinders, rather than helps, the pursuit of a transnational decent work agenda. However, although the EU's country-specific NEG prescriptions nationalised social conflicts (Erne, 2015), they were also informed by an overarching commodification script that enabled labour and social movements to politicise NEG along (transnational) class divides (Erne et al., 2024). When EU policymakers were confronted with the Covid-19 emergency, they changed direction and resumed issuing decommodifying laws in the social field. However, EU legislators' recent attempts to promote workers' rights along transnational supply chains and advance a decent work agenda have been slowed down

by the opposition of entrenched capital interest. This shows that although the effectiveness of regional or international organisations depends on their enforcement capacity, the direction of their policies rests, first and foremost, on the prevailing political views and the corresponding balance of political and social class forces.

NOTES

1. Roland Erne acknowledges the funding received from the European Research Council (ERC) under the EU Horizon 2020 programme (grant agreement No. 725240) and Vincenzo Maccarrone the funding received from the EU's Horizon Europe programme under the Marie Skłodowska-Curie grant agreement No. 101067573. This is an open access article distributed under the terms of the Creative Commons CC BY-NC-ND 4.0 license.
2. See Inter-American Court of Human Rights, Legal Condition and Rights of Undocumented Migrant Workers, Consultative Opinion OC-18/03 (17 September 2003). The Court based its decision on non-discrimination and equal protection provisions of the Organization of American States (OAS) Charter, and it specifically bound all OAS members to abide by the decision even if they had not signed the conventions upon which it was based.
3. For similar reasons, trade unions and other social forces fought against a free trade agreement across the Americas. The movement was so broad and powerful that it defeated the initiative (Dobrusin, 2015).
4. See Indicators (https://ler.la.psu.edu/research/cgwr/labor-rights-indicators-database).
5. For a more detailed discussion of inter-ASEAN trade networks and its place in global networks, see Ford (in press).

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