

# Multiplicity, the corporation and human rights in global value chains

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## Abstract

Human rights in global value chains have become a key field of study in international law and corporate governance. The analysis often starts with a gap – a ‘governance gap’ in human rights protection. This pragmatic starting point calls for pragmatic solutions: better corporate compliance and more accountability. While this goes a long way in addressing corporate misconduct, the global corporate form, its power and legitimation in transnationally generating and appropriating value tend to become naturalized phenomena. Moreover, the effects of accountability agendas on corporate power and legitimation are hardly considered. Instead, I propose to address the ‘human rights problem’ by understanding the corporation and its networks as consequences of international politics – conceptualized as inter-societal multiplicity. The multiplicity lens offers a possibility to replace the governance gap with a productive conception of inter-societal conditions and can complement the focus on accountability and compliance. I conclude the article by tentatively sketching three important consequences of such a starting point for defining the problem of human rights in global value chains: the international dimensions of the division of labour under competitive conditions, the legitimation of corporate practices and the production of knowledge for their regulation.

## Keywords

business and human rights, corporate power, global production, governance theory, international law, international politics

## Introduction

From international law to economic sociology, management studies and business ethics, the debate on business and human rights has become a prominent field of study. ‘Human rights in global value chains (GVCs)’ is one of its key problem areas (Buhmann et al., 2019). Surprisingly, the debate is less prominent in the field of politics and International Relations (IR), with some exceptions that I will mention below. This is somewhat startling, since such important academic and international policy influences in this area

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come from John Ruggie (2014, 2017), who is one of the most prominent IR scholars. At first glance, however, it may seem that IR as a discipline does not have much to contribute, since relationships between rights and corporations are genuine subjects of other disciplines. GVCs are also more central to socioeconomics and human geography.

We might question whether the discipline of IR is even capable of contributing to this debate. Has it not too systematically left private economic entities and the formation of global flows of goods to other disciplines, such as economics, sociology and geography? The core of the IR discipline has side-lined global production (Van der Pijl, 2015).

Of course, heterodox approaches to international political economy (IPE) have extensively studied the power and agency of transnational corporations (Cutler, 2003; Fuchs, 2013; Strange, 1994). But it can be stated that heterodox IPE has often suspended ethical or normative questions related to liberal international human rights law as well as analyses of transnational corporate agency therein (Noelke and May, 2018). This does not mean, of course, that some streams of critical IPE have not explored the productive power of private corporations in relation to ethical and normative discourses more generally. This includes, in particular, feminist work (Prügl, 2015) and studies in cultural political economy (Sum and Jessop, 2013). But the insights we can draw from this research on the currently dynamic relationship between international human rights institutions, private companies and their production networks have so far hardly been incorporated into the dominant policy discourse on 'business and human rights'. The bottom line, therefore, is that the relationship that exists between transnational corporations and the contemporary human rights discourse has been elaborated only to an unsatisfactory degree in existing research.

As a result, a problem persists in the current policy-oriented debate on 'business and human rights': it starts from the perception of gaps – 'governance gaps' (OHCHR, 2008: 3) that prevent an effective protection of human rights from transnational corporate misconduct. *Constitutive* political processes that lead to the miserable human condition of global production are barely addressed. Essentially, they are only considered by noting that there is a too *permissive* environment for corporations (OHCHR, 2008: 3). Thus, to close those gaps and make the environment less permissive, policy strategies focus on more corporate respect for human rights and better forms of corporate accountability. This diagnosis and treatment of governance gaps, while not wrong, naturalizes the corporate form, its vast transnational networks, its practices of value creation (or appropriation) and of legitimation. The solution targets the permissive environment, as if simply the *absence* of an authority had created the problem, rather than the very specific international form and reach of the corporation, its practices, values and powers. To be clear, there is nothing wrong with the goals of better norm compliance and accountability. Quite to the contrary, the dominant pragmatic approach, most prominently represented by the United Nations (UN) Guiding Principles on Business and Human Rights (OHCHR, 2011), has led to remarkable progress towards recognizing human rights predicaments in transnational enterprises, including GVCs. But some important facets of the debate and consequences of its dominant problem definition are largely left out, such as the corporate form (Baars, 2019), corporate power (Birchall, 2021) and legitimation (Scheper, 2019) in the human rights field.

So, this article does not aim at a critique of the manifold efforts to ‘close governance gaps’, but to complement them by focussing on *constitutive politics of the international*. By this I mean a focus of the analysis on the processes that, starting from a specific international constellation, have historically formed and are shaping the contemporary problem of human rights in GVCs. Otherwise, there might be a risk of solidifying these constitutive conditions and reifying corporate power by limiting itself to questions of implementation, norm compliance and corporate accountability.

This complementary perspective could thus connect the current legal and policy-oriented debate on business and human rights with insights from various strands of heterodox political economy about the historical formation and power of private enterprises, their normative agency and practices. In an effort to develop such a complementary and integrative perspective, I address this article decidedly to the current legal and policy-oriented literature on business and human rights and argue that IR can make a valuable contribution to this debate. A perspective of international politics can conceptually bring together the figure of the globally operating corporation, its networks and practices of value creation and legitimation, with extant human rights predicaments. But some conceptual clarification is necessary. We need to take a perspective on international politics that is unsuspecting of being limited to inter-state politics and that makes clear that the *global* enterprise, its form, networks and practices are phenomena worth explaining, rather than taken as given actors and structures. This article offers a first sketch of what such a perspective might look like, by building on an understanding of the international as inter-societal multiplicity (Rosenberg, 2016). The consideration of the consequences of multiplicity – co-existence, difference, interaction, combination and dialectical change – sharpens our gaze for the constituent, productive political processes that are generated by the historically specific inter-societal constellation. Existing heterodox IPE approaches are quite good at explaining corporate power and agency as well, and I rely heavily on them. But I see an additional, integrative function of the multiplicity concept as it attempts to offer a common ontological ground for the evolvment of liberal international law norms and transnational business ethics and practice.

The article makes three contributions on a conceptual level. First, it fills the constitutive ‘gaps’ in the business and human rights debate. Second, for the broad GVC debate, it clarifies the importance of *international* politics, thus complementing its focus on the firm and the recently increased emphasis on the importance of state governance in a ‘value chain world’ (Mayer and Phillips, 2017). This can also be seen as offering a complementary view to critical discussions on ethical corporate governance within cultural-political economy frameworks. Third, it contributes to the discussion on multiplicity as the disciplinary core of IR (Rosenberg, 2016) by focussing on its effects for phenomena of the *global* – particularly global corporate agents and networks.

In what follows, I will first problematize the debate on human rights in GVCs by focussing on two aspects that have received little attention: the global corporation and processes of creating value as constructs of international law and politics. To bring these aspects more into the focus of the debate, I draw on different strands of research in heterodox IPE, anthropology, critical geography and historical-materialist approaches to law. I then introduce the perspective of multiplicity to connect these different strands to re-articulate the problem. Instead of looking at gaps in global governance, we look at

those intersocietal bridges – sites where multiplicity seems to evaporate, be concealed or contested. One of those sites is the global corporation, another is the creation of global chains of production, and yet another is the human rights discourse in public international law. I will turn to all three. Implementation through corporate influence and accountability in this view becomes a political issue itself, rather than a solution to governance gaps. Human rights in GVCs are no longer primarily about compliance with rules, but about the conditions of the transnational construction of agency and value(s). I limit the analysis to key conceptual elements and conclude by briefly differentiating three consequences of international politics that co-constitute the problem of ‘human rights in GVCs’: international dimensions of the division of labour under competitive conditions, the legitimization of corporate practices, and the production of knowledge for their regulation. Finally, I consider some of the implications of the multiplicity lens for the existing business and human rights debates, (re-)connecting them closer to heterodox IPE and more firmly situating them in IR.

### **Human rights and the GVC problem**

The academic debate on business and human rights is not a new one (see Bernaz, 2017), but it has been reinvented in the last two decades. This reinvention can be understood as the consequence of a dead end in political debates about the international power and limits of corporate actors that had already started in the 1970s. Within the framework of the New International Economic Order – an attempt by various developing countries to reformulate trade terms and development policy programmes through the UN in the 1970s – fundamental systemic questions about the role, reach and impacts of multinational corporations had already been raised. Years later, some of the issues were revisited, but in an international legal guise, proposing binding human rights norms for transnational corporations (Weissbrodt and Kruger, 2003). After this had failed within the UN, John Ruggie was appointed as ‘Special Representative of the Secretary-General on human rights and transnational corporations and other business enterprises’ in 2005. He had already co-designed the UN Global Compact as a new form of cooperation with transnational companies a few years earlier. With his appointment, the debate took a new direction towards a much more active involvement of private companies in the international human rights regime.

This change was framed as a pragmatic turn since it built on existing forms of transnational corporate agency to effectively increase respect for human rights without lengthy international treaty debates. Ruggie (2014) has referred to this as ‘principled pragmatism’ and an expression of a ‘new governance theory’, which assumes that transnational polycentric governance is needed because the ‘state by itself cannot do all the heavy lifting to meet most pressing societal challenges’ (Ruggie, 2014: 8) and that, ‘[w]ith only rare exceptions, companies are subject not to international law but to the domestic laws of states where they are incorporated and operate’ (Ruggie, 2014: 9). The resulting political framework accordingly reifies a corporate responsibility to respect human rights, not as a legal duty, but as a social expectation, and calls for additional legal accountability mechanisms where corporations do not walk the talk.

Policy developments and academic debates on business and human rights have flourished since (see Deva and Birchall, 2020). Various scholars have contributed to the development and critique of its new interdisciplinary agenda, which is dominated by law (Bilchitz and Deva, 2013) and business ethics (Arnold, 2016; Sullivan, 2003; Wettstein, 2012), but includes various other (multi-)disciplinary contributions, also from international politics (Dine, 2005; Dine and Fagan, 2006; Ruggie, 2014; Scheper, 2015).

Fundamental criticism of the pragmatic approach not only took place within the academic debate, but also expressed itself in international politics. A parallel political process emerged, driven by a proposal from Ecuador and South Africa in the Human Rights Council in 2014 to establish an open-ended working group to draft an international binding treaty on business and human rights. The working group enjoys strong support from transnational civil society groups, but (so far) no support from influential states in the Organization for Economic Cooperation and Development. The proposal is a highly interesting legal-political addition to the 'Ruggie process' especially with regard to a more binding approach under international law. At the same time, the focus here is less on challenging or changing the characteristics of private corporate power and agency in the human rights system, but rather on the possibilities of providing them with a stronger regulatory counterweight under international law.

In the prevailing international, national and private corporate policy circles, it has tended to be Ruggie's highly consensual approach and participatory work that has become a powerful policy driver, putting the issue of governance gaps on national, international and corporate agendas. The result of this vivid policy debate is a high level of consensus on human rights norms for business and a strong focus on norm implementation. The 'Decade of Implementation' for business and human rights has been officially ushered in (OHCHR, 2020).

GVCs constitute one of the most critical problem areas for this implementation agenda. GVCs are the dominant form of organization of manufacturing, trade and consumption today (Gereffi et al., 2005). Through their cost competition and price pressures, they fuel a 'race to the bottom' and put constant pressure on human rights (Buhmann et al., 2019). 'While production and the laws which facilitate it are transnational, the regulations necessary to protect people and the planet remain national' (Buhmann et al., 2019: 338; Ruggie, 2018). The GVC problem for human rights implementation hints at some key political questions that remain in the broader business and human rights debate. Besides its remarkable normative policy development, the change of course towards a new polycentric governance of human rights leaves key questions about the corporate form and corporate power in shaping and legitimating processes of value creation and appropriation. The pragmatic policy turn mostly focusses on norms, responsibilities and compliance, while avoiding addressing the underlying political processes, that is, the constitutive social relations and their transformations. This is a problem since the new governance course has indeed had strong effects on corporate power and legitimacy within the human rights system (see Birchall, 2020; Scheper, 2015). While the discussion initially revolved around the reification of state duties and the need to actively involve influential companies (OHCHR, 2008), today private corporate human rights involvement in the international human rights regime is largely established and seems to be even growing. We are moving from 'business and human rights' to the 'business of human

rights' (Deva and Birchall, 2020). New accountability measures in the current implementation phase might increase these effects (Baars, 2019).

The effects on corporate power and legitimacy are related to the construction of new governance theory, in which the transnational corporation itself is an established and essentially naturalized actor. Corporate human rights responsibility and accountability measures to tame this actor thus become obvious tools for closing governance gaps. However, little attention is paid to the fact that corporations do not operate precisely in legal voids, but rather their power and influence – in fact their entire existence – are products of law and politics in an international setting. It is only through remarkable social constructions on an international terrain that we can speak of 'global' corporations as a matter of course. Effective bridges have been built and are constantly reified between fragmented national legal, political and cultural societal spheres that allow us to speak of *global networks*, *transnational value creation* and *international management*. These socially productive bridges and their naturalization seem to be quite central for the 'human rights problem', because they constitute massive power imbalances that create inhumane conditions in GVCs that persist – even though human rights activists, scholars, state governments, even corporate managers and others have known and tried to address them for several decades. I therefore think it is worth taking a closer look at these powerful bridges. In other words: it is necessary to 'ground' the business and human rights problem in IR and politics by conceptualizing the constitutive elements that create governance gaps in the first place: corporate agency, networks of transnational value creation and their politics of legitimation.

### **From implementing norms to problematizing forms: the global corporation and the GVC as consequences of the international**

To address these bridges, we can start from the very social conditions that bring them about: the consequences of the corporate form and its networks under conditions of inter-societal multiplicity. One obvious theoretical source to look for these consequences is the wide literature on systems of global production. The extant literature on GVCs and its various neighbouring concepts, like global production networks (GPNs), commodity chains and supply chains (see Gibbon et al., 2008; Ponte et al., 2019), goes a long way to conceptualize how transnational systems of production create specific social structures and causes. For the objective pursued here, the debate is particularly interesting where the constituent elements of GVCs are addressed. The global and the respective local (dis) embedding of global networks have been analysed in particular in the critical geographical literature (Coe and Yeung, 2015; Henderson et al., 2002). The notion of value has only recently been taken up and deepened in the context of GVC analyses (Havice and Pickles, 2019). It has also been critically addressed with regard to the super-exploitative effects of global production for workers in the Global South (Selwyn, 2019). Actors and governance forms are particularly the subject of the lead firm-focussed GVC literature in economic sociology (Gereffi et al., 2005) and from a workers' perspective in sociology, development studies and movement studies (Selwyn, 2019; Zajak et al., 2017).

The list of contributions and authors could be continued for a long time. What is crucial, however, with regard to the ‘human rights problem’, that is, to a problem construction formulated under a discourse of international law, is that the specificity of the international social field as the context of GVCs is hardly addressed. The global is either a more or less direct result of capital accumulation (e.g. in the sense of a global law of value) or else the product of transnational corporate activities – which, however, in turn already presupposes a certain social system of the inter-national, something that is bridged or crossed and connected beyond its ‘normal’ borders.

In this respect, the contribution by Bair and Werner (2011) on the relationship between commodity chains and uneven development is particularly interesting. They show that the connecting, globally integrating moment of the commodity chain literature is very much in the foreground, while the separating, excluding, disarticulating moment is pushed into the background. We strongly recognize here the assumption of overarching social contexts that are bridged and interrupted by production contexts (see also Campling and Selwyn, 2018). Their perspective thus addresses precisely the social context that is transnational and in which agency, integration and disintegration take place – however, due to their interest in particular in the social effects of commodity chains, they only name it explicitly where effects can be attributed to the global chains themselves. Campling’s and Selwyn’s reformulation of the value-creation approach provides another important basis for understanding constituent political processes by emphasizing the foundations of continuous capital accumulation – endless competition and exploitation of labour, as well as the specific construction of nature and its appropriation (Campling and Selwyn, 2018).

Another particularly noteworthy contribution comes from Mayer and Phillips (2017), who in a certain way show the other side of this inter-societal context, namely, the importance of territorially anchored state governance for producing and reproducing the GVC world. A crucial question for Mayer and Phillips is about the ‘*nature* of stateness in the context of globalisation’.

We can therefore already heavily draw on these contributions in the GVC/GPN and commodity chain literature for addressing the international itself as a starting point for an integrating, constitutive understanding of the problem of inhumane conditions of production framed as a problem of international law. We can extend Mayer’s and Phillips’ argument by understanding GVCs as a consequence of *inter*-state relations, or the nature of *inter*-stateness in the context of globalization. Whereas ‘system-wide dynamics of coordination and control’ (Mayer and Phillips, 2017: 143) are widely acknowledged in the literature, the origins and constitutive elements of this system often remain opaque and are limited to notions such as international competition or global ‘market forces’. These, however, are already social products under international conditions. It seems key to regard the system of international production not as a two-fold one consisting of domestic politics and transnational GVCs, but as state and private corporate politics *within the social context of the international*, creating the institutional fundamentals for the emergence and maintenance of GVCs, including its articulations and disarticulations – and its specific effects on the ‘human condition’ (Tsing, 2009).

Another source for our search for constituent elements of the ‘human rights in GVCs’ problem is, of course, the form of the corporation as such, which is to a certain extent part of IPE, but fundamentally also of historical-materialist legal theory, as Baars (2019)

vividly shows. I will also go into this in more detail below. However, it is similarly the case here that, for Baars, the emergence of global phenomena (companies, rights, violations of rights) is a direct consequence of the legal *form* under capitalism *per se*. Understanding the specific inter-societal constellation of their occurrence is of a secondary matter, because capital accumulation and its normative inscription in law itself is the cause and the global corporation as well as the human rights-violating condition is the consequence. Therefore, in addition to the analysis of form, I think it makes sense to focus on IR and processes of their affirmation, institutional sedimentation and contestedness to be able to understand what Baars describes as legal form also as part of the political (and thus as an object of social struggle and change).

### **Multiplicity: a holistic framework to conceptualize the constitution of the global**

The idea of multiplicity as the core of IR (Rosenberg, 2016; see also Authors, introduction to this issue) is intriguing because its consequences apparently seem to escape many areas of international studies today, which rather take for granted (or evaporate) the international. Often images of society seem to gravitate either towards the local or towards the global, erasing inter-societal multiplicity as a fundamental condition at its highest level of organization. In international studies concepts that bridge, or even overcome, societal multiplicity through processes of interaction, integration and universalization flourish, and attributes of ‘transnational’ and ‘global’ have become commonplace. They seem to be the result of a natural centrifugal force of globalization.

Although Rosenberg’s contribution is aimed at breaking IR out of the ‘prison of political science’ (Rosenberg, 2016), I see the multiplicity perspective not only as an interesting contribution to looking at the international *beyond* politics, but certainly as a helpful contribution to asking political questions about the international differently – more broadly and less state-centred. At the same time, the international as a starting point for consideration allows not only political or economic consequences for the human conditions of value creation to be taken into account, but also legal, cultural, ethical or aesthetic aspects that result from the inter-societal condition.

Of course, multiplicity hardly seems new, since it has long been acknowledged in various fields and disciplines – from anthropology and sociology to psychoanalysis – the multiple sites of formations of identity, self and social groups have been discovered and established in various ways. But Rosenberg’s multiplicity claim looks at the social from the perspective of ‘its highest level of organization’ (Rosenberg, 2016: 136). Here, the concept does something interesting: first, it turns our common perception of IR as ‘explaining what happens internationally’ into explaining the consequences of multiplicity, which includes how perceptions of the local or the material are affected by the international (Tallis, 2020).

Second, closely linked to the first, the concept denaturalizes ‘the global’. At its highest level of organization, the famous Blue Marble image from 1972 as an icon for the overarching discourse of globalization seems to inevitably show: humanity gravitates towards a single unity and organization – transnational, global. This (morally charged)



gravitation seems to feed a taken-for-granted assumption of the global as natural totality of human society, without taking the condition of inter-societal multiplicity into account. Multiplicity reminds us of the fact that inter-societal relations are key for understanding both local and global phenomena, and that they are products of human engagement and investment, because *bridging* multiplicity is a product of power. And it happens under the very conditions and historical consequences of multiplicity, which Rosenberg compellingly spells out: co-existence, difference, interaction, combination and dialectics. This then changes our view towards those practices and artefacts that in fact *create* transnational ties, organizations, unities, norms and rules, conflict and cooperation.

## **The global corporation and GVCs as consequences of multiplicity**

To provide a framework for re-thinking the ‘human rights in GVCs’ problem as a product of the international, I will follow Rosenberg’s suggestion and spell out for each of the five consequences of multiplicity how they contribute to the powerful constitution of the global corporation and its naturalized processes of value creation and appropriation, conflicting with and marginalizing public international human rights norms and thus leading to today’s common perception of governance gaps. I must limit myself here to a few essential conceptual considerations and can therefore only develop a preliminary analysis of the subject matter.

### **Coexistence**

The ‘first and most profound’ (Rosenberg, 2016: 136) consequence of multiplicity is co-existence. It refers to the fact that, at its highest level of organization, human society neither forms a single authority, nor does it ‘tail off into empty space’ (Rosenberg, 2016: 136). Coexistence emphasizes the fact that the international is not primarily defined negatively by the absence of a central authority. Rather, it represents a specific relational property that also produces specific social effects. In the context of economic theory, for example, we see this quite clearly. From Ricardo’s comparative advantage – theoretically contradicted and empirically untenable as it is, but equally influential – to the many modern, economic formulations of mechanisms of world trade and the international division of labour. These are not meaningfully conceivable against the background of the absence of a central authority (Rosenberg, 2016: 137), but through constructive features of coexistence. ‘Governance gaps’ are not the core problem of human rights violations in the global economy, but the societal relations (including practices, rules, institutions and material infrastructures) that evolve under conditions of co-existence: corporate global networks, GVCs and their ‘local’ results of human miseries or resistance, the ‘everyday practices and struggles over value’ (Bair and Werner, 2011, p. 990).

Coexistence thus is a starting point to reconsider the elements that shape and are made possible by societal multiplicity. First, the rise of the modern transnational corporation as a powerful octopus that emerges not despite but because of the coexistence of societies cannot be explained solely within existing state societies, rather it can be found in the

historical driving forces towards building international connections for capital accumulation. This included not only the exercise of power (e.g. through close ties to state authorities or even acting as their extended arm in colonial rule) and the possibility of concluding contracts and securing property, but also the clear limitation or even complete detachment from other moral and individual personal liabilities. The corporate form as a historically rooted *legal* construction and its overburdening power and influence over the lives of individuals remain mostly unquestioned in the current discourse on business and human rights (Baars, 2019).

To understand the corporation as a product of politics and power that stands in contrast to today's constructs of human rights as public international law, we may first remind ourselves of the fact that international law, including international *private* law, is a product of a historically specific politics towards bridging coexisting societies, and has been originally established as an instrument for maintaining and expanding colonial rule. Baars (2019) emphasizes how original ideas to establish international law, such as through Grotius – the 'father of international law' – were motivated by attempts to overcome inter-societal challenges for expanding profits and creating new pathways for accumulating capital. In fact, Grotius was also a corporate counsel to the powerful Dutch East India Company (Baars, 2019: 88).

### Difference

The second consequence of multiplicity is difference. It adds a further qualitative component to societal coexistence and is necessarily its consequence (Rosenberg, 2016: 137). Difference is what the legal construct of the corporation and, more specifically, today's GVCs thrive on because it makes them profitable. To make difference clear as a constituent characteristic for the problem dealt with here, I understand it in a twofold sense: first, in the sense of Rosenberg as a consequence of multiple societies and their comparative diversity, which converts under conditions of international politics into a 'historically concrete configuration of difference at a given time' (Rosenberg and Tallis, 2022). At the same time, however, more comprehensively – and at the same time supposedly banally – as an important intra-societal characteristic. Only both aspects together create the basis for understanding the conditions under which it became economically lucrative to build transnational institutional, technological and material bridges to make the concrete configuration of inter- and intra-societal differences usable and exploitable in multiple ways for capitalist production – through practices of outsourcing and offshoring and thus the creation of GVCs.

Linking the feature of difference, first, to the transnational corporate form, we can see the importance of colonial rule in the firm grip of racist, sexist and imperialist ideology that is the historical foil against which we must understand the *formation* of what we now almost naturally perceive as transnational processes of value 'creation' and their legal protection mechanisms. In this historical process, deep demarcations have been drawn between capitalist (quasi-)values – cost efficiency, competition and rivalry, profit maximization, freedom of capital and trade as an end in itself – and moral values (e.g. ecological sustainability, human dignity, solidarity). While the first set of quasi-values has been successfully legally secured and institutionalized internationally – through the shaping of

property rights, contract rights and their inscription in international corporate law (Rabet, 2009), the second set of moral values, through ‘public international law’, has been separated from the private corporate form (see Baars, 2019). Under conditions of coexistence this creates the strong image of a ‘lack of rules’ in the international system and the perception that global governance is genuinely driven by humanitarian values, although it is precisely the historical ‘outsourcing’ of these aspects to international public law that shapes international law and the global governance discourse. This is a key source of a specifically *international politics of legitimation*, as I will further explain below.

Beyond the corporate form, however, the feature of difference helps us above all in understanding the basic conditions for the emergence of practices of outsourcing and thus the formation of GVCs as seemingly quasi-natural transnational politico-economic structures. This has been acknowledged in various ways in the GVC literature, but it has been hardly referred to the human rights problem. Mayer and Phillips (2016), for instance, note the important feature of ‘asymmetry’ in a ‘GVC world’. Tsing (2009), from an anthropological perspective, emphasizes the structural role of difference for mobilizing capital and labour. She notes that it is cultural diversity in various forms through which supply chains thrive, and which makes them ‘big’ (Tsing, 2009: 151; see Scheper, 2017). According to Tsing, the characteristics of diversity and difference in a global system of value creation and capture are usually downplayed by tendencies towards generalization and standardization: ‘Diversity is considered particularistic, and “big” theory strives for generalization. The challenge, then, is to show the bigness of diversity’ (Tsing, 2009: 151). In an excellent review of feminist analyses of global production relations, Bair (2010) offers an overview and theoretical explanation of why constructed gender differences, even if they have different meanings in different places, are always central to global production. Levy (2008), finally, takes a political-economic perspective on GPNs and equally emphasizes how various elements and patterns of difference create power structures, making production networks a space of constant political contestation and struggle. ‘The economic structures of GPNs represented, for example, by the lack of market power of developing country coffee growers or garment workers, tend to reflect broader geopolitical, ethnic, and gender power structures’ (Levy, 2008: 944).

Contestation and struggle here refer to the very concept of economic value, its creation but also appropriation through transnational corporate agency that spans both intra- and inter-societal difference. Racism, sexism, ageism and so on, each fulfil their important functions for making the transnational corporation and GVCs effective in mobilizing both capital and labour (Tsing, 2009). But the existence of strong states and their separate *distinct* levels of governance *add* facilitative, regulative and distributive layers to this (Mayer and Phillips, 2017; see also Slobodian, 2018). This idea of a mobilization of difference directly leads us to the third consequence of multiplicity: interaction.

### *Interaction*

The consequence of Interaction allows us to emphasize an aspect that takes a back seat in the human rights debate: the exercise of power. The international division of labour is one of the most generalized expressions of interaction under conditions of coexistence and difference of the highest level of socioeconomic organization. It is what GVCs

represent under capitalist conditions – even though in the age of global corporations and South-South competition the traditional idea of international division of labour has been radically transformed (Campling and Selwyn, 2018: 416). But partly the term GVC glosses over the manifold forms of interaction that are necessary to create and maintain this division of labour and produce a more or less constant ‘flow’ of value creation.

The GVC constitutes a specific result of international interactions under conditions of difference, of strategically integrating or excluding the *other within* a ‘big’ system of production and trade, based on its potentials for capturing additional value (Bair and Werner, 2011; Tsing, 2009). In the business and human rights context, this perspective allows us not only to critically re-think the corporate legal *form* as a basis of interaction, exercising power and its legitimation of economic value creation, but also the role of the human rights discourse and the idea of corporate responsibility as a normative intervention into this system. Because of the *necessity* of difference, the fundamentals of (public and private) international law as a law among *formal legal equals* become particularly problematic (Baars, 2019: 372). It opens our perspectives for the many ways in which institutions and practices based on ideas of universality and equality tend to become more effective tools of the powerful under conditions of inter-societal difference, such as in economic interactions ruled by contract (see Cutler and Dietz, 2017). We might think of the fundamental forms of interaction in GVCs, that is, supplier agreements between highly unequal partners, extremely imbalanced price negotiations, ordering processes and so on (Anner et al., 2013). These are key factors for existing human rights predicaments in GVCs, where responsibility has become the main lens to look at corporate behaviour in GVCs; this is usually not linked to its power relations. Through law as a mode of interaction under conditions of coexistence and difference, however, responsibility becomes a mode of power: the leading corporation decides to take a specific risk (or pay the price) of violating the right of the powerless. Baars (2019: 372) compellingly shows how this tension between differences in power and formal legal equality creates a ‘market for responsibility’ for human rights (see Scheper, 2018).

In the current discourse on business and human rights, we see a strong level of naturalization of this tension between vast inter-societal differences and a discourse of formal legal equality. Corporate risk management becomes the tool to bridge human rights predicaments, but its effects on reifying corporate power can hardly be addressed through corporate responsibility and accountability strategies alone. The latter indeed enables the corporation to *account for* its risks of violating rights (see Baars, 2019; Scheper, 2015).

We can see a closely related problem in considering the competitive state as the direct result of coexistence, difference, and corporate interaction under capitalist conditions, the latter solidified by international law (property rights, corporate law and public international law among formal legal equals). Inter-societally, the state becomes a calculating market actor, while internally it acts as an authority over law and the protection of rights.

### Combination

The aspect of combination emphasizes that through inter-societal interaction, something new is always created. In the context of the ‘business and human rights’ debate, it directs our attention to two further constitutive moments in the engagement with business,

which we might refer to as institutional regimes of creating and appropriating economic value and of allocating and protecting rights. The identities of the underage migrant worker or the informal indigenous worker as factors of production, for instance, represent specific results of such transnational processes of combination. Export processing zones with restricted trade union rights and separate tax and security regimes are further examples. Combination thus reminds us that international value creation processes do not produce a simple repetition of the history of industrialization in individual states, leading to linear ‘upgrading’ and integration processes, but create specific developments under inter-societal conditions, forms of up- and downgrading, integration and disintegration, subjection and subjectivation. Combination thus brings to our attention the productive forces of international interactions. They *produce* not only material conditions and politics of legitimation. Thinking in productive terms of combination makes also clear that these conditions can only be addressed to a limited extent by the construct of individual rights and rights violations, since these draw on the idea of exception and individual claims, while the consequences of the international are structural features of corporate practices in and through GVCs, not exceptional phenomena. This aspect thus points us to possible limits of the legal rights approach and the need for supplementation by other political processes if normative human rights claims are to be pursued as an emancipatory project.

The concept of combination also emphasizes the necessary specificity of normative translations in global corporations and networks. For example, we see global trends towards expressing motivations for making economies more sustainable that are distinct from national contexts (‘global CSR’, see Ruggie, 2018), but we also see how these lead to nationally specific expressions (e.g. Bangladeshi ‘Green Factories’ designed primarily for garment production for European markets). Re-thinking human rights and business regulation through this lens makes apparent how the universalistic norm discourse is far from creating something like a ‘global standard’ of good conduct. Instead, it makes us realize the productive sites of international normative discourse, which informs but is also shaped by local practices, competitive markets and corporate management, including its take on translating and validating international legal norms and producing knowledge about their realization. Human rights become the subject of a transnational corporate logic of value creation and appropriation. Here we already see the dialectical moment, to which we will now turn.

### *Dialectics*

Dialectics, finally, gives us a unique view on how both the material conditions of the cross-border creation of economic value through GVCs and the international construction of normative discourses of rights are entwined and creatively interact: as much as they are contradictory, together they fabricate the real problem of human rights in GVCs, a historically specific situation of persistent exploitation of human labour on a global scale, while ‘responsibilizing’ (Shamir, 2008) and, thus, empowering private corporate agents in the international human rights system. This consequence of relationality works in two ways: while the manifestation of a ‘business and human rights’ discourse is a *reaction* to perceived governance gaps, the process of creating a global response through

human rights responsibilities for transnational companies also deeply affects the very concept of human rights. It is 'applied' to the world of corporate management and in the process made quantifiable, commensurable, predictable – human rights are 'firmed up' and managed (Merry, 2015). While the UN Guiding Principles target the 'permissive environment' for transnational corporations, the contradictory effect is that companies can be empowered in the process of taking over responsibility (Birchall, 2020; Scheper, 2015) and by creating new accountability standards (Baars, 2019). The discourse enables them to justify their practices in the *name* of international norms, without fundamentally altering their bases of profit through mobilizing labour in GVCs (Scheper, 2015). Under international conditions, the 'business and human rights' debate thus becomes the 'business of human rights' debate (Deva and Birchall, 2020).

### Three consequences of international politics

I have so far drawn an ontological bracket of multiplicity around different strands of political-economic literature. It provides us with a view of the constitutive consequences of international politics with regard to the 'human rights in GVCs' problem. I will use the remaining little space to articulate central characteristics of these consequences, which play only a subordinate role in the legal and policy-oriented debate on 'business and human rights' so far. I can only mention them here and not elaborate them further. I therefore understand the following final remarks primarily as an indication of the need for a more political-economically informed research programme on 'business and human rights' that could be located firmly within IR, and at the same time, as an indication of the implications of the multiplicity perspective therein.

Three outcomes of historically evolved *international* politics can be distilled from my multiplicity perspective on business and human rights, without which an understanding will hardly get to the 'root causes' of the problem. The first consequence is the international division of labour and the specific conditions of its coordination under competitive conditions. The necessity and profitability of the international division of labour and the extent to which it can be exploited by global corporations are in no way a given situation of any kind of natural flow of global market forces. On the contrary, the rigidity and drastic nature of international (super-)exploitation, which is a basis for persistent human rights violations in GVCs, become understandable only in light of comprehensive international 'products': strong international private law institutions, a systematic separation of private international law from public international law, the interplay of specific state policies in an international terrain of market and regulatory competition. The latter means not only targeting investments that are particularly favourable to the competitive situation, but also fragmenting labour organization and actively limiting labour mobilization opportunities. This necessarily makes competition also a *component* of those conditions that pragmatically offer themselves as solutions to fill the so-called governance gaps, namely, corporate and state governance.

The second consequence concerns the international politics of legitimation and is more situated in the human rights discourse itself. It is obvious that the practices of justifying and contesting companies and their processes of value creation are specific results of the inter-societal constellation. Here again, as the previous section has shown, the legal form

of the corporation, its contracts, investments and property safeguards play a particularly important function, since these inter-societal bridges – as law between *equals* – are hardly part of political contestation, but rather the historically outsourced claims of a public law that seeks to add new or additional responsibilities for human rights to these (naturalized) corporate forms. Legitimation politics is thus essentially *not* carried out internationally to justify the power of corporations under private law, but the latter becomes a vehicle for the enforcement of public human rights, that is, for (re-)legitimizing global production through public legal norms. The powerful company becomes the necessary motor for change towards more responsible practice (see Scheper, 2019).

This is closely related to the third consequence of international politics that I would like to point out here. It concerns the specific epistemic practices of producing regulatory knowledge and controlling and validating information to regulate transnational corporations. The fundamental problem of the human conditions of capitalist production is a very old one and already existed, for example, in sweatshops of early industrialization, so it does not seem to be a phenomenon of the international. But there it presents itself quite differently because it is less visible. In the international constellation, practices of *intermediation* become central, that is, above all the generation of information and knowledge, which today represents a core of the ‘business and human rights’ debate. It is also reflected in the increasing importance of regulatory intermediaries, which have dominated parts of the legal and political regulatory debates for some time. Social audits, company reports and human rights indicators are only three keywords that embody the importance of knowledge and information as a component of regulatory human rights politics in GVCs. What we consider as compliance and implementation of rights norms are always also partly constituted in these practices of intermediation (see Edelman and Talesh, 2011; LeBaron and Lister, 2015). Internationally, these epistemic practices are also to be understood as embedded in the existing inter-societal bridges, that is, the corporate form, market and regulatory competition, and GVCs. The idea of closing governance gaps through better corporate accountability sometimes appears as if it could already attach an alternative practice to the corporate form through the disclosure of information and the accounting for corporate risks, whereas it is precisely the corporate form that generates transnational accountability standards and practices, and that separates ‘normal’ profit generation from ethical considerations (see Scheper and Gördemann, 2022).

## Conclusion

The concept of multiplicity can help to open up the current debate on business and human rights by sharpening our gaze for constitutive elements of international politics. In this article, I have focussed on the conceptual development of this integrative perspective, so I have been able to sketch only superficially some of its major consequences: the international division of labour under conditions of competition, the international dimension of corporate legitimation policies and the forms of knowledge production for their regulation. But these already show how starting from *productive* characteristics of international politics – instead of the assumption of a normative lack or governance gap – has strong implications for the business and human rights debate: it leads to a stronger focus

on questions of power, institutions and corporate agency. Politically, this makes a difference, as we avoid taking for granted the historically evolved distinction between the strong inter-societal ties of private international law, on one hand, and the patchy public international law of human rights, on the other. Indeed, with this assumption we tend to make a systematic separation between human rights as a moral and legal discourse of justice, on one hand, vis-à-vis a rational but amoral world of business on the other. The problem then seems to be that ‘businesses do not care’ (Buhmann et al., 2019, p. 343). Of course, this often might be the case, but it is only one part of the story and it fuels the focus on questions of implementation and compliance. Instead, the view on constitutive elements problematizes the legal foundations of global corporations, their logics of action and political power as a part and product of IR, which increases rather than decreases through the attribution of responsibility for human rights.

The multiplicity perspective thus has the potential to (re-)connect and integrate research on business and human rights in legal and policy circles to various (fragmented) strands of heterodox IPE research, considering specific consequences of the international for the construction of the problem. In this sense, the framework of multiplicity as a consequence of IR can provide a heuristic contribution to reconstructing the formation of the global – that is, global actors, networks, processes of value creation, their normative justification and regulation.

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