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A Not So ‘New Dawn’ for International Economic Law and Development: Towards a Social Reproduction Approach to GVCs – A Rejoinder to Bernard Hoekman

I thank [Bernard Hoekman](#) for taking the time to engage with my article ‘[A Not So “New Dawn” for International Economic Law and Development: Towards a Social Reproduction Approach to GVCs](#)’, and for providing me with the opportunity to clarify some of its arguments. He and I agree that concerns about social reproduction are central to the future of our global economy, especially, I would add, if we want to ground the latter on principles of anti-colonial, intersectional and climate justice. What he takes issue with is the power he sees the article ascribing to both International Economic Institutions (IEIs) and deep trade agreements, arguing instead that 1) IEIs, and their reports, have much less power to influence policy-making and that 2) deep trade agreements are less effective in terms of constraining states’ policy space than the article suggests. Specifically, he points out that ‘developing’ countries have not engaged in deep trade agreements and that there is little evidence the latter have limited their policy options. His call is for more rigorous empirical evidence so not to detract from what are otherwise valid concerns.

Whilst I agree with the need for empirical rigour to back up conceptual claims – and there is much more to his intervention than the above two points - in this rejoinder I probe the assumptions underlying both counterclaims as they speak to the broader point about the kind of evidence that is deemed *authoritative*. As to the first one, there is a long tradition of academic scholarship - from [critical and post-development studies](#) to [post-colonial](#) and [critical legal theory](#) - that has examined the discursive power of IEIs, including that exercised through the policy literature they produce. Saying instead that ‘[IEIs have little salience – they are agents, not principals](#)’ and that ‘[\[r\]egulating socio-economic activities is a matter for national policy](#)’ (pp 7-8) does a certain political work.

First, it obfuscates [the history of these institutions’ many interventions](#) - including through their knowledge production - since the dawn of the development project - from the Mandate System under the League of Nations to the World Bank’s Structural Adjustment Policies to the WTO Trade Review Policy Mechanism, and so on. This is not to downplay the fact [states can and have indeed adopted different policies](#) from those recommended by IEIs; or that the [policy prescriptions of the latter may be internalised and become hegemonic](#). Rather, it is to put the emphasis on the truth claims that the knowledge produced by these institutions generate and the material consequences deriving from them, a point to which I return later.

Secondly, it regards states as self-contained entities which can autonomously enact policy options, regardless of the unequal power relations that traverse our global (political) economy. Again, this is not to say states have no policy space, they do, but that state ‘[autonomy](#)’ is a very complex terrain that needs to be interrogated rather than assumed. For example, [presenting the decision by some states to cut import duties since the 1980s ‘in conjunction with the adoption of indirect tax’ as an autonomous policy choice](#) (p3, fn11) disregards the fact that these policies were closely linked to the Washington Consensus prescriptions that states needed to follow to get their debt rescheduled. As [Desiree LeClercq](#) reminds us ‘Those programs required recipient states to facilitate corporate flexibility—to the detriment of workers’ rights, particularly of poor women of color who lost job security and acceptable working conditions.’ (p108). This is therefore a move that erases the history of and scholarship on [structural adjustment policies](#), [their links to the knowledge produced by IEIs](#) and their [material effects](#), all of which points instead to the interdependence of states, institutions, epistemic elites, global actors and people across the world.

Granted, the article has not traced the specific effects of the Global Value Chain Development (GVCD) reports on the policies adopted by particular states, but it never claimed to do so. Its point was to engage with the truth claims about value chain trade development emanating from them, and with the potential material effects of the adoption of their policy recommendations, regardless of their authors' intentions. This is because there are important continuities between these recommendations and those IEs have advocated in the last four decades, with [very contested outcomes in relation to socio-economic inequalities](#) (pp12-13). Their common thread is (more) trade and investment liberalisation, including capital liberalisation, protection of private contracts and intangible assets, as well as labour flexibilization. And this connects to the second point about the role of (international economic) law, and the differential power of states in the global economy.

It is not my intention to overstate [the role of law](#), including that of trade and investment agreements, which at times can be irrelevant; whether they are or instead produce material effects on the ground - in this case whether they contribute to social downgrade in a particular place at a certain time - is indeed an empirical question, but not one my article set out to address by producing primary data in relation to specific chains and/or countries. However, the article has made two points in this regard.

First, as [recent publications](#) (p18) have indicated, [the trend](#) in the last two decades has been one where (developing) countries other than China and other large emerging economies have entered into 'deep' trade agreements, and this points to the fact that the 'truth claims' and policy recommendations in GVCD reports are gaining ground in policy circles. The second is that evidence is emerging about 'commercial' provisions contained in these kinds of agreements leading to social downgrade despite labour and gender equality provisions built in them. For instance, [research on the clothing sector in Moldova](#) shows that, as tariffs went down, exports to the UK and Italy went up. This increased employment, especially of women. However, commercial pressure from lead firms in the UK and Italy also led to the increase of poverty wages and problematic overtime practices and production methods. And here we come back to one of the most problematic claims about the relationship between international economic law, institutions, states and socio-economic inequalities.

This is the claim that, whilst the concentration of trade and wealth in '[a few importing-exporting countries has become extreme](#)' (p30), it is up to individual countries to redress socio-economic inequalities and environmental degradation. Specifically, the adoption of a regulatory environment that enables firms to link up to GVCs, including through trade and investment agreements, can aid states in getting the resources necessary to address such inequalities (pp1-5). Indeed as the Report puts it: '[GVCs can continue to boost growth, create better jobs, and reduce poverty, provided that developing countries undertake deeper reforms and industrial countries pursue open, predictable policies... Attracting FDI is important at all stages of participation.](#)' (pp 1-5).

This argument ends up exonerating international economic law's role in the production of such inequalities, by pushing out of sight the asymmetries between states and those between capital and labour it has supported to various degrees since colonial times. As [LeClerq](#) (p107) has argued in relation to the US promotion of a workers-centered trade agenda, international trade law and policy continue to support the asymmetries between capital and labor as well as the hierarchies between different kinds of workers, a point the article has

made by calling into question the assumptions about value creation and distribution across chains.

The second point, therefore, is that appreciating the role that ‘commercial provisions’ in trade agreements - and many deep trade agreements contain both trade and investment provisions - have played in providing these few firms with increasing rights whilst labour continues to be constrained (and only certain kinds of labour are recognised), is important to explain the extreme wealth denounced by the World Bank and the associated inequalities. Without doing so, the responsibility will continue to be placed on the shoulders of individual states, and some (read ‘developing’ countries) will continue to be deemed incapable of sorting out their own ‘internal’ affairs. Again, this is not to exonerate states’ responsibility but to appreciate that their ability to act, particularly in relation to the regulation of GVCs, is affected by a [‘multi-scalar legal framework – which consists of domestic contract and corporate law and international investment, trade and intellectual property laws’](#) (p24) that needs to be redressed if their ability to regulate is to be enhanced. Without redressing it, the insertion of social provisions into trade agreements will likely continue to be neutralised by the pre-eminence of ‘commercial ones.’

The social reproduction lens the article has advanced, as one among many others, can help making sense of this dynamics, exposing the ways IEL has supported asymmetries between capital and labour (and the concurrent invisibilisation/devaluation of certain kinds of labour on the one hand and the over-valuation of others on the other), a dynamics that is central to the ways profits are generated transnationally. It may also help with devising legal [arrangements that target the invisibilisation and devaluation of labour](#) and environmental resources that are endemic to global production; and with thinking about interventions beyond IEL that may engender more desirable valorization processes.