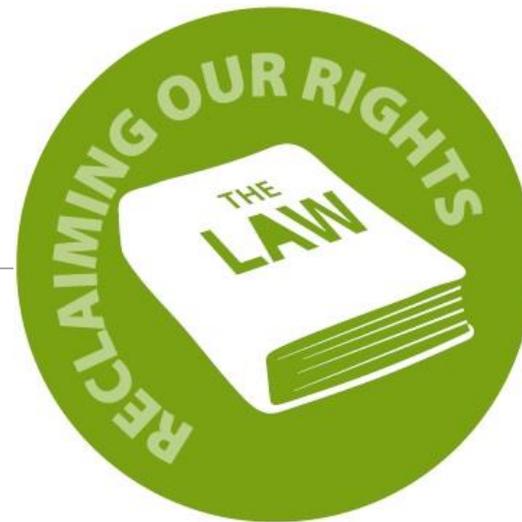


# Regulating supply chains

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RECLAIMING OUR RIGHTS

ARISTEA KOUKIADAKI, THE UNIVERSITY OF MANCHESTER



# Supply chains and regulatory fragmentation

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Links between the structuring of global supply chains and worker exploitation

BUT so far...

- Limits of voluntary initiatives
- Labour standards in supply chains traditionally excluded from trade agreements
- No mandatory schemes for regulating supply chains for employment policy purposes
- Absence of binding international treaty on the issue

# An integrative approach to regulating supply chains

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Scope for complementary forms of public policy mechanisms

Nature of interaction between public and private governance strategies

Links between different regulatory instruments:

- Domestic legislation: reporting requirements and beyond
- International economic law: unilateral initiatives and trade agreements
- International legal instruments: UN and ILO architecture
- Private initiatives: Codes of Conduct and International Framework Agreements

# Regulatory options at domestic level (1)

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Enhance existing legislation to increase transparency in GVCs (Section 54 Modern Slavery Act 2015):

- Specify in more detail the information required at each stage of the subcontracting process; and
- Require disclosure of measures taken to address slavery, forced labour, child labour and trafficking in supply chains

New domestic legislation model integrating the UN Guiding Principles on Business and Human Rights in UK law

- Duty to establish a vigilance plan
- Plan and report on implementation to be publicly available
- Effective implementation of the vigilance plan

# Regulatory options at domestic level (2)

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## **Elements of the vigilance plan:**

- Identification of human rights risks
- Procedures for assessing risks of the subsidiaries, suppliers and subcontractors
- Methods for mitigating and preventing risks
- Alert mechanism developed with relevant trade unions
- System for monitoring the implementation, effectiveness and efficiency of follow-up measures

## **Sanctions:**

- Company subject to order to establish the vigilance plan, ensure its publication and account for its effective implementation
- Damages for negligence in case of business failure to comply with the plan
- Burden on proof on the companies to prove the lack of fault and link between fault and damage

# Regulatory options at domestic level (3)

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Regulatory developments in illegally logged timber, metals and minerals (e.g. the USA and the EU)

Goods ‘illegally produced’ if they have been produced in breach of the laws in the place where they was produced:

- Wide-ranging liability with no subject-matter limitation
- Scope for prosecution of downstream activities ancillary to goods produced through GSCs (i.e. importation and processing)
- Penalties for criminal offences ranging from fines to imprisonment and forfeiture of products

# Regulatory options at international level

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Making trade agreements with third countries conditional on human rights and labour standards

- Human rights assessments before trade agreements
- Incorporation of a variety of policy mechanisms in trade agreements:
  - Mainstreaming of labour issues through different policy mechanisms
  - Mechanisms to cover ‘systemically important’ companies
- Trade agreements should protect the discretion of the UK to impose higher environmental and social standards:
  - Right to regulate, exception clauses and temporary suspension of agreements

# Concluding remarks

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## Labour standards in supply chains:

- As a productive factor for inclusive growth
- But also constitutive role in human development and a stable and cohesive society

## Complementary policy mechanisms:

- Domestic regulation going beyond transparency requirements
- Mainstreaming of labour issues to all aspects of trade agreements
- Promotion of international solutions to the governance gaps in supply chains