

Introduction: Transnational Law and Advocacy Around Labour and Human Rights Litigation



Peer Zumbansen

Abstract In this chapter, Peer Zumbansen introduces the book. He contextualizes the Ali Enterprises Factory Fire and the movement building and activism that followed in light of current transnational legal debates as well as global value chain research and subsequently introduces each contribution.

Keywords Transnational law · Rights advocacy · Ali enterprises factory fire · KiK case · Global value chains · Transformative politics

1 Law, Lawyers and the Persistence of Injustice

Today, there is little doubt that the public is more aware of human and labour rights violations in global supply chains than it once was. The factory fires in the Tazreen Fashion and Ali Enterprises factories in 2012, and the collapse of Rana Plaza in 2013 have arguably initiated a surge in public discussion about the human costs associated with “cheap” labour and inexpensive consumer goods. The plight of factory workers has been a constant feature in the Western imperial political economy since well before the advent of globe-spanning value chains, from Friedrich Engels’ dissection of English factory workers to harrowing inside accounts of sweatshop labour in Southeast Asian garment factories. Identifying and evaluating inadequate working conditions has long been a cornerstone of labour and human rights advocates’ efforts to both improve concrete working environments and transform the broader system in which worker oppression persists.

Where does law come into the picture? And, more specifically, what roles do lawyers assume, whether they work on the “labour” or “employer” side, or in and around the expansive global web of non-governmental organisations and institutions? Both questions—regarding the role of law, on the one hand, and lawyers, on

P. Zumbansen (✉)
McGill University, Faculty of Law, Montreal, QC, Canada

the other—are potentially open-ended enough to be self-defeating in their immensity. As we see yet another wave of scholars “discovering” the institutional linkages between capitalism and its legal foundations,¹ the complexity of how “law and society” are connected is once again brought into sharp focus. If law, as currently argued by proponents of a recharged “law and political economy” research agenda, is deeply implicated in the facilitation, persistence and immunisation of an individualist social theory and a matching, exploitative, race- and gender-based and socio-economically discriminative economic system, the question of “where to begin” may seem as obvious as it is overwhelming.² The current surge in interest around law’s role in the societal structures around us points to an ambitious and arguably hopeful yearning for change. Yet, as we bring this volume to print, the coronavirus pandemic is still raging around the globe while conservative, ethnophobic and racialized policies expand, and it is hard to feel optimistic about the future. In this context, regulatory systems reveal their fragility. The desirability and importance of law—of an accessible, invocable legal system—is again a topic of quotidian conversation.

Focusing on law’s role and implication in the state of the world “before the pandemic” then forces us to take stock of not only “the law” and its institutional and procedural manifestations, but also of law’s operation as a daily, living reality. This, in turn, directs our focus to those in charge of administering law. Calls for a “return to normal” ring especially hollow, as each new day lays bare the paucity and vulnerability of our “normal” infrastructures. Indeed, the deep levels of inequality, divisiveness and sheer violence sustaining these infrastructures is now more visible than ever. When Nancy Fraser explored the tensions between the emergence of domestic and “global” legal regulatory structures a little over a decade ago, her verdict was a gloomy one.³ A few years earlier, following the events of 11 September 2001, Jürgen Habermas had lamented the “fall of a monument,” warning that prospects for reconstituting the achievements of nation-state-based democratic governance were increasingly uncertain in the shadow of post-9/11 global political rearrangements and the US-led military interventions in Afghanistan and Iraq.⁴ Here, too, emotions oscillated between optimism and mistrust in the ability of a “global civil society” to forge post-national institutions for democratic politics and law.⁵

The global coronavirus pandemic of 2020/2021, however, has given these investigations a sharp twist. Following closely on the heels of a breathtaking surge in nationalism, xenophobia, racism and populism in countries across Europe, Latin

¹Pistor (2019), Deakin et al. (2017), p. 8; Singh Grewal and Purdy (2014).

²Singh Grewal and Purdy (2014), p. 8: “The questions that neoliberalism addresses at the deepest level, then, are not How much market?, or How much governance?, but Which interests will enjoy protection, whether as property rights, constitutional immunities, or objects of special regulatory solicitude, and which others will be left vulnerable or neglected?”

³Fraser (2008).

⁴Habermas (2003, 2006).

⁵Compare these assessments almost 20 years apart: Kaldor (2003) and Kalm et al. (2019).

America, South Asia and the US,⁶ which have been likened to a potentially irreversible identity crisis of “globalisation,”⁷ the current pandemic prompts us to reconsider the significance and competence of the sovereign nation-state and its democratic operation. In “waves”, the pandemic not only wreaks havoc with human life, it also continues to strip away any remaining sheen on the vestiges of widely privatised or unequally instrumentalized, hollowed-out welfare states. While astute analysts have long chronicled neoliberalism’s destructive devouring of minds, infrastructures and political economies,⁸ we now stare at the stupefying void and utter disorganisation left behind by the rejection of welfare state policies and their associated political values oriented around the common good.⁹

Worn out, then, between the smouldering ruins of nation-states’ public infrastructures and the oxygen-less space of yet-to-be-established transnational policy coordination, those seeking to foster transformative politics across nation-states’ once again hostile borders are yearning for an anchor, platform or institutional framework. As public policy thinkers, particularly those in health and migration, play a key role in pushing agendas for a “new social contract,” they underline how any such endeavour is inevitably embedded in a more expansive project of investigating the self-destructive trajectories of today’s political economies.¹⁰ Resonating with the assertiveness of such pursuits in this moment, crucial connections emerge and cut across seemingly self-standing areas of health policy, social protection, food (in)security, labour rights and political participation. Because we should never ‘let a good crisis go to waste,’ such work is now more crucial than ever.

2 Global Value Chain Advocacy as a Laboratory of Transformative Politics

The present predicament showcases the fragility and vulnerability of local infrastructures that once enshrined—albeit with varying degrees and orientations in different locations—the state’s responsibility to ensure a minimum standard of

⁶Kende and Krekó (2020); University of Washington Task Force (2018) The global implications of populism on democracy, Henry M. Jackson School of International Studies, available at: www.jsis.washington.edu/wordpress/wp-content/uploads/2018/04/Task-Force_C_2018_Pekkanen_robert.pdf (last accessed 1 August 2020).

⁷Cuperus (2017); Cox (2017).

⁸Slobodian (2018), Brown (2019).

⁹Navarro (2020), Saad-Filho (2020).

¹⁰Crane (2020); Mornia (2020): “Many say this is an entwined health, social and economic crisis of a magnitude probably not seen in most of our lifetimes and with effects still not fully understood. But it can also be an opportunity for a long-due change, as individuals and society, a turning point to revert some of the social ills that afflict us. We can, if we choose to, forge a different path towards a fairer society, a ‘new normal’. This will depend largely on the moral and political choices we make, individually and collectively, at this watershed moment in history.”

public health and safety. The transnational nature of the threat itself is often met with rhetoric all too familiar since 9/11. The language of “war,” “frontlines,” and “enemy” beckons for decisive responses to be carried out with determination and vigour, despite the ambiguous nature of the threat. Looking back, the 2001 declaration of the “war on terror,” which was triggered by attacks on US territory but otherwise constituted a continuation of premeditated policy strategies,¹¹ unleashed a chain reaction of state violence that has been uncontainable ever since, ranging from data-driven surveillance to military intervention into minute details of financial regulation.¹² Relevant for the critical analysis in which we are today engaged, this scenario provides the evidentiary background and “proof” that regulatory infrastructures have indeed undergone fundamental, far-reaching changes since the late 1970s and early 1980s. These changes occurred alongside the rise of conservative politics directed not only against “big government,” but also against politics of socio-economic redistribution and universalising access to public services.

A core component of these transnational infrastructures is the web of global value chains (GVCs) through which just about any resource, product, good or service—both material and immaterial—is sourced, processed, disseminated and sold.¹³ Certainly, GVCs have long attracted a wide variety of critical analysis. Given their expansive nature and the degree to which they encompass a seemingly infinite range of things while also being deeply enmeshed in the socio-economic and political fabric of local communities,¹⁴ GVCs prompt highly varied investigations into their constitution organisation, activities, hidden forces and collateral.¹⁵ While law has not always played a prominent role in analysing value chains, it is a key component of their regulatory constitution.¹⁶ What is remarkable about the growing attention to law in and around GVCs is the multifaceted nature of the analysis. While lawyers are asked to explain the role of law in generating and oiling the GVC machine, they are also increasingly asked to justify law’s effective insulation of powerful actors from accountability. The flipside, then, of law’s constitutive role is its affirmative, defensive one. Accordingly, it comes as no surprise that critical engagement with the law of GVCs is based on the recognition of an admittedly much larger project of political critique.¹⁷

¹¹Behan (2007).

¹²Sullivan (2020); see also Levinson-Waldman (2017) and Thimm (2018).

¹³Antràs (2020).

¹⁴Knöpfel (2020), Tsing (2009).

¹⁵Selwyn (2018).

¹⁶In this regard, see Gereffi et al. (2005) and Eller (2020).

¹⁷IGLP Working Group (2016): “While references to GVCs have proliferated rapidly in recent years, in both academic and policy circles, our intervention is motivated by the puzzling fact that there is as yet no well-developed account of the role of law in the structure, operation or governance of GVCs. In fact, we observe that law has, for the most part, been neglected by the political economists, sociologists, economic geographers and other social scientists that have pioneered GVCs as a field of study.”

As the chapters in this volume illustrate, the critical project of going beyond a mere exploration of law in GVCs to developing transformative intervention strategies is now well under way. Lawyers are already delving into the myriad ways in which law shapes this mesmerising infrastructure so crucial for our globally networked economy, including how it facilitates non-compliance with labour and human rights standards. As Andreas Fischer-Lescano shows in his chapter, it is our ability to think about law in a larger context that will eventually allow us to mobilise its potential. For that to happen, however, we must strike a paradoxical balance between proximity and distance. We must take a step back from a purely doctrinal analysis of contract, tort, corporate law and conflicts of law—the core elements that contribute to GVCs’ legal infrastructure, but which inevitably lead us back to frustrating road blocks such as “separate legal entity” or “*forum non conveniens*.” We must also contextualise our quest for a not-yet-matured law of GVCs¹⁸ against the backdrop of rich and still-growing experiences in public interest litigation, labour and human rights activism, transformative constitutionalism and movement and coalition building. The complexity of GVCs and their relationship to law must not lead to paralysis nor prompt wishful thinking for a “*sui generis*” legal solution. Instead, the particular contribution made by the authors convened in this volume is to show how the tools for real change are at our disposal, as long as we recognise that legal conflicts cannot be solved in the abject spaces of legal abstraction.

3 Overview of the Volume

This volume is structured in three parts. Part I focuses on the Ali Enterprises factory fire and its aftermath in terms of transnational coalition building, litigation and campaigning. It begins with two conversations between Palvasha Shahab and both Saeeda Khatoon and Zehra Khan, offering first-hand accounts and insights from the ground as the fire raged and events unfolded in its wake. Both interviews commence with the factory fire on 11 September 2012 and take the reader through detailed personal accounts of transformational movement-building in Pakistan over the months and years that followed.

Miriam Saage-Maaß then offers a close-up analysis of how transformative legal and advocacy projects can be developed in the aftermath of such a human rights tragedy. Her chapter highlights the persistence of exploitative working conditions in global supply chains, resulting from the constant need to externalise costs and increase consumption with a view to sustaining the “imperial lifestyle” of people in the Global North. Echoing the findings of legal sociologists and, more recently, law and political economy scholars and legal institutionalists, Saage-Maaß draws our attention to law’s crucial role in organising and structuring production in these supply chains. While the law structuring GVCs is designed to secure the economic

¹⁸Reinke and Zumbansen (2019), Zumbansen (2020).

interests of Global North companies at the top of most such chains, it also bears considerable potential for transformation and empowerment, she argues. As her chapter aptly illustrates, the different legal interventions around the Ali Enterprises factory fire demonstrate that law is not only a direct product of dominant class interests, but can also open up opportunities for resistance and future-oriented emancipatory struggles. From her position as an actor closely involved in the Ali Enterprises case, both in terms of building transnational alliances and the litigation itself, Saage-Maaß critically reflects on the achievements of these legal interventions. She ends by proposing several elements for a more holistic approach to the growing number of “strategic litigation” initiatives in the area of value-chain-related human and labour rights violations.

In the next chapter, Faisal Siddiqi focuses on the legal activism that followed in the wake of the Ali Enterprises factory fire in Pakistan itself. Siddiqi’s chapter both documents the legal proceedings pursued in Pakistani courts and reflects on the judicial process’ capacity and suitability for attaining justice in struggles for labour and human rights. Siddiqi’s rare and immensely valuable inside account of the legal proceedings in Pakistan lays the empirical foundation for the chapter’s subsequent theoretical and strategic claims. Based on the litigation and legal advocacy experiences following the fire, Siddiqi explores what he perceives to be the two primary “paradoxes” at the heart of the litigation. The first paradox is the inseparability of the “limited justice” on offer through the litigation process and the “structural injustice” that informs and determines the conditions the litigation seeks to address and transform. The second paradox concerns the inseparability of both law and lawlessness with regards to the legal status of the litigation, advocacy and policy proposal elements in play. These apparently contradictory phenomena, the chapter posits, not only coexist alongside one another, but guarantee each other’s existence. Siddiqi’s analysis leads him to the conclusion that to better understand and improve such forms of strategic litigation, one must measure success and failure in terms of three distinct but interconnected criteria, namely, the litigation’s tactical, strategic and structural impacts. The chapter makes a valuable contribution by rejecting the binary choice between nihilism and idealism, arguing instead for a conception of such legal struggles as a means of building sustainable and fruitful forms of resistance and change.

The first section of the volume concludes with a chapter co-authored by Nasir Mansoor from the Pakistani National Trade Union Federation, Miriam Saage-Maaß from the European Center for Constitutional and Human Rights, and Thomas Rudhof-Seibert from the German humanitarian organisation *medico international*. Drawing on an internal evaluation of the three organisations’ cooperation between 2012 and 2019, their chapter offers invaluable insights into the internal coordination and strategic deliberations of the partners’ evolving transnational collaboration to hold the German retail company KiK and Italian social auditing firm RINA to account on behalf of survivors and victims’ families of the Ali Enterprises factory fire. The authors elaborate on the multi-dimensional effects and aftermath of the tragedy, and recount the lessons learned from their different perspectives as trade unionists, activists and lawyers based in both Pakistan and Germany. On that basis,

the chapter maps additional possible avenues to further support the transnational struggles of workers around the globe. Resonating with the process analysis offered by Siddiqi in the preceding chapter, the authors offer rich insights into the experiences and complex debates ongoing amongst themselves and their respective organisations on how to develop common positions and further enhance their mutual understanding in order to collectively imagine transformative political goals.

Part I concludes with two interviews between actors on the ground in Pakistan and Germany. In the first interview, Palvasha Shabab speaks with renowned Pakistani artist Adeela Suleman about her artistic interventions in the aftermath of the fire and the opportunities art offers for political and social mobilisation. In the second interview, Michael Bader from ECCHR talks with German business journalist and author Caspar Dohmen about the role of media and journalism in the transnational lawsuit against retailer KiK filed in Germany.

Part II of the volume focuses on legal doctrine with regard to labour, tort and human rights law. Ben Vanpeperstraete kicks off the section by zeroing in on the Accord on Fire and Building Safety in Bangladesh (Bangladesh Accord) that grew out of the 2013 Rana Plaza garment factory collapse in Dhaka. For Vanpeperstrate, disasters like Rana Plaza and the Tazreen and Ali Enterprises factory fires painfully demonstrate the limits of state-based models of labour regulation. The rise of multinational corporations and decades of outsourcing and offshoring, he argues, have undermined both the regulatory role of the state and the potential of collective bargaining. Meanwhile, substandard and unsafe working conditions in GVCs continue to accrue. Beyond identifying law's crucial role in bringing about such results, Vanpeperstraete asserts that these disasters provide a textbook example of how worker-driven strategies can be developed in a meaningful way. Such strategies, he suggests, can pursue the goal of bringing transnational corporations "to the table" to critically and productively engage in negotiations over global value chain organisation in a way that more effectively protects weaker parties' interests. Vanpeperstraete's analysis shows how both the Bangladesh Accord and the Rana Plaza Arrangement (as well as the corollary Tazreen and Ali Enterprises compensation agreements) can be studied as sites for counter-hegemonic resistance to globalisation as well as platforms for developing new strategies to advance social justice within GVCs.

In the next chapter, Reingard Zimmer reviews the "evident failure" of voluntary corporate codes of conduct to protect labour and human rights in GVCs. Despite their much discussed "toothless tiger" nature, she notes that such codes' proliferation, along with the rise of assorted public, private and hybrid monitoring processes, has only intensified debates over transnational corporations' purchasing practices and legal accountability. Specifically, Zimmer studies the development of "international framework agreements" as an alternative approach advanced by trade unions to complement state-based and voluntary modes of transnational corporate regulation. Her chapter offers a concise analysis of these instruments, highlighting both their strengths and weaknesses. As a case study, she specifically examines the Indonesian Protocol on Freedom of Association, a special framework agreement concluded between Indonesian trade unions and international sportswear firms to

protect freedom of association and trade union rights in the Indonesian textile, garment and footwear industries. Beyond outlining the protocol's content, she offers a rich assessment of the international framework agreement's implementation and monitoring system based on interviews conducted in Indonesia between November 2018 and January 2019. Zimmer identifies several key factors that, in her view, led to the successful promotion of strong trade union rights in the protocol's formation phase, including public awareness following intensive campaigning around a mega sporting event, strong support from different civil society actors and the presence of a neutral facilitator. Overall, Zimmer unpacks the Indonesian Protocol as an example of a bottom-up process that strengthened signatory trade unions and, thus, potentially serves as a constructive model for actors in other countries.

Turning to the forever-intriguing relationship between corporate law and labour law, Eva Kocher's chapter traces the development of transnational concepts of corporate social responsibility (CSR), particularly in relation to the standards developed under the auspices of the International Labour Organization in Geneva. Kocher analyses the relationship between transnational private law instruments on the one hand, and national and international law on the other, exploring both the opportunities and limits of new CSR enforcement mechanisms. Only if CSR instruments become sufficiently effective, she concludes, can law avoid becoming a pawn in corporate strategies.

Gerhard Wagner's contribution explores the relationship between tort law and human rights with the aim of gauging tort law's potential for holding corporations liable for human rights violations within GVCs. The chapter takes the 2013 Rana Plaza collapse in Bangladesh as its starting point, examining the intense debates it aroused around the tort law accountability of those involved in the building's maintenance and of the Global North companies that sourced their goods there. Proceeding in two steps, the chapter first proposes a legal framework for tort liability that would optimise social welfare. Under this optimal liability system, manufacturers would internalise the full cost of production, including harm caused to workers, third parties and the environment. Such a model, Wagner asserts, would differ significantly from the present reality of global tort liability, which is plagued by legal fragmentation and enforcement deficits. These factors explain corporations' wanton externalisation of production risks today, which, in turn, lead to inflated global demand. In principle, Wagner argues, tort law is well suited to offer remedy for corporate harms, as the interests protected by human rights and national tort law broadly overlap. Moreover, the core requirement for shifting losses to others via tort law—the duty of care—is a flexible concept capable of accommodating cross-border human rights policies, which he illustrates with reference to France's landmark 2017 *devoir de vigilance* legislation and recent UK Supreme Court jurisprudence. In a second step, the article warns against selectively imposing such duties in some jurisdictions but not in others, as this would hinder a global application of national tort law. Finally, the chapter comparatively assesses a number of possible tort law enforcement mechanisms, reaching a cautious verdict with regard to tort law's usefulness for further advancing human rights.

Part III, the final section of the book, draws on critical and postcolonial perspectives to assess law's potential for addressing human rights violations in GVCs. In the first chapter of this section, Palvasha Shahab argues that Pakistan has never had a bona fide system of Occupational Safety and Health (OSH) standards, laws, policies or enforcement mechanisms. The present system, she asserts, is divorced from both the resources needed to enforce it and from workers' most urgent needs, effectively leaving them without any protection. Offering a minute account of various actors' actions as the fire occurred and in its aftermath, Shahab identifies key legal shortcomings and OSH violations involved. Her account highlights the gap between the OSH system's deficiencies and the fatalities it caused, outlining what would have been required to prevent the tragedy. By tracing the history of Pakistan's OSH infrastructure back to British colonial rule, her chapter contextualises the larger global economic and political situation in which the Ali Enterprises factory fire should be seen, rendering visible the historical trajectories and factors that have led to workers' persistent exclusion from politico-legal rights. She concludes by offering suggestions for improving OSH infrastructure in Pakistan.

Muhammed Azeem provides further historical context for assessing labour law and regulation in the Global South, highlighting the prevalence of meagre social security protections and the lack of labour representation in domestic legislatures. He begins by situating the Global South's long struggle for labour rights as a struggle oriented towards "distributive justice" with an emphasis on constitutionally protected freedom of association and collective bargaining rights. Azeem shows how, over the course of the last century, labour law has increasingly sought to pit the core values of "distributive justice" against the strictures of "corrective justice" by rejecting what he calls the slippery "ethical basis" of private law in both civil and common law systems. Azeem critically assesses multinational corporations' continuing use of (voluntary) codes of conduct with respect to labour and working conditions on the one hand, while also scrutinising labour and human rights activists' increasing reliance on the private law doctrines of tort and damages on the other. Both approaches, he argues, dilute labour law's focus on distributive justice by aiming to reform but not fundamentally alter a system that has been rigged from the very start. For Azeem, the KiK litigation highlights the tension between these competing approaches and the ultimate aim of achieving distributive justice.

Andreas Fischer-Lescano's chapter reflects on the long history of lawyers and NGOs using strategic and public interest litigation as a means to advance broader socio-political aims. The chapter begins by unpacking what this type of litigation entails, namely activists (a) initiating legally substantiated lawsuits that (b) pursue goals beyond legal "success" in the strict sense and (c) address contentious political issues. As such, he claims, this type of litigation can never be seen in isolation from the larger socio-political struggles in which the actors are engaged. Yet, by fighting for the judicial enforcement of human, environmental, trade union, migrant and refugee rights within the *prima facie* circumscribed framework of litigation, Fischer-Lescano shows that such "strategic" efforts remain, at their core, engaged in a

struggle to make the law “better.” As the chapter compellingly demonstrates, it is precisely here that the structural limitations of legal mobilisation become apparent. Fischer-Lescano draws parallels between contemporary strategic litigation efforts to combat injustices in GVCs and earlier as well as ongoing efforts to bring about socio-economic and political change through the judicial process.

Finally, Michael Bader’s chapter not only concludes this section, but also the book, widening the lens again to critically examine the political objectives of the broad-church project of Business and Human Rights and its prospects for ending decades of corporate impunity and rights abuses. His chapter shows how, in recent years, the fight for corporate accountability under the banner of Business and Human Rights has come to dominate civil society’s engagement with the “question of the corporation.” He explores the project’s gradual translation of case-based struggles into world-making aspirations and assesses evolving efforts to develop a regulatory framework for corporate human rights obligations like the “Legally Binding Instrument” currently under discussion at the United Nations. Using a historical narrative approach to situate the evolution of Business and Human Rights within neoliberal globalisation, Bader points out the “dark side” of this particular strand of human rights activism. By bringing critical legal scholarship on the corporation and human rights into closer conversation with Business and Human Rights, the chapter excavates the latter’s structural flaws, namely that it leaves the asymmetries in the global economy and the imperial corporate form unchallenged. Bader problematises Business and Human Rights’ presupposition of business as fact and its uncritical embrace of rights as positive change-makers, prompting us to rethink strategic political objectives vis-à-vis corporate rights abuses.

References

- Antràs P (2020) Conceptual aspects of global value chains. Harvard University and The World Bank, 4 February 2020. Available at: www.scholar.harvard.edu/files/antras/files/conceptual_aspects_gvcs.pdf. Accessed 1 Aug 2020
- Behan RW (2007) The so-called “war on terror”. Global Policy Forum, 29 August 2007. Available at: www.globalpolicy.org/component/content/article/154/26817.html. Accessed 1 Aug 2020
- Brown W (2019) *In the ruins of neoliberalism: the rise of antidemocratic politics in the west*. Columbia University Press, New York
- Cox M (2017) The rise of populism and the crisis of globalisation: Brexit, Trump and beyond. *Ir Stud Int Aff* 28:9–17
- Crane D (2020) Once the pandemic is over, we’ll need a new social contract for Canada. *Hill Times*, 6 April 2020. Available at: www.hilltimes.com/2020/04/06/242019/242019. Accessed 1 Aug 2020
- Cuperus R (2017) The populist revolt against globalization. *Clingendael Spectator* 71(3). Available at: www.clingendael.org/pub/2017/3/the-populist-revolt-against-globalisation/. Accessed 1 Aug 2020

- Deakin S, Gindis D, Hodgson GM, Huang K, Pistor K (2017) Legal institutionalism: capitalism and the constitutive role of law. *J Comp Econ* 45:188–200
- Eller KE (2020) Is “global value chain” a legal concept? Situating contract law in discourses around global production. *Eur Rev Contr Law* 16(1):3–24
- Fraser N (2008) Scales of justice: reimagining political space in a globalizing world. Columbia University Press, New York
- Gereffi G, Humphrey J, Sturgeon T (2005) The governance of global value chains. *Rev Int Polit Econ* 12:78–104
- Habermas J (1986) The new obscurity: the crisis of the welfare state and the exhaustion of utopian energies. *Philosophy Soc Crit* 11(2):1–18
- Habermas J (2003) Interpreting the fall of a monument. *Germ Law J* 7(4):701–708
- Habermas J (2006) The Kantian project and the divided west. In: Habermas J (ed) *The divided west*. Wiley, Hoboken, pp 113–192
- IGLP Working Group (2016) The role of law in global value chains: a research manifesto. *London Rev Int Law* 4(1):57–79
- Kaldor M (2003) The idea of global civil society. *Int Aff* 79(3):583–593
- Kalm S, Strömbom L, Uhlin A (2019) Civil society democratising global governance? Potentials and limitations of “counter democracy”? *Glob Soc* 33(4):499–519
- Kende A, Krekó P (2020) Xenophobia, prejudice, and right-wing populism in Eastern Europe. *Curr Opin Behav Sci* 34:29–33
- Knöpfel L (2020) An anthropological reimagining of contract in global value chains: the governance of corporate-community relations in the Colombian mining sector. *Eur Rev Contr Law* 16(1):118–138
- Levinson-Waldman R (2017) NSA-surveillance in the war on terror. In: Gray D, Henderson SE (eds) *Cambridge Handbook of Surveillance Law*. Cambridge University Press, Cambridge, pp 7–43
- Mornia M (2020) Pandemics and a new social contract: the hope of a “new normal” for a future beyond the lockdown. DiscoverSociety, 8 June 2020. Available at: www.discover society.org/2020/06/08/pandemics-and-a-renewed-social-contract-the-hope-of-a-new-normal-for-a-future-beyond-lockdown/. Accessed 1 Aug 2020
- Navarro V (2020) The consequences of neoliberalism in the current pandemic. *Int J Health Serv* 50(3):271–275
- Pistor K (2019) *The code of capital: how the law creates wealth and inequality*. Princeton University Press, Princeton
- Reinke B, Zumbansen P (2019) Transnational liability regimes in contract. Tort and corporate law: comparative observations on “global supply chain liability”. In: Schiller S (ed) *Le devoir de vigilance*, pp 157–183
- Saad-Filho A (2020) From COVID-19 to the end of neoliberalism. *Crit Sociol* 46(4–5):477–485
- Selwyn B (2018) Poverty chains and global capitalism. *Compet Chang* 23(1):71–97
- Singh Grewal D, Purdy J (2014) Introduction: law and neoliberalism. *Law Contemp Probl* 77(1):1–23
- Slobodian Q (2018) *Globalists: the end of empire and the birth of neoliberalism*. Harvard University Press, Cambridge
- Sullivan G (2020) *The law of the list: UN counterterrorism sanctions and the politics of global security law*. Cambridge University Press, Cambridge
- Thimm J (2018) From exception to normalcy: the United States and the war on terrorism. SWP Research Paper 2018, 7 October 2018. Available at: www.swp-berlin.org/en/publication/the-united-states-and-the-war-on-terrorism/. Accessed 1 Aug 2020
- Tsing A (2009) Supply chains and the human condition. *Rethink Marx* 21(2):148–176
- Zumbansen (2020) Reflections on Economic Law, *J. Polit. Econ* 1(3), in print

Peer Zumbansen is a private law scholar with a focus on contract law, corporate governance and transnational regulatory theory. In January 2021, he joined McGill University Faculty of Law in Montreal, Canada, as the inaugural holder of the professorship of business law. From 2004 to 2020, he held a research chair and professorship at Osgoode Hall Law School in Toronto, Canada, where he founded and directed the Critical Research Laboratory in Law & Society, and the Collaborative Urban Research Laboratory and launched the SSRN e-journal for the Comparative Research in Law & Political Economy Network. From 2014 to 2018, he served full-time as the inaugural chair in transnational law at King's College London, UK, and inaugural Director of the Dickson Poon Transnational Law Institute. Starting in 2021, Zumbansen will be a Senior Research Fellow at TLI. His recent publications include *The Many Lives of Transnational Law* (Cambridge 2020) and the *Oxford Handbook of Transnational Law* (Oxford 2021).

Open Access This chapter is licensed under the terms of the Creative Commons Attribution 4.0 International License (<http://creativecommons.org/licenses/by/4.0/>), which permits use, sharing, adaptation, distribution and reproduction in any medium or format, as long as you give appropriate credit to the original author(s) and the source, provide a link to the Creative Commons license and indicate if changes were made.

The images or other third party material in this chapter are included in the chapter's Creative Commons license, unless indicated otherwise in a credit line to the material. If material is not included in the chapter's Creative Commons license and your intended use is not permitted by statutory regulation or exceeds the permitted use, you will need to obtain permission directly from the copyright holder.

