Multinationals and supply chains: Key aspects of a new strategy for eliminating modern slavery*

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One of the most recent strategies to ensure the observance of human rights, including labor rights, consists of acting on transnational companies and the networks they form, radiating standards of human rights protection through supply chains. This strategy is an expression of so-called "reflexive law" and makes use of hard law to regulate the operation of these companies. First, the author sets out the steps taken in international regulations and in various state-made legislations in this field, highlighting the pioneering nature of US legislation, the transcendence of the English model, and especially French legislation, in this latter case for inaugurating a more substantive due diligence requirement. And, based on a comparative analysis of these and other legislations, as well as on a series of reports of relevance in this area, the author highlights different functions that this legislation holds (to protect human rights, fair competition and a general public interest beyond those aspects). The author also shows the evolution that this legislation has undergone over time. Finally, the author presents the most relevant questions and options for dealing with them, favoring a regulatory "pattern" to be followed by state or supranational legislation that has not yet dealt with this issue or to pay attention by those others which, having regulated it, identifies possible gaps to be filled in.

Keywords: child labour, due diligence, globalization, human rights, modern slavery, multinational enterprises, supply chains, transparency.

1. Introduction

The legislation under study, whether state-made or not, is born in a context characterised by globalisation. "Globalisation" is a widely used concept. Among the many sources available to define it, the ILO Declaration on Social Justice for a Fair Globalisation of 2008 and, doctrinally, Thrift's (Thrift 2002) definition, are noteworthy.

Globalization incorporates into its DNA the proliferation of multinational enterprises. These are the companies whose reality, despite the preference of the ILO and OECD for the term "multinational", has evolved towards the "transnational" company, which operates in a world with a global strategy guided by the parent company (Hernández Peribañez 2017, 59). Its delocalization configures an international reality of networked companies

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and global supply or value chains and its activity generates mutations in the system of sources of law (Lantarón Barquín 2019, 31–32).

Globalisation as a whole, or its distinctive notes, separately, lead to a weakening of the contractual position of workers, often eroding their rights in practice.

From the first perspective, as a whole, it has been said that globalisation "weakens positive rights and duties" (Vidal 2012, 40). For instance, globalization generates such negative effects as the alarming increase in the rate of absence from work due to illness and a transfer of low-skilled jobs and low-cost production processes to less developed countries (Casale 2013, 309). It also presents, among its less commented effects, the potential to generate a "rebound" or "return effect", the temptation to reduce legal standards in the countries of origin, in an attempt to curb this type of business movement, to face delocalization (García Murcia 2007, 25–30). It is stated that "when companies begin to cross national borders, certain fundamental national institutions for the protection of working conditions, such as collective bargaining (…) which traditionally guaranteed safe and humane working conditions, have begun a slow decline" (Casale 2013, 308).

2. Basic research

2.1. Global supply chains as channels for the social governance of globalisation

As the 1998 presentation of the ILO *Declaration on Fundamental Principles and Rights at Work and its Follow-up*[1] warns "economic growth is essential but not sufficient to ensure equity, social progress and the eradication of poverty". Growth must be accompanied by a minimum of rules "that enables the persons concerned, to claim freely and based on equality of opportunity, their fair share of the wealth which they have helped to generate, and to achieve fully their human potential".

To achieve this goal of reconciling economic and social progress, a wide range of strategies have been adopted. The configuration of a universal legal labour status is based on the theory of human rights, on the concept of decent work or, as I am inclined to say, a complete elaboration of the novel universal labour guarantee (Lantarón Barquín 2021), is one of them. In our view, this strategy should be given priority.

However, the strategy that interests us most now is based on the implementation of labour standards in the global supply chain, regulating transnational enterprises. In particular, it is a matter of protecting those rights considered human rights.

The evolution of this governance of globalisation by regulating the effect that multinational enterprises have on human rights has gone through various lines of action: from the pure omission of both public and private regulation to strictly private governance — or misgovernance — of the globalisation (Tejeda Romero, Manzaneque Lizano and Banegas Ochovo 2014, 67–69).

The following phases, as we will see, move from *soft law* intervention to *hard law* regulation, which is of greater interest to us.

[1] Adopted by the International Labour Conference at its Eighty-sixth Session, Geneva, 18 June 1998 (Annex revised 15 June 2010). Available at: https://www.ilo.org/declaration/ (accessed: 01.02.2022).

2.2. International references in this area: a brief outline

The penetration of human rights standards to the global supply chain's actions is due to the insufficiency of the state normative response because of well-known — or not so well-legal[2] and economic reasons. In particular, due to the attractiveness of international investment and the weakness of the State in the face of it (Daugareilh 2016, 17).

Hard law identified at the beginning States as obliged subjects, not enterprises[3]. International level subsequently focused on multinational enterprises. *Soft law* rules aim to influence the conduct of these enterprises. At the same time, these legal provisions are intended to guide States in the drafting of domestic legislation, are a reference to be followed by the state legislation.

Here we should first mention actions taken by United Nations. Actions whose milestones include the recognition of the conceptual framework "U. N. Protect, Respect and Remedy: A framework for business and Human Rights" (UN Doc A/HRC/8/5, 7/4/2008) and the *United Nations Guiding Principles on Business and Human Rights: implementing the United Nations framework for protect, respect and remedy,* so-called "Ruggie Principles"[4].

Ruggie principles advocate the move from the "naming and shaming" to a due diligence process based on "knowing and showing".

There are other important international actions within the framework of the United Nations, such as the continued attempt to agree on a "Legally binding instrument to regulate, in international human rights law, the activities of transnational corporations and other business enterprises" which, for the moment, in its different versions, has not borne fruit[5].

The actions of the ILO and OECD should also be mentioned. the ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy was adopted in 1977 and updated in 2006 and recently in 2017[6]. OECD adopted the Guidelines for Multinational Enterprises, in 1976 and revised in 2011. These guidelines constitute an international standard of responsible business conduct covering many aspects of business ethics, including employment and labour relations and human rights, as well as due diligence guidelines in different sectors. More than forty states have adhered to them and are

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[2] Such as the circumvention of the application of international treaties using other equal international instruments "which allow the general rules of the 'Ius Gentium' to be derogated from in favour of the immediate economic benefit. For example, bilateral investment treaties" (Ovejero Puente 2015, 7).

[3] See 1926 Slavery Convention or the Convention to Suppress the Slave Trade and Slavery, under the auspices of the League of Nations; article 4 of the Universal Declaration of Human Rights; the United Nations 1956 Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery; or the Convention Concerning Forced or Compulsory Labour, 1930 (No. 29). Convention extensively studied by the doctrine, in particular the conceptual delimitation (v.gr. Valverde Cano 2018, 184). Convention No. 29, is not the only ILO instrument for this purpose. The following texts also deserve to be highlighted: ILO Recommendation, 1930 (No. 35); Forced Labour (Indirect Compulsion); Protocol of 2014 to the Forced Labour Convention, 1930, and the Forced Labour (Supplementary Measures) Recommendation No. 203 of 2014; Convention, 1957 (No. 105) Abolition of Forced Labour; or, finally, the withdrawn Recommendation, 1930 (No. 36) Forced Labour (Regulation).

[4] Principles adopted by the UN Human Rights Council, Resolution 17/4 of 16 June 2011.

[5] Documents of the Open-ended intergovernmental working group on transnational corporations and other business enterprises concerning human rights. Available at: https://www.ohchr.org/EN/HRBodies/HRC/WGTransCorp/Pages/IGWGOnTNC.aspx (accessed: 20.07.2021).

[6] ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy. Available at: https://www.ilo.org/empent/areas/mne-declaration/lang–es/index.htm (accessed: 20.07.2021).

committed to their implementation by facilitating follow-up through the creation of National Contact Points where complaints about non-compliance are registered (Fernández Martínez 2020). Guidelines also include provisions related to supply chains, thus expanding its scope to suppliers, as well as other business relationships"[7].

2.3. EU legislative action

The EU also plays a relevant role in this area, as many multinationals are based in one of its Member States. Taking its cue from US federal law, the EU has intervened in the same strategic sector, mining. Previously, it did so in the timber sector, by Regulation (EU) No 995/2010 of the European Parliament and of the Council of 20 October 2010 laying down the obligations of operators who place timber and timber products on the market.

Regulation (EU) 2017/821 adopted on 17 May 2017 lays down supply chain due diligence obligations for Union importers of tin, tantalum and tungsten, their ores, and gold originating from conflict-affected and high-risk areas (OJ L 130/1, 19.5.2017).

Other EU actions as the European Parliament's resolution of 25 October 2016 on corporate liability for serious human rights abuses in third countries (2015/2315, INI) should be also mentioned. Or the European Parliament resolution of 4 October 2018 on the EU's input to a UN Binding Instrument on transnational corporations and other business enterprises with transnational characteristics with respect to human rights (2018/2763 RSP).

The EU is also aware of the need for legislative intervention from this general level, highlighting to this effect the first effort with Directive 2014/95/EU of the European Parliament and of the Council of 22 October 2014 amending Directive 2013/34/EU as regards disclosure of non-financial and diversity information by certain large undertakings and groups.

More relevant, however, is the will to adopt a European Directive on due diligence, including so far the European Parliament Resolution of 10 March 2021 with recommendations to the Commission on corporate due diligence and corporate accountability (2020/2129 INL). Additional reporting obligations and duties to monitor supply chains will possibly be introduced. The EU directive could, in particular, extend the scope of application of state laws to significantly more enterprises and introduce civil liability for non-compliance. On 12 July 2021, the European Commission and the European External Actions Service published guidance on "due diligence for EU businesses to address the risk of forced labour in their operations and supply chains".

2.4. State-made legislation, multinationals and human rights

2.4.1. General approach

The mentioned international instruments "transform the canon of due diligence in the performance of the entrepreneur" and also has the effect of "timidly" making state legislations react "to integrate, from traditional legal schemes, the principles and their

[7] International Labour Conference, 105th Session, 2016. Report IV Decent work in global supply chains. The fourth item on the agenda. 1–80, Geneve: International Labour Office. Available at: https://www.ilo.org/ilc/ILCSessions/previous-sessions/105/reports/reports-to-the-conference/WCMS_468097/lang–en/index.htm (accessed: 28.06.2021).

philosophy in the commercial regulation applicable to multinational companies with headquarters or their territories"[8]. In some cases, it is done by imposing obligations on companies, under a matrix of public audit[9].

Consequently, in recent years, States have sought to adopt norms oriented on transnational enterprises. States are inspired by international soft law instruments but maintain in their normative intervention the nature of positive public legislation, of hard law, orienting it towards these enterprises. In other words, States make use of what has come to be called as "reflexive law" by Teubner (2015).

At the state level, legal initiatives aimed at influencing multinational enterprises abroad began in the USA, with section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010. This law requires U. S. companies to apply the principle of due diligence to their supply chains in connection with the use of certain minerals from the Democratic Republic of Congo.

The California Transparency in Supply Chains Act was also adopted in 2010. Large retailers or manufacturers, which operate in California and have annual gross revenues of $ 100 million or more, must disclose their efforts to eradicate slavery and human trafficking from their direct supply chains for tangible goods offered for sale. Like that federal legislation, California's state legislation provides for making public on the web the information related to this aspect and audits of suppliers to evaluate supplier compliance with company standards for trafficking and slavery in supply chains.

The multinational must require direct suppliers to certify that materials used in the product comply with the laws prohibiting slavery and human trafficking in the country or countries in which they are doing business; provides training on this area for managers and workers with responsibilities concerning the supply chain; maintains certain accountability standards and procedures; etc. As the only legal recourse for dealing with breaches of its third section, not excluding other possibilities contemplated in different regulations, the Attorney General of the State of California can bring an action for injunctive relief. As we shall see, this remedy is also contemplated in the British Modern Slavery Act (MSA).

2.4.2. The United Kingdom and the Modern Slavery Act

The British MSA was approved in 2015. An act whose similarity with Californian legislation is expressly recognised in the "Modern Slavery and Supply Chains Government Response. Summary of consultation responses and next steps". This document states that the British regulation is based on the former, although it goes further in three important aspects: it is sufficient for the affected company to have part of its business, not necessarily relevant, in the UK; it covers all sectors, not only retail trade and manufacturing; and it covers the production of not only goods, like the Californian one, but services.

Of all its content, structured in seven parts and five annexes, it is part 6 (section 54) of the act, the shortest, the one that is aimed at transparency in global supply chains. It is intended to combat modern slavery and human trafficking in a broad sense. According to

[8] International Labour Conference, 105th Session, 2016. Report IV Decent work in global supply chains. The fourth item on the agenda. 1–80, Geneve: International Labour Office. Available at: https://www.ilo.org/ilc/ILCSessions/previous-sessions/105/reports/reports-to-the-conference/WCMS_468097/lang–en/index.htm (accessed: 28.06.2021).

[9] Ibid.

Section 54.12 and Annex A of the Practical Guide to the Secretary of State's Office (2017), it includes slavery, servitude, forced labour, human trafficking, and exploitation.

Obligated enterprises are legal persons or companies that supply goods or services to the market and meet the following requirements: they carry on their business, or part of their business, in the UK; they are part of global supply chains; they achieve an annual net turnover of an amount set by the Secretary of State.

The current sum is £ 36 million.

These companies are required to prepare a slavery and human trafficking statement each financial year (Section 54.1). The statement consists of either, a document explaining the steps the company has taken to ensure that slavery and human trafficking has not taken place in its global supply chains and in any part of its own business, or a document stating that the company has not taken any steps to ensure that it does not occur (Section 54.4, content detailed in Section 54.5).

However, these multinationals would comply with the transparency clause without the need to adopt any policy concerning global supply chains, simply by, following Californian law, producing, and publishing on their website[10] a statement about whether they have, and what such a policy is or is not, an information obligation with a mere duty of disclosure. This statement may take the form of solely saying that they have taken no action.

Sanctions could only be applied, in principle, if multinationals fail to comply with this transparency obligation or, of course, if they falsify the corresponding reports. It is striking, however, that 40 % of the obliged companies have not submitted the declaration and yet no sanction has been noted.[11] The fines are not provided for in the MSA.

In March 2021, the Modern Slavery Statement Registry was created, responding to one of the criticisms made of the MSA — the lack of a centralised register of reports. The bill amending this law and introducing fines of up to £ 20 million for false information concerning slavery and human trafficking statements, establishing minimum standards of transparency in supply chains and prohibiting companies to use supply chains that fail to demonstrate minimum standards of transparency was brought before the House of Lords, on 15 June 2021[12].

2.4.3. France's step forward

In contrast to the MSA, the French *Law No. 2017–399 of 27 March 2017 "On the duty of care of parent companies and ordering companies"* (is not limited to slavery and human trafficking). It establishes obligations in the field of human rights without apparent distinction, reforming the French Commercial Code by obliging the affected companies to draw up and effectively implement a monitoring plan (art. L. 225–102–4 of the French Commercial Code).

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[10] In the absence of such a website, and as the Californian standard states, the law is observed by providing a copy of the statement within 30 days when this information is required in writing (Section 54.8 MSA). However, the MSA omits the consumer status of the person requesting the information.

[11] Modern Slavery Statements Database. Available at: https://www.business-humanrights.org/en/from-us/modern-slavery-statements/ (accessed: 23.07.2021).

[12] Modern Slavery (Amendment) Bill. Available at: https://bills.parliament.uk/bills/2892 (accessed 23.07.2021).

The law speaks of "preventing serious violations concerning human rights and fundamental freedoms, the safety and health of persons and the environment" (art. L 225–102–4, part. I of the French Commercial Code). This severity is a distinctive requirement of French law although it does not specify what this seriousness is. Even beyond this legislation, there does not seem to be a definition of "severe breach", which creates a problem of legal certainty (Krajewski and Faracik 2020, 6). The recent German law also incorporates the seriousness of the violation and the company's ability to influence the violation.

The companies bound by this rule are those which, at the close of two consecutive financial years, have at least 5,000 employees. It is estimated that the number of companies subject to this rule is around 150 instead of the 13,000 affected by the MSA (Hernández Peribañez 2017, 338).

The vigilance plan should be drawn up with the participation of the company's stakeholders and cover the activities of: (i) the company itself; (ii) its direct and indirect affiliates; and (iii) its subcontractors and suppliers (only those with an established business relationship with the company in question). The plan should include monitoring measures to identify risks, prevent serious violations of human rights and fundamental freedoms, and protect human health and safety and the environment. The law also provides for the possible publication of a *Conseil d'Etat* decree to supplement the vigilance measures.

The French Constitutional Court in the Judgment no. 2017–750 adopted on 23 March 2017[13] considered unconstitutional the possibility of imposing fines of 10 million euros on corporations that had not adopted the vigilance plan and of up to 30 million if concrete damage had resulted from such non-compliance. Non-compliance with this act seems, therefore, not to be subject to fines.

A failure to draw up a vigilance plan leads to a mere injunction to the company to fulfil its obligations within three months. If the company does not comply, a formal request for compliance can be made by a legitimate party (e. g., NGO or trade union). And a judicial injunction (perhaps with daily fines) is ultimately possible. Finally, anyone with a legitimate interest may also consider civil suits against enterprises that do not comply with the law. Liability is for breach of the duty of vigilance, not for acts committed by the subsidiaries.

This Act does not seem to correspond to the initial expectations, particularly due to the intervention of the constitutional court. Some recommendations included in the evaluation of the law deserve to be expressly mentioned: broadening and clarifying the range of obliged companies; creating a state service in charge of promoting the duty of vigilance; monitoring the procedures for applying the law to identify aspects that could be improved; and the importance of an extension of the duty of vigilance in the European Union in the interests of a level playing field.[14]

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[13] Le Conseil Constitutionnel, Décision n° 2017–750 DC du 23 mars 2017. Available at: https://www.conseil-constitutionnel.fr/decision/2017/2017750DC.htm (accessed: 01.02.2022).

[14] Conseil Général de L'Économie, de L'industrie, de L'énergie et Des Technologies (CGEIET). 2020. *Rapport* N° 2019/12/CGE/SG *Evaluation de la mise en œuvre de la loi n° 2017–399 du 27 mars 2017 relative au devoir de vigilance des sociétés mères et des entreprises donneuses d'ordre.* 1–68. Établi par Duthilleul, Anne and De Jouvenel, Matthias. Available at: https://www.economie.gouv.fr/files/files/directions_services/cge/devoirs-vigilances-entreprises.pdf (accessed: 01.02.2022).

2.4.4. Dutch and German approaches

The Dutch Child Labour Due Diligence Act was passed in 2019 but is still pending entry into force. According to it, any company registered in the Netherlands that sells or supplies goods or services to Dutch end-users must submit a declaration to the competent authority. This declaration states that the company is carrying out due diligence to ensure that the goods the enterprise produces or services it provides do not use child labour.

This authority, that supervises compliance with the law, will be responsible for publishing the declarations in a public register, accessible through its website. And it will process complaints based on specific breaches of the law once these have been dealt with internally in the enterprise itself, or after six months has elapsed since they were filed in the enterprise. Joint action plans and both administrative and criminal sanctions are also envisaged.

This year, 2021, a proposal for the *Responsible and Sustainable International Business Conduct Act* has been presented in the Netherlands, the approval of which will determine, if necessary, the substitution of the current law. This new act would come into force in parts, in 2023 and 2024, and is no longer limited to child exploitation, but cover human rights, labour rights and the environment.

Obliged companies would be those that produce goods and services in/for the Dutch market and meet two of the following three criteria: have a balance sheet total of at least € 20 million; achieve net revenue of € 40 million, or have an average number of employees during the financial year of at least 250. These enterprises have to declare to observe due diligence in their supply chain. To this end, they have to make public a document including risks, risk prevention measures and action plans, integrating these policies into normal business management. In addition, they must report annually on the evolution of the situation and the impact of the measures taken.

If a complaint is filed, it will first be resolved internally, within the company itself, and if this does not work, an out-of-court or judicial mechanism will be opened. In addition, the competent authority will monitor compliance with the Act and may order certain measures under threat of sanction or impose sanctions.

The *German Supply Chain Due Diligence Act* was passed in June 2021 and will enter into force in 2023[15]. It covers all companies that have their head office, registered office or a branch office in Germany and has more than 3,000 employees, but from 1 January 2024, it will apply to companies with more than 1,000 employees.

Companies must observe a due diligence obligation regarding respect for human rights and environmental protection, in the broad terms set out in its annexe, by integrating this obligation through a corporate governance system. This system should identify potential risks of human rights or environmental harm arising from the company's activities, and prevent, stop, or reduce such harm.

The scope of the due diligence obligations covers both direct and indirect suppliers. However, the extension of due diligence obligations to indirect suppliers requires substantial knowledge that presupposes actual indications of a (potential) violation of human rights or environmental obligations of their indirect supplier.

[15] Löning. *Briefing paper.* Human Rights & Responsible Business, German Supply Chain Due Diligence Law — Content and significance-. Naunynstr. 40, 10999 Berlin. 2021. Available at: https://www.loening.org/wp-content/uploads/2021/06/GermanSupplyChainDDLaw-June2021.pdf (accessed: 27.08.2021).

Due diligence activities are to be continuously documented within the company, including all responsibilities, processes and measures mentioned above, as well as any violations. Such documentation serves as proof to the company that its due diligence was appropriate and effective and is required to be retained for seven years. The company is also required to submit and publish on its website an annual report on its compliance with its due diligence obligations.

In case companies subject to the Act improperly comply with their due diligence obligations, the federal authority responsible for the enforcement of the Act can as well impose significant financial penalties. In addition, if a fine exceeds € 175,000, companies may also be excluded from takeover bids in Germany for a period of up to three years. Any additional civil liability is explicitly excluded.

2.4.5. Other responses: a review of Australia's Modern Slavery Act 2018

Australia's Modern Slavery Act, no. 153 of 2018[16], requires entities based, or operating, in Australia, with annual consolidated revenue of more than $ 100 million, to report annually on modern slavery risks in their operations, including supply chains, and the actions they take to address those risks. The information includes reporting entities and entities owned or controlled by them. Joint declarations may be made on behalf of one or more reporting entities. Other entities headquartered or operating in Australia may report voluntarily. The reporting requirements also apply to Commonwealth corporate entities.

The reports are published in a public register known as the *Modern Slavery Statements*. Statements written into the register can be accessed free of charge by the public via the internet. A review of the situation three years after the entry into force of the standard is envisaged.

The Ministry can also ask an entity to explain its non-compliance concerning the modern slavery statements, and also to take remedial action. If the entity does not comply with the request, the Ministry may publish information about the non-compliance in the register or elsewhere.

3. Conclusions: key issues to consider in the development of regulation aimed to ensure the observance of human rights by companies and their supply chains

Developing national due diligence legislation Ruggie Principles can be taken as a fundamental guide (Krajewski and Faracik 2020, 5).

The reviewed national approaches to due diligence are of two types: general protection (for instance, German legislation) or partial protection of human rights (for instance, United Kingdom legislation), which may have a different scope. From a historical perspective, national legislations started from addressing a particular problem (modern slavery as in British and Australian cases, the abolition of child labour in Dutch legislation), which was followed by progressively extending its sphere of protection to include human rights, in general, or even environmental protection (German case).

[16] Modern Slavery Act No. 153, 2018. Available at: https://www.legislation.gov.au/Details/C2018A00153 (accessed: 01.02.2022).

The national approaches to the definition of companies covered by law differ. In particular, the questions of how to identify these companies; which economic activities are covered, and, up to which level of their supply chains they are responsible for are solved differently.

To answer the first question, their size in terms of the workforce is the fundamental criterion. With the pass of time, this staffing threshold can be changed to increase the number of obliged companies (by decreasing the number of employees, as is the case in Germany). Other indicators include domiciliation or carrying out operations in a territory; minimum turnover or another economic concept (English legislation); or, more unusually, the volume of movement of raw materials (as in the case of the European Regulation in mining).

An evolution from an industry-wide perspective to a general one, passing through the public sector, is taking place.

The report distinguished *two different models of corporate obligations: transparency* and *due diligence*. The transparency clause is indeed widespread, through the publication of the declarations made on the web (Dodd Frank Act, California Act, UK MSA, EU legislation) and the performance of an audit, independent (Dodd Frank Act), or not necessarily (Californian Act). Australian legislation, very faithful to the Anglo-Saxon tradition, brings the apparent novelty of joint declarations. The idea of a public register is also commonplace.

On the contrary, an indicator of the substantive nature, of the existence of a *due diligence obligation* — towards which there is a clear trend, at least within the EU — is the integration of these policies in the company, for instance, training workers (as in the case of Californian legislation) or demanding accountability to the highest corporate governance bodies (as in the case of French law).

Also, as seen in German or Australian legislation, the periodic review not only of regulations but of business practice is a useful criterion to systematise this legislation.

Finally, regarding *enforcement mechanisms* to ensure compliance with the law, summarising the second of the reports issued within the EU (Methven O'Brien and Martin-Ortega 2020) we would highlight four ideas.

First, effective legislation in this area must combine enforcement mechanisms based on state and third-party intervention. Secondly, deterrent mechanisms such as sanctions and others aimed at redress for victims must be incorporated. Thirdly, the breadth of response mechanisms, which shouldn't be exclusive. And fourth and latest, the report recommends the establishment of effective internal grievance mechanisms as an element of due diligence, internal procedures that, as we have seen, already exist in some jurisdictions.

References

Casale, Giuseppe. 2013. "Efficacia del Diritto del Lavoro e ruolo dell'Ispezione del Lavoro". *Rivista Italiana Diritto del Lavoro* 2: 301–338.

Daugareilh, Isabelle. 2016. "Afrontar el reto de la globalización de la economía: por una refundación del papel del Estado." *Trabajo y Derecho* 14: 16–24.

Fernández Martínez, Silvia. 2020. "The OECD guidelines for multinational enterprises and their implementation by the national contact points." *Lex Social* 10, no. 2: 101–129.

García Murcia, Joaquín. 2007. "Deslocalización y tutela de los derechos sociales: la perspectiva europea." *Relaciones Laborales* 6: 1159–1182.

Hernández Peribañez, María Eugenia. 2017. "Transnacionales y esclavitud moderna en la cadena de suministro textil: implementacion de la debida diligencia en derechos humanos y sus efectos en el acceso a mecanismos de reparacion judicial." PhD diss., University of Valencia. Accessed February 1, 2022. https://dialnet.unirioja.es/servlet/tesis?codigo=184231/.

Krajewski, Markus, and Beata Faracik. 2020. "Briefing 1 — Substantive elements of potential legislation on human rights due diligence." In *Policy Department for External Relations. Directorate-General for External Policies of the Union, Human Rights Due Diligence Legislation-Options for the EU:* 5–32.

Lantarón Barquín, David. 2019. *La tutela internacional del trabajador: categorías y estrategias. El "trabajo decente" como telón de fondo*. Valencia: Tirant Lo Blanch.

Lantarón Barquín, David. 2021. "La recherche d'un niveau de protection minimum applicable aux conditions de travail". In *L'impact des normes de l'o.i.t. sur la scène internationale. Actes du colloque organisé pour le centenaire de l'O. I. T.,* ed. by Nicole Maggi-Germain. 229–244, Le Kremliny-Bicêtre: Publishers Mare & Martin.

Methven O'Brien, Claire, and Olga Martin-Ortega. 2020. "Briefing 2. EU human rights due diligence legislation: Monitoring, enforcement and access to justice for victims". In *Policy Department for External Relations. Directorate-General for External Policies of the Union, Human Rights Due Diligence Legislation-Options for the EU*, 33–70. European Parliament (printed in Belgium).

Ovejero Puente, and Ana María. 2015. "Los principios Ruggie: un nuevo marco regulatorio para la gobernanza de la globalización." *Actualidad Civil* 1: 1–15.

Tejeda Romero, Francisca, Montserrat Manzaneque Lizano and Regino Banegas Ochovo. 2014. "La corresponsabilidad social como factor impulsor de la responsabilidad social corporativa." *Revista Contable* 19: 62–79.

Teubner, Gunther. 2005. *El derecho como sistema autopoiético de la sociedad global*, ed. by C. Gomez-Jara Díez. Lima: ARA editores.

Thrift, Nigel. 2002. "A hyperactive world", In *Reprinted in revised form in Geographies Of Global Change. Remapping the world*, ed. by R. J. Johnston, P. J. Taylor and M. J. Watts, 29–42. Oxford: Blackwell Publishers.

Valverde Cano, Ana Belén. 2018. "Capítulo 8: Trata de seres humanos con fines de explotación laboral: la problemática de las definiciones". In *La trata de seres humanos: protección de las víctimas,* dir. by F. M. Ferrando García and E. Blas Peña, 179–196. Murcia: Laborum Publishers.

Vidal Gil, Ernesto J. 2012. "Las raíces del Estado Social en la Unión Europea." *Revista Europea de Derechos Fundamentales,* no 20/2º semester: 13–44.

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