

Transnational private authority, regulatory space and workers' collective competences

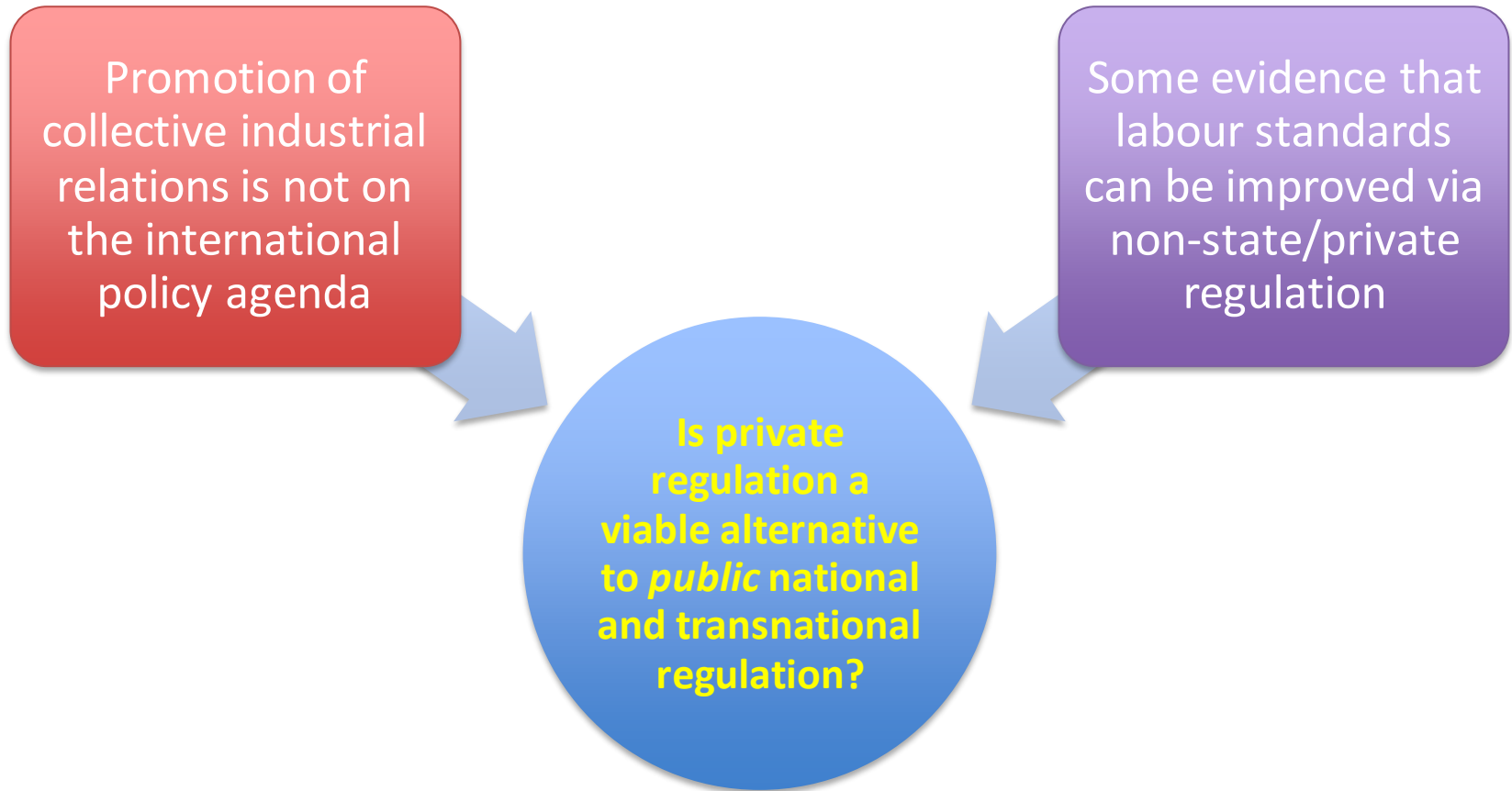
**The Regulation of Work and Employment: Towards a Multi-Disciplinary,
Multilevel Framework**

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How do we promote collective industrial relations internationally?



What is transnational private regulation?

Any **voluntary** system of rules and/or standards promulgated principally by non-state actors, whether those belonging to the commercial private sector or to civil society

Investment conditionality

Multistakeholder sustainability standards

Supply chain codes of conduct

Industry self-regulation codes

What does labour regulation do?

Sets **outcome standards**

- Pay and terms & conditions of work (job content, hours, holidays, benefits etc.)
- OHS standards (safety equipment, building regulations, exposure to hazardous substances etc.)

Establishes **process rights**

- **Individual:** grievance and disciplinary procedures, labour courts or tribunals
- **Collective:** freedom of association and collective bargaining rights (collective)

What do we know about the effects of the labour aspects of TPR?

Voluntary nature of TPR gives corporations significant influence over content

- **Collective process rights** are usually weak and interpreted so as to minimise potential for challenge to managerial control over supply chain costs and organization
- Benefits to workers are limited and principally concern **outcome standards**

Is corporate influence such that underlying **power relations** are always unchanged by TPR?

Hancher & Moran (1989) on 'regulatory space'

Dichotomy of 'captured' vs 'public interest' regulation is unhelpful

Regulation better understood as outcome of complex and shifting relationships between actors that participate in shared **regulatory spaces** which are located in specific socio-political contexts

Implications of regulatory space

Participation

- Who is included, who is excluded, and how is entry into regulatory space determined?

Agency & leverage

- Importance of the 'play of power': the struggles between players competing for advantage within the regulatory arena (resources, capacities, rules of the game)

Local political, legal and cultural context

- TPR affects an *existing* regulatory space with *existing* participants and *existing* rules of the game: alters rather than creates regulatory space

Collective competences

Union **Access** to regulatory space

- Workers' capacity to act collectively to pursue their common interests and their entitlement to be recognised by employers as representing the interests of workers in the process of setting outcome standards

Collective competences

Corporate **Inclusion** in regulatory space

- The circumstances under which workers are entitled to demand that employers participate in existing institutional processes involving the establishment and review of outcome standards and in which workers are already recognised as legitimate participants

Collective competences

Union **Leverage** within regulatory space

- The kinds of industrial and political pressure that can legitimately be mobilised by workers' organizations, whether in order to press a claim for access to regulatory space, to insist upon the inclusion and participation of corporations in regulatory space, or in pursuit of the establishment of specific outcome standards

Access: Bujagali Hydropower Project

IFC-funded project used by BWI as a 'test case' of new performance standards system

Existence of regulation used to put pressure on IFC client and client's principal contractor to meet union and allow union to recruit

No use made of any formal complaints procedures; union roundly ignored in IFC supervision process

“Really, it's just a door-opener. All the standards do is allow the union to get in. After that it's down to collective bargaining.”

Inclusion: west and southern African unions and the CICA GSR

CICA guide demands that enterprises respect local labour law

Unions target state-owned Chinese businesses trying to operate outside existing industrial relations system

GSR used as additional element in otherwise classic political & industrial pressure campaign to bring employers to the negotiating table

Absence of compliance monitoring & enforcement mechanisms in GSR of no consequence

Leverage: east African union and the Forestry Stewardship Council

FSC provides externally-validated normative point of reference in claims for outcome standards to be set at particular level

Union negotiator uses draft FSC standard as “an eye-opener” in multi-employer bargaining

Again, formal TPR compliance mechanisms of no consequence

Principal source of political/industrial pressure remains union organization & action

