Value chain Trade: a new dawn for ‘development’?

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A new economic wisdom seems to be informing the development agenda of international economic institutions, including the World Trade Organisation’s (WTO). The argument is that, although global value chains (GVCs) have existed for a long time, the pace and intensity of global interactions is rapidly changing, consisting of ever more functional ‘fractionalization’ and geographical ‘dispersion’ of production, and so is the nature of trade, with the unprecedented increase in the exchange of components and tasks originating in different parts of the world.

What is needed, according to this narrative, is an appreciation that ‘development’ *today* entails the ability of states to create a regulatory environment that enables efficient companies to insert themselves in GVCs and ‘technologically upgrade’ so to attract a greater share in the value added produced. Referred to as ‘WTO-X’ provisions because they go well beyond current liberalization commitments and include areas not covered by the Organization, these rules consist of the strengthening of the protection of

investors' rights, particularly intellectual property rights, and the free(r) movement of capital.

The insistence on 'developing countries' to acknowledge and adjust to the prevailing economic wisdom is not something new but has played an important role in post/colonial trade relations. As critical-legal, post-development and TWAIL scholars have argued, the very idea of development has long relied on very problematic hierarchies (racial and cultural first, economic later) requiring societies at the end of the 'development' spectrum to abide by the rationality of those at the top.

But the assumption that insertion into global chains and value capture will deliver 'development' – i.e. more jobs and higher income for workers - is also problematic empirically, because there is little evidence this is happening beyond China and India. Furthermore, qualitative analysis tells us that where this is happening, technological upgrade is going hand in hand with so-called social downgrade, that is the deterioration of working conditions for both the formal and informal workers, including migrants, on which GVCs rely. How, then, can we make sense of the co-existence of technological upgrade and social downgrade?

Social Reproduction Analysis (SRA) might provide a useful lens for looking at these phenomena and more generally at the workings of International Economic Law. Social Reproduction (SR) can be generally understood as encompassing biological reproduction - including sexual, affective and emotional services; unpaid production of goods and services in the home and within the community; and the reproduction of culture and ideology, which are all aspects necessary for the daily and generational maintenance of populations (Rai, Hoskyns and Thomas).

Marxist feminists like Federici, Picchio and Mezzadri have however seen the separation between the sphere of economic production and that of SR as an essential feature of capitalism. Their specific argument is that by excluding SR labour, informal and informalised labour - performed by the majority of people in the world - and environmental resources, by making them invisible or considering them non-productive (of economic value); profits can be made and

capital can accumulate. Their work is also important because it recognizes the crucial role that social divisions and hierarchies have played in processes of labour de/valuation and capital accumulation.

By engaging with the critique of post-colonial and critical race scholars like Mohanty, Davis and Carby, it has been shown that race and geography (and not only gender, sexuality and class) have also been used to devalue certain types of labor in order to extract value. Case studies have since the 1990s demonstrated how women's reproductive labour, informal labour and migrant labour have provided a subsidy to production under supply chains the world over. Thus conceived, SRA enables us to make sense of 'social downgrade' within value chains, and also to see that international trade theory, law and policy (including this agenda) are built on the 'invisibilisation' or devaluation of the contribution that these forms of labour and resources make to the transnational production of value.

International trade law is based on the free trade assumption that countries trade with one another because they have different comparative advantages; and that all countries gain from trading with one another not only in economic terms – through access to more and cheaper goods and services - but also in terms of working conditions, environmental protection, and, more recently, gender equality (the 'social'). These gains are considered positive externalities or consequences of trade liberalization. WTO law - but also the law of the bilateral and PTAs whose growth has been exponential over the last decade - is built on this mindset.

The problem however is that the acquisition of competitive advantage (the ways firms or states come to be competitive) is a process already permeated by social inequalities. Underpinning gender inequalities in the labour market, as Folbre has pointed out, is the pursuit of comparative advantage by avoiding to pay the full costs of the reproduction of the labour force. Companies may select workers with little caring responsibilities, establish themselves in, or have contractual relations with firms which operate in, jurisdictions where they pay less tax to support public education, health services or environmental protection. Contracts themselves have become tools through which to squeeze re/productive labour costs: terms regarding prices and delivery times

effectively ‘force’ supplier firms to worsen working conditions by intensifying the work process, reducing social entitlements and/or introducing competition between formal and informal workers.

SRA thus shows that the way in which workers and the environment are treated and regulated (including through treaties, private and soft law mechanisms) is constitutive of what we call comparative advantage, rather than being its consequence or externality. This may explain why ‘social downgrade’ takes place *even*when there is upgrade. By adopting a SR lens we can problematize the assumption about the gains from comparative advantage for people and the environment between and within the Global North and the Global South, and we may end up realising we do not have the comparative advantage we thought we had.

In relation to international economic law more generally, SRA enables us to challenge the legal techniques that continue to erase the role that SR, informal/informalised labour and environmental resources play in processes of transnational value production and accumulation, for instance by construing some domains or activities as more productive and therefore strictly ‘economic’ – and thereby attracting greater legal protection - than others, such as socio-economic rights and environmental standards. This can be seen in the way ‘labour’, ‘sustainable development’ and ‘gender equality’ provisions are currently regulated as separate chapters in trade agreements. The problem with this separation is that it leaves intact the substance of ‘commercial provisions’ and their supremacy over non-commercial ones, contributing to the process of invisibilization I have mentioned above. Politically, then, it may enable us to lay normative claims on states, companies and institutions for this role to be properly acknowledged, not only through different regulations of labour, contracts, taxation, socio-economic rights, the environment so that decent working and living conditions are put at the centre of international economic activity; but also through unapologetic demands for more desirable life-enhancing (as opposed to the current life-destructive) trans/national practices and relations.

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