

## **GLOBALIZATION AND LABOR STANDARDS (GALS) NEWSLETTER**

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### **Alien Torts Claims Act**

**Forcese, Craig, "ATCA's Achilles heel: corporate complicity, international law and the Alien Tort Claims Act", *Yale Journal of International Law* v. 26 no2 (Summer 2001) p. 487-515**

#### **Abstract:**

This article discusses the prospects for using the Alien Torts Claims Act (ATCA) to make corporations accountable for complicity with human rights abuses perpetrated by foreign regimes. It focuses on three case studies -- Royal Dutch Shell Case in Nigeria, Freeport McMoRan Case in Indonesia, and Oil and Gas Companies Case in Burma. The case studies demonstrate how corporations rely on state militaries to implement their labor policies, and that such military authorities perpetuate human rights violations. By analyzing the actions undertaken by multinational corporations, acting either under the auspices of these states or as private individuals, the article argues that such complicity violates international law. The author concludes that the ATCA could be used as an effective means for calling to account corporations indulging in "militarized commerce."

**Subjects:** Alien Torts Claims Act, \_\_\_\_\_

### **Country-Specific Case Studies**

**Clay, Lisa (student author), "The effectiveness of the worker rights provisions of the generalized system of preferences: the Bangladesh case study", *Transnational Law & Contemporary Problems* v. 11 no1 (Spring 2001) p. 175-201**

#### **Abstract:**

This Note discusses the operation of the worker rights provisions of the US Generalized Systems of Preferences (GSP). The author questions the efficacy of the United States GSP program in helping the cause of workers rights in the developing part of the world. Using the restrictive labor policies in the Export Processing Zones (EPZs) in Bangladesh as an example, the Note demonstrates the conflicting interests of US investors, workers' associations in the EPZs, and the AFL-CIO. The Note concludes that given the

multiplicity of interests, the U.S. GSP has not been successful in promoting workers rights in Bangladesh. It argues instead that worker rights provision should be included in other international trade policies, that the ILO should be given stronger enforcement powers, and the GSP program itself should adopt a clear definition of “internationally recognized worker rights.”

**Subjects:** Case Studies, Export Processing Zones, International Labour Organization (ILO)

## European Union

**Linan Noguerras, Diego J. & Hinojosa Martinez, Luis M., "Human rights conditionality in the external trade of the European Union: legal and legitimacy problems", *Columbia Journal of European Law* v. 7 no3 (Fall 2001) p. 307-336**

### **Abstract:**

This article discusses the relationship between respect for human rights and external trade in the European Union (EU), and focuses particularly on the issue of “conditionality” in international trade. It makes a distinction between positive and negative conditionality. Positive conditionality of the EU’s external trade refers to positive incentives and trade concessions that are offered to countries that commit themselves to respecting specific fundamental rights. In contrast, negative conditionality refers to withdrawal of unilateral trade concessions, economic countermeasures and trade sanctions as a reaction to violations of human rights in a third country. Negative conditionality faces the problem that it could be perceived as imperialist, Euro-centric, self-interested or protectionist. The article describes the development of the discourse on conditionality in the EU, and examines the application of conditionality in the external trade of EU. It concludes by suggesting that the problems associated with the legitimacy of negative conditionality could be overcome by a series of measures, such as incorporation of human rights as a fundamental principle of EU’s external policy, a clear framework for application of conditionality in external trade, and a certain amount of flexibility in application of human rights clauses.

**Subjects:** European Union

## Labor Rights in General

**Macklem, Patrick, "Labour Law Beyond Borders", *Journal of International Economic Law* v. 5 no3 (2002) p. 605-645**

### **Abstract:**

Flexible forms of transnational production and processes of economic globalization are increasingly challenging the traditional capacity of domestic labor law to promote justice in the world of work. At the same time, three international and transnational modes of regulation are forming beyond the state. First, the International Labour Organization is promoting a set of core labor rights with which all states ought to comply as a matter of

international law. Second, numerous institutions and actors are linking international labor rights with trade liberalization initiatives. Third, corporations are increasingly relying on codes of conduct to govern their employment relations. This paper argues that these developments are establishing relatively firm footholds in international law and operate in tandem to provide international legal authority for innovative domestic regulation of transnational corporate activity. Together with more general principles of international human rights law, they authorize a state to require all corporations operating within its jurisdiction and all corporations operating outside its jurisdiction seeking domestic market access to comply with a domestically enforceable code of conduct that enshrines international labor rights. Such a requirement should be contained in legislation that institutionalizes core features of modern legality and extends financial assistance to foreign communities adversely affected by corporate compliance.

**Subjects:** International Labour Organization (ILO), Labor Rights in General (Misc.)

**Garcia, Frank J., "Building a just trade order for a new millennium", *George Washington International Law Review* v. 33 no3/4 (2001) p. 1015-1062**

**Abstract:**

This article advocates a clearly articulated normative framework for the analysis of international trade law. To build the argument, the author discusses the concept of distributive and corrective justice, as well as moral obligation in international trade law. He shows how free trade could be justified under utilitarian, libertarian and egalitarian approaches to liberal theory. Such an approach, the author concludes, would help structure a just international trade law that ensures that international trade benefits the least advantageous states, and allows for an effective protection of human rights.

**Subjects:** Labor Rights in General (Misc.)



## Links

**LabourWeb:** <http://www.lex.unict.it/eurolabor/en/default.htm>

The Labour Web is a comprehensive documentation center for information about European labor law, social law, industrial relations and the welfare state. It contains up-to-date versions of European Union law, directives, pending directives, EU news, press releases, economic statistics and decisions of the European Court of Justice. It also contains a Working Papers series and subject matter reports (dossiers) on issues concerning European integration. The site also provides links to other websites that contain working papers, statistical reports, and other information about social, economic and industrial relations affairs in the European context. It is run by the Massimo D'Antona Centre for the Study of European Labour Law, at the Faculty of Law of the University of Catania.

**Labor and Global Change Database:** <http://www.ilir.umich.edu/lagn/>

The Labor and Global Change Database provides bibliographies, citation information and (where available) web links to the full text of research exploring connections between labor and globalization. The database aims to provide researchers with an easy means to make the results of their work widely available to other scholars and the interested public. The database is run by and continually updated by the Labor and Global Change Program of the University of Michigan.

**Trade Unions and Labor Relations Database:** <http://www.polwiss.fu-berlin.de/tu/english/index.html>

The database, produced by the Institute of Labor Relations of the Otto-Suhr-Institute of the Freie University of Berlin, contains almost 7,000 citations of books, articles, working papers, brochures, proceedings etc. The bulk of the citations address aspects of labor relations in Germany, but there is a substantial body of literature in the database covering the EU and Eastern Europe.

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