Dissensus and Deadlock in the Evolution of Labour Governance: Global Supply Chains and the International Labour Organization (ILO)

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Abstract
Global supply chains (GSCs) present the International Labour Organization (ILO) with a challenge that goes to the heart of its founding mandate and structure, one built on the prominence of nation states and national representatives of employers and workers. In February 2020, discussions in the ILO on the rise of GSCs reached deadlock. To fully understand why the ILO has been unable to address decent work deficits in GSCs greater attention needs to be paid to contestation, power and legitimacy in the deliberation of labour governance. Drawing on the concept of agonistic pluralism we examine the evolution of the ILO’s attempt to establish a new labour standard on GSCs under three empirical phases between 2002 and 2020. We argue that shifting power asymmetries between the tripartite constituents of governments, employers and workers, increased counter-hegemonic contestation, and intensified questioning of the deliberative legitimacy of the adversaries, explain the dissensual relations at the ILO. This article contributes to the literature on labour standards in GSCs in demonstrating how and why contestation underpins the evolution of labour governance over time.

Keywords Agonistic pluralism · Global labour governance · Global supply chains · International Labour Organization (ILO) · Labour standards

Introduction
In a watershed moment, in 2016, the International Labour Conference (ILC) of the International Labour Organization (ILO) concluded that:

There is concern that current ILO standards may not be fit for purpose to achieve decent work in global supply chains … [and] Therefore, the ILO should … [c] onsider what guidance, programmes, measures, initiatives or standards are needed to promote decent work and/or facilitate reducing decent work deficits in global supply chains (ILO, 2016a).

The ILC Conclusions suggested that a new approach to labour governance in global supply chains (GSCs) was, “‘in the making’ at the ILO with the potential to improve working conditions and rights at work for millions across the globe” (Thomas & Turnbull, 2018, p. 536). However, in February 2020, just two weeks before the World Health Organization (WHO) declared COVID-19 a pandemic, one which would soon wreak havoc on GSCs and the lives of the workers in them (Anner, 2022), the ILO failed to agree on the way forward on how to promote decent work in GSCs (ILO, 2020a). The failure to reach consensus has significantly reduced the prospect of establishing an international labour standard on GSCs, thereby disrupting the hegemonic project of the ILO. This deadlock can be explained by shifting power asymmetries between the tripartite constituents, increased counter-hegemonic contestation, and intensified questioning of the deliberative legitimacy of the adversaries.

The ILO was established in 1919 and is a specialized agency of the United Nations with 187 member States. The ILO was founded on the ideals of deliberative democracy with its unique pluralist tripartite structure consisting of governments and national representatives of workers and employers who participate in the development of policy based on “free discussion and democratic decision with a view to the promotion of the common welfare” (ILO, 1919). However, the ILO has in recent years been...
characterized by increased contestation both within its tripartite structure and between its constituency and the International Labour Office (the approximately 2700 officials who make up the permanent secretary of the ILO) (La Hovary, 2015; Silva, 2021; Thomas & Turnbull, 2018, 2021). It is not surprising, therefore, that any institutional response by the ILO on the implications of GSCs for its mandate and means of action has been consistently deferred.

The rise of GSCs, increasing power of transnational corporations (TNCs), declining power of unions and ineffectiveness of state regulation has sparked a burgeoning interest in “global labour governance” (Hassel, 2008), its mechanisms, outcomes and, more recently, its political dynamics (Alford, 2020; Alford et al., 2021; Arenas et al., 2020; Bair & Palpacuer, 2015; Dawkins, 2015; Fougerè & Solitander, 2020; Levy, 2008; Levy et al., 2016; Reinecke & Donaghey, 2021; Scherer & Palazzo, 2007). The deliberation involved in the emergence of examples of coalitions, consensus, and collaboration in GSCs, for example multi-stakeholder initiatives, has become an emerging area of interest both in the political CSR (Dawkins, 2015; Moog et al., 2015; Reinecke & Donaghey, 2021; Sorsa & Fougerè, 2021, p. 1896) and global production network (GPN) literature (Alford et al., 2021; Bair & Palpacuer, 2015; Levy, 2008; Levy et al., 2016). However, the internal and ongoing contestation that arises in the evolution of labour governance over time has been given short shrift (Alford, 2020, p. 47; Arenas et al., 2020, p. 176). Indeed the role of organizations that seek to evolve and adapt to the current environment, such as the ILO, are typically overlooked (Thomas & Turnbull, 2018) or otherwise dismissed as ineffective (Standing, 2008; van der Linden, 2019). However, if public forms of labour regulation are needed to reduce decent work deficits, then the ILO is the principal international organization with the ability to bring the state, capital and labour together to deliberate what labour standards are needed to promote decent work in GSCs.

This article is a contribution to the recent calls for greater attention to be paid to the contestation that arises in the evolution of labour governance in GSCs (Alford & Phillips, 2018; Arenas et al., 2020; Bair & Palpacuer, 2015). While scholars have researched both the outcomes and effectiveness of a range of private and public mechanisms and the interactions between civil society, the state and capital in governance-making processes (Bartley, 2018; Levy et al., 2016; Reinecke & Donaghey, 2021), we know little of how and why deliberation fails. Concepts such as “antagonistic governance” (Alford, 2020) have drawn our attention to the ever-present possibility of contestation around divergent interests in GSCs. However, antagonism assumes a power struggle between enemies, where differing opinions cannot be accommodated and where only one must be victorious, rather than deliberation as an activity that requires mutual recognition and reciprocity.

To understand the evolution of labour governance we draw upon the literature arising out of political philosophy on agonistic pluralism. Agonism as a theoretical lens has been used as a way of analyzing the emergence of labour governance initiatives (Dawkins, 2021; Fougerè & Solitander, 2020) as well as rethinking labour relations in an age of GSCs (Van Buren et al., 2021). Originating out of the seminal work of Chantal Mouffe (1999, 2000, 2013), agonistic pluralism emphasizes the ineradicable nature of power and contestation in deliberation but also that such conflict is a necessity for democracy. In applying this to the question of labour governance, agonistic pluralism reveals both the productive and unproductive nature of divergent interests, and how antagonisms between enemies can be transformed into agonisms between adversaries and, in the case that follows, vice versa.

The key question that emerges is how does global labour governance evolve in a context where multiple actors coexist, compete and contest? To answer this, we draw on the case study of the vexed discussion of a GSC labour standard at the ILO. We examine the evolution of labour governance by analyzing the outcomes of contestation among the ILO’s tripartite constituents from the discussions’ origin in 2002, the watershed ILC Conclusions in 2016, and finally the deadlock in 2020. We draw on data gathered from extensive fieldwork that includes participant observation within the ILO’s headquarters, informal conversations with ILO Officials and analysis of ILO documents, speeches and meeting transcriptions.

Dissensus resulting in cases of deadlock in the evolution of labour governance is a neglected area of study. Although there is recognition that political contestation between actors in GSCs over governance mechanisms is inevitable (Alford, 2020; Bair & Palpacuer, 2015) and agonistic pluralism “anticipates failed discourse within normal course of affairs” (Dawkins, 2021, p. 11), there is a dearth of cases of contestation which were not ultimately resolved (Arenas et al., 2020, p. 191). We focus on three types of internal contestation (procedural, epistemic and ultimate-goal), shifting power asymmetries and the deliberative legitimacy of the adversaries, which explain the current deadlock.

The next section details the challenges of global labour governance, the rise of new labour governance institutions and the role of dissensus, agonism and adversarial relations inherent to the decision-making process within multi-stakeholder initiatives and international organizations. After a brief outline of the ILO, and a discussion on the methods that inform the arguments raised in the paper, the following sections analyze the history and contemporary developments of the GSC debate at the ILO under three phases: ‘Deferment’ (2002–2012), ‘From Dissensus to Consensus’
(2013–2016) and finally, ‘Deadlock’ (2016–2020). We conclude by discussing the role of the ILO and how the faltering of the GSC discussion provides insights about the establishment and evolution of labour governance mechanisms.

**Literature Review**

The dramatic growth of GSCs over the past three decades has created considerable challenges for labour governance mechanisms (ILO, 2016b). This is because the most important labour governance mechanism, national labour relations regimes, were designed for national employers and labour. Yet, GSCs are characterized by global lead firms that make economic decisions impacting employment relations practices within nation states (Weil, 2014). Whilst there has been a resurgence of public–private forms of governance (Bartley, 2018), decent work deficits are still prevalent (ILO, 2016b). For example, international lead firms can reduce the prices they pay suppliers and demand faster lead times, which push suppliers to “squeeze down” on wages, impose excessive and forced overtime hours, increase precarious work arrangements, and take measures (legal or otherwise) to avoid unionization to control costs (Anner, 2020, p. 325). This power imbalance became readily apparent during the early months of the COVID-19 pandemic when global lead firms in the apparel sector abruptly cut their orders to their suppliers without paying (Anner, 2022). The result was factory closures, worker dismissals, and a dramatic rise in malnutrition among garment workers and their families (Kyritsis et al., 2020).

Labour governance in GSCs comprises of workers, states, multiple employers (suppliers as well as lead firms), NGOs and unions at national and international levels (Anner, 2021). In addition, international organizations have become increasingly important in developing norms and guidelines to complement public as well as private labour governance (Hahn & Weidtmann, 2016). There are many that argue that the ILO, with its unique tripartite structure and standard-setting role, remains the most important institution in global labour governance (Haworth & Hughes, 2003; Rodgers, 2019; Thomas & Turnbull, 2021). The ILO is an important mechanism for multi-stakeholder deliberation at the transnational level, and its labour standards provide one layer of labour governance with many actors seeking to improve the credibility of their mechanisms (e.g. corporate codes of conduct) by linking them to ILO Conventions (Anner, 2012). However, the role of the ILO into its second century has increasingly been subject to heated debate including the relevance of its tripartite structure (Baccaro & Mele, 2012; La Hovary, 2015), its mission (Standing, 2008), influence in global governance (Thomas & Turnbull, 2021) its standard-setting role (Rodgers, 2019; van der Linden, 2019) and its response to the rise of GSCs (Thomas & Turnbull, 2018).

Research on labour governance in GSCs has focused mainly on emergence, design or legitimation of institutions (Bartley, 2022, p. 189), typically as a result of external events (Arenas et al., 2020, p. 173; Frenkel & Schuessler, 2021). Deliberative democracy in particular has been identified as an important feature of the design of labour governance mechanisms that seek to go beyond the ineffectiveness of unilateral, voluntary codes of conduct through involving TNCs, the state and civil society (Scherer & Palazzo, 2007; Soundararajan et al., 2019). However, GSCs pose unique challenges to the principles of deliberative democracy because, by definition, they include a plethora of actors embedded in different institutional contexts (Soundararajan et al., 2019) and “deliberative processes of governance … are unable to accommodate competing legitimacies that are often the source of conflicts” (Banerjee, 2018, p. 814). Habermas may have envisaged an ‘ideal speech situation’, in which the guarantee of fundamental basic rights enables persons to exchange their views freely, however the establishment of global labour governance, whether private or public, is always political (Bartley, 2022, p. 189). In other words, if different actors are involved in the emergence, legitimation or design of governance then confrontation, conflict and disagreement is inexorable (Banerjee, 2018).

Goverance mechanisms are “negotiated settlements” between various actors (Bartley, 2007, p. 299) and international organizations, in particular, are not just a tool for implementing policy but also an arena for contesting the content of that policy. However, in the process of negotiation, deliberation is often depoliticized, particularly when the focus is on reaching consensus rather than acknowledging conflict (Bartley, 2007, p. 341). For example, as Reincke and Donaghey (2021) have shown in the case of the Bangladesh Accord, whilst the final outcome suggested a balancing of interests and a (provisional) consensus this obscured local-level conflict that occurred as the mechanism emerged. Consensus is therefore structured through specific relations of power and historic patterns of interaction (Dawkins, 2015, p. 7; Van Buren et al., 2021). However, even though there is widespread recognition that consensus cannot be guaranteed and conflict is likely (Bair & Palpacuer, 2015), cases of deadlock have been under studied (Arenas et al., 2020, p. 191). As contestation is both inevitable (and necessary) in global labour governance, greater attention needs to be paid to the evolution of standards and initiatives and ongoing external and internal conflict through the theoretical lens of agonistic pluralism.

Understanding the political economy of labour governance and the politics inherent in deliberation has become increasingly important in analyzing the impact of labour...
governance mechanisms in GSCs (Alford & Phillips, 2018; Bair & Palpacuer, 2015). Drawing on neo-Gramscian perspectives, these studies have revealed the processes of hegemonic and counter-hegemonic tensions over governance (Levy, 2008; Moog et al., 2015). For example, the concept of “antagonistic governance” in the GPN literature (Alford, 2020) is a welcome acknowledgement of the conflict, contestation and compromise in governance-making processes. Both neo-Gramscian and agonistic research share a recognition of politics as contingent on hegemonic relations, however the former sees politics where hegemonic struggle can suppress antagonisms whilst the latter emphasizes the importance of mutual recognition, reciprocity and legitimacy (Sorsa & Fougère, 2021, p. 1910). The agonistic perspective moves our analysis away from both antagonism-based or consensus-based approaches by stressing that “adversaries fight against each other because they want their interpretation of the principles to become hegemonic, but they do not put into question the legitimacy of their opponents’ right to fight for the victory of their position” (Mouffe, 2013, p. 6). This “agonistic struggle”, Mouffe (2013) argues, is at the heart of democracy whereby rational reconciliation is impossible because deliberation plays out between actors that have divergent hegemonic projects but hold in common fundamental values. The concept of agonism is important in understanding how and why labour governance is (or is not) established as it recognizes not just the power relations and asymmetries within institutions but the need for conflict and (counter) hegemonic struggle in democratic governance (Fougère & Solitander, 2020). Hegemony is not something established by institutions but rather by actors within institutions and in deliberation there will always be “the expression of hegemony and the crystallization of power relations” (Mouffe, 2000, p. 49). In regards to labour governance, hegemony coalesces around the idea of global norms such as those established by international institutions (Hassel, 2008). However, labour standards themselves are part of a broader hegemonic project (Alford, 2020, p. 43; Cox, 1977) and are nested in dynamic processes of contestation because of the way they are established (e.g., deliberation between capital, labour and the state) (La Hovary, 2015), the challenge of universalism (Banerjee, 2018, p. 811), and the fact that there are often many possible interpretations of the principles, norms and ideals.

Labour governance is not just an outcome of contestation but also an ongoing process of contestation (Bair & Palpacuer, 2015, p. S8). However, research that has looked at conflict has often focused on the legitimacy of the actors involved in the process (Moog et al., 2015), losing sight of other forms of (internal) contestation. We draw upon the forms of contestation identified by Arenas et al. (2020), which have the potential to disrupt hegemony or establish provisional hegemony. Procedural contestation refers to contestation regarding the procedures which govern the institution, in particular the limits and demarcation of discussions. Epistemic contestation occurs when the evidence, cause and effect relationships and underlying potential courses of action are disputed. Finally, Ultimate-goal contestation manifests when different actors within the institution do not share or agree on the purpose or direction of the institution. Whilst disputes concerning procedure or the validity or reliability of evidence presented are common affairs, contestation regarding the ultimate goal of the institution can lead to an escalation of adversarial relations.

Contestation is not just something which originates, or is perpetuated by, internal dynamics but also exists because of external events, actors and initiatives (Arenas et al., 2020). As Dawkins (2021, p. 11) argues, “pronounced policy change is often precipitated by competitive, regulatory, or social jolts such as tragedies, protests, and regulatory hearings”. These ‘external jolts’ can thereby challenge the authority of the institution, especially when it calls into question the effectiveness of its action in comparison to competing regulatory initiatives (Fougère & Solitander, 2020). External events can also create internal contestation when there are significant differences between what is viewed as an appropriate (and ultimate) response. Although agonistic pluralism recognizes conflict as an important, legitimate and necessary condition if differences are to be articulated and confronted (Mouffe, 2013, p. 6), contestation in GSCs takes place in a context of significant power asymmetries which can be debilitating, particularly when asymmetries between adversaries shift over time.

There are significant differences in power in the formation of labour governance because TNCs typically occupy a more powerful position in the GSC than workers and have vastly more financial resources than NGOs (Alford et al., 2021; Bair & Palpacuer, 2015). However, power in the evolution of labour governance is not just rooted in resources or position but is embedded in historical patterns of deliberation which may include cases of manipulation (e.g. co-optation) or the establishment of a system of domination (Dawkins, 2015; de Bakker et al., 2019, p. 360). Power is the ability of one actor (e.g. employer federations) to affect the behaviour of other actors (e.g. trade unions) to the extent that they adopt or accept positions that contradict their own interests (Lukes, 1974). Power in international organizations is not just manifested when an actor acquires the capacity to exert ‘power over’ other actors, but also ‘power to’ achieve something alongside another party and ‘power with’ others, whereby shared interests and collective action enable actors to work together (perhaps ‘over’ another). The agonistic approach does not seek to eliminate these power dynamics but rather recognizes the legitimacy of a plurality of different interests (Dawkins, 2015). As Mouffe argues “power is constitutive for the social; there is no social without power relations.
Now, any form of order is a hegemonic order, but of course there are some forms of order that are more democratic than others” (quoted in Carpentier & Cammaerts, 2006). In other words, asymmetries in power in deliberation are unavoidable and should be acknowledged rather than ignored. This is particularly the case between capital and labour where conflicts of interest are inherent and the latter generally lack power over the former (Van Buren et al., 2021). As Dawkins (2015, p. 12) has argued, agonistic pluralism implies a “fair fight” involving “voicing and contesting differences under conditions that recognize power relations”. Power asymmetries create space for opposition and counter-hegemonic struggle but can also sanction antagonistic relations, which interfere with the conditions of a “fair fight” namely mutual recognition and legitimacy (Dawkins, 2021). Agonism therefore is a useful way of thinking about the prevalence of power asymmetries but also when power asymmetries may interfere with deliberative legitimacy.

To understand the evolution of the GSC discussion at the ILO it is necessary to focus more closely on the variety of forms of contestation, where deliberation takes place, who participates, what they say, who they represent, their legitimacy and their power. Power relations within international organizations are seldom static and constitute fluid and dynamic structures. To this end, as detailed in the following section, it was important to get inside the Organization as events unfolded to spend a prolonged involvement in the processes being studied.

Case, Methodology and Data

Case Overview: The ILO and GSCs

The ILO was established in 1919, “to equalize conditions of competition among the nations so that trade might be liberated without danger to standards of living” (Polanyi, 1944, pp. 27–8). The ILO is unique in the UN family in having a tripartite structure of member States and representatives from employers and workers. In the ILO, capital is represented by the International Organization for Employers (IOE), which represents national employer associations. The structure of labour and its representative organization, the International Trade Union Confederation (ITUC), mirrors that of the IOE in that the organization represents the interests of the national labour movement (but with clear differences in membership structure). Dissensus in the (pluralist) relationship between capital and labour is a social fact which plays out decidedly in the ILO. Indeed, the ILO’s first Director-General (D-G), Albert Thomas (1919–1932), argued that “the Organization is a car in which the workers act as the engine, governments as the steering wheel, and employers as the brakes” (quoted by Maupain, 2013, pp. 123–4).

The ILO is a bureaucratic institutional arena with rules, regulations and procedures for non-antagonistic class relations with the International Labour Office (hereafter ‘the Office’) acting to reduce power asymmetries between the constituents by drawing on its expert legitimacy (Cox, 1977). The ILO also has considerable moral legitimacy through its constitution (Thomas & Turnbull, 2018), which states (amongst other principles) that “labour should not be regarded as merely a commodity or an article of commerce” (ILO, 1919). It is impossible to recount here the history of the ILO or go into detail regarding the complex functions of the Organization, however, there are two organisms of the ILO which are of particular importance to this case. The first is the Governing Body (GB) of the Office, which is the executive body of the ILO. It meets three times a year and takes decisions on ILO policy, decides the agenda of the International Labour Conference (ILC), adopts the draft Programme and Budget of the Organization for submission to the Conference, and elects the D-G. The second is the ILC, which meets every year. Each member state is represented by a delegation consisting of two Government delegates, an Employer delegate and a Worker delegate. The Conference adopts international labour standards, supervises their application, and is a forum where social and labour questions of importance to the world of work are debated. Alongside these constitutional bodies, the GB has the power to establish specific meetings on pertinent issues as instructed by the ILC or by its constituents (e.g. technical tripartite meetings) (ILO, 2019).

The ILO’s hegemonic project is the establishment and promotion of international labour Conventions (van der Linden, 2019).1 The ILO, like other international organizations (Hahn & Weidtmann, 2016), relies on voluntary involvement in the adoption of global norms and on voluntary adherence to these norms. Consequently, the ILO gains its authority through its deliberative tripartite process (Maupain, 2013). The principal mechanism through which the 190 Conventions of the ILO are implemented is government legislation and enforcement of labour market regulations at the national level. ILO labour governance is therefore state-centric, relying on actors who are embedded in particular national social, political and economic relations (Thomas & Turnbull, 2018).

1 Alongside this standard-setting role the ILO has numerous technical cooperation projects in member States, most notably Better Work, and conducts research and knowledge activities at its headquarters in Geneva as well as through its 40 field offices.
As the current D-G, Guy Ryder (2012-present) has stressed: “it’s a nation state based approach to international labour behaviour … [which risks] missing the dimension that was the transversal integration of production networks across countries” (Ryder, 2015). The effectiveness of the ILO’s national state-based approach, and whether the ILO should develop a new international labour standard on GSCs, has been the most significant source of contestation between the tripartite constituents over the past two decades.

**Research Methodology**

Over the past 20 years both authors have had close connections with the ILO. One author has represented the Norwegian Labour Confederation at the ILO’s ILC (2007, 2008 and in 2016 at the ILC on GSCs), was a Visiting Scholar with Better Work (fall of 2013) and an expert with the Workers’ group during the meeting on export processing zones (November 2017). The other author spent a 2-year period conducting “participant-as-observer” (Gold, 1958) research at the ILO’s headquarters during the 2013 ILC and subsequent GB discussions (January 2013 to December 2014) and worked with the Office during the 2016 ILC.

Working at, for and with the ILO shed light on the causal and generative mechanisms of the ILO’s institutional practices. For both the authors, the participant observation research helped in understanding not only what actually happens/happened but also how things work in the ILO as nobody can fully understand the nature of contestation without understanding the institution or its structures from within. In particular, insider knowledge is invaluable when deciphering ‘ILO speak’ (the neutral and understated language of deliberation) (Thomas & Turnbull, 2018), especially when labour governance outcomes at the ILO (e.g. Conventions) give the appearance of a smooth process devoid of conflict (Reinecke & Donaghey, 2021). Data from the various periods of participant observation, attendance at international meetings and informal follow-up conversations (via email, face-to-face and video-conference applications) with ILO Officials, following the end of participation observation, are reported in the text as ‘field notes’.

Insights garnered from the observational research and informal conversations are triangulated with document analysis and the use of publicly available organizational archives to not just back up factual statements but to chart the discussion both before and after our period of intensive internal study.² The importance of document analysis is that most meetings at the ILO have ‘records of proceedings’ that present detailed contents of the major debates, points of contention and concessions revealing the otherwise hidden dynamics of political contestation and counter-hegemonic struggle (at least to those well-versed in ‘ILO speak’). These official records of discussion are not just invaluable in terms of who said what to who and where but also contain relational baggage; statements understood as bargaining positions in ongoing disputes where their true meaning can only be determined through extended involvement in the process.

In the ILO, Conclusions of meetings become artifacts that enable or place a limit on the “organizational possibilities” (Moog et al., 2015, p. 476); a mandate for subsequent discussions and a record of what was agreed and recommendations for future action. Consequently, these reports, when combined with the (internal) knowledge of ILO processes and ILO speak gleaned from participant observation, provide an unrivalled source of information for those who delve into the historical and well-documented record. To this end, the first step to get on top of the historical data (who said what, to who and where) was to conduct structured key word analysis of every ILC record of proceeding between 1919 and 2020 connected with specific GB sessions where GSCs were an item for discussion. Every record of proceeding from the ILO’s ILC and GB (since 1919) has been digitized and is available online via Labordoc.³ The structured key word analysis (for example ‘supply chains’, ‘governance gaps’, ‘production networks’, ‘corporate social responsibility’, ‘codes of conduct’) enabled the construction of a comprehensive timeline of who said what and where points of contestation emerged and evolved. To understand why, all records of proceedings where discussion on GSCs occurred were then re-read, reflected upon and analyzed with specific attention to: expressions in discourse (e.g., whether something is framed as unjust or business as usual), the form (or absence) of contestation (e.g., whether conflict was concerning a cause-and-effect relationship or the internal procedures of the ILO), the focal actor (the tripartite constituents, the D-G or the Office), key internal moments (e.g., discussions of future ILC agenda items at the GB) and external shocks that may have impacted the expression of dissensus in the particular institutional setting (e.g., Rana Plaza). The document analysis was conducted by one author whose interpretation was then tested against the perspective of the other author generating an iterative process of reflection and abduction. The document analysis also informed several informal conversations with ILO Officials to corroborate our analysis and arguments. Through our participant observation and documentary analysis we have revealed the agonistic struggle within the ILO’s tripartite constituency.

² Reference to the Official Reports of the International Labour Conference (ILC), GB (GB) or the D-G (DG) are identified by the calendar year, Session (e.g. 268), section and document number (e.g. Working Party 1 or WP1) or proceedings (procès-verbaux or PV), and paragraph (e.g. 3) or page (p. 3).

³ Go to: www.labordoc.ilo.org.
over three phases beginning in 2002, analyzing how compromises and provisional hegemonies were created and why the discussion ended in deadlock.

Case Study Findings

Phase 1: Deferment (2002–2012)

ILO meetings and discussions typically result in a list of tripartite agreed Resolutions or Conclusions (ILO, 2019), whereby “consensus is built incrementally”, often over many years (Baccaro & Mele, 2012, p. 198). However, the ILO is a place for concession rather than consensus. Whilst the ILO might have been established on the ideals of deliberative democracy, where every norm is considered legitimate because it is tested in a deliberative (tripartite) process (Scherer & Palazzo, 2007), the decision-making structure more accurately reflects a form of agonistic confrontation, “between conflicting interpretations of the constitutive liberal-democratic values” of the institution (Mouffe, 2000, p. 9). In the ILO, the constituents may share a common allegiance towards the founding principles of the Organization (e.g., labour is not a commodity) but fight against each other because they disagree on their interpretation and want their ideas to become hegemonic. Table 1 details the tripartite meetings and outcomes of the first phase of discussion at the ILO on GSCs, as well as the most common forms of internal contestation (procedural, epistemic and ultimate-goal) that defined the early deliberations.

Table 1 Phase 1: Deferment (2002–2012)

| When   | Where   | Theme                           | Outcome                                                                 | Form(s) of contestation          |
|--------|---------|---------------------------------|-------------------------------------------------------------------------|----------------------------------|
| 2002   | ILC     | Informal economy                | First ILO Conclusion recognizing the implications of GSCs: “Workers and economic units are increasingly engaged in flexible work arrangements, including outsourcing and subcontracting; some are found at the periphery of the core enterprise or at the lowest end of the production chain, and have decent work deficits” | Procedural; epistemic            |
| 2004   | ILO, Geneva | Social dimension of globalization | The World Commission stressed that: “Although MNEs alone account for only a fraction of employment in most countries, outsourcing to domestic producers implies that these global systems have a considerable impact on the labour market in many parts of the world. Regulation is … weak and there is widespread debate about whether there is a ‘race to the bottom’ in labour and other standards” | Procedural; epistemic            |
| 2004   | ILC     | Corporate social responsibility | The Resolution requests the ILO to support “sectoral operations, including those involving supply chains” | Procedural; epistemic            |
| 2006   | GB (Oct) | Future ILC agenda               | Workers’ group first suggest a GSC agenda item for the ILC               | Procedural; ultimate-goal         |
| 2007   | ILO, Geneva | Multinational enterprises      | The Subcommittee on Multinational Enterprises stressed the need “to show that the ILO had tools to go beyond its traditional support of governments … [and] should target not just large companies but also small and medium-sized enterprises, as they were increasingly operating globally through supply chains” | Procedural; ultimate-goal         |
| 2007   | ILC     | Sustainable enterprises         | Conclusions noted that: “Specific guidance should be provided to enterprises to promote responsible workplace practices along their supply chains, including through the use of the MNE Declaration” | Procedural; epistemic            |
| 2011   | ILC     | Labour administration and inspection | Conclusions noted that “labour inspectors face the challenge of ensuring labour law compliance in workplaces that are difficult to detect (e.g., in the agricultural and construction sectors), or where the employment relationship is particular (home-based work, domestic work), or is difficult to identify (new forms of employment, outsourcing and complex supply chains)” | Procedural; epistemic            |

*In some cases Resolutions and Conclusions were adopted without (recorded) deliberation
The period between 2002 and 2012 is characterized as a phase of deferment and procedural and epistemic contestation, whereby the intractable problems of GSCs for the ILO were suspended. Discussions took place in a global context of rising employer power and declining worker power, as TNCs consolidated their power (Weil, 2014), and trade unions—with some notable exceptions—were in a state of decline (Visser, 2019). During this period, the Employers’ group leveraged their perceived power advantage to seek several changes in the ILO, including efforts to undermine the ILO’s approach to the right to strike (Bellace, 2014).

The first mention of GSCs at the ILO’s ILC was in 2002, during the ‘Decent Work and the Informal Economy’ discussion. The Workers’ group indicated that a significant number of informal workers are engaged in GSCs and that TNCs have a role to play (ILC.2002/90/25/PV, p. 33). The Employers’ group argued that they would take issue “with the view that it was the lead firm in subcontracting chains that bore responsibility for the rights and protection of all workers in the chain” (ibid, p. 24) and contended that outsourcing was only a feature of the formal economy and therefore any discussion on this should be postponed and any reference to GSCs be deleted in the Conclusions of the discussion (ibid, p. 42).

Disagreements on procedure (e.g., whether an item is premature or relevant to the discussion at hand) or cases of epistemic contestation (e.g., whether outsourcing was only a feature of the formal economy) are relatively easy to solve in the ILO through the accepted rules that regulate any conflict (i.e., tabling an issue at the GB for discussion or suggesting that the Office, with its expert legitimacy, conducts further research). However, when the constituents have clearly different ultimate goals for the institution (i.e., whether an issue is relevant to the Organization), then conflict can intensify. During this first phase, GSCs were mentioned only briefly in the intervening ILCs (Table 1), and prolonged deliberation was scarce. It was not until 2006 that the Workers suggested an ILC discussion on decent work in GSCs. This item languished on the agenda of the GB with support from the Workers’ group at every subsequent meeting as well as several Governments; including many of the Industrialized Market Economy Countries (IMEC) (GB.2008/303; GB.2010/309; GB.2012/313) and later the Africa group (GB.2012/316). Employers either favored other ILC agenda items (ultimate-goal contestation) or expressed outright opposition to a discussion “on which the Office did not yet have sufficient information” (procedural contestation) (GB.2008/301/2/PV/13).

**Phase 2: From Dissensus to Consensus (2013–2016)**

In April 2013, the Rana Plaza building collapsed killing 1137 factory workers and, as noted by the D-G, “the ILO [was] the object of pointed criticism for failing to take up its responsibilities” (ILC.2013/102/DG, p. 24). According to the D-G, the discussion in the ILO was “transformed by one event, it was the Rana Plaza tragedy … that forced the global supply chain debate … onto the ILO agenda” (Ryder, 2020). However, it is not that external jolts force debate, as the D-G suggests, but rather that they can create commonalities of purpose, which shifts power between adversaries. As Mouffe (2013, p. 14) argues “every order is susceptible to being challenged by counter-hegemonic practices that attempt to disarticulate it in an effort to install another form of hegemony”. Whilst dissensus is common in labour governance, it is heightened when external events call into question the authority of the institution (Béland & Orenstein, 2013, p. 128; Fougère & Solitander, 2020). That is, what the Workers’ group may lack in terms of structural power was somewhat compensated by ethical concerns and the moral outrage instigated by the Rana Plaza tragedy, which was seen by many as emblematic of excessive employer power in a hyper-competitive global economy (field notes). At the ILC discussion in 2013, the Workers argued that the ILO has “failed to influence the international policy debate regarding issues that fell within its core mandate” (ILC.2013/102/13). The Employers instead challenged the cause and effect (epistemic contestation) of the Rana Plaza disaster and the ILO’s responsibility noting that:

It was important to recognize that the vast majority of enterprises were not in global supply chains at all. Most of the garment industry in Bangladesh, for example, was actually producing for the domestic market … [and] given this analysis, what role did the ILO have to play? (ILC.2013/102/11/PV/94).4

Mouffe (2000, p. 22) argues that the main question from deliberation comes not from, “how to eliminate power, but how to constitute forms of power which are compatible with democratic values”. Whilst most discussion on the role of the ILO has focused on its unique tripartite structure

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4 As a point in fact, all the suppliers based inside the Rana Plaza building were producing exports for international brands and retailers, including Benetton, El Corte Ingles and Primark.
The Employers objected to the suggested item, understanding that once agreed an ILC Conclusion would grant the Workers the power to secure an in-depth discussion on decent work in global supply chains. Therefore, the ILO should review this issue and convene, as soon as appropriate, by decision of the Governing Body, a technical tripartite meeting or a meeting of experts to … Consider what guidance, programmes, measures, initiatives or standards are needed to promote decent work and/or facilitate reducing decent work deficits in global supply chains.”

In June 2016, almost 10 years after the Workers first suggested a discussion at the GB, the ILC finally deliberated the subject of decent work in GSCs. As a senior ILO
Official reflected, the 2016 ILC discussion was one of the most difficult and most “politically sensitive” that they had experienced during their 15-year career (field notes). In the build up to the discussion, outside of the Organization, the ITUC and several NGOs dedicated significant attention to the plight of workers engaged in GSCs, urged the ILO to take a leading role, and were successful in elevating GSCs on the agenda at the G7, G20, and the OECD (field notes). The ILC discussion drew significant interest from those outside the Organization and the number of outside observers was, according to one Official, “unprecedented” at an ILO meeting (field notes), with 15 organizations giving opening speeches and many others attending the plenary (ILC.2016/105/14-2/PV). This outside pressure and the framing of the issue of worker rights abuses in GSCs as one of grave ethical concern provided the Workers’ group with additional leverage inside the ILO, particularly as it influenced Governments’ perception of the issue (field notes).

During the discussion, the Workers argued for the need to recognize GSCs as drivers of governance gaps (epistemic contestation) and to consider a GSC labour standard (Convention) as the ultimate-goal of the discussions particularly as “the ILO was a major standard-setting organization and it was its core business to review existing standards and to identify and address gaps” (ILC.2016/105/14-2/PV/200). The Employers on the other hand were opposed to any further discussion on the ILO’s standard-setting activities as there “was no regulatory gap to be bridged at the international level” (ILC.2016/105/14-2/PV/170). The Workers’ position won support from a majority of member states, with particularly strong backing from the EU group, led by the Netherlands, and the United States. The government of the Netherlands held the Presidency of the EU at the time and had funded a number of studies on GSCs that drew attention to decent work deficits (ILO, 2016c). The United States, under the Obama administration, also supported the need to assess the relevance of ILO standards in GSCs and emphasized the link between labour standards and development outcomes (field notes). Only Bangladesh, Brazil and India expressed opposition to the Workers’ position.

The tripartite constituents in the ILO might have divergent hegemonic projects but hold in common fundamental values. The ILO has considerably moral legitimacy rooted in its constitution and these principles shape the underlying assumptions of what can and cannot be deliberated. For example, in a lengthy contest on the word ‘standard’ in 2016, the Employers’ sought to exercise power over the workers to exclude this word from the Conclusions of the ILC, thereby preventing the idea of a Convention on decent work in GSCs going forward to the GB (and then potentially back to the ILC for a standard-setting discussion) (Thomas & Turnbull, 2018). However, the idea that standard-setting could not be discussed at the ILC was morally unacceptable because, as the Workers noted, “It’s a sad day for the ILO when this house cannot discuss ‘standards’” (field notes).

With the combined support from a coalition of the EU, the United States, the backing of the D-G and work of the Office, the Workers were able to construct a collective resistance against the Employers epistemic arguments (field notes). The Resolutions and Conclusions concerning decent work in GSCs recognized that “ILO standards may not be fit for purpose to achieve decent work in global supply chains” and charged the ILO with establishing a meeting that would consider what “guidance, programmes, measures, initiatives or standards are needed to promote decent work and/or facilitate reducing decent work deficits in global supply chains” (ILC.2016/105/14-2/PV/25). As one ILO official stated, the Conclusions were a “game changer” in the governance role of the ILO (field notes). Outside of the ILO, others argued that “what we’ve seen in Geneva over the past two weeks has been a watershed moment” (Howard & Thibos, 2016). However, the ILO, like other democratic institutions, is “a space in which this confrontation is kept open, power relations are always being put into question and no victory can be final” (Mouffe, 2000, p. 15).

**Phase 3: Deadlock (2016–2020)**

At the October 2016 GB, the Office produced a programme of action with the goal of “preserving the consensus” reached at the ILC (Table 3, GB.2016/328/INS/5/50). The GB approved three meetings on: (i) possible action to promote decent work in export processing zones (EPZs) (2017), (ii) cross-border social dialogue to address decent work in global supply chains (2018), and (iii) governance gaps and decent work in global supply chains (2020) (GB.2016/328/INS/5). In effect, the Employers were successful in deferring the most important discussion on GSCs until four years after the 2016 ILC and over seven years since Rana Plaza.

The first follow-up meeting to the 2016 ILC, the ‘Tripartite Meeting of Experts to Promote Decent Work and Protection of Fundamental Principles and Rights at Work

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5 A few months before the meeting the United States had signed the Trans Pacific Partnership, which included enforceable labour provisions.

6 At the time of the meeting, in Brazil Dilma Rousseff had just been impeached and a conservative government had taken office. In India days after the meeting concluded, President Narendra Modi announced sweeping reforms to rules to facilitate foreign direct investment (FDI). The Bangladeshi government is dominated by the powerful interests of garment manufacturers and was against the signing of the Bangladesh Accord.

7 This meeting was later delayed to 2019.
for Workers in Export Processing Zones (EPZs’), occurred in November 2017. During the meeting, Workers emphasized the ways in which EPZs contribute to worker rights abuses. Employers argued that the positive impact of EPZs outweighed any negative impact and that it was not possible to have “strong Conclusions” because the research on EPZs was outdated (field notes). The Employers also emphasized that there should be no separate plan to address decent work in EPZs. Rather, they argued, it was better to wait for the final discussion on GSCs in 2020 (field notes). In delaying the discussion further, the Employers were able to concede in some arenas, for example recognizing that “EPZs are often linked to global supply chains” (ILO, 2017, p. 3), whilst holding on to their own interpretations of the role of the ILO and its standards in regulating GSCs.

The ‘Meeting of Experts on Cross-border Social Dialogue’ (February 2019) was equally adversarial. The Employers engaged in further epistemic contestation by
arguing that the majority of workers are not employed in GSCs and that the ILO should not develop a “two-tier system” between workers employed in domestic compared to global supply chains (ILO, 2018). Procedural contestation manifested itself in the Employers refusing to discuss anything related to standard-setting action arguing that the final meeting would explore this topic and at four separate occasions tried to manipulate the discussion by proposing to delete all reference to GSCs in the Conclusions as this would “unduly narrow the focus [of the meeting]” (ibid, p. 30). For the Workers, “eliminating all reference to supply chains in the document was completely unacceptable” and deliberations broke down and the meeting had to be postponed (ibid, p. 36). The final Conclusions of this meeting contained only sparse reference to GSCs (Table 3).

The third and final meeting, the ‘Technical Meeting on Achieving Decent Work in Global Supply Chains’ that would discuss the ILO and its standard-setting role, took place in February 2020. It was clear that the Office saw an expanded role for the ILO, stressing that “consideration should be given to the form of any standards-related action” and whilst the ILO “follows a statist model based on the democratic legitimacy of nation-states … it remains the case that non-normative, voluntary action is not succeeding in tackling even the most significant decent work deficits” (ILO, 2020b, pp. 45–6). The Workers underlined that this meeting would decide the ultimate-goal of the ILO in relation to GSCs and should not “rehash discussions that had already been held … [and that] the moment had therefore come for the ILO to develop normative guidance” (ILO, 2020a, pp. 2–3). Normative guidance for the Workers meant a cross-border international labour standard similar to that of the Maritime Labour Convention (MLC, 2006) whereby port states are able to enforce labour standards on the flag state whose vessels call in their sovereign waters (Lillie, 2008). The Employers, on the other hand, continued to engage in epistemic contestation in arguing that GSCs “were not the problem” and “wished to remove [from the discussion] the artificial distinction, which [they] believed devoid of all reality, between global and domestic supply chains” (ibid, p. 11). For the Employers the ultimate goal of ILO action on GSCs was better communication of existing standards, “as all issues that pertained to GSCs were adequately covered by the current range of ILO instruments” (ILO, 2020a, p. 19).

In the opening statements, the Employers attacked the expert legitimacy of the Office stressing that the background report to the meeting was “negative”, “lacked balance” “cherry-picked” information, “did not present any evidence that the problems attributed to GSCs were any different from those in domestic supply chains” and showed “scant respect for united multilateralism and policy coherence” (ILO, 2020a, p. 4). They concluded that the ILO’s work on GSCs to date was “disastrous for all who made up the Organization” (ibid). The Employers’ attack on the Office was a surprise to the Workers and the Office alike, particularly for an institution that has traditionally relied upon the use of measured and neutral discourse in discussions (field notes, Thomas & Turnbull, 2018).

The Governments were predictably divided on whether standard setting in the field of GSCs was necessary. States with conservative or right-wing governments at the time of the meeting, such as the US, UK and India, were against the introduction of new standards, whereas South Africa (Government Vice-Chair), Uruguay, and Croatia (on behalf of the EU) supported the Workers arguments. This mirrored other discussion happenings at the ILO. For example during the adoption of the Centenary Declaration in 2019, right-wing populist governments invoked “national circumstances” to counter the ability of the ILO to establish new international regulations (Silva, 2021; Thomas & Turnbull, 2021). What was also noticeable at the 2020 meeting was the lack of any significant NGO and activist campaigning or awareness raising on the issue, which had been so crucial at the 2016 ILC for putting pressure on the Employers and Governments.

Following two days of deliberation, the Office drafted a set of tentative Conclusions described by the Employers as “‘disappointing’ to ‘outrageous’, passing by ‘provocative’ to ‘disrespectful’” (ILO, 2020a, p. 33). Without an agreement on what would be discussed, deliberation reached a standstill. The Government group sought to alleviate the heightened antagonism by producing what they deemed a “compromise text” which stressed the need for the Office “in concert with a tripartite working group” to identify gaps in the current body of normative and non-normative measures (ibid, p. 32). However, the Employers fought against the inclusion of the Office in countervailing power because they had “lost faith in the Office’s ability [to be independent]” (ibid, p. 35).

Whilst all Governments and the Workers reached agreement on the nature of the working group and its relationship with the Office, the Employers disagreed and attacked the Government group’s position arguing that “an impasse had been reached” (ibid). The EU suggested that the Employers were attempting to “undermine” the Government group’s position and manipulate the discussion, with the Government Vice-Chairperson noting that, “it would appear that some participants had come to the meeting with a view to collapsing it” (ibid). The Chairperson finally determined that the “meeting had reached deadlock” (ibid, p. 42).

The Employers stressed that the “failure was collective” (ILO, 2020a, p. 43). However, the Workers argued that “a number of themes had been introduced into the discussion purely as distractions to impede progress at the meeting” with the EU and its member states concluding that “the Employers’ group had not seized the opportunity to give the ILO and its constituents a central role in the promotion
of decent work in GSCs” (ibid). In the case of agonistic pluralism “we are not faced with a friend/enemy relation but with one between adversaries who recognize the legitimacy of the demands of their opponent” (Mouffe, 2013, p. 138). However, the agonist principles (mutual recognition and legitimacy) that organize the conflictual consensus which drives decision-making at the ILO were put into question. The Workers challenged the deliberative legitimacy of the Employers’ group asking, “whether the group was really representing the local businesses that were under increasing pressure from GSCs and were being compelled to sell their goods and services at below cost price?” (ILO, 2020a, p. 40). Questioning the legitimacy of the Employers’ “right to fight for the victory of their position” (Mouffe, 2013, p. 7) may compromise the authority of the ILO’s unique tripartite structure.

The lack of Conclusions was a “clear disappointment” for those in the Office (field notes) and, “a blow to the ILO’s image” (ILO, 2020a, p. 42) with IndustriALL noting “that institutions like the ILO … remained relevant only if they responded to expectations and dealt with the reality on the ground” (ibid, p. 43). As the Office lamented: “other organizations were moving ahead with their own initiatives” (ibid, p. 41), which the Workers argued were “more conducive to arriving at shared decisions” (ibid, p. 43).Whilst it is unlikely that the Workers would ‘exit’ the ILO, other institutions may offer additional opportunities for authentic discussion, further questioning the ILO’s (central) position in global labour governance (Haworth & Hughes, 2003). As the Government group concluded, the “ILO was at the epicentre of global social dialogue on labour market issues, and yet the meeting had failed … it was hard to comprehend how such an opportunity had been lost” (ILO, 2020a, p. 43).

In the ILO, with every failed deliberation there are procedures to move the discussion forward. Following the February 2020 meeting, in March 2021, the ILO’s GB agreed that the Office would conduct a review of the standard-setting role of the ILO in relation to GSCs and report back to the GB on their findings (GB.341/INS/PV/419). A ‘Tripartite Working Group on options to ensure decent work in supply chains’ has now been established but no date has been set for the first meeting. Deliberation has therefore (again) been suspended, potentially ushering in another phase of deferment at the ILO. What is certain is that any institutional response by the ILO on the implications of GSCs for its mandate and means of action will no doubt be a long time in the making.

Discussion

This article has examined the vexed case of the GSC discussion at the ILO and has demonstrated how labour governance evolves over time in a context where multiple actors seek to make their interpretation of the institution’s principles hegemonic. In contrast to other studies that have researched the emergence of various mechanisms of labour governance, this research sheds light on the contestation inherent to the evolution of labour governance within an existing institution and how dissensus and deadlock developed. In adopting an agonistic pluralist theoretical lens our study has revealed three important implications for understanding labour governance.

There are always power asymmetries in the establishment and evolution of labour governance mechanisms (Alford, 2020; Banerjee, 2018; Dawkins, 2021; Reinecke & Donaghey, 2021), even for institutions, such as the ILO, that have well organized processes that regulate and channel power relations between adversaries over time. For example—whilst the power of unions has been declining globally (Visser, 2019), employers’ and TNCs’ power has been rising (Weil, 2014), and global governance institutions have become weaker and more fragmented (Levy, 2021, p. 565)—the Rana Plaza disaster established a commonality of purpose and a provisional hegemony between the Workers, the Office and a majority of member States (Thomas & Turnbull, 2018). This supports research on how Rana Plaza became a “focusing event” that provided activists with considerable leverage over buyers (Frenkel & Schuessler, 2021) and led to the establishment of the Bangladesh Accord (Reinecke & Donaghey, 2021). However, as our study demonstrates, there is a ‘shelf-life’ to external jolts that (provisionally) shift power dynamics. By the time the final ILO GSC meeting took place in 2020, the momentum and public pressure targeted at the ILO in 2013 and 2016 had all but disappeared.

Power relations are not just manifested through external events, however, that trigger change (Dawkins, 2021) but...
also internal dynamics (ongoing and historical). Within the ILO, since the end of the “cold war consensus”, whereby the fear of communism motivated both Employers and (some) Governments to support labour standards, the Employers have become increasingly antagonistic to the ILO’s standard-setting role (La Hovary, 2015). Compared to other multi-stakeholder initiatives where there is often a shared interest and mutual benefit in pursuing deliberation (Reinecke & Donaghey, 2015), there is a concern within the Office that the Employers recognise that the Workers need the ILO more than they do, and have used this knowledge to filibuster debate on any areas against their members’ interests (field notes).9 As the Workers’ group conceded, “the workers of the world had the greatest interest in moving forward [on decent work in GSCs], since they were at the heart of decent work deficits” (ILO, 2020a, p. 40). To be sure, in its rejection of deliberative democracy, the objective of agonism is not to dissolve these power asymmetries but instead establish mechanisms to evenly distribute such power. In the past, the asymmetry of power in the ILO was ameliorated through the Office and their position as an independent organism of the Organization (Thomas & Turnbull, 2021). However, the Employers’ questioning of the expert legitimacy of the Office demonstrates their impetus to limit the potential for countervailence and (re)establish their own hegemony, one which sees the ILO as an organisation for improving productivity and the business environment through stimulating investment (IOE, 2019, p. 5). This confirms the need for countervailence in labour governance mechanisms that balances the power of one actor with that of others (Dawkins, 2021). Specifically, if adversaries cannot agree on the forms of countervailence, which create a level-playing field in the deliberative capacity of the actors involved, then a “fair fight” (Dawkins, 2015) will not be possible.

Our second contribution is that while conflict is inherent to labour governance mechanisms and the concessions they represent (Bartley, 2007), as this case demonstrates, if contestation appears instead as manipulation or domination, then deadlock will be more likely. The Employers suspension of the debate and continued challenge to the demarcation of the discussion (procedural contestation), the cause and effects of the impact of GSC participation on decent work (epistemic contestation), and how this impacts the ILO’s role (ultimate goal contestation) was interpreted by the Workers as against the democratic principles of the institution and “purely as distractions to impede progress at the Meeting” (ILO, 2020a, p. 43), with the EU describing the Employers’ approach as “brinkmanship” (ibid, p. 41). When continual conflict is viewed as manipulation, rather than disensus, or domination, rather than discord, then irrespective of the productive aspects of disagreement and contestation this can lead to a breakdown in the deliberative processes of the labour governance institution.

It is clear that some issues in global labour governance involve irreconcilable conflicts of interest and contestation concerning the fundamental principles of an institution are the most likely to be intractable (Arenas et al., 2020). However, a necessary condition for productive deliberation is the prior recognition that the focus of discussion is a problem to begin with. In comparison to the Bangladesh Accord or other mechanisms of labour governance, notably the Maritime Labour Convention (MLC, 2006) (Lillie, 2008), the Employers never fully acknowledged (at least publicly) that the rise of GSCs created governance gaps and thus required a response by the ILO. For labour governance to function effectively (i.e. promote decent work) requires the shared recognition by adversaries that an issue is worthy of discussion and must be addressed.

Agonistic pluralism as a theoretical lens is an alternative to the consensus (Scherer & Palazzo, 2007) or antagonistic (Alford, 2020) focused analysis of previous research on labour governance in GSCs. Our third contribution is in demonstrating that the agonistic lens reveals the importance of deliberative legitimacy in the establishment and evolution of labour governance. In contrast to concepts rooted in neo-Gramscian principles, which view deliberation as a power struggle between enemies (Alford, 2020), agonism demonstrates that hegemony may be challenged when there is recognition of the legitimacy of actors to defend their values and positions. The case of the ILO and GSCs illustrates how agonisms between adversaries led to the watershed moment in 2016 but also how agonisms can transform into antagonisms through the questioning of the deliberative legitimacy of actors in governance-making processes. As the D-G has argued:

we have an employer community, at least in terms of how it comes to the ILO, saying no [to a labour standard on GSCs]. That negativity is voiced by those delegates at the ILO who by and large come from employer organizations and federations rather than being representative of individual enterprises who are sometimes a bit closer to the action on this stuff and have to deal with the public consequences of failures (Ryder, 2020).

Being ‘closer to the action on this stuff’ (i.e. where decent work deficits occur) is crucial in the successful establishment and evolution of labour governance because if actors who have deliberative legitimacy are not affected by, or

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9 The ILO has in recent years adopted the Domestic Workers Convention, 2011 (C.189) and the Violence and Harassment Convention, 2019 (No. 190). However, neither of these standards were against the interests of the Employers or their bottom line(s), nor did their adoption challenge the ultimate purpose or goal of the ILO, namely public governance at the level of the nation state.
accountable for, the decisions being made this can lead to increased adversarial relationships. Compared with the multinationals involved in the Accord who risked further reputational damage and public scrutiny if action was not decisive, it is doubtful whether most people around the world even know that the IOE exists (cf. Standing, 2008, p. 380).

The Workers’ attack on the legitimacy of the Employers’ Group, as representatives of neither petty nor transnational capital (Thomas & Turnbull, 2021), to articulate their interests in 2020 clearly led to a breakdown in deliberation and signaled a move away from an agonistic stance to one of hostility. Treating an adversary as an enemy who must be defeated is counterproductive as “it is more productive and ethical to engage another as an adversary within a struggle around a common set of values even if there is contestation about their meaning” (Van Buren et al., 2021, p. 188).

However, there are clear limits to the level of contestation that a labour governance institution can bear when an actor is no longer seen as an adversary to struggle with but instead an enemy to be destroyed. Ultimately, in a pluralist context if the deliberative legitimacy of actors is questioned, and enemies cannot be converted to adversaries then agonism will transform into antagonism.

**Conclusion**

GSCs have created considerable challenges for the governance capacity of nationally embedded institutions and established international organizations that regulate labour standards. The COVID-19 pandemic has exposed the power imbalance in GSCs and the inability to mitigate the power asymmetries that can contribute to decent work deficits (Anner, 2021). As existing institutions seek to adapt to the external environment, a greater focus on the evolution of labour governance and the deliberative processes within these institutions is needed. Future research on the politics of internal and external contestation, in particular in-depth longitudinal cases of governance institutions, will be invaluable in adding to this discussion.

The current failure of the ILO and the discussion on GSCs has clear implications for labour governance more generally. International organizations have become increasingly important in developing norms and guidelines to complement public as well as private labour governance in GSCs (Hahn & Weidtmann, 2016). Without a clear institutional response by the ILO on the implications of GSCs for the promotion of decent work this has an impact on other labour governance arenas (locally, nationally and internationally) that rely upon the ILO, its labour standards and its normative clout, for the establishment and evolution of their own mechanisms of collective bargaining, regulation and enforcement (Anner, 2012; Thomas, 2021).

To conclude, this article has demonstrated that whilst contestation is inevitable in the evolution of labour governance, capital, labour and the state can pursue divergent interests but still work together in ways that allow for the fulfilment of these interests towards a hegemonic project. However, deadlock will be more likely in the evolution of labour governance when: power asymmetries shift and mechanisms of countervailence fail; contestation increases and is viewed as manipulation and domination; and when the deliberative legitimacy of adversaries is challenged. It is undeniable though that agreement will be necessary if the institution is to have an impact on the terms and conditions of workers in GSCs. The Government of Philippines stressed in their closing comments to, “look beyond the meeting room, and see the child labourers, the unprotected women workers, and the indigenous peoples whose resources were being extracted. They were the true losers” (ILO, 2020a, p. 42). The ILO is the only labour governance arena where workers have a constitutional right to an equal voice with capital and the state in deliberating labour standards. However, if this voice fails to promote, preserve and protect decent work, then it is possible that power asymmetries, both within the ILO and along GSCs, will further crystallize, and the parlous state of labour governance will prevail.

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**Declarations**

**Conflict of interest** The authors of the paper declare they have no conflict of interest.

**Ethical Approval** This study has been approved by our institution’s ethics committee and has been performed in accordance with the ethical standards laid down in the 1964 Declaration of Helsinki.

**Informed Consent** All participants gave their informed consent prior to their inclusion in the study.

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