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NEW INTERNATIONAL SOCIAL AND ENVIRONMENTAL RULES: PUTTING PEOPLE OVER PROFIT?

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OLIVER PYE

Transnationalising Trade Union Strategic Capacity: Using Supply Chain Due Diligence Legislation to Build Workers' Power in the Palm Oil Global Production Network

ABSTRACT *The adoption of the “Corporate Sustainability Due Diligence Directive (CSDDD)” by the European Parliament in 2024 opens up new possibilities to address human and labour rights abuses along supply chains. This article looks at the implications for the palm oil supply chain, an industry that is notorious for exploitation, land conflicts and environmental destruction. Can supply chain legislation be used to strengthen an emerging Transnational Union Network (TUN) in this sector? The article argues that in order to avoid managerial unionism that speaks on behalf of workers in the Global South, transnational information exchange is necessary to develop strategic interventions that support rather than replace grassroots struggles. Trade unions need to unlearn an NGO-type practice that focuses on a few ‘bad apples’ and instead tackle industry-wide structures of exploitation. By politicising issues such as poverty wages, gender discrimination and water pollution, the labour movement can create a new solidarity narrative of social-ecological transformation and transnationalise its strategic capacity.*

KEYWORDS *EU Due Diligence Directive, Lieferkettensorgfaltspflichtgesetz, labour movement, social-ecological transformation, palm oil, Transnational Union Network*

I. Introduction

In the face of widespread opposition by business associations and right-wing parties, the EU parliament voted to approve the “Corporate Sustain-

ability Due Diligence Directive (CSDDD)”, also known as the ‘Supply Chain Law’ in 2024. The Directive “lays down rules on obligations for companies regarding actual and potential human rights adverse impacts and environmental adverse impacts” and “obligations to put into effect a transition plan for climate change mitigation” (EU 2024). By 2029, the Directive will be in force for companies with over 1,000 employees, about 7,000 companies in all.

The adoption of the directive can be seen as a tacit acknowledgment that voluntary standards which have characterised the system of ‘good governance’ in the neoliberal era have not substantially addressed human rights abuses in global supply chains. In particular, it is debatable whether the adoption of social standards by lead companies has had a significant impact or any impact at all on worker’s rights in supplier companies (Graz et al. 2023). This is hardly surprising. As Bieler and Lindberg (2011) stress, globalisation is a political project, whereby multinational corporations pursue a “strategy of vertical disintegration”, pitting suppliers against each other to fragment the working classes spatially, informalising employment and extending exploitation into the sphere of social reproduction and the environment. The globalisation, outsourcing and offshoring of production was and remains a conscious strategy to make use of low wages, non-unionised workforces, weak environmental laws, and gender discrimination prevalent in the Global South. A systematic implementation of high social and environmental standards would defeat this purpose.

In the field of Global Labour Studies, there is a basic agreement that the neoliberal globalisation project created structural conditions that are (initially) detrimental to working class solidarity (Bieler and Lindberg 2011; Brookes/McCallum 2017; Fischer et al. 2022). In the 20th century, trade unions were for the most part national projects which were successful when they could overcome intra-firm competition by imposing sectoral-wide collective bargaining. By relocating production, corporations could blackmail trade unions to accept wage cuts and lower standards, “as localised workers are increasingly compelled to compete with those in other localities (and countries)” (Hyman 2011). One effect was that social partnership unionism in the Global North, based on productivity-wage deals, was no longer as successful. In many cases, unions accepted the logic of national competition and pursued particularist goals, which in turn shored

up nationalist identities and opened the door to racist ideas detrimental to international solidarity (reflected in the acceptance by many workers of right-wing authoritarian ideologies) (Gekara et al. 2013).

At the same time, globalised production creates “structural opportunity” for “counter-organization at the global level” (Evans 2010: 354). Over the past couple of decades, the labour movement has been experimenting with ways to “re-engineer their organising structures according to the emerging order” (Gekara et al. 2013: 181). A “new labour internationalism” (Munk 2010, Waterman/Wills 2002) is emerging in various forms. In addition to established international trade union confederations like the International Trade Union Confederation (ITUC) and the World Federation of Trade Unions (WFTU), and sectoral international federations such as the International Transport Workers Federation (ITF) and the International Union of Food Workers (IUF), the potential power of labour can be seen in the associational strength of new Global Union Federations (GUF) such as IndustriALL, with 800 affiliated national unions and 50 million members globally. In the “transnational arena of labour relations (Helfen and Fichter 2013), these GUF have been “jumping scale and bridging space” (Merk 2009) to negotiate International or Global Framework Agreements (GFA) that go beyond voluntary standards to include enabling rights for workers in the Global South (Bauer/Holl 2022; Fischer et al. 2022). Another response has been “social movement unionism” (Waterman 1993) that goes beyond narrow industrial relations by addressing issues of gender, social reproduction and environment in broader alliances. This includes transnational campaigns that combine public pressure on buyers and spatially coordinated strike action (Hough et al. 2024; Evans 2014).

However, there is still a long way to go in terms of realising the potential power that workers have in Global Production Networks (Fichter 2015). As Flavell and Gunawardana (2022) observe, building workers’ power and particularly “building women workers power” is often not an explicit goal of GFAs or of broader, transnational alliances that address social and environmental injustices. With a few exceptions (such as the TIE Network, that has an explicitly transnational approach (Nowak 2021; Lopez/Fütterer 2019)), transnational union collaboration has not progressed to the level of linking groups of workers to use structural and associational power in a spatially strategic way (Doutch 2022).

This is where the CSDDD becomes interesting. The large corporations targeted by the directive will usually have a trade union presence, and by mandating due diligence for suppliers along the chain, it refocuses attention on the workers in different steps of the production process. A case could be made that the Supply Chain Directive represents a shift from Corporate Social Responsibility (CSR) towards “corporate accountability”, addressing weaknesses in self-regulated corporate governance (O’Laughlin 2008) and responding to calls for a more pro-active role of the state and the toughening-up of regulations (Utting 2008). The fact that companies are now required by law to address human rights abuses and that they can be fined by independent regulatory bodies could be seen as a step forward (Falder et al. 2022). The directive has sharper teeth than voluntary standards, and trade unions can be involved in sharpening them.

The question I want to explore in this paper is whether and how the labour movement can use the new supply chain legislation to develop a communicative and “transformative practice” (Nastovski 2021) that links workers within a Global Production Network around a new “solidarity narrative” (Hough et al. 2014). Rather than a case study of how trade unions are using the legislation, I am interested in how workers *could* use it to form or strengthen a “transnational union network” (TUN), and whether an emerging TUN could use it to achieve “tangible gains for labour, that is, increased union recognition and collective bargaining” (Helfen/Fichter 2013: 554). Furthermore, if that is the goal, how could it be used strategically for this purpose?

The article is focused on the Palm Oil Global Production Network, a GPN which to date has had plenty of voluntary corporate sustainability standards, but no GUF organising its workers and no GFA that guarantees their freedom of association or collective bargaining. It is also a GPN where gender inequality and climate change are important questions. In this context, the article is a practical contribution to a discussion that is emerging between the German food workers’ union Gewerkschaft Nahrung-Genuss-Gastätten (NGG) and a network of trade unionists and environmental justice activists in Indonesia and Southeast Asia, organised in the network “Transnational Palm Oil Labour Solidarity” (TPOLS). For this reason, the article focuses on the German “Supply Chain Due Diligence Act” (Lieferkettensorgfaltspflichtgesetz, Lieferkettengesetz or LkSG

for short) which was enacted in 2021 and which is already in use. The article is therefore intended as a contribution to building a new TUN in the palm oil industry, but also hopes to be useful to the wider discussion of how labour can use due diligence legislation strategically.

2. Applying the Supply Chain Due Diligence Act to the palm oil industry

In contrast to previous voluntary complaints mechanisms in stakeholder initiatives, the Lieferkettengesetz awards some say to trade unions and works councils in Germany in its operationalisation. Legally, they already have to be informed, in the planning phase (via the “Wirtschaftsausschuss”, see Zimmer, 2024), about the risk analysis and mitigation strategies being developed by their employers. The law also offers more scope for works councils to be involved in developing the complaints mechanism and in co-determining how the company responds to these complaints. As Reingard Zimmer (2024) argues, the LkSG remains vague about what the rights of works councils actually are, so it is a question of how committed the works councils are in having a seat at the table on these questions. As she points out, even if management is less cooperative, works councils have a powerful position because they can highlight abuses and pass on information to the regulatory agency, the Federal Office for Economic Affairs and Export Control (BAFA). The German legislation has already been used successfully in this way, for example in the case of the wild cat strike by migrant truck drivers in Gräfenhausen in Germany (Behruzi/Brinkmann 2024). German trade unions used the LkSG to protect the striking workers against violent assaults by their employer and the threat of hefty fines by the BAFA was instrumental in getting a row of German companies to pay into a sizeable fund to pay wage arrears, one of the main demands of the truck drivers.

The LkSG could have been written with the palm oil industry in mind: the supply chain is made up of plantations and mills in the Global South that are connected to a vast network of supply chains, with many further processing industries located in Germany and Europe. Many of these companies (e.g. Unilever and Nestlé for the food industry, but also large

companies in the chemical, energy and cosmetic sectors) have more than the required 1,000 employees and tend to be well organised, with works councils that could use the new legislation for strategic interventions. Palm oil is also relevant for the big retailers and supermarket chains, as it can be found in so many of their products. The sheer scale of the sector also makes it particularly suitable to be addressed by supply chain legislation. To give one example, Nestlé (2023), in its disclosure of its palm oil suppliers, lists over 10,000 mills (!) from which it sources its palm oil. Each mill processes fresh fruit bunches from several plantations.

Just about all of the human rights abuses addressed by the Lieferkettengesetz can be found in the palm oil industry – and not in isolated cases but in a systematic and structural way. The unions involved in TPOLS have amassed immense experience with these issues over years and decades and it is based on this experience that I contextualise those human rights abuses addressed by the LkSG for Indonesia and Malaysia. The most relevant ones listed in § 2 (2) are summarised in the following table.

Human rights abuse addressed by the LsKG	Relevance for the palm oil industry in Indonesia and Malaysia
§ 2 (2) 1. Child labour	The regular occurrence of child labour is an open secret in the palm oil industry. Children are not trafficked or forced to work or even formerly employed. Rather, child labour emerges structurally from the piece rate system imposed by all palm oil companies. In order to reach quota targets, harvesters informally employ family members, often children. In Sabah, Malaysia, to this structural incentive is added the existence of thousands of illegalised and stateless children, who work informally in the sector to make ends meet (Wahab/Dollah 2022; Gottwald 2018).
§ 2 (2) 3. Coerced labour including indentured labour and trafficking	Indentured labour organised by trafficking networks is a structural feature of the migrant labour regime in Malaysia. Work placements, necessary for the work permit, are organised by a network of labour brokers, who pass on their fees to the employer. Workers have to pay off this debt – a form of indentured labour – and this is often backed-up by physical threats and violence. (Solidar 2019; Puder 2019).

Human rights abuse addressed by the LsKG	Relevance for the palm oil industry in Indonesia and Malaysia
§ 2 (2) 5. Occupational health and safety	Palm oil workers are confronted by a number of serious and systematic health and safety issues (Myzabella et al. 2019). These are highly gendered. Harvesters, usually men, are affected by musculoskeletal disorder (MSD, Teo et al. 2021). Women workers are employed as herbicide sprayers. The term they use is spraying ‘poison’, which is accurate. They are affected by all sorts of ailments, including miscarriage and skin cancer, which are a direct result of herbicides such as Paraquat (illegal in Europe) (Maksuk et al. 2016)
§ 2 (2) 6. Freedom of Association	Workers are allowed to form trade unions in both Indonesia and Malaysia, but in practice, palm oil corporation management tries to hinder them by various means. These include intimidation, layoffs, relocation to other plants, prison, and violence directed at union leaders. In Malaysia, migrant workers are allowed to be trade union members, but are not allowed to hold office.
§ 2 (2) 7. Discrimination based on gender, race, sexuality	The industry is characterised by systematic gender discrimination because virtually all companies employ women workers as daily labourers. To stay within the (already weakened) labour law, they are employed for a maximum of 20 days per month. By these means, companies can avoid paying social security, pensions, holiday pay and health insurance. The pay is significantly lower than employees on permanent contracts (mainly men) (Sinaga 2021).
§ 2 (2) 8. Decent living wage	The term used in the LkSG is “angemessener Lohn”, i.e. “appropriate salary”, and refers to the legal minimum wage as a fall-back standard. This is 200 Euros or less in Indonesia. Whether this is “appropriate” is debatable.

Human rights abuse addressed by the LsKG	Relevance for the palm oil industry in Indonesia and Malaysia
§ 2 (2) 9. Pollution of soil and water	This is further specified by the LkSG as practices that severely impede the production of food, access to clean drinking water, or that damage workers' health. Clean drinking water is a major issue. Groundwater is polluted by the excessive use of herbicides and fertilisers on the plantations, and by pollution from the palm oil mills. Waterways are heavily polluted by Palm Oil Mill Effluent (POME) discharged by mills.

Table 1: Occurrence of human rights abuses addressed by the LkSG in the palm oil industry

It should be stressed that these issues are not aberrations or unfortunate cases that somehow happen – they are systematic, purposely imposed by capital to ensure that labour remains unorganised, exploitable and cheap.

3. Chasing bad apples: the business union pitfall

One response to the structural challenges of organising labour in a globalised economy was the emergence of a plethora of civil society campaigns that sought to pressure lead firms in the Global North to address human rights abuses and environmental destruction in their supply chains. Rather than building workers' power, the focus was now on 'consumer power': environmental NGOs in particular targeted the brand image of large corporations, using this as leverage to get a seat at the table of 'key decision-makers'. In the context of a neoliberal ideology of 'good governance', NGOs became partners of corporations within multi-stakeholder initiatives. The ideological framing of this approach was the now ubiq-

uitous slogan of the ‘triple bottom line’, by which enlightened businesses would balance their economic interests (‘Profit’) with attention to social (‘People’) and environmental (‘Planet’) sustainability (Elkington 1997).

The palm oil industry is a case in point. Hard-hitting campaigns in the 1990s were met with the creation of one of the most successful ‘stakeholder initiatives’: the Roundtable on Sustainable Palm Oil (RSPO). Dominated by large palm oil corporations in Southeast Asia and ‘big food’, the RSPO is a self-regulatory body which certifies its members as sustainable if they adhere to voluntary standards. In this way, they greenwash their business model, which still relies on (environmentally destructive) large scale monoculture plantations, cheap labour and systematic gender discrimination (Pye 2019).

The RSPO allows palm oil growers and large consumer products brands such as Nestlé and Unilever to respond to the scandalising of worst practice cases with their own internal complaints mechanism. Whenever NGOs unearth a particularly harrowing case of land grabbing, forest destruction or slave-labour type conditions, they use this mechanism to portray the problem as one of a few ‘bad apples,’ thereby shoring up their own image as responsible and sustainable producers. Over the years, they have mastered the double game of formal adherence to the law and public professions of passionate commitment to the objectives of sustainability, whilst at the same time using loop-holes, tricks, denials, and the outsourcing of their responsibility to make any substantive changes. Confronted with the issue of child labour, for example, the standard approach is to show auditors the list of employees, with their age noted. This absolves them from addressing the structural causes of child labour – i.e. the piece rate system and low wages.

All the signs are that the same companies responsible for the gross injustices within palm oil production will use the same mechanisms to neutralise the impact of the LkSG. One sign of this is that the Forum Nachhaltiges Palmöl (FONAM), a stakeholder initiative that represents the biggest palm oil buyers in Germany (and which is supported by the Federal Ministry for Economic Cooperation and Development) has already made available a guideline for companies to conduct their risk assessment (Hütz-Adams et al. 2022). While the risk assessment in the document (prepared in collaboration with the NGO Südwind) highlights

similar abuses to those listed above, it remains unclear how they could be addressed by the companies responsible for them. Because the model of corporate social responsibility has become so dominant, the path of least resistance would be for trade unions to take on an advisory role in the implementation of the LkSG by management. The danger here is that they could thereby be roped in to a similar type of partnership model with the perpetrators as is being followed by those NGOs that have followed the stakeholder-good governance turn for the past two decades.

By doing so, trade unions would replicate problems that have emerged both in the implementation of voluntary CSR labour standards and in Global Framework Agreements (GFA). In the former, trade unions are confronted with the contradiction between the purpose behind outsourcing and offshoring – i.e. to lower wages and labour standards – and the professed adherence to improving labour standards. The sheer size and complexity of the GPNs makes third-party monitoring a nearly impossible task, with unions and NGOs spending time and resources following up bad apple cases, while the structural causes of these violations remain in place (Wells 2009). Analysing health and safety standards in the Sri Lankan apparel industry, for example, Ruwanpura (2013: 102) observes that as “ethical codes are deployed, the realities of labour practices at production sites suggest that to rely on an instrument without teeth is to also curtail the potential of labours’ agency.” A similar critique is levelled at the practice of GFAs, whereby a handful of union full-timers negotiate with TNCs on behalf of workers in the Global South (Fischer et al. 2022; Helfen/Fichter 2013). This can lead to “union paternalism” (Paret 2018), where trade union officials act in proxy for corporate victims, rather than helping them to organise themselves in order to act in their own name (Flavell/Gunawardana 2022). GFAs are often designed to avoid the “activation of coalitional power across scales”, while the “governed vertical escalation of conflicts contains the struggle at the factory scale” (Bauer/Holl 2022: 76)

This tendency is heightened by problems of legalistic strategies in trade union work. As Carstensen and Vestena (2024) point out, shifting to the loci of the courts can lead to unions allocating more resources to legal work and neglecting collective organising, with a corresponding depoliticisation of union work. Focusing on the most atrocious cases of human

rights abuses can often have a detrimental impact on workers organising at the grassroots. The last resort of lead companies is to disassociate themselves from the ‘bad apple’ and to switch suppliers. This does not solve any of the workers’ problems on the ground and tends to put them under more pressure. Perhaps most worryingly, there is little protection against retaliation. The lengthy legal process gives management plenty of time to find out who is behind the complaint and to punish them. It can lead to retaliation against the whole union or certain leaders can be victimised. In industries plagued by union busting, the complaints mechanism can weaken the collective power of the workers.

So, if used uncritically, the supply chain due diligence legislation holds the danger of promoting managerial and paternalistic unionism in the transnational arena of labour relations. This is particularly relevant for the LkSG in Germany, where the practice of business unionism (Hyman 1973) is entrenched in the practice of many works councils, which often perceive themselves as a co-management body. A good example is the inclusion of a ‘decent living wage’ (DLW) in the current legislation and the way corporations in the Palm Oil Global Production Network respond to it. In a telling calculation endorsed by the “RSPO Standards Standing Committee” (RSPO 2019), offering “simplified guidance for members to help them implement a decent living wage”, an appropriate DLW is set at around three million IDR – or 175 Euros. This includes a food basket which allots 31 grams of milk and 10 grams of egg to each person in the family. From the perspective of very well paid RSPO consultants, it is perfectly sufficient for working class children to have 1/5th of an egg and 1/10th of a cup of milk per day. The miserly detail of the calculation reinforces the impression that the DLW is just a euphemism for the bare minimum required to ensure the social reproduction of the worker and the next generation of workers who can be exploited.

For trade unions in Europe interested in using due diligence legislation to advance international solidarity, accepting this kind of perspective and framework would be catastrophic. It would cement a perhaps unintentional but inherently racist acceptance that workers in the Global South can be paid the bare minimum. In order to develop a strategic approach to the use of due diligence supply chain legislation, “we may have to *unlearn* our established routines and conventional wisdom.” (Hyman 2011: 23).

4. Transnationalising “trade union strategic capacity”

Ginting and Saxby (2024) argue that the LkSG should be used in a way that departs from the “service model of Northern actors” to “become an instrument for building the power of the working class”. They call for a model of collaboration that “strengthens the collective bargaining power of workers in production countries and brings together progressive movements in the Global North and South”. From such a perspective, a strategic approach to the LkSG should start not from the standards in the legislation, but from workers’ struggles in the supply chain, particularly but not only in the Global South (Wells 2009). It can also draw lessons from transnational campaigning unionism that have managed to strengthen grassroots labour organisations on the ground, e.g. the Russel campaign that led to the recognition of a combative apparel trade union in Honduras, the campaign that supported the establishment of a 5,000 worker-strong union on the rubber plantation of Bridgestone-Firestone in Liberia, and organising efforts in unionbusting European automotive companies in the USA (Evans 2014). For the palm oil industry, the politicisation of environmental problems points to the potential for “transnational worker-civil society coalitions” (Bauer/Holl 2022: 70) that go beyond narrow industrial relations to include perspectives for a more radical socio-ecological transformation of the way in which palm oil is produced.

There are an estimated 11 million workers in this sector in Indonesia and Malaysia, and they produce around 80% of crude palm oil (CPO) globally. Workers are getting organised, establishing independent unions at the plantation and mill level and scaling up in various federations and confederations. They have been successful in pushing through collective bargaining agreements, but are a long way away from organising the whole industry and imposing sector-wide standards. For these independent trade unions, the question is whether collaboration with trade unionists in Europe via the LkSG and the CSDDD can help to strengthen their own power on the ground. Interestingly, some unions are starting to collaborate with environmental justice activists and feminist organisations to address the systematic discrimination of women workers around a Just Transition perspective (TPOLS 2024). At the other end of the supply chain, in Germany, the food workers’ union *Nahrung-Genuss-Gaststätten* (NGG)

organises workers who process palm oil in factories owned for example by Nestlé or Unilever and other, traditionally low-waged and precariously employed workers in sectors such as hotels, restaurants, the fast-food industry and platform workers. As a small but lively union facing some powerful transnational corporations, organising along the supply chain is not a question of altruistic solidarity, but could be a means to increase their “strategic capacity” (Hyman 2011), educate and politicise their members and, with the palm oil issue, potentially form broader transnational campaign alliances.

To contribute to the strengthening of workers’ power along the GPN, a strategic use of the LkSG would have to 1) support grassroots organising on the ground; 2) avoid supplier-switching and victimisation; 3) avoid creating excessive extra work of a specialised nature; and 4) link to a solidarity narrative that resonates in broader society. For this to work, standards from the LkSG should be selected that apply across the board to all companies in the sector, and that are related to ongoing struggles, for example in collective bargaining. Conversely, care should be taken to avoid individual worst cases, i.e. the bad apples approach. Rather than looking for the worst case and the most exploited victim, as the NGO campaigning model does, the trade unionist intervention would start from real struggles and coordinate the use of the supply chain legislation as a flanking move around generalised trade union struggles in the plantations and mills. In the current context, I would suggest three themes that would fulfil these criteria: wages, gender discrimination and water.

As argued above, it is important that trade union involvement in the supply chain law does not lead to an acceptance of capital’s tendency to orientate towards a minimum wage. The LkSG proscribes “the prohibition of withholding an adequate living wage” defined as “at least the minimum wage” (§2, 2/8), i.e. not restricted to the minimum. Orienting towards collective bargaining challenges this arbitrary ceiling, as ‘adequate’ is up for interpretation. Trade unions in Europe can make a strong argument that the guidelines currently used are actually cementing poverty wages rather than DWL (e.g. 1/10 cup of milk per child). A more realistic calculation should include basic needs such as an annual holiday, transportation, and children’s education, and works councils in Europe could use

their own standards as the yardstick. Collective bargaining over wages is the most common union struggle in the sector, so wages are the easiest way to relate to and strengthen organising efforts. Using supply chain laws to challenge the minimum wage orientation might not be immediately successful in legal terms, but it would transnationalise the wage struggle. The exchange between trade unions around wage levels would raise expectations in the Global South, whilst sensitising European workers to the gross inequalities of the world economic system.

As outlined above, gender discrimination is systematic in the palm oil industry. All companies in Europe that use palm oil are now culpable for the super-exploitation of women, because nearly all plantations employ women on a daily-contract basis. This is a strategic policy to lower the wages of women workers, avoid paying social benefits such as holidays, health care or pensions, and to fragment the working class. Daily workers are not employed directly by the company and so cannot join the union. The more progressive unions are actively attempting to include women workers in the labour movement by mobilising for permanent contracts and equal pay for women workers. Because it impacts so many workers, and applies to just about every company, there is no danger of lead companies just switching to other suppliers. The legal basis of using supply chain laws to address this is strong and could result in real sector-wide change. Focusing on this issue could lead to a significant victory for the whole labour movement and show the potential of transnational collaboration. Permanent contracts for women workers would also make it easier for women to become more active in the labour movement.

The fact that the LkSG explicitly prohibits “any harmful [...] water pollution” (§2, 2/9) opens up the opportunity to systematically address some of the key environmental issues affecting the palm oil industry. This is because poor drinking water quality is a ubiquitous issue on palm oil plantations. The excessive use of harmful pesticides necessarily has an impact on ground water, and workers usually use wells as a source of drinking water, for washing their bodies and clothes, as well as cooking and cleaning. The quality of the water used by workers is easy to measure so that claims can be substantiated. Rivers, streams, plantations and groundwater are also polluted by the palm oil mill effluent from the mills – mills that are

listed in the supply chain disclosures. At the same time, there is a proven and tested method to address this question, i.e. the implementation of biogas facilities in the mills (Castermans et al. 2015). Targeting water with supply chain laws could support organising efforts around water quality. This includes wider societal alliances with environmental justice and indigenous movements. Measures to address water pollution are quite clear and technical and could therefore be easy to integrate into contracts with direct suppliers, i.e. a timeframe to implement biogas facilities in mills, to implement and monitor local tree species planting along river and stream banks, and the phasing out of dangerous pesticides. In this way, supply chain law could be used as part of a more transformative Just Transition strategy towards socio-ecological sustainable production.

These themes would fulfil the first two criteria, but how could the new legislation be used in a way that would not require a major shift of resources to legalistic work? The companies in the Global South that own the plantations and mills are second or third-tier suppliers (Mittelbare Zulieferer, § 9 2 and 3 LkSG). This means that companies in Germany do not have to become pro-active in addressing the risks of human rights abuses. However, they do have to react if they receive “substantiated knowledge” (§ 9, 3.2 LkSG) about human rights abuses (Klengel 2024; Falder et al. 2022). This is where transnational information exchange between trade unions in Europe and in the regions producing palm oil comes into play. European trade unions could act as a transmission belt to forward information from the plantation and mill to works councils in Germany. Trade unions, with their legal departments, could also support works councils in the German companies to process the information in line with the legal requirements. This would reduce the pressure on unions in the Global South to funnel their resources into legal work or into following up complaints, as this role could be taken on by their counterparts in Europe.

In this vein, in addition to works councils intervening in how the complaints mechanism should be set up or revised, they would need to develop a simple and effective line of communication with trade unions in the plantations and mills. They need to define what information and what kind of proof is needed to substantiate complaints. What is needed for information purposes, and what is needed if a formal complaint is

initiated? Ideally, the procedure should be standardised in such a way that workers and trade union members on the ground can gather and send the information. The selected themes would be compatible with a workers' inquiry (Marx 1880) type of research: collecting data on wage levels and contract details for daily workers is fairly straightforward trade union work and useful for organising purposes. Measuring water quality would require collaboration with water rights activists or universities (a collaboration which is already in place in some areas), but the collecting and documenting of samples could be done by workers themselves. This kind of factual monitoring would help local trade unions to empower their membership and back up their own claims in collective bargaining. It would also establish direct lines of communication between groups of workers along the supply chain, contributing thereby to the transnationalisation of the labour movement.

These communication channels could also be put to good use in avoiding an outcome whereby the lead firm just switches supplier, but is instead forced to address the issues and develop mechanisms to prevent them from happening or continuing. One way to do this would be to scale-up the “substantiated knowledge” and/or the complaints, when submitted. Instead of pursuing a particularly bad case of human rights abuse in a certain company, complaints could refer to several (or ideally hundreds of) cases in different suppliers. For example, Nestlé buys from large traders such as AAK, which sources from over 2,000 mills, or from Sime Darby, that sources from over 900 mills (Nestlé 2023). With a shotgun approach, targeting several different mills, works councils in Germany could pressure Nestlé to address the structural issues, because it would be difficult to sever ties with these big traders. To develop this kind of strategy systematically, European trade unions from different sectors could collaborate by setting up a kind of ‘palm oil coordinating body’ to submit complaints simultaneously to a whole group of lead companies (e.g. Nestlé and Unilever, the supermarket giants and brand-sensitive cosmetic corporations).

A transnational collaboration of this nature would have to think carefully about strategies to prevent the victimisation of trade unionists. Linking the ‘substantiated knowledge’ and complaint mechanism inter-

ventions to real, ongoing organising would guarantee that union leaders are already out in the open, legally pushing for collective bargaining agreements. Victimisation by management could then be quickly taken up by the same trade unions, works councils and broader alliances who were involved in the complaints mechanism, and the LkSG could be used to address it (§2, 2 Freedom of Association) while being backed up by direct solidarity campaigns.

5. Conclusion

The new supply chain due diligence laws could either be used by the labour movement to strengthen workers' power, or, conversely, as a kind of paternalistic short-cut internationalism of the business unionism variety. Because of the nature of the legislation itself (the corporations responsible for human rights abuses are responsible for addressing them) and the pervasiveness of the triple bottom line approach in civil society groups working on social and environmental standards in supply chains, there is a high probability that the second approach will be taken by many European unions. It is also the path of resistance, both intellectually and in terms of resources that need to be mobilised.

Using the German Lieferkettengesetz and the palm oil industry as an example, I have argued that the new legislation offers unions a new opportunity to politicise their membership around the supply chain, establish international connections, and develop information and exchange mechanisms for transnational solidarity. To do so, trade unions need to 'unlearn' certain ways of thinking and practices, and develop a strategic approach to the opportunities that the new supply chain laws will bring. Unions should avoid a too legalistic or formalistic approach, and the lure of chasing particularly bad apples, which we can expect to be the main strategy taken up by NGOs. Rather, they should be selective in the topics they choose to highlight, so that these are structurally relevant for whole sectors and are connected to grassroots organising on the ground. Collecting data for "substantiated knowledge" which is important for third tier suppliers should be done in a way that is easy for workers and unions to do on their

own. Clear and simple communication exchange between workers and unions along the supply chain needs to be developed.

If unions in Europe want to use the due diligence legislation to strengthen the organising capacities of unions in the Global South, they need to reflect together on how to do it in a strategic way. Care should be taken to avoid a managerial and paternalistic type of relationship. Issues should be chosen that would support collective bargaining on the ground and they should be operationalised in a way that prevents lead companies from just dropping the supplier, or the latter from victimising trade union activists. For the palm oil industry, low wages, the discrimination against women workers and the pollution of water could be three issues that fulfil these criteria and that would strengthen union activities on the ground, help to build wider societal coalitions and benefit from transnational solidarity along the supply chain.

So what's in it for the NGG, and, by extension, to European unions interested in using the CSDDD? The short answer would be expanding their coalitional and discursive power (Flavell/Gunawardana 2022), which is related to their associational power. One aspect of the decline of union power in the social-partnership regions of the world is that trade unions are perceived as rather old-fashioned and pursuing only particularistic interests, which also inhibits their ability to recruit new members. However, going after the gross wage injustices and gender discrimination in supply chains, and developing a pro-active position on environmental issues, resonates with a young generation of climate activists already interested in a "labour turn" (Pye 2017; Kaiser 2020). A strategic use of the LkSG in this way could create a new solidarity narrative where transnational labour solidarity becomes a central plank of social-ecological transformation.

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ABSTRACT Die Verabschiedung der Corporate Sustainability Due Diligence Directive (CSDDD) durch das Europäische Parlament im Jahr 2024 und das deutsche Lieferkettensorgfaltspflichtgesetz (LkSG) von 2021 eröffnen neue Möglichkeiten, gegen Menschen- und Arbeitsrechtsverletzungen in den Lieferketten vorzugehen. Dieser Artikel befasst sich mit möglichen Implikationen für die Palmöl-Lieferkette, eine Branche, die für Ausbeutung, Landkon-

*flikte und Umweltzerstörung berüchtigt ist. Kann das LkSG genutzt werden, ein entstehendes Transnationales Gewerkschaftsnetzwerk (TGN) in diesem Sektor zu stärken? In dem Artikel wird argumentiert, dass ein transnationaler Informationsaustausch notwendig ist, um strategische Interventionen zu entwickeln, die die Kämpfe an der Basis unterstützen und nicht ersetzen. Durch die Politisierung von Themen wie Armutslöhne, Geschlechterdiskriminierung und Wasserverschmutzung kann die Arbeiter*innenbewegung das LkSG nutzen, um eine neue solidarische Erzählung der sozial-ökologischen Transformation zu entwickeln und ihre strategischen Kapazitäten zu transnationalisieren.*

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