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Trade, investment and labour: interactions in international law

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Stellingen behorende bij het proefschrift

TRADE, INVESTMENT AND LABOUR: INTERACTIONS IN INTERNATIONAL LAW

van Ruben Zandvliet

1. The primary function of non-derogation provisions in preferential trade and investment agreements (PTIAs) is to protect fair competition. As it cannot be assumed that derogation from the fundamental labour rights is the most salient risk caused by economic liberalization between the parties, the scope of these provisions should not be limited to the 1998 ILO Declaration but be open-ended or tailor-made.

2. Although the United States' trade ban pursuant to the Burmese Freedom and Democracy Act of 2003 aligned with the intent of the Article 33 Resolution of the International Labour Organization, it was not compliant with the WTO Agreements.

3. 'Right to regulate' provisions do not provide more clarity about the scope of international investment agreements and contribute to the confusion about the constraining effects on domestic labour law of agreements that lack such a provision.

4. Transforming improvement obligations into *pacta de negotiando* or *contrahendo* will create space for meaningful tripartite governance of trade and investment agreements.

5. Scholarly attempts to interpret treaty provisions that are about interpretation are too often misaligned with the ways in which these provisions are being interpreted in practice. This is the case for Article 37 of the ILO Constitution as well as for Article 31.3(c) of the Vienna Convention on the Law of Treaties.

6. The more PTIAs appropriate ILO norms, the more the ILO supervisory bodies should appropriate PTIA benchmarks such as the notion of a 'failure to effectively enforce' labour legislation.

7. The concept of a 'race to the bottom' has no place in the debate about labour standards in international trade and investment agreements.

8. Labour provisions in trade and investment agreements should not be called 'social clauses', as views on what is or isn't social are personal.

9. While the laws of economics pose a bigger threat to decent labour conditions than economic law, they also provide more opportunities.

10. Troikas should not trump tripartism.

11. Embedding a focus on long-term stakeholder value in corporate law will make a bigger contribution to responsible business conduct than rules on civil or criminal liability in case of misconduct.

12. Contributions to the public debate by academics should be assessed by the same integrity principles as their scientific work.

13. There is an inverse correlation between the number of doughnuts that are consumed, and the chance that the doughnut economy becomes a reality.