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Contrasting union orientations and engagement with international private regulation: The agency and role of labour in MNC subsidiaries in Ghana

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Abstract

This article focuses on multinational company subsidiaries in Ghana with contrasting approaches to international private regulation. The findings explore the nature and outcomes of international private regulation but also the agency of unions and their orientations in terms of whether they valued and engaged with international private regulation or otherwise. Local union orientations and industrial relations dynamics are key influences on whether international private regulation is meaningfully applied or perceived as useful, and these contrasted notably within the research underpinning this article.

1 | INTRODUCTION

The global regulation of labour standards has, in the absence of enforceable ‘hard’ regulation at the transnational level, tended to focus on voluntary, private forms of ‘soft’ regulation, often at the level of particular multinational companies (MNCs) (Kuruville, 2020: 34–40). Forms of international private regulation (IPR), which include International Framework Agreements (IFAs) and Corporate Codes of Conduct (CoC), while varying considerably in terms of the extent to which labour standards are meaningfully addressed, are growing in significance and conceptualized as tools by which MNCs can implement their wider objectives in relation to corporate social

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responsibility (CSR) (Bourguignon et al., 2019: 1). However, the agency and strategic choices of unions regarding the extent to which they value and choose to engage with such forms of regulation remain underemphasized within these debates, and this is the focus of this article.

Such forms of IPR are of salience to industrial relations as they often contain commitments to observing, *inter alia*, International Labour Organisation labour standards relating to freedom of association, union recognition, health and safety and related features of the employment relationship (Anner, 2012). Key issues within such forms of private regulation include the question of if or how workers and their representative organizations are included or excluded from participation in such forms of regulation (Anner, 2018; Donaghey & Reinecke, 2018), as well as the impact on local industrial relations of the clauses within them (Mustchin & Martínez Lucio, 2017). However, insufficient acknowledgement of the importance of worker voice can lead to a technocratic focus within such debates that marginalizes the local character of worker representation, meaning that subsequent understanding of how IPR is implemented is, therefore, limited. While significant literature exists on some of these issues in relation to global value chains and production networks, our focus here is on their meaning within local industrial relations in order to understand the firm and workplace-level dynamics of IPR.

This article draws on empirical research within MNCs in Ghana, in order to explore the variable application and influence of IPR on labour standards in a developing country context. It makes an original contribution by addressing the overarching research question: how do union agency and orientations influence their strategic choices as to how they engage (or otherwise) with employer-led IPR? While an extensive body of research on the local implementation of such private regulation has emerged, notably on IFAs (e.g. Mustchin & Martínez Lucio, 2017; Niforou, 2012) and corporate codes (e.g. Baccaro & Mele, 2011), comparatively less research has focused on their impact and outcomes in less developed and weakly regulated national contexts where they arguably have the greatest potential. Similarly, while rich detailed studies exist of transnational labour campaigns seeking to establish agreements with and change the behaviour of MNCs operating in developing countries (Brookes, 2019; McCallum, 2013), less is known about the impact of such agreements or codes on workplace and firm-level industrial relations after they have been agreed to. This impact is in part determined by the orientation of unions in terms of how they engage and bargain with employers (Belanger & Edwards, 2013), including whether or not they seek to use clauses within IPR as a source of leverage within wider bargaining strategies. The question of local industrial relations contexts, the local agency of industrial relations actors and the importance of moving away from simplistic understandings of such dynamics, especially in developing countries, should be more prominent in these debates in order to capture the nuances, variety, trends and politics evident more locally.

The empirical research analysed in this article draws on comparative case studies in four MNCs with subsidiaries in Ghana, each with some forms of IPR (including Codes of Conduct and in one case an IFA) that acknowledged labour standards, but with varying levels of embeddedness and contrasting union orientations. Unilaterally devised Codes of Conduct provided limited benefits to unions and workers, with anti-union strategies and elements of lean production militating against collective worker representation. The value placed by local unions on international engagement varied considerably. Different forms of power resources, notably structural, associational and institutional power resources (Korpi, 2006; Refslund & Arnholtz, 2022), union capacity and capabilities, the institutional environment within which they exist, the opportunity structures that feature (such as the presence of IPR clauses that may support the objectives of labour) (Levesque & Murray, 2010: 336), the identity and purpose of unions (Hodder & Edwards, 2015), the historical development of union characteristics within particular national political contexts and the nature

of the employment relationship within which unions are located are significant influences on the approach of local unions to engaging with IPR or otherwise.

The article is structured as follows. First, there is a discussion of the literature on IPR, the relative position of labour within these institutional forms and international industrial relations. Methods and data collection are then discussed, followed by an overview of the distinct national context of Ghana and the nature of its industrial relations 'system'. The findings compare the four case studies in terms of two main themes: first, the nature and outcomes of labour participation within IPR at the level of MNC subsidiaries; and second, varying union orientations to and levels of engagement with such forms of regulation, engagement with coalitions of actors beyond the workplace and internationally, and the key variable of adversarial compared to more partnership-oriented approaches to union–management relations (e.g. Bacon & Blyton, 2002). This is followed by a discussion section that contrasts these findings with the extant relevant literature, and the conclusion.

2 | IPR, WORKER AND UNION PARTICIPATION AND THE IMPORTANCE OF LOCAL INDUSTRIAL RELATIONS

This section seeks to explore the nature of worker involvement and voice within analyses of IPR, and to highlight how or whether labour has engaged with and reacted to its introduction. The growth in the number and presence of MNCs since the 1970s has corresponded with the emergence of IPR (Kuruville, 2020). Critics of IPR, including CoCs and voluntary monitoring regimes, argue that they act to displace or undermine more robust state and union-enforced labour rights and working conditions, and are concerned more with the legal and reputational liability of global brands (Locke et al., 2007: 22). IPR serves as 'an additional layer of rules for phenomena that are already embedded in complex political, legal, and regulatory orders' (Bartley, 2011: 518), seeking to address (or appear to address) the limitations of traditional labour regulation and state monitoring and enforcement systems in adapting to change in the global economy.

Any improvement to working conditions deriving from IPR is typically dependent on the presence and pro-activeness of local unions or non-governmental organizations (NGOs) and auditing protocols (Locke et al., 2007), and the analysis here builds on such arguments with a close focus on the nature of IPR implementation locally and its relationship with local labour actors and workers. Many global firms, particularly before the turn of the twenty-first century, unilaterally applied CoCs. However, questions around the credibility of business-led programmes from activists, NGOs and unions in terms of inherent faults associated with self-monitoring (Jenkins, 2013) have meant that some MNCs are now engaging with more complex and ambitious multi-stakeholder approaches to demonstrating CSR (Kuruville, 2020). For example, since the late 1980s, there has been an expansion of IFAs, 'negotiated documents between MNCs and global union federations (GUFs) [that] stipulate compliance with core labour standards in company operations worldwide and their supply chain' (Niforou, 2012, p. 368). In the context of multi-stakeholder initiatives, IFAs represent comparatively robust agreements concerning standards and practices that are anchored in negotiation and a framework of social dialogue in some form (Mustchin & Martínez Lucio, 2017). However, the limitations of IFAs are well established, and where union engagement locally is weak, they suffer from similar problems identified with more unilateral IPR, where clauses exist but have little meaning or impact due to the lack of local implementation or enforcement. IPR is, however, varied in nature in terms of the language used and the actors involved in its drafting, monitoring and enforcement. More commonly, it constitutes the volun-

tary engagement of MNCs with their stakeholders, including consumers and civil society actors in an attempt to improve social, environmental and labour standards, with organized labour normally excluded from its definition, design and governance (Donaghey & Reinecke, 2018). MNCs are frequently unwilling to surrender their right to manage or 'face the perceived loss of control over the cost structure and operation of their supply chain as a result of... strikes and pressures to increase wages and benefits via the mechanism of collective bargaining' (Anner, 2012, p. 612). This places considerable constraints on such private regulation in terms of its meaningful engagement with unions and worker participation more generally.

2.1 | The importance of local industrial relations and union orientations in the implementation of IPR

While much analysis of the outcomes of IPR focus on whether its design is inclusive or otherwise of labour (e.g. Bair et al., 2020), and the extent to which MNCs as dominant actors in such relationships permit or exclude varying degrees of worker participation and union involvement, we argue that more emphasis is needed on the specific nature of labour organizations themselves within such regulatory spaces. Local actors within MNCs are often characterized as having limited influence (Ruggie, 2018), with the literature on management whipsawing (e.g. Greer & Hauptmeier, 2016), highlighting how the central management of MNCs maintain coordination and control over subsidiaries, with policies of union avoidance often determined centrally and subsidiaries having little autonomy to change such management orientations (Ferner et al., 2012). However, under-emphasized themes that this article analyses in the later empirical findings concern the agency of unions themselves, the extent to which they engage with and value (or otherwise) forms of IPR that include commitments to protect labour standards, and how unions might gain leverage from clauses in IPR salient to working conditions when bargaining with employers.

Much of the literature on IPR, CSR and labour standards focuses on the relationship between businesses and stakeholders, such as NGOs and local communities, but the role of unions in relation to such initiatives is arguably underemphasized (Jackson et al., 2018) and more industrial relations-oriented variants of such debates are somewhat marginalized. Despite scepticism regarding private regulatory initiatives as opposed to state-led schemes or those centred on notions of joint regulation, the literature highlights important examples where labour involvement in CSR has supported the maintenance of labour standards among workers and their representatives in general and, specifically, those living and working within authoritarian regimes (Anner, 2018). Such involvement of labour within IPR is more evident within IFAs, and while these have been welcomed as a positive development within international industrial relations, they remain most common in European-based MNCs emanating from coordinated market economies that recognize the importance of social dialogue (Fichter & McCallum, 2015: 69–70). Unions emanating from such contexts typically engage with IFAs as mechanisms for dialogue and problem-solving, while unions from liberal market economies (LMEs) view them as possible avenues to organize (McCallum, 2013). However, the weakly worded nature of initial agreements and the scarcity of success stories, along with complexities in terms of the application and enforcement of such agreements across the global operations of MNCs, has led to growing scepticism with regard to IFAs. This can be attributed to the reluctance of MNCs to communicate, let alone disseminate the content of such agreements, especially in parts of the world where workers have little prospect of realizing freedom of association and collective bargaining, and a failure to embed effective monitoring mechanisms and significant deterrents or sanctions for non-compliance within MNC subsidiaries.

Such problems are even more acute in forms of IPR where unions are excluded from their design and implementation.

A criticism of IFAs is that they are often negotiated under principles of 'social partnership' by unions at the MNC headquarter level, with workers and their representatives in subsidiaries without such embedded institutional relationships with management and where conflict and contestation are more prevalent, excluded from negotiating and influencing the terms of such agreements (Fichter & McCallum, 2015). Social partnership is most closely associated with continental European systems of industrial relations, and in debates concerning partnership within American and British Industrial Relations (IR) from the 1990s to the 2000s, critics (e.g. Kelly, 2004) highlight pessimism concerning partnership as it compromised the autonomy and effectiveness of unions in responding assertively to change. A partnership can be conceived as a facet of managerial strategies of control, for example in their use of co-option and coercion with regard to unions, and such dynamics have been highlighted in other research concerned with Ghana (Ayentimi et al., 2019; Akorsu & Cooke, 2011; Cooke, 2014).

A key focus of this article is, then, to explore how differing union orientations affect the level of engagement or otherwise with forms of IPR and their implementation within subsidiaries of MNCs in a developing country context subject to neo-colonial economic influences, politically contentious corporate actors and with a divided trade union movement. Union orientations can be defined as how unions position themselves within the employment relationship including their approach to bargaining and what resources they draw on in representing workers, a position 'shaped by the antagonism and asymmetry between capital and labour' (Belanger & Edwards, 2013: 15–16). A neo-institutionalist approach would explore 'not just how employers or unions pursue a particular course of action but also what identities or orientations underline that course of action' (Godard, 2004: 237), allowing for an analysis where the agency of labour is highlighted in order to avoid a deterministic approach where rules and structures determine behaviour. 'Union orientations and strategies should be regarded as complex and multi-dimensional' (Bacon & Blyton, 2002: 317) – for example, elements of militancy and more moderate orientations are often evident within the same union rather than constituting ideal types. The complex nature of union 'purpose' (Hodder & Edwards, 2015) strongly influences the strategy and actions of unions, including in regard to union 'renewal', within which engagement with international regulation and networks is a feature (Frege and Kelly, 2003). Union engagement with international networks has been argued to be determined by local union power resources, union orientations, and the relative strength and power resources that derive from international regulation (Levesque & Murray, 2010). Tensions remain within international trade unionism between what Hyman (2005) distinguishes as an 'agitator' model of internationalism from below, and a more bureaucratic model of internationalism from above.

Different forms of power resources held by unions (e.g. Korpi, 2006; Refslund & Arnholtz, 2022), including associational (relating to power deriving from unions as collective membership organizations), institutional (relating to the position of unions in relation to institutions of economic governance, corporatist arrangements and collective bargaining), structural (relating to the power held by workers due to their position within the system of production) and coalitional power (deriving from the ability to forge links and networks with other labour and civil society organizations) (Brookes, 2019: 16–23), also have a major impact on the strategic choices made by unions. The power resources approach has been critiqued as wedded to eroding forms of European social democracy and economistic trade unionism that constrains more radical possibilities (Nowak, 2018), but it can be used as the basis for 'a more fine grained understanding of contemporary worker power' and to analyse 'the interconnection between different societal levels – workplace,

company, sectoral, regional, national and even international' (Reflund & Arnholtz, 2022). In the context of Ghana, we argue that the power resources approach is useful when applied at the level of the firm to explain why some unions pursue strategies based upon what institutional power resources they have, while the associational, structural and coalitional power resources held by some unions partly account for their rejection of, in this case, IPR due to the alternative sources of power they hold and scepticism towards CSR-oriented initiatives emanating from the global North. An analysis of power resources can also be used to assess the absence or weakness of power within different dimensions of a unions' orientation rather than simply making claims with regard to their relative strength. The heterogeneous actors involved in IPR generate 'causal complexity' within its analysis, with a decoupling of processes and outcomes (Kuruvilla et al., 2020). A contribution of the empirical analysis below is to explore these dynamics within local IR, highlighting the role and agency of labour in relation to IPR and how union orientations and the power resources available to them shape how and whether they engage with it.

3 | RESEARCH METHODS

To analyse IPR, the involvement or otherwise of labour in such institutional structures and the orientation of local unions in MNC subsidiaries to engaging with such developments, this article draws on qualitative case studies of four MNCs with subsidiaries in Ghana. The local unions examined here were the Ghana Mine Workers Union (GMWU, affiliated to the Ghana Trades Union Congress [GTUC] union federation), the Industrial and Commercial Workers Union (ICU, historically affiliated to the GTUC), the General Metal Manufacturing Workers Union (GEMM) and the Union of Private Security Personnel (UPSP) (both affiliated to the Ghana Federation of Labour [GFL]).

The qualitative research approach enabled the collection of detailed information from multiple sources, including interviews, secondary data and ethnographic on-site observation at the level of the case study organizations, the sector and the state. Semi-structured interviews were conducted with 71 participants, including workers and managers within MNCs, representatives of employer associations, state agencies, NGOs and trade unions between 2016 and 2017. The four cases were purposively chosen in order to understand union orientations towards and local impact and engagement with contrasting forms of IPR initiatives. All interviews were conducted face-to-face by the first author, lasting between 40 and 90 minutes. Recurring articulations and discourses from the interview transcripts and secondary materials collected were isolated, categorized and critically interpreted to connect the data to the concepts in the research questions, particularly in terms of how engaged or otherwise unions in the case studies were with IPR, union orientations, and how power resources were understood by participants, and supplemented by writing up detailed overviews of the cases themselves.

To address the issues concerning IPR, the involvement or otherwise of labour in such institutional structures and how the orientation of local unions in MNC subsidiaries influences such engagement, this article draws on comparative qualitative case studies of four MNCs with subsidiaries in Ghana. The four cases include two mining MNCs ('Rossinto' and 'HiliGold'), one MNC ('Securicorp') operating in the private security services sector and an MNC ('DrinkCorp') operating in food and beverage manufacturing. Two key variables that differ between the four cases include the nature of IPR present within them and the sectors involved. However, the breadth this gives, in comparison to, for example, solely comparing cases in mining or manufacturing, is useful from an exploratory point of view given the under-researched nature of industrial

relations in Ghana. The four cases have numerous characteristics in common: they have recognized unions and are situated within the Ghanaian industrial relations 'system', where unions have limited power and state regulation of employment rights is minimal; they are subsidiaries of MNCs headquartered in LMEs in the global north (with the exception of the South African-headquartered HiliGold which had historically been headquartered in the UK); the presence of IPR with clauses relating to employment conditions; all are located in industries which are contentious and controversial, hence the emphasis on CSR to improve investor and public relations; relative autonomy of workplace-level industrial relations from the headquarters; and workplace managerial regimes that were generally authoritarian and non-participative, as is commonly the case in MNCs in postcolonial contexts. The dependent variable is the level of union engagement (or otherwise) with the development and implementation of IPR, ranging from an IFA in the Securicorp case to more unilateral CoCs in others; two were affiliated to the GTUC and two were affiliated to the smaller, generally more moderate GFL; two unions had an explicit partnership orientation and two had a less integrated and more adversarial orientation overall; and contrasts in the power resources held by unions in each case, partly determined by the nature of the sectors but also the historical development of unions within them, ranging (for example) from considerable structural and associational power in the Hiligold case, to weaker structural and associational power but ostensibly more institutional power in the Securicorp case.

This allows for an assessment of how different union orientations and power resources held by unions in different contexts influence the extent to which they value or engage with IPR at the level of firm-and-workplace industrial relations. We might expect or hypothesize that, in a context where unions in general are highly constrained and state regulation of employment protections is weak, unions would welcome regulatory clauses within IPR relating to, for example, freedom of association, health and safety and other working conditions. If such new regulatory clauses were not significantly engaged with or valued by unions more locally, then we might expect this to be a function either of a lack of local management willingness or capacity to engage with IPR, or of the orientation of local unions and their strategic choices regarding whether they draw on structural and/or associational power resources as opposed to seeking leverage through institutional power resources that may derive from engagement with IPR. These dynamics are analysed through the case studies compared here, which highlight how the nature of IPR, the orientation of unions, including the power resources available to them, and the nature of how the employment relationship is managed in the MNC subsidiaries in question influence, firstly, levels of engagement with and the value placed on IPR by unions, and secondly, an assessment of what benefits may be derived from such approaches in terms of improving conditions of employment and worker representation.

The section that follows is introduced with an overview of the industrial relations context in Ghana, followed by summaries of the four case studies, followed by the analysis of these two main research themes.

3.1 | Industrial relations in GHANA

Ghana, as an African developing country, is an important research context, in part because of its historical significance and transition to independence and the pivotal role played by its first president Nkrumah and his support for Pan-Africanism, which called for the liberation of the continent from colonial rule and the promotion of alternatives to Eurocentric capitalism (Dalton, 1961, p. 552). The Ghanaian union movement engaged significantly with international trade union

organizations across its phases of colonialism, independence and democratization (Sackeyfio-Lenoch et al., 2017). Notably, in the pre-independence era, where European trade union centres were active in several parts of Africa, the Ghanaian context was different with ‘unions... having only remote and indirect contact with the European labour movement’ (Orr, 1966, p. 80). International union federations, the ICFTU and the WFTU, vied to influence the ideological and political orientations of Ghanaian labour. In the early 1950s, the GTUC (the only national union centre at the time) formally affiliated with the ICFTU, but disaffiliated in 1959 due to its co-option by the CPP (Nkrumah’s government) and its ideological position. The ideology professed at the time was of non-alignment and Pan-Africanism, framed at the time as an antithesis to collaborating with international labour institutions, especially those from the ‘imperialists’ (Sackeyfio-Lenoch, 2017).

Ghana constitutes a relatively successful case of democracy in Africa, with unions well established, although like in many parts of the continent and around the world, they are facing significant challenges. Overall union membership density in Ghana stands at 7.5 per cent, mainly concentrated in the formal sector of the economy, which employs approximately 20 per cent of the overall labour force (DTDA, 2020: ii). Labour market reforms place significant restrictions on strike action and its potency, as well as limiting freedom of association for certain groups of workers (Ibid.: 7). The state has prioritized flexible labour markets and attracting foreign direct investment, priorities reflected in the Labour Act of 2003. This legislation broke the former monopoly status of the GTUC, the larger of the two main union confederations with 480,000 members, with the rival, generally, more moderate GFL founded in 1998 with 178,000 members in affiliated unions (DTDA, 2020: 1–2). Both federations are affiliated with the ITUC, although prior to 2006, the GFL was affiliated with the Christian Democratic-founded World Confederation of Labour. In the four unions in the cases below, the two GTUC affiliates, which took their current form during the independence period and Nkrumah’s leadership, arguably had stronger, more oppositional traditions than the more moderate GFL-affiliated unions whose origins can be traced back to the 1990s/2000s, when Ghana was subject to economic upheaval and externally imposed structural adjustment programmes. It has been argued that more militant union orientations in relation to repressive local management regimes and the exploitative role of MNCs are unrealistic given the ‘extreme deprivation’ prevalent in Ghana (Ayelazuno, 2019: 233). Despite this challenging legal and economic context, fertile recruitment grounds for trade unions still exist, including organizing within the new service sectors, telecommunications and banking industries, and private security. Increasingly, unions are collaborating with self-organized associations of informal workers in order to expand their presence within the informal economy, seeking to raise levels of organizing among women workers, and to support Ghanaian workers within more recently established subsidiaries of Chinese MNCs (Panford, 2011: 175).

4 | FINDINGS

4.1 | Case studies: Overview

Securicorp is a British-headquartered private security MNC, which signed an IFA in 2008 and established a subsidiary in Ghana in 2006 through the takeover of a domestic security company. On entry, Securicorp derecognized unions and staff associations, but in 2009, a year after the IFA was signed, it concluded a landmark collective bargaining agreement (CBA) with the UPSP. UPSP is a member of the GFL and has minimal membership elsewhere in the sector. DrinkCorp

is another British headquartered MNC, producing alcoholic beverages. It is a signatory to the UN Global Compact, the UN Women's Empowerment Principles, has a 'Code of Business Conduct' and a European Works Council agreement. The union, in this case, the ICU, was founded in 1960 and historically affiliated with the GTUC, although in more recent years, they have disaffiliated due to an ongoing dispute. Rossinto is a Canadian-headquartered MNC, with mines located in the Americas, West Africa and Russia. It has a 'Code of Business Conduct, Ethics' and 'Supplier Standards of Conduct'. It is a signatory to the UN Global Compact, supports the Voluntary Principles for Security and Human Rights and utilizes the UN Guiding Principles for Business and Human Rights. Locally, Rossinto has been the subject of controversy linked to worker abuses and environmental degradation. Workers in Rossinto are represented by the relatively moderate, GFL-affiliated General Manufacturing and Metal Workers' Union (GEMM). The fourth case study, HiliGold, is a South African-headquartered MNC that is a signatory to the UN Global Compact, the health and safety standards OHSAS 18001, and the environmental standard ISO 14001. It has a 'Code of Conduct' that explicitly references the UN Universal Declarations as well as charters. HiliGold recognizes the GTUC-affiliated Ghana Mineworkers' Union, founded in 1957 and retaining significant influence despite their wider declining membership. In all of the cases, there were a number of forms of IPR agreed to by the headquarters management of the MNCs in question, but even in the Securicorp case where the IFA had been signed by unions and the relevant GUF, these were largely top-down instruments with labour more locally having little influence over their design and implementation.

Table 1 compares the four case studies in terms of the nature of IPR and an overview of union orientations and power resources in each case.

The table demonstrates some of the key differences in terms of union orientation, power resources, strategic priorities and the presence of IPR within these MNC subsidiaries. Levels of engagement with IPR differed markedly across the cases – while Securicorp had an IFA with unions explicitly involved, HiliGold had a stronger engagement with internationalism 'from below', meaning that international engagement meant different things depending on the case. These differences are partly a function of how unions and industrial relations have emerged historically within particular sectors, as well as management orientations at headquarter and subsidiary levels in terms of how engaged they are (or need to be) with IPR. The orientations of unions and the power resources available to them played a major role in determining the nature and extent of engagement with IPR and international networks beyond the firm and workplace. The next section provides an overview of how IPR was perceived, referenced and enacted within local industrial relations and workplace contexts, and in particular, the relative position of labour within such structures.

5 | IPR, INSTITUTIONAL POWER RESOURCES AND THEIR IMPACT ON INDUSTRIAL RELATIONS

5.1 | DrinkCorp: IPR as symbolism

DrinkCorp was a signatory to the broadest range of IPR instruments of the four cases but this was largely symbolic in terms of local industrial relations and work, with the forms of IPR, in this case, having little involvement of labour within their design or implementation. DrinkCorp's Code of Conduct encompasses a multiplicity of commitments, including labour standards in accordance with the UN Guiding Principles on Business and Human Rights, and is a signatory to the UN

TABLE 1 Case studies: International private regulation and union orientations

<i>Partnership-oriented union organization</i>		<i>More adversarial union orientation</i>
More internationalized		
Securicorp		HiliGold
International regulation referenced	International Framework Agreement	Code of Conduct, UN Global Compact, OHSAS 18001, ISO 14001
Union orientation and power resources	UPSP of the GFL – described as taking an approach of ‘partnership’. Notable institutional power resources but limited associational and structural power resources	GMWU of the TUC – described as taking an approach of ‘enlightened radicalism’. Considerable institutional power resources deriving from relatively high structural and associational power resources
Union strategic priorities	Growing the union and bargaining coverage in a predominantly non-unionized sector, working with GUFs (UNI Global) in order to share knowledge and build organizing capacity	Successful industrial action campaigns, campaigning to uprate industry pay and expand union recognition, organizing fixed-term workers, Africa-focused international links
Less internationalized		
Rossinto		DrinkCorp
International regulation referenced	Code of Business Conduct, Ethics, Supplier Standards of Conduct, UN Global Compact, Voluntary Principles for Security and Human Rights, UN Guiding Principles for Business and Human Rights	Code of Business Conduct, UN Global Compact, UN Women’s Empowerment principles, European Works Council (EWC)
Union orientation and power resources	GEMM of the GFL – described as taking a business union, partnership approach. Limited institutional power resources with structural and associational power resources subsequently low	ICU – historically of the GTUC – workplace focus with adversarial union–management relations. Limited institutional power resources and little structural power, emerging associational power resources
Union strategic priorities	To grow membership and expand recognition in the mining industry without recourse to industrial action	Defending existing collective agreements, expanding bargaining coverage and membership levels, organizing agency and supervisory staff

Global Compact. The Code of Conduct specifically mentions labour-related elements, such as adherence to core labour standards; health and safety, discrimination and harassment, respecting wage laws, working time and respecting a ‘choice to join or not join a trade union’. Notably, it also has a European Framework Agreement (EFA) covering consultation rights, codes of practice around redundancies and other procedural clauses within its European operations. In this case, there was no significant involvement of unions or workers in Ghana in the design or implementation of IPR, which was instead characterized as part of the firm’s broader CSR agenda, where ‘CSR is done for reputational purposes, marketing the brand’ (Production Manager), as well as improving perceptions of the firm’s treatment of workers. This sought to enhance employee loyalty and reinforce the notion that DrinkCorp was a ‘good’ firm to work for. Union involvement in corporate-level forms of IPR was limited in this case, and a more workplace-focused, adversarial industrial relations climate was featured. This was largely decoupled from the wider framework of

IPR, which had limited impact at the subsidiary and workplace level. Work intensification, occupational health and safety problems and unreliable payment of wages were a feature at DrinkCorp, and an authoritarian, coercive management culture was commonly referenced by interviewees. New management systems involving just-in-time production and total quality management had been introduced at a similar time to the proliferation of higher-level corporate commitments to CSR, and while some degree of worker participation in local management practices was claimed, they were not felt to have improved working conditions or representation within the subsidiary and the ostensibly more participative culture was argued to mask ongoing processes of control, surveillance and coercion in terms of how the workforce was treated. The union in this case had adopted a moderate orientation due to their vulnerable institutional position and potential threats to the extant workforce:

For me as the union secretary, in my branch, we make sure workers do as management says, gone are the days of strikes [because] if we should go on strike right now they will replace us. If you go on strike now anywhere in Ghana, they will replace you because [employment agencies] are ready to do that and management is also ready to do that. (Union Secretary)

Despite the breadth of IPR present in this case, it had a limited impact on the institutional power resources held by the union who were more focused on using what structural and associational power they had to defend their existing position as opposed to a more expansive approach referencing IPR in order to expand the scope of bargaining and engage with international regulation and institutions.

5.2 | Securicorp: Institutionalized IPR ‘from above’

Prior to signing its IFA, the ‘Ethical Employment Partnership’ in 2008, Securicorp was the subject of a 5-year campaign of protest and damaging coverage relating to its treatment of workers, people within its custody and collaboration with authoritarian regimes. The GUF (UNI Global), the US Service Employees International Union (SEIU) and other civil society organizations drove these campaigns which, in addition to a complaint submitted to the UK OECD contact point highlighting unethical employment practices, placed the company under intense investor scrutiny, culminating in significant divestitures (McCallum, 2013). The IFA constitutes a formalized institutional framework for transnational worker representation, a substantial shift in position for the firm after 5 years of opposing unionization and a marked contrast from the more unilateral approach to IPR seen in DrinkCorp. This agreement led to some significant outcomes in the Ghanaian context: union recognition, the signing of a CBA and the growth of the UPSP within the company and across an otherwise largely non-union sector. Welfare provision and a provident fund featured in the CBA, and had allowed for local negotiation of benefits including funeral grants:

When a guard passes away, management gives GHC 800 for a coffin [and] gives five people [monies for] transportation to attend the funeral to sympathize on behalf of the company with the bereaved family. They buy [a] wreath, schnapps for the sake of tradition. (Union Chairman)

The IFA had strengthened the institutional power resources of the union and it was referenced in negotiating additional local benefits for the workforce, with a partnership and welfare-oriented union orientation developing within this wider framework. While this represented a comparatively moderate form of union orientation, the otherwise weak levels of associational power among workers in this sector meant that voice and representation was significantly stronger as a consequence of this variant of IPR.

5.3 | Rossinto: IPR as a disconnected relation

The mining MNC subsidiary Rossinto's 'Code of Business Conduct and Ethics' sets out principles to be applied to its global operations, including suppliers. It focuses on environmental impact, health and safety and labour practices and has made commitments to the UN Global Compact, the Universal Declaration of Human Rights and to the Voluntary Principles for Security and Human Rights. The Code of Business Conduct and Ethics specifically mentions labour-related issues concerned with discrimination and harassment, health and safety, and freedom of association. Its CSR agenda constitutes an attempt to maintain a social licence to operate and interviewees highlighted how associated policies sought to generate consent and reduce opposition from local communities. It was also a component of convincing investors and equity markets that are increasingly sensitive to 'risk factors' associated with environmental and social impact, and avoiding the exercise of social power including sometimes violent protests by members of host communities. Again, in this case, there was little engagement between IPR and labour in terms of its design and implementation, with the motivation for the references to labour standards in their CoCs linked to the desire to carve out a 'responsible company image' (Chief Accountant).

The impact on workplace industrial relations of such corporate-level commitments was limited, and workers faced precarity and extensive use of fixed-term contracts: 'everybody gets either a two year contract or a three year contract... When the term expires and you are lucky, it might be renewed'. (Financial Controller) There was extensive use of subcontractors that further subjected workers to substandard working conditions and the use of a pool of about 100 casual workers who were denied pension entitlements. Managerial staff were sceptical of IPR given the difficulties they had faced in organizing and gaining representation, counter to the firm's ostensible commitment to freedom of association. They had sought to unionize through the Professional and Managerial Staff Union of the GMWU having become disillusioned with the partnership approach taken up by GEMM. This resulted in about 400 workers in March 2010 moving their membership from GEMM to the GMWU citing 'a sharp contrast between them and members of GMWU as far as living conditions are concerned and that was largely due to the able performance of the leadership of the GMWU' (GhanaWeb, 2010). Degraded working conditions were evident among the mining workforce but organizing was evident within the supervisory and managerial grades as well, highlighting the tensions between different unions, their contrasting orientations and the limitations of IPR and partnership more locally given the otherwise conflictual nature of industrial relations in this case. IPR in this case was extensive in terms of the breadth of instruments the MNC was a signatory to, but authoritarian management, widespread precarious work and union divisions meant that, despite their potential structural power, their relatively limited associational power constrained the ability of the union to strengthen its institutional power resources in a context where IPR made little reference to local worker representation in terms of its design and implementation.

5.4 | HiliGold: Internationalized organizing and regulation ‘from below’

The second mining MNC subsidiary, HiliGold, has Codes of Conduct addressing investor relations, society and community, and employee charters. It is a signatory to external health and safety standards, including ISO 14001 and OHSAS 18001. The CoC includes commitments to the UN Global Compact, the UN Universal Declaration of Human Rights and labour-related issues, including discrimination and harassment and health and safety. When asked about the motivation for engagement with IPR, interviewees emphasized the need for HiliGold to display good corporate citizenship and to maintain their licence to operate. This was a particular issue in the mining sector, where MNCs were often portrayed as ‘rich companies coming from developed economies to operate in poor fragile markets’ (Community Affairs Officer) like Ghana, where the treatment of mining workers is commonly highly exploitative and environmental damage is considerable. The union at HiliGold were not involved in drawing up its Codes of Conduct more broadly or influencing their labour-oriented clauses; however, through their approach of ‘enlightened radicalism’ and ‘quasi-partnership’, recognizing the need to engage in good faith, they significantly shaped the local delivery of it. Workplace union organization was more influential in this case with regard to the regulation of labour standards and IPR than the three discussed above. A senior union representative explained this close relationship:

These days it’s like I can sit in the general manager’s car and we will be negotiating. He finds me he gives me a lift, ‘Boss yesterday I visited these guys at the plant, they’re saying a,b,c,d and its worrying them and if you don’t fix them quickly it’s going to affect productivity. Can you do something about it?’ ‘leave it with me and I’ll sort it for you’. By a day or two it’s been resolved. (Union Secretary)

Elsewhere in the sector, a mine owned by a different MNC had been covered by an IFA that had since ceased to apply. However, even when this defunct IFA was in place, union interviewees from the GMWU felt that it had little impact on industrial relations more locally. The GMWU had prioritized links at the regional level with other African trade unions and regional networks affiliated with their GUF as opposed to western NGOs, European trade unions and GUF headquarters (Adanhounme & Levesque, 2013: 128). Relatively strong levels of union organization and bargaining coverage were derived from associational, structural and workplace-level institutional power resources as opposed to such corporate-level labour clauses or labour actors from the global North.

6 | UNION ORIENTATIONS AND IPR

The local unions in the companies examined were UPSP, GEMM, ICU and GMWU. UPSP and GEMM were members of the GFL, one of two trade union centres that generally promoted a partnership approach to union–management relations. Partnership in this sense was ‘informal’, where the focus was on maintaining recognition, collective agreements and membership growth, with a near-rejection of utilizing strike action. In contrast, the ICU (historically) and GMWU are affiliated with the GTUC which has encouraged its affiliate national unions to focus on expanding and strengthening membership and associational power, with less emphasis on partnership

as a means of increasing their influence. Both confederations have substantial ties with regional organizations such as the Organisation of Trade Unions of West Africa and the Organisation of African Trade Union Unity. These links have provided their affiliates with a multiplicity of levers to draw on to support their struggles. For example, GMWU utilizes regional networks and actively meets with the NUM, an affiliate of the Congress of South African Trade Unions (COSATU) and the main mineworkers' union at HiliGold in South Africa, where the MNC is headquartered. This forum facilitates the exchange of information about their mutual employer, enhancing their bargaining power and capacity to learn from their counterparts, resulting in campaigns establishing minimum wages for mineworkers in the sector and a salary indexation clause where salaries are pegged to the dollar to protect members from the effects of exchange rate volatility (Kalusopa et al., 2012).

The forms of institutionalized international industrial relations associated with IFAs were seen as having limited usefulness in terms of the local context. The leader of the GMWU felt their local organizational strength and Africa-focused international networks superseded what could be achieved through IFAs in mining in Ghana: '[IFAs] won't benefit us in any way [because] we are already up there... Tanzania, they need the IFA, because that is the way the basic standards will follow but we are big boys'. In addition, in DrinkCorp, an MNC formally committed to an EFA at the European level and a commitment to the UN Global Compact, the ICU focused predominantly on what associational power resources they derived from their members, rather than seeking formalized partnerships in an attempt to expand their institutional power resources. Most of the IPR present within this MNC had little influence on working conditions with the exception of international standards on health and safety, which union leaders valued in terms of their impact more locally:

DrinkCorp [is] responsible to its workers. They have their standards. With their standard, theirs is the best. Whatever is expected to be done for somebody to be safe. For that singular thing, I respect that. (Union Chairman)

The more Africa-focused nature of internationalism in the HiliGold case and the more workplace-focused but inconsistent relevance of strands of IPR in both the DrinkCorp and Rossinto cases contrasts with the more formalized case of UPSP in Securicorp, which more closely resembled bureaucratic internationalism 'from above' (Hyman, 2005). The union had benefited from its affiliation with UNI Global in terms of educational and organizing support, and derived benefits from the IFA, including union recognition, attaining a CBA, and welfare provision including a defined contribution pension scheme and a provident fund. A director interviewed at Securicorp highlighted this change in attitude towards union recognition, which was now a settled and accepted feature of the subsidiary following many years of union avoidance: 'It's the right of every organization to seek the welfare of its employees. And their interests can only be represented by a union'.

There were, however, problematic issues deriving from this more institutionalized partnership orientation in Securicorp. In the absence of preparedness to engage in industrial action, local management worked to undermine union gains in multiple ways, including attacks on facility time, threatened victimization and attempting to distance representatives from their members:

Anytime I am leaving my post to Accra I have to seek permission from somebody... what if the person says no? ... The only people who should know of my movement should be HR, other than that I will be victimised as a leader... So here is the case I

can't move freely and union members complain that executives don't visit them and tell them anything. (Union Chairman 23)

In the final case, the GEMM union at Rossinto operated in an enterprise where there is strong hostility towards union organization, and management would have preferred the formation of staff associations as opposed to trade unions. The union had attempted to respond to this hostility through adopting a partnership approach to union–management relations with informal expectations that there would not be strikes. This had led to some stabilization of general union–management relations and levels of dialogue, and the Codes of Conduct in this case had been leveraged locally with some membership growth, union recognition formally established and collective bargaining broadly accepted by local management.

Drawbacks to having such a relationship with management were evident, with tensions emerging at Rossinto over facility time afforded to union representatives, deteriorating working conditions, a move to fixed-term contracts for all staff and work intensification (including lengthening of the workday, frequent use of overtime and shortened rest times). Union officials were seemingly co-opted into managerial agendas, essentially seen as facilitators and largely perceived as powerless.

At times [unions] can, condone and connive with management and you will not be there, but they will just be dancing to the tune of management (Industrial Relations Officer).

Occasionally you see the union executives from Accra coming down to sit with management to plead and stuff like that. So I see them as intermediaries between workers and management with respect to working conditions and then pleading for clemency (Senior Environmental Officer).

It can be seen from these contrasting union orientations that the nature of local industrial relations, union strategic choices and the power resources they derive from IPR as well as from structural, institutional and associational power resources varies considerably. This has a marked bearing on the uses, references to and meaningfulness of IPR at the level of the workplace in MNC subsidiaries. Where unions had greater associational and structural power resources, as with the HiliGold case, then unions had the scope to make strategic choices as to how they engaged with IPR and whether to utilize it as a means of building their institutional power resources. Limited associational and structural power resources could be mitigated to an extent as seen in the Securicorp case and the strengthened institutional power resources that derived from its IFA, although challenges to union representation were evident and to an extent constrained by this institutional framework. In cases where both institutional and associational power resources were comparatively low (as in DrinkCorp and Rossinto), it was evident that there was little scope for labour involvement within the design and implementation of IPR, and the influence on workplace industrial relations was limited.

7 | DISCUSSION

The above findings demonstrate contrasting models of IPR, their variable impact on work and industrial relations at the level of MNC subsidiaries in Ghana, and the important, often

underemphasized influence of union orientations (Bacon & Blyton, 2002; Belanger & Edwards, 2013; Godard, 2004) on how labour engages (or otherwise) with such forms of regulation. In a context where unions are constrained in their influence and state employment protections are weak, it might be assumed that labour would welcome clauses within IPR relating to, for example, freedom of association, health and safety and other working conditions. This assumption was challenged for complex, interrelated reasons, including the historical development, identity and purpose of unions (Hodder & Edwards, 2015), the form taken by IPR and its implementation, and the power resources available to unions in particular contexts (Levesque & Murray, 2010; Refs-lund & Arnholtz, 2022). Such analysis is subject to ‘causal complexity’ (Kuruvilla et al., 2020) and caution is needed both in terms of interpretation and exploring counterarguments. A potential alternative explanation for varying levels of engagement with IPR could be that the design of IPR, ranging from more unilateral variants of CSR to more union-inclusive approaches through IFAs, is a more significant variable as to whether or not unions engage with IPR. Such unilateral variants of IPR are far more prevalent than IFAs, which are vulnerable and often based on shallow foundations (as seen in the Securicorp case). IPR could not be said to have significantly changed the nature of the union organization itself in these cases with the exception of Securicorp, where the nature of the union was shaped and constrained by the IFA approach albeit in a situation where non-unionism would be the alternative given the nature of Industrial Relations (IR) in Ghana. Given the limited scope for labour engagement with IPR in terms of its design, formal inclusiveness or exclusion of labour and how it is implemented ‘from above’, associational power and more local organization become, we argue, highly significant and often underemphasized variables. The limited nature of engagement within unilateral forms of IPR, and the organizational weaknesses of the union in the case where more labour-inclusive IPR in the shape of an IFA was present, highlights the necessity of exploring more local industrial relations in order to deepen our understanding of the implementation and meaning of IPR. This leads to three broad conclusions in answer to the overall research question, how do union agency and orientations influence their strategic choices as to how they engage (or otherwise) with employer-led IPR?

First, in the cases discussed here, partnership orientations were explicitly adopted in cases where associational power was weaker (as in the Securicorp and Rossinto cases), and resulted in some procedural gains and increased legitimacy for unions in the face of potentially hostile management where derecognition was a very real risk. This constitutes an engagement with partnership from a position of relative weakness or vulnerability but had some impact in terms of maintaining union recognition and bargaining coverage. The more adversarial approach seen in DrinkCorp and HiliGold took differing forms – strong associational, structural and coalitional power resources in the latter case meant they could leverage IPR over the employers’ vulnerabilities in terms of their ‘license to operate’, but where such power resources were weaker, as in DrinkCorp, there was far less scope for unions locally to reference and leverage IPR in a way that strengthened their position. A critique of union engagement with IFAs has been that they promote and assume social partnership orientations among local unions in their implementation (Fichter & McCallum, 2015), in contrast to forms of internationalism ‘from below’ which may constitute more adversarial union orientations (Hyman, 2005) drawing more from associational and coalitional power resources as opposed to a reliance on more institutional power resources (Brookes, 2019). Despite criticisms of the power resources approach (Nowak, 2018), a contribution of this article to theory development is to highlight how the framework is useful in analysing the position of labour within MNCs and how union orientations influence their strategic choices in terms of how they engage with IPR or otherwise.

Second, the development of IPR in three of the four cases suggests that apart from in the Securicorp case, IPR was largely disconnected from more local employment and industrial relations concerns, and much depends on the nature of local management and union orientations. The IFA in Securicorp had strengthened union recognition and bargaining rights with tangible benefits to its workers, but the partnership orientation reinforced an approach reminiscent of ‘business unionism’. Such orientations relying on gains in institutional power resources derived from IFAs are vulnerable – GMWU interviewees did not view IFAs as especially useful, but this was informed by relatively strong levels of associational and structural power resources that were absent in the Securicorp case. This leads to some practical conclusions, including that for labour-related clauses in IPR to be effective at the local level, there needs to be more explicit and meaningful engagement with labour in terms of the design and implementation of such regulation. IPR relating to health and safety appeared to be more meaningfully implemented in comparison to broader policies around freedom of association, equality and discrimination, which is worthy of further investigation. Additionally, unions may gain in terms of institutional power resources from engaging with IPR and associated partnership approaches, but caution is needed as without associational power resources and subsequent structural power, such institutional gains are likely to be limited, constrained and vulnerable to management attrition.

A third key point is that deeper, more embedded union engagement with transnational regulation and institutional forms was due to specific traditions and alliances, and a strategy of more autonomous organizing that sought not to rely on (although not oppose) IFAs as a more labour-inclusive variant of IPR. The mining union in the HiliGold case had long-established coalitional and associational power resources deriving from more organic international links developed ‘from below’ (Panford, 2011). This meant that, in terms of internationalism, the union was less reliant on the bureaucratic leverage of IPR and took a more autonomous approach to international engagement that was less reliant on employer sponsorship than the other cases. IPR in the fourth case, DrinkCorp, provided relatively few mechanisms for union involvement and engagement. However, the union’s rejection of partnership in favour of a more adversarial approach meant that despite clear limitations in terms of international engagement and limited institutional power resources, wider engagement with the labour movement more locally and community-level associational networks meant that there were fewer restrictions on the autonomy of the local union deriving from the regulatory framework established ‘from above’ within the MNC.

8 | CONCLUSION

While the empirical analysis presented here demonstrates divergence in terms of how MNCs engage with and implement IPR, contrasting union orientations and strategies also had a significant impact on the ‘meaning’ of IPR at work. The most direct impact could be seen with the IFA in Securicorp (internationalized IPR ‘from above’) where the union had adopted a partnership, welfare-oriented approach in conjunction with this institutional architecture; however, the partnership orientation claimed in the Rossinto case (IPR as disconnected relation) was adopted from a position of weakness with little impact on institutional power resources due to constrained associational and structural power resources. There was scepticism towards such formalized, demobilized approaches to union organization in the HiliGold (internationalized organizing and regulation ‘from below’) and DrinkCorp (IPR as symbolism) cases, where associational and structural power resources underpinned union orientations and strategic priorities as opposed to the ostensible gains in institutional power resources that a formalized IFA, for example, might

represent. While the cases are diverse with limitations in terms of generalization, they highlight the significance of union orientations and their agency in making strategic choices as to how they engage with IPR, how these choices are framed by the wider historical, social, political and industrial relations contexts of the industries where they operate, and the value of the power resources approach in analysing these dynamics at the level of the firm.

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