

Global Framework Agreements: Building and Protecting Space for Local Collective Bargaining Through International Organization

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ABSTRACT: The definitive rejection of any substantive linkage between labour rights and the strong enforcement mechanisms of the World Trade Organization in 1994 provoked the global trade union movement to develop alternative strategies to increase respect for the ILO's core labour standards. This article critically assesses the rapid and recent growth of International Framework Agreements signed between global unions and multinational companies as one labour movement strategy to reduce competition between workers in different countries by organizing to guarantee that all workers have basic, internationally recognized labour rights respected no matter where they live and work.

KEYWORDS: Trade Unions; International Solidarity; Global Unions; Core Labour Standards; Labour Rights

Introduction

The degree of 'transnationalization' of the top 100 non-financial transnational corporations (TNCs) has steadily intensified throughout the period of neoliberal globalization. The numbers of foreign assets, sales and employment of these companies have all grown during this period (UNCTAD, 2007). By the year 2000, approximately 1/3 of world trade was intra-company and another third involved at least one TNC (Scherrer and Greven, 2001, 76). While greatly variable across sectors and countries, intra-company trade has continued to intensify (OECD, 2010) and reflects the evolution and expansion of global

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value/production chains. Recent data shows a notable rise of developing country TNCs (Ogreaan and Herciu, 2016). All these indicators describe a situation in which an increasing number of works continue to be 'integrated' into the global economy.

These indicators also depict a globalization that allows TNCs to pit workers in one region of the world against workers in another as the extensity of production networks increases, facilitating what Streek (1992) referred to as 'regime competition'. More competition between workers fuels a downward pressure on labour standards. Competition between workers in the North and South has intensified simultaneously as in different regions of the South.

The relative power of TNCs operating under these circumstances has increased. Since 1985, union density in the OECD countries has fallen from 30% to 17%, and collective agreement coverage has fallen from 45% to 33%. (OECD, 2017) Deepening neoliberal globalization and the related increased abdication of regulatory roles of nation states enhances the downward pressure on workers' basic rights.

As a result, workers' organizations at the international level have increased efforts to develop independent strength and capacity of local trade unions to act. The struggle to build this capacity and enforce basic rights is fundamental to the trade union movement and its revitalization (Ng, 2001).

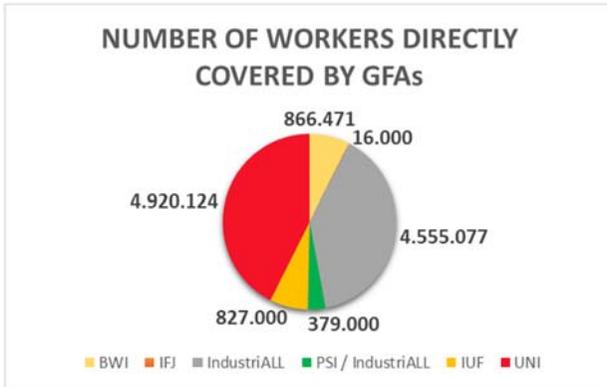
The historic role and activities of the Global Union Federations (GUFs) situate them perfectly to do this work. The GUFs are "autonomous, self-governing, and democratic organizations," (ICFTU, 2001, 24) that are made up of national member unions. Similar to local and national unions, GUFs were sector-specific organizations that have gone through intense consolidation and amalgamation processes over the last 30 years. They operate largely on consensus. Their main functions are to provide information, leadership training, support and coordination of solidarity work throughout national unions who are operating in industries that are internationalized. (Moody, 1997, 234). As TNCs internationalized their production and supply-chains in this period, national unions and the GUFs internationalized their work. As capital went global, so did workers' organizations.

Throughout the 1970s, the GUFs, together with member unions in the most internationalized industries were active in supporting and developing 'World Company Councils' where local and/or national union representatives that work for or represent workers at the same company would get together to exchange information and, in some cases, coordinate their activities. By the end

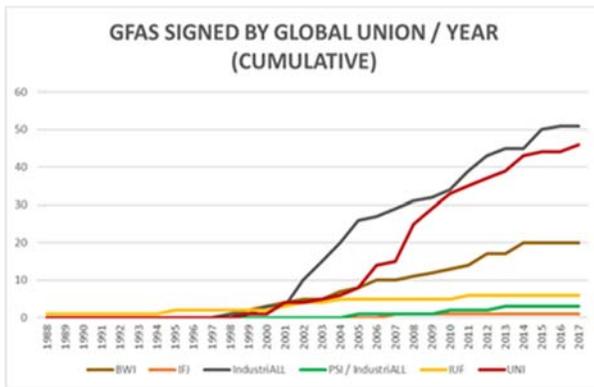
of the 1980s, national-level collective bargaining, the promotion of protectionist trade policies and efforts to take wages out of competition (between unionized and non-unionized workers) had already lost much of their effectiveness due to trade liberalization, heightened capital mobility and declining welfare states (Stillerman, 2003, 580).

Global Framework Agreements: Three decades of Experience

Experiences gained with this international work contributed to the innovation of Global Framework Agreements (GFAs). Workers, their unions and the GUFs have accumulated almost three decades of experience in the development and refinement of GFAs as a tool to improve compliance with basic workers’ rights in this context of neoliberal globalization.



These documents are negotiated and signed by senior management of multinational corporations and the relevant GUF. The first GFA was signed by the International Union of Food workers (IUF) on August 23, 1988. One hundred and twenty-two GFAs have been signed. They apply directly to roughly 11 million workers; the equivalent of the entire population of Greece or Portugal. Of the world's top 100 non-financial TNCs, ranked by foreign assets, (UNCTAD, 2013) almost a quarter of them have signed GFAs. As their title indicates, these documents are designed to establish frameworks. GFAs do not stipulate wages or detailed working conditions. While there is some variance, almost every GFA uses the International Labour Organization's Core Labour Standards (CLS) as a basis.² The purpose of these agreements is to ensure compliance with CLS, including at suppliers; achieve recognition and consolidation of the GUF as a negotiating partner while creating a transnational mechanism for the resolution of conflicts (in some cases during disputes) at local level; deepening cooperation between unions and opening / securing space for unions to organize locally (Fichter et al., 2011).



In the present context of neoliberal capitalism and intensifying pressures of global competitiveness, more and more workers in TNCs are being told that national management cannot make decisions (Tørres and Gunnes,

2003, 6). This means that there is clearly a need for an instrument like GFAs. Former General Secretary of the IUF, Dan Gallin has argued that, “the point of international bargaining is to engage the responsibility of the company at the level

² Freedom of association and the effective recognition of the right to collective bargaining (Convention No. 87 and No. 98), elimination of all forms of forced and compulsory labour (Convention No. 29 and No. 105), effective abolition of child labour (Convention No. 138 and No. 182), and elimination of discrimination in respect of employment and occupation (Convention No. 100 and No. 111).

where decisions are actually made” (Gallin, 2005). The GUFs have an increasingly important role to play in this context (Wells, 1998, 9).

Content Comparison and Analysis

GFAs have been about organizing since the beginning. The first agreement signed between the IUF and Danone states that its purpose is “...to provide space within the specific global company’s operations for unions to organize freely and for workers to exercise their rights within the company free of any form of obstruction – particularly the right to form or join a union” (IUF, 2006). Despite variance in emphasis, the content of the framework agreements themselves maintains a high degree of continuity across the different global unions and over time.

More than three quarters of the signed agreements contain explicit reference to the CLS of the ILO. Many contain clauses focused on occupational health and safety, working time and hours of work, ‘fair’ wages, education and training, the environment and workplace restructuring. The substantive content of clauses in these areas usually obliges management to respect national legislation.

Most of the GFAs also contain references to ILO Conventions that are not part of the CLS. ILO Convention Number 135, on discrimination against workers’ representatives and having access to carry out their functions is referred to most commonly. Convention 155 on occupational safety and health, Convention 1 on hours of work, Convention 95 on regular payment of wages directly to workers are also common.

Most of the GFAs include clauses related to suppliers and sub-contractors. Strong versions of supplier language articulate a clear commitment on the part of signatories to assist suppliers’ efforts to guarantee that CLS are respected. This may include the ultimate consequence of termination of commercial relationships for repeated violations. Weak language uses variations of “support and encourage” suppliers to respect CLS. The number of workers covered by GFAs expands well beyond eleven million when suppliers are included.

Almost all the GFAs make clear statements about communication of the agreement to all workers and suppliers. Some of the examples this language oblige management to inform that the GFA exists. Others state that management is responsible to inform all managers in all locations and the GUF is responsible to inform trade union affiliates and workers. Several agreements posit a non-specific “joint responsibility.”

While some of the GFAs have expiry dates, the majority do not. IndustriALL³ agreements rarely include an expiry date. The early ICEM (now IndustriALL) agreements were the most likely to include an expiry date; commonly valid for period of two years.

Most GFAs include language on dispute resolution. These clauses specifically mention the signatories (almost always the GUF) or they recognize the GUF as a legitimate party. Few agreements contain clauses that explicitly commit management to neutrality in organizing campaigns (other than stated commitments to respect ILO Convention 87 on the right to organize) or that they will not hire replacement workers during strikes or lockouts.

Roughly half of the GFAs refer to other documents. Most commonly, the UN Global Compact, the ILO Declaration on Fundamental Principles and Rights at Work, the UN Declaration of Human Rights, the OECD Guidelines for Multinational Enterprises, and various other, company specific, usually unilateral corporate social responsibility documents.

There is a high degree of similarity between the GFAs despite the wide diversity of TNCs that have signed them. Where differences between the agreements exist, they are typically questions of emphasis, not differences in the underlying premise or structure.

Internationalization of Bargaining?

The development of GFAs does not represent a ‘scaling up’ of collective bargaining. Early on, the ITUC claimed that the GFAs “can be seen as the start of international collective bargaining” (ICFTU, 2001). A typical optimistic argument claims that “when companies were local, unions had local agreements; when companies were national, unions had national agreements. Now in the global economy we need global agreements” (UNI, 2005). An intuitively appealing argument that is unfounded. GFAs are not designed to substitute for local or national agreements in any way.

GFAs don’t replace national agreements because there is no regulatory framework for any form of labour relations at the international level (ICFTU, 2001, 91). Nationally negotiated collective agreements are legally binding documents. They contain clear expiry dates and consequences for not reaching an agreement. Definitive dispute resolution relies on national or sub-national labour tribunals and courts.

³ IndustriALL represents workers in the mining, energy and manufacturing sectors.

In contrast, enforcement of a GFA relies on the ability to assemble enough political, moral and sometimes financial (strikes, campaigns, boycotts) pressure on TNCs.

Trade unions in the home country of the TNC often lead the way in the struggle for enforcement of workers' rights regardless of where violations have occurred. While GUFs are increasingly being recognized as an international actor by managers in TNCs, this is not equivalent to the legal status of local unions. This is distinct from many national or sub-national frameworks that require management to bargain in good faith with a specific, legally defined and often 'certified' local union. This absence of legally prescribed criteria and applicability is one of the strengths of the GFAs because the rights and obligations that are articulated in the documents are a 'floor,' leaving room for upward mobility, local flexibility and a diversity of tactics.

Also, a clearly defined group of workers that are covered by any of the GFAs does not exist. The complex and ever-changing ownership structures and sub-contracting practices of modern TNCs mean that the adaptability offered by GFAs is valuable to unions. In principle, a union can make the case that everyone is covered by the GFA.

The position that everyone working for the signatory TNC (and its suppliers) is covered by the GFA means that it applies to unorganized workers. Consequently, not everyone who is covered is at the negotiating table. Given the high-level relationships required to negotiate a GFA, the massive number of workers covered and the extensity of subcontracting relationships, many workers do not even know about GFAs. This leaves the process open to the criticism that it is 'top-down'. These agreements are signed at senior levels of management, far from any shop floor.

The premise is that GFAs can deepen and improve the regulation of the workplace, not replace other instruments (Graham, 2003). There is a strong argument that international bargaining may be necessary to defend and complement national efforts (Hammer, 2004). Dan Gallin (2005) argues that "there is no qualitative difference between local, national and international bargaining: bargaining at different levels is interconnected and forms a continuum."

Another Example of Unenforceable Corporate Public Relations?

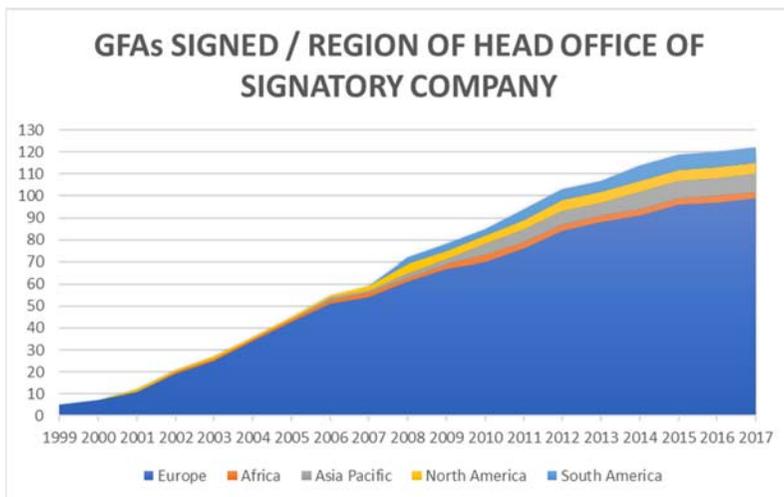
Some authors have criticized GFAs claiming they are an example of Corporate Social Responsibility (CSR). However, they are fundamentally

different. CSR offers a rhetoric of improving labour standards without substance. CSR policies are a corporate response to bad publicity. They are unilateral initiatives created to avoid legislation, regulation, litigation or prosecution (Gordon and Miyake, 2000). Given that the legal construction of the corporation requires a pursuit of self-interest and systemic law breaking (Bakan, 2004), any claim to social responsibility made by a TNCs needs to be viewed critically. In contrast, GFAs are a product of trade union experience with industrial relations. (Baker, 2011)

Most CSR schemes are unilateral, do not commit TNCs to accept unions, do not include suppliers and sub-contractors, contribute to a privatization of standards, may provide substitutes for independent unions (Frundt, 2004), fail to include specific language on basic labour standards, (Herrnstadt, 2001) and often contain weak or no language on implementation (Miller and Grinter, 2003).

In contrast, GFAs are *negotiated* documents, making them unique among international instruments (Papadakis, 2011). Independent workers' representatives are involved from the start. One of the key clauses included across GFAs is the recognition of unions.

Another important criticism of GFAs is that they are negotiated in a top-down way within the European Works Councils (EWCs). Many agreements have been signed with companies headquartered in Europe. Only twenty percent of agreements are with TNCs headquartered outside of Europe. Unifor research director, Bill Murnighan (2017) remains supportive of the concept of the IFAs but



suggests that they are a product of (and thus constrained by) a European co-deterministic culture and structure.

Trade unions and GUFs are the most important and essential actors involved with the negotiation and implementation of the GFAs. This remains true regardless of where a given TNC is headquartered. “A strong and effective GFA requires that all the unions in the given company should be involved from the beginning in all stages of the negotiation, then of the implementation, by means of an appropriate democratic structure. A top-down “GFA” is a sham as is any contract negotiated behind the backs of the workers the negotiator purports to represent.” Gallin (2005)

Rather than ignore or discard IFAs because of links with EWCs, Fichter and McCallum (2015, S66) call for a “union strategy of ‘conflict partnership’, combining dialogue and battle...to realize fully the potential of GFAs to contribute to an effective regulatory institutionalization of global labour relations.” This strategy overcomes the inherent structural limitations of the EWCs while valuing and incorporating the traditions of both ‘partnership’ and ‘conflict’ strategies at the local union level Trade unions operate within extremely diverse systems of labour relations despite the homogenizing power of neoliberal globalization. Decentralization and diversity fit perfectly with GFAs.

Various companies with highly complex, decentralized supplier networks (H&M, Siemens, Securitas, Inditex etc.) where TNCs ‘shop around’ for suppliers have signed GFAs. In the case of Inditex, one of the world’s largest fashion retailers in the world and owner of the Zara brand, the title of the GFA includes the following phrase: Agreement “on the implementation of international labour standards throughout the Inditex supply chain.” Further, UNI has negotiated GFAs with four of the eight largest companies in the hypermarket sector, Carrefour, AEON, Metro and Auchan. The reach of GFAs is deep, diverse and continues to expand into areas with predominantly supplier-driven supply chains.

Perhaps the most significant criticism of GFAs is that very little changes when an agreement is signed. GFAs are not like collective agreements that are clear and legally enforceable, leading to a claim that the GFAs are ineffective. GFAs appear weak because their effective implementation requires the slow, difficult and often frustrating building of independent local trade union organizations as a prerequisite. Similar to all trade union organizing, there are no short-cuts.

On the Ground Evidence

After three decades, a diversity of experiences is now widely available. Gallin (2005) asserts that they are designed to open "...a space for affiliated unions to consolidate their rights in the company and negotiate their national or local agreements under more favourable conditions..." The consistent inclusion of ILO Conventions 87 and 98 on the right to organize and bargain collectively (the 'enabling' conventions) supports his argument.

Nobody knows the priorities of local issues as intimately as local workers and their trade unions. GFAs allow that workers at the local level to define and pursue their most important issues in a broader context of heightened mutual support. Additionally, in circumstances where there are no unions, GFAs can help to create what Don Wells has called 'coordinative pre-bargaining' (Wells, 1998, 9) where communication between a nascent local union and management can begin under improved conditions. Even with weak, broad language, GFAs can help to create density in a sector thus leading to stronger agreements in the future and increasing the potential for a sector-wide agreements.

Getting employers to recognize an independent union and to sit at the negotiating table still requires (and will continue to require) an engaged and mobilized local group of workers. Despite the research showing that management resistance to TNC subsidiaries respecting union recognition, (Fichter and Stevis, 2013; Fichter et al., 2012) there is a lot of evidence that just such groups of workers have been able to use GFAs to support local organizing. Workers have used the UNI – Carrefour agreement to solve local disputes in Korea (Stevis and Boswell, 2008, 130) and Turkey. The ICEM– Statoil agreement has been used in Nigeria, the US (ICFTU, 2001, 100) and Poland for similar ends. There are many cases of IndustriALL GFAs being used to access suppliers.

The clearest assessment of any type of agreement comes from its effectiveness when workers attempt to organize independent unions (Frundt, 2004; Tørres and Gunnes, 2003, 3). Many affiliates of different GUFs have reported organizing breakthroughs using the GFAs. Polish affiliates have been able to organise nine IKEA-owned companies. A Malaysian timber union has organised two IKEA suppliers. North American unions have used the ICEM agreements with Skanska and Hochtief to establish unions at construction sites where the right to organize was being openly violated. Workers representatives have been elected in Faber Castell factories in Malaysia and China (IFBWW, 2004). Farm workers on banana plantations in Honduras, Ecuador and Colombia (Riisgaard, 2003) and hotel workers in the UK, New Zealand, Canada, Indonesia

the US and various African countries (Wills, 2002) have all used GFAs to support local organizing. The Telefónica, Bosch, Chiquita, Leoni, PSA Peugeot Citroën and Securitas GFAs have all been used internationally to help in local organizing efforts (Papadakis, 2011). According to a Brazilian union, the Telefónica GFA was key to the organization of call centre workers (UNI, 2006). UNI Commerce has reported that in “Pakistan, Colombia and Russia, traditionally some of the most dangerous and difficult countries to organise in, UNI Commerce has been able to breakthrough for workers due to GFAs” (UNI, 2017). UNI’s GFA with ISS, one of the worlds largest property services TNCs has been used by workers in Australia and in the Netherlands to support organizing (Fichter and McCallum, 2015, 75).

A Turkish automotive parts producer named Ditaş fired 400 workers the day after they applied to have their union certified. The GFA with the IMF (now IndustriALL) and Daimler was key to bringing this employer to the table to negotiate a first collective agreement. Then IMF General Secretary, Marcello Malentacchi, stated that “it is clear fundamental workers’ rights were achieved at Ditaş not only due to the hard work of the union but also the backup of our framework agreement at DaimlerChrysler” (IMF, 2003). Global unions have helped organizing efforts with transfers of money to affiliates used to hire organizers and build local structures. GUFs have also repeatedly run training sessions, projects and campaigns.

It is implicit in the negotiation of these agreements that effective pressure can be applied from above. There is a strong and central role for the GUFs in supporting local struggles by demanding that senior managers at a relevant TNC guarantee compliance with the agreement. The majority of the GFAs create another seat at the table for labour by having GUFs recognized by TNCs. Negotiation of GFAs allows unions to extend what Wills refers to as a “multi-scalar strategy” allowing the GUFs to actively support locally based (and controlled) organizing and bargaining efforts. An ongoing relationship between the TNC and the relevant GUF is established. In effect, this means that there is an increased capacity for intervention *during* disputes (Wills, 2001). This strategy has already provided a route around recalcitrant local or even national management.

A specific contribution that GFAs have the potential to make is an erosion of the notion that jobs are good in the North and bad in the South. As GFAs are used in the process of bringing attention to violations everywhere (as those noted above), the divisions between North and South can be eroded. Dan Gallin (2005) argues that all of the “IUF GFAs apply equally to all operations of a company, North or South, East or West. Of course a GFA will benefit in the first

instance the weaker unions in the company (usually, but not always, in the South) through the support of the stronger unions (usually in the North).” There is no discrimination in any of the GFAs regarding how they are used or by whom. Significantly, local and national unions all over the world have experimented with the use of the GFAs.

Trade union strategies to implement CLS are adapted and evolved as economic and political opportunity structures change over time. The GFAs are an example of an increasingly important instrument aimed at protecting a minimum set of rights. They provide one tool in the repertoire of workers and their representatives used in efforts to make the ILO CLS more a description of reality rather than a normative statement.

GFAs only become valuable when there is a strong commitment to organizing ‘on the ground’ on the part of local trade unionists (Miller and Grinter, 2003, 114). Without this commitment, the framework of a floor of common rights is of little use. When the commitment to organizing is present, GFAs may increase the efficacy of CLS by contributing to the international co-ordination of workers’ and unions’ local efforts to enforce their own rights. This must be understood as an “on-going and long-term process” (IFBWW, 2004). More than just local commitment, a multiorganizational perspective is needed because of the massive diversity and fragmentation of implementation contexts. Implementation needs to involve various actors simultaneously with very different cultures, even within the same TNC (Fichter and Stevis, 2013).

Conclusion

To implement GFAs more effectively, more workers must become aware that the documents exist. There is no shortage of evidence that workers are willing to organize, take risks, and try to improve their own situation. When more workers know about GFAs, more support for their efforts to organize themselves and demand their rights can be offered.

Additionally, it may be possible to negotiate GFAs directly into some collective agreements. In order to make them ‘stick’ at the local level (Murnighan, 2017). This has occurred in the European textile industry with codes of conduct since 1997 (Weber, 1997). Inclusion of GFAs in collective agreements could offer a route to legal recourse in the case of violations of the negotiated terms.

The GUFs could also negotiate a ‘choice of jurisdiction’ clause into the GFAs that would give recourse to a local court, or labour tribunal. The ILO could even open such a jurisdiction for the administration and settlement of disputes.

In all cases, regardless of where disputes may be heard, the ILO should have what is called ‘persuasive jurisdiction’ for interpretation of the CLS. This is not a legally binding interpretation of the CLS, but it is often used to develop context in various legal systems. A statement to this effect could be included in the GFAs.

Practical use of GFAs provides a solid basis upon which to build further common agendas between trade unionists in different parts of the world in the future. The increasing use of GFAs has brought the role and functions of the GUFs into sharper focus. Effective international coordination to implement IFAs can be as “useful and as hamstrung as the global union federations themselves” (Murnighan, 2017). Historic contradictions and limitations have not disappeared. However, in the context of increasing intensity and extensiveness of the globalization of TNCs the possible contributions of the GUFs have shifted towards more substantive contributions to global coordination and mobilization of affiliated unions. (Fairbrother and Hammer, 2004) In this manner, the GFAs offer one more instrument that can be effectively used to improve the substantive realization of CLS despite dominant trends to the contrary in the present phase of global capitalism.

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