

# **Terrorism, trade and trade unions: Worker struggles in the global South**

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## **Abstract**

The promotion of international labour standards within global production networks is embedded in a “counter-terrorism” discourse, elaborating domestic legal orders and reinforcing coercive militarized state strategies, particularly in the global South. The struggles of Free Trade Zone (FTZ) workers in Sri Lanka illustrates how the neo-liberal competition state merge with the security state in a South Asian setting where international trade laws governing FTZs complement the “counter-terrorism” discourse. In contextualising these struggles, this paper describes the ways in which the security state, while creating consent with dominant unions, targeted and harassed union activists in the FTZs during the 2007 EU-Sri Lanka trade negotiations. Moreover, in locating international labour standards within diverse domestic legal orders reproducing hegemony, it argues for a more critical assessment of the counter terrorism discourse in terms of state violence, as a basis for reorienting trade and reinforcing global labour solidarity.

**Keywords:** trade unions, counter-hegemony, international trade, counter-terrorism, labour internationalism

## **International trade and the security state**

In 2007, a small activist union in the main Katunayeka Free Trade Zone (FTZ), the Free Trade Zone Workers Trade Union (FTZWU), launched a global campaign to reassert labour rights as a condition of extending the European Union’s preferential trade agreements (GSP+) (AFL-CIO 2008). The campaign was another moment of cross border solidarity, driven by activist networks, in the global garment industry. While the main body governing the global trade system, the WTO, has firmly rejected the inclusion of labour rights within trade agreements, some regional or bilateral agreements have begun to include such provisions by expanding non governmental regulatory systems (O’Rourke 2003). Although most Southern governments have

aligned with neo-liberal strategies of the WTO, the IMF and the World Bank, these non governmental regulatory systems also provide a space for building campaigns within global production networks (Hale and Shaw 2001; O'Rourke 2003). Despite the efforts of activist labour networks, the Sri Lankan state, along with the help of dominant party unions, launched a formidable counter-campaign which gained the extension of GSP+ over the 2009-2011 period with the provision for reviewing labour laws.

The counter-terrorism effort of the Sri Lankan state in 2007-8 was a key rationale for extending the EU trade agreement. According to the state, the garment industry was already weakened, owing to the Tsunami in 2004 and the phasing out of the Multi-Fibre Arrangement (MFA) in 2005. The EU is a key market for Sri Lankan exports, particularly garments, and the implementation of GSP+, which enables duty-free status, was seen as a way to make locally produced goods more competitive. The government argued that the loss of GSP will eliminate nearly 270,000 direct jobs and other indirect jobs (SLAEA 2008). In coordination with the Sri Lanka Apparel Exporters Association (SLEA), the main employer association behind the GSP campaign, the competition state mobilised key party unions and the security state to repress labour activists and militant unions.

This paper conceptualises the realm of law within the articulation of hegemonic projects, where “post modern and late capitalist legal regulation” is engaged in “commodifying increasing dimensions of existence” (Cutler 2005:535). The promotion of international labour standards within global production networks relates to changing legal orders that are intertwined with a security state discourse of “counter-terrorism”. In Sri Lanka, the neo-liberal export oriented economy emerged in a context of a rural youth insurrection led by the JVP (*Janatha Vimukthi*

*Peramuna*) in 1971 and incipient Tamil resistance in the North. A neglected dimension in the shift from a Keynesian developmental state to a neo-liberal competitive state is the emergence of a security state restraining democratic tendencies and counter movements from below.

Given that the hegemony is maintained through coercion as well as consent, the international and domestic legal orders are coordinated through hard and soft laws. The competition state based on deregulation illustrates a shift towards privatised legal codes and procedures facilitating international capital accumulation. The extension of private legal orders intertwined with global production chains represents a move from factory-centered state regulation to supply chain and “brand” regulation (O'Rourke 2003).

This shift involving the “outsourcing of regulation” aims to foster a network of regulators involving multiple “stakeholders” along the global production chain (O'Rourke 2003). The post modern condition in law relates to the legal pluralism, discontinuity and permeability of law, where multiple legal orders overlap and intersect in various time and spatial scales (Cutler 2005; Rajgopal 2005). In coordinating capital accumulation based on an uneven international trade system, these legal orders are shaped by specific state strategies mobilising “national interest” grounded in a hegemonic notion of the nation-state. Locating the international labour standards within this frame is aimed at gaining a better understanding of how counter hegemonic struggles are forged both through and against the law. In foregrounding the overlap between counter terrorism laws and international trade, the paper also considers eliminating “regimes of exception” such as FTZs as the basis for reorienting international trade.

### **The security state, nationalism and terrorism**

In Sri Lanka, the launch of neo-liberal competition state strategies was immediately followed by constitutional changes that were geared to eliminate resistance from below. The 1978 constitution based on an executive presidential system gave the president wide-ranging interventionist powers, overriding parliamentary as well as electoral processes (Stokke 1997; Sivanandan 1984; Uyangoda 2007). The centralisation of state power also involved the elimination, marginalisation and silencing of dissent, using both ideological and violent means (Senaratne 1997). In elaborating state capacity for violence, the ruling (United National Party) regime, introduced a key piece of legislation, the *Prevention of Terrorism Act* (PTA) in 1979, which added a new militarised dimension to the state. This legislation institutionalised torture and disappearances while fostering a culture of secrecy and impunity in government (Mallick 1998; Rathnayake, 2000). In effect, the counter-terrorism discourse was already in operation before the militarisation of the ethnic war in 1983. In the post 9/11 global context, the US “war against terrorism” or “national security” policy reinforced the coercive capacities of all states (Panitch 2002; Uyangoda 2009). Certainly, the Sri Lankan state also asserted its coercive capacities by retracting from peace talks and a negotiated political settlement with the LTTE Tigers or *Liberation Tamil Tigers of Eelam*. The ethnic war, which has taken more than 100,000 lives since 1983, has made over a million people refugees, mostly displaced within Sri Lanka and in Southern India (Parker 2009). While the LTTE was militarily defeated in a bloodbath in May 2009, the main structural conditions instigating demands for Tamil cultural justice endure (Parker 2009). More importantly, the military victory emerged in a context of a heavily militarized state, asserting an authoritarian ethno-nationalist notion of nationhood (Uyangoda 2009). Despite the official cessation of war, the

following month (June 2009), the Sri Lankan state renewed Emergency Regulations with the approval of the parliament.

The deployment of counter terrorism laws under notions of “national interest” directly relates to the repression of a range of counter hegemonic movements, including militant trade unions, in the realm of civil society. In the global South, the maintenance of hegemonic competition states depend on the deployment of executive order, in the form of emergency regulations, suspending rudimentary civil and political rights in peripheral liberal democratic constitutions (Jayasuriya 2000). This is particularly the case in South and South East Asia, which depicts a spectrum of authoritarian regimes integrated with global capitalist markets. In 1985, Margaret Thatcher conveyed her alliance with an emerging authoritarian militarised state in Sri Lanka, when she described then president J. R. Jayewardene as

... an elderly, distinguished lawyer of great integrity and someone who peppered his speech, as I am inclined to do, with talk of the ‘rule of law’, not a bad refrain for any politician (Thatcher 1993:503).

However, it was the suspension of the “rule of law” or the “rule *by* law not the rule *of* law”, that that made the law itself a mechanism of political rule (Jayasuriya 2000:5). In terms of hegemonic state strategies, the “regime of exception” remains normalised in places like Singapore and Malaysia, while South Asia, reflect a “new anti-democratic counter-revolution” (Uyangoda 2009). In the US war against Islamist militancy, the emergence of South Asia and West Asia as one of the most militarised regions of the world (SIPIRI 2007), is of special significance for democratic, counter hegemonic movements.

### **“Terrorists” in the FTZs**

In mid August 2007, with increasing tension over the EU trade agreement, leaflets began appearing around factories at the main Katunayake FTZ, under the heading “Don’t get your economy destroyed”. The leaflet was a response to the global campaign led by the FTZWU, which was also known as the Free Trade Zone and General Service Employees Union, and specifically targeted at Anton Marcus, a key trade union leader as well as a civil society activist, who has been a union organiser in the industrial areas around the FTZs since the mid-1970s. The leaflet accused Anton of engaging in “anti-Buddhist” as well as “anti-development” activities. It pointed out that Anton’s activism was undermining the counter-terrorism efforts, or the “peace efforts” of the state, to maintain the unitary state and the urgent need for foreign investment and jobs.

The accusation of “anti-Buddhist”, thus “unpatriotic” practices, directly illustrates the hegemony of Sinhala-Buddhist nationalist politics in a multi-ethnic, multi-religious setting (Jeganathan and Ismail 1994; Uyangoda 2007). The emergence of a Buddhist monks’ political party by 2005, *Jathika Hela Urumaya* (JHU) or the National Heritage Party, promoting a religious kingdom, *Dharma Rajya*, reflect how the state has reinforced ethno-nationalist forces as the basis for strengthening the coercive state (Ganguly 2004). Under the 2005 Rajapakse regime, a coalition led by the SLFP (Sri Lanka Freedom Party), the state created consent with ethno-nationalist forces as well as class politics of the labour movement, by building alliances with the JHU and the JVP, *Janatha Vimukthi Peramuna*, a revolutionary Marxist party grounded in Sinhala nationalism. The ‘traditional’ working class parties, who maintained their historical compromises with the SLFP, also supported the 2005 SLFP-led coalition (Jayawardena 1985), which had also suspended the privatisation policy, appealing to

the JVP and popular discontent over privatisation. While the extremist Sinhala Buddhist groups within ‘civil society’ and para-state forces exercised coercive violence, the competition state also created consent through party subordinated unions.

In September 2007, a month after the leaflet the president of the Joint Apparel Association Forum (JAAF), Ajith Dias, alleged that international campaigns by some unions are threatening the garment industry. This emerged at a National Labour Advisory Council meeting, which is the main tripartite body activated following the defeat of the UNP (United National Party) in 1994. At the meeting, another key trade union leader directly named Anton Marcus as the culprit of these international campaigns. Since Anton had missed this meeting, he later contacted the JAAF president to clarify the matter. In that conversation, Anton was accused of making “harmful” statements during a factory audit as well as at a BBC interview. The employer representative, went further to say that he has complained to the President and that the President will take “suitable” action.

The intimidation of Anton continued into October 2007, when two people posing as officials of the Defence Department came to visit Anton at his union office and demanded that Anton reveal the names of union officials. That same evening, a white van with dark tinted windows was parked outside the office. Noticing three fairly big men on the roadside near the vehicle, Anton, who was leaving with the union treasurer, had a narrow escape that evening. The following day, October 2<sup>nd</sup>, 2007, two people with tinted helmets riding a motor bike without number plates stopped the office van that Anton generally travels and issued death threats. The white van without number plates, which appeared around 2004, was symbol of abductions, disappearances and extra-judicial killings in Sri Lanka. In strategically undermining

dissent and dialogue by the spread fear and terror, the white van phenomenon linked with para-state para-military operations, illustrates an outsourcing of state violence. The interplay between the counter terrorism discourse with state terrorism is central to restraining civil society and militant trade unions. As asserted by a key union of clerical and manufacturing workers.

President Rajapakse has made no mention of it, is that the abductions, murders and robberies by armed gangs that are taking place from week to week in various parts of the country, are also forms of “terrorism”, which his “Security Forces” seem to be powerless or unwilling to prevent. On the other hand, some of their personnel and numerous deserters from those forces are actually engaged in such activities themselves, as is well known. (CMU 2008)

### **Security state and employer violence**

The FTZ union activists are familiar with multiple forms of everyday violence in this legal enclave, where the state and employers are committed to maintaining a union-free “competition” regime. The FTZs depict the discontinuity and permeability of national legal orders, where out sourced regulation of the competition state merge with a security state to normalise and rationalise “regimes of exception”. The FTZs were first launched in 1978, under a special constitutional rearrangement, a year prior to the PTA and other counter terrorism measures. In encouraging transnational capital, the FTZ’s were based on new legal incentives, by way of multiple tax exemptions, as well as preferential access to infrastructure facilities (Rosa 1994; Fernando 1988). The two main FTZs, with over 75,000 workers, are located near the main city of Colombo, with ease of access to transport and financial networks (BOI 2005). In 1992 the “FTZ status” extended to any workplace approved by the state (BOI), further fragmenting labour regimes. In this labour market re-regulation, national labour laws are suspended and unions banned until 1999, when new ‘softer’ laws were introduced

(ICFTU 2006). The workers are not only denied basic labour rights, to freely associate and collectively bargain, but they are also exploited outside the factory, in their daily struggles for subsistence (Rosa 1994).

Labelling union activists as “terrorists” is a common tactic deployed by FTZ employers and managers (ICFTU 2006). The Workers are “discouraged” from unionizing at many levels, from selective recruitment, writing letters to workers’ families, to overt physical violence (Abeysekera 1997; ICFTU 2006; Lynch 2007; ITUC 2008). The FTZ factories often appoint ex-police and military personnel as “Human Resource Managers”, and employers depend on local politicians and state security forces to mobilize private gangs to assault, intimidate and harass workers. There is tight surveillance over workers who are activists, preventing their recruitment by other employers (ICFTU 2006).

As a party independent union, the strength of the FTZWU is based on alliances with other activist unions and civil society networks. The launch of the FTZWU in the early 1980s, began with an alliance or a partnership with a women workers centre, known as the Women’s Centre, which was closely linked with the women’s movement. Beginning with a few hundred members in the initial stages, the FTZWU membership expanded to around 6000 workers in 2006. With FTZ employers not recognizing unions, the enduring financial insecurity of the union also express the insecurities of jobs, rights and lives in the FTZs.

The FTZWU emerged through the historic 1982 Politex strike, which overlapped with political violence and emergency regulations at the time (Jayakody and Goonetilake 1988). The strike leaders were arrested and multiple forms of intimidation and harassment ensued. This early state violence against FTZ workers was magnified during the *Beeshanaya* (terror) period of 1988-91. The JVP insurrection and counter-

insurrection by the state unleashed a period of unprecedented violence across the island (Senaratne 1997). This violence, claiming nearly 60,000 lives, also spread to the FTZs, which included violent killings and “disappearances” of labour activists and workers. Those workers who “disappeared” were often protesting against injustices at work and not necessarily activists (Abeysekera 1997). The disappearances along with the general ‘fear psychosis’ during this period reinforced the power of employers while inscribing a culture of fear around the FTZs. The phenomenon of disappearances, which subsided with the regime change in 1996, re-emerged in 2006 amidst the escalation of the ethnic war.

The 2007 GSP+ campaign revealed the significance of local and trans-local alliances, as well as the limits of dominant unions that compromise with militarised state strategies. The significance of alliances within and outside the nation-state also relates to the FTZWU’s strategic orientation towards movement politics and civil society. The union’s local network includes other trade unions, women’s organisations and activists involved in human rights, women's rights, peace and democracy. The FTZWU’s international alliances illustrate a ‘new’ labour internationalism or global labour solidarity, geared towards campaigns and movement politics. By situating unions beyond formal sector workers, nation-state strategies and party subordination, this bottom up internationalism depends on a range of alternative activist labour networks (Waterman 1998; Lambert 2002). These networks can also activate ‘old’ internationalism in terms of links with Global Union Federations such as International Textile, Garment and Leather Workers Federation (ITGLWF).

During the 2007 GSP+ campaign, it was a combination of these national and transnational networks that were mobilised to resist the hegemonic violence of a militarised ethno-nationalist state, which gained the formal support of most dominant

party unions. The dominant trade unions in Sri Lanka, along with dominant labour internationalism, subordinated within neo-corporatist arrangements, is grounded in separating the “security state” discourse from international labour standards. The main party unions, joined the state agenda by arguing the case for the GSP+ scheme on the basis that it ensures employment, contributes towards reducing poverty and mitigates any bottom up resistance. A key ruling party union, the *Sri Lanka Nidahas Sevaka Sangamaya*, (Sri Lanka Freedom Party - SLFP) expressed these concerns in the following way.

If the GSP+ scheme is not extended, our country will become less competitive in export markets because of our increasing domestic costs. So this could mean that factories may have to cut jobs. The bigger ones will survive, but small factories may even have to close down. So thousands of people, mostly poor and working people, will be affected,” ... “Employment is very important, especially for young people. We know from experience that young people will look for extra legal methods to obtain social justice if they feel deprived (SLAEA 2008)

International trade strategies, even with the security state, continue to reproduce insecure and insufficient jobs with minimum labour rights (ADB 2004; Lynch 2008; ITUC 2008). There is a growing debate over the impact of international trade on women and ecology. The same international trade system was the basis for the 2007-2008 food crisis that forced some Southern governments, including India and Sri Lanka, to enforce import restrictions on food. Women are disproportionately affected by international “free” trade that devalue and homogenise cultures, and that distort economic development, displace communities and increase rural and urban poverty (CAW, 2008). Some women worker activists networks have argued for “unequivocally” rejecting the establishment of FTZs and re-orienting international trade (CAW 2008). Meanwhile, most dominant unions and labour internationalism remain compromised within the hegemonic international trade discourse.

The GSP+ campaign demonstrates how counter-terrorism and trade laws take precedence over soft laws of labour and human rights. Nevertheless, the soft laws also provide a space for re-shaping the international and domestic legal orders maintaining the neo-liberal hegemony. At a domestic level, the neo-liberal security state mobilises “national interest” asserting a hegemonic patriarchal, ethno-nationalist notion of nationhood increasingly grounded in militarism. The complicity of dominant unions with nationalism and militarism is inter-dependent with globalisation (Hensman 2006:31). Reconsidering international trade in terms of articulating counter hegemonic politics reveals how the outsourcing of regulation under a competition state depends on a security state with a discourse of counter terrorism. In maintaining global access to a low cost and compliant labour force, the overlap of the security state with the competition state in the FTZs, reproduces patriarchal and paternalistic cultures of violence subordinating women. The FTZs as a “regime exception” illustrate the gender specific impacts neo-liberal trade policies, which devalue the realm of reproduction while pushing more women into poverty, a process described as the feminisation of poverty (Moser 2001:33). A more critical assessment of state violence, and the complicity of dominant unions, reveals the intersection of counter terrorism discourse with international trade and the challenges of deploying international labour standards for broadening and deepening worker struggles for democracy.

### **Conclusion: terrorism, trade and labour rights**

This paper suggests contextualising international labour standards with the “counter-terrorism” discourse in order to better understand worker struggles under militarised state strategies in the global South. The struggles of Free Trade Zone workers in Sri

Lanka illustrate how the security state in a South Asian context appropriates the “terrorism” discourse to reinforce the neo-liberal competition state while undermining the labour movement. In suspending the “rule of law”, the counter terrorism discourse complements the hard laws of international trade and the competition state, maintaining FTZs as union-free enclaves or “regimes of exception”. The harassment of union activists in the FTZs during the EU trade negotiations not only reveals the significance of trans-local alliances and global activists networks, but also the limits of dominant unions and labour internationalisms. In this context, conceptualising the realm of law incorporating state violence also suggests reorienting international trade as the basis for reinforcing counter hegemonic worker struggles in the global South.

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