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Title:	Dr. Marie-Christine Zeisberg: Proposed solutions for the raw material paradox
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Marie-Christine Zeisberg: There is, from what I found out in my work, very little regulation on commodities under international law. And in general, you can say that international law takes a very, very passive approach when it comes to commodities. And there is an urgent need for action.

Speaker Announcement (under Music): Listen UP. The Podcast of the University of Potsdam

Speaker 1: Today: Proposed solutions for the raw materials paradox. With Marie-Christine Zeisberg.

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Marie-Christine Zeisberg: In my work, I developed six different solution strategies, first developing legal concepts. And following this legal concept, I looked at how easily this is currently politically realizable?

Speaker 2: Commodities and their significance in international law - this is a relatively open, scarcely ordered field of research, says Marie-Christine Zeisberg.

Speaker 1: After studying law at the Humboldt University in Berlin, she earned her doctorate at the University of Potsdam. The young lawyer attracted attention with her dissertation. The work was published by the NOMOS publishing house - and nominated for the "Better World Award" of the University of Potsdam.

Marie-Christine Zeisberg: My doctoral dissertation is entitled "An International Commodity Law for the 21st Century," and in my work I set out to find an international legal framework for the extraction and distribution of commodities.

Speaker 2: For the topic of international commodity law, she decided, ...

Marie-Christine Zeisberg: ... because it reflects exactly what I wanted to achieve with my work - to somehow reflect a global social relevance, to present current problems, to find solutions not only in my small universe or related to Germany, but with a global worldwide relevance.

Speaker 1: According to Marie-Christine Zeisberg, the fair, secure and sustainable distribution of raw materials is one of the most important human tasks of the 21st century.

Speaker 2: With its impact on life, the environment and technical progress, it will help decide the fate of the world's continuously growing population.

Speaker 1: In order to propose a legal framework for the distribution of raw materials, Marie-Christine Zeisberg placed a great deal of emphasis on knowledge transfer during her research - such as exchanges with the Federation of German Industries, or BDI.

Marie-Christine Zeisberg: The transfer of knowledge is important in the sense that this is a very abstract topic. The title says "Raw Material International Law for the 21st Century." This is not a work that can be implemented immediately. Nevertheless, during the work, during the research, I had to look at how it could be implemented. That means that while I was still working, I talked to the BDI, for example. What would be the industry's position on this, are the concepts that I imagine at my desk at home actually feasible in reality?

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SprecherIn 2: First of all, it is important to understand what the characteristics are that distinguish commodities from other commercial products.

Marie-Christine Zeisberg: There are some differences, some special features of raw materials. Firstly, raw materials are considered finite and scarce, which means that we do not have an infinite supply of raw materials. On the other hand, there is an ever-increasing demand for raw materials. On the one hand, due to our population growth, and on the other hand, also due to the constantly increasing economic growth. And then also through our Industrialization 4.0, our technological progress, more and more raw materials are needed. To ensure electromobility for the future, we need many times the amount of raw materials that we currently extract.

Speaker 1: This is one major difference. A second is the extremely uneven geographical distribution of raw materials.

Speaker 2: It is well known that the countries of the global south have significantly larger reserves of raw materials than the industrialized nations.

Marie-Christine Zeisberg: And this is downright paradoxical, since the value creation and thus the actual profit from raw materials take place in the industrialized nations. And you have to keep in mind that the countries of the global South, which have the raw material deposits, bear the social and ecological costs, but do not profit from this wealth of raw materials. And that's another feature, which is the social and environmental costs that need to be focused on much, much more. Because raw material extraction in practice goes hand in hand with significant human rights violations and also dire ecological consequences. And these are, broken down like this, the special features that suggest that raw materials should not be treated like finished products.

Speaker 1: The ecological consequences of resource extraction are well known: Forests are cleared; rivers diverted; bodies of water polluted; entire mountains removed and moonscapes created. The human rights violations extend to slavery.

Speaker 2: The fact that the value creation of raw materials takes place in the industrialized nations, while the countries of the global South bear the social and ecological costs of raw material extraction, is known as the "distribution paradox".

Marie-Christine Zeisberg: The industrialized countries profit from the abundance of raw materials because the countries of the global south only provide the raw materials. The further development of

the finished product takes place in other countries and the other countries, the industrialized nations, can then sell the finished products at much higher prices.

Speaker 1: And also sell them back to the countries of the global south.

Speaker 2: It is the old, colonialist principle that has by no means been overcome by decolonization, says Marie-Christine Zeisberg.

Marie-Christine Zeisberg: No, not at all. I would rather say it was a reinforcing factor to that, because the industrialized nations naturally wanted to hold on to these conditions. The industrialized nations are highly dependent on raw materials from the countries of the global South, and maintaining this imbalance in negotiations, this imbalance in power, is of course, in the interest of the industrialized nations.

Speaker 2: This power imbalance is also reflected in the trade agreements that exist today, which are oriented toward the interests of the industrialized nations.

Marie-Christine Zeisberg: And that's why it's time to give the resource-rich countries guidelines or to strengthen their negotiating position, and there is also the principle of sovereignty over natural resources in international law. It is customary international law, and it grants states sovereignty over the resources that are in their territory. And this principle is not expressed at all in the current economic reality.

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Speaker 1: The non-observance of the "principle of sovereignty over natural resources" also has massive political consequences. In her dissertation, Zeisberg identifies the raw materials issue as the background to most of the armed conflicts of the last 50 years.

Marie-Christine Zeisberg: There are also studies that show that resource-rich countries are often ruled by authoritarian regimes that do not respect human rights or grossly disregard them. And the prime example of this is the Democratic Republic of Congo, which has many raw materials that are crucial for our industry, and which has been plagued by civil wars for decades.

Speaker 2: The example of the Democratic Republic of Congo could also be used to illustrate how the extraction of raw materials is accompanied by human rights violations - for example, in the extraction of cobalt.

Speaker 1: This precious metal, which is extremely important for e-mobility, is mined from the earth's surface in so-called "micro-mining".

Marie-Christine Zeisberg: This means that the extraction of raw materials is very easy. And in practice, the mining of raw materials is carried out by children and there are no hard hats or any standards, labour law standards, but actually the most severe child labour.

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Marie-Christine Zeisberg: My work, as has already become clear, is linked to an urgent appeal for action. We as individuals can also take countermeasures, because you have to consider that our technology for the 21st century, our e-mobility, is based on working methods from the 16th century. And as important as it is that there is e-mobility, that more research is done, you always have to remember. There are raw materials in it. There are raw materials in it that come to us through human rights violations. And we must always bear this in mind in the current debate about e-mobility. If we ask in detail: Where do our raw materials actually come from? Then, of course, the companies also become aware of this. And when they realize that we won't participate in everything, that we won't buy our products where there are serious human rights violations in the supply chain, they naturally have to take countermeasures. And so, for example, with cobalt, Tesla is trying to produce batteries without cobalt, there is an approach. Of course, you then have to switch to other raw materials, but something like that in products or initiatives have to be promoted. As consumers, we have to shine the spotlight on this. And that's why this is a call to action for everyone to proceed with caution.

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Speaker 1: But what would a more sustainable, equitable global resource management look like?

Speaker 2: In her doctoral thesis, Marie-Christine Zeisberg developed six solution strategies - based on the interests of the raw material-producing and the raw material-demanding states.

Marie-Christine Zeisberg: And all of this, of course, is not detached from the actual circumstances, but how it could currently be legally implemented, these ideal solution strategies for the individual interests. And then I played with two other ideas, first multilateral agreements and commodity cartels. To be clear, none of this is currently politically feasible. That's why, in my last strategy, I went into the proposed solution that I think can be implemented most easily, with reservations. And that is an extension of the GATT, i.e. the General Agreement on Tariffs and Trade within the WTO. And there I propose a new raw materials part, a new raw materials chapter.

Speaker 1: The GATT - that is the "General Agreement on Tariffs and Trade" of the World Trade Organization. In this agreement, raw materials and finished trade products have so far been treated equally.

Marie-Christine Zeisberg: And it has to be said that the GATT is not designed to include commodities at all, even from the historical point of view. The GATT goes back to the Havana Charter of 1948, and the Havana Charter provided for a separate chapter on raw materials. So it was commodities were treated differently than the other goods. The commodity part was not included in the GATT of 1947. The GATT 1947 was supposed to enter into force only provisionally and for various reasons the commodity part was not included.

Marie-Christine Zeisberg: But the gap remains, of course. Raw materials should not be regulated like the other goods. And this gap I would like to now close.

Speaker 2: In the raw materials chapter she drafted for the GATT, the first priority is the sovereignty of resource-rich states, as well as the broadest possible definition of raw materials. Building on this, she included social and ecological standards.

Marie-Christine Zeisberg: And the whole thing, as I said, is of course supposed to be politically feasible, which presents itself as a compromise. And the first instinct is, naturally, to include human rights in a big way. But not all WTO member states have signed the UN Convention on Human Rights. To include human rights in the raw materials section through the back door would naturally provoke great protests and ultimately lead to the failure of this project. That is why I have limited myself to including labour protection standards in quotation marks. These are already recognized as a minimum standard under international law. And these social and environmental standards, which must be observed, are then intended to counteract the social and environmental costs that we have already discussed.

Speaker 2: Another important point is investment protection regulations. This is because the extraction of raw materials is very capital-intensive and generally not affordable for resource-rich countries.

Marie-Christine Zeisberg: This means that they are dependent on the companies that extract these raw materials. Of course, these companies also want to be protected. They throw a lot of money into the pot and in the past they were expropriated. In other words, they were no longer able to extract their raw materials, and now, of course, they are protecting themselves against this. And that's where regulations have to be found, or rather I have worked out regulations to reflect both interests and to lead to a careful balance.

Speaker 1: This compensation can work, for example, by obliging resource-producing companies to involve the local population - for example, by requiring the use of local personnel and suppliers.

Speaker 2: This can prevent the emergence of enclaves in which only people from industrialized countries work.

Marie-Christine Zeisberg: Exactly. This means that the companies come with their technical know-how, with their machines and with their manpower and do this independently of the local population. The local population then bears the social and ecological costs, but is not included in these projects and does not benefit from the outcome, and this must of course be counteracted. And as a second step, of course, is how a knowledge transfer can take place so that the local population itself can extract raw materials, can produce raw materials and, ideally, can also develop its own downstream industry and is therefore no longer dependent on the pure trade in raw materials, but has its own downstream industry.

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Speaker 2: The big question is: Could a commodity international law, as drafted by Marie-Christine Zeisberg, herald the end of this dependence of developing countries on industrialized countries?

Marie-Christine Zeisberg: I hope so. But, of course, a lot has to happen, and it's not a change that happens overnight. It will take decades before we see a noticeable difference. But the system as we have it now does not work. It does not serve our interests, all interests. Neither the resource-rich countries nor the countries that demand raw materials. That means that a change has to happen, and the global economic system that we currently have does not work.

Speaker 2: According to Zeisberg, the dysfunctionality of our global economic system is due to the rejection of WTO law and its multilateral agreements. Instead, bilateral agreements are being concluded at will.

Marie-Christine Zeisberg: That is, individual states are trying to protect their own interests or to act only in the interests of their own states and no longer in the interests of the world population. And thereby, of course, only short-term interests are satisfied, now to have as many raw materials as possible as quickly as possible.

Speaker 1: Unfortunately, sustainability aspects and respect for human rights play a subordinate role.

Marie-Christine Zeisberg: China in particular, which extensively concludes bilateral raw materials agreements in Africa, in various African states, secures its own interests, says: Human rights are a matter for the nation states. We go into the countries, mine the raw materials, bring the raw materials to us, produce them further, develop them further. But human rights in the resource-rich states are none of our business. If the nation states don't protect human rights enough, we don't get involved at all. And that is a view that is completely contrary, as a rule, to our more Western views. And uniform regulations must be created. It's also a competitive difference, that's what I heard at the Federation of German Industries, if, for example, the supply chain law now "forces" us to observe human rights, to put it mildly, it's a competitive disadvantage, because how are we supposed to ensure that? How are we supposed to manage that financially if other countries like China don't have to take that into account, that's a very big competitive disadvantage. In some cases, companies withdraw from certain countries, such as the DRC in the Congo, because human rights cannot be guaranteed there. And this must be counteracted.

Speaker 1: A dissertation that is nothing less than a guide to action for the World Trade Organization (WTO) is naturally a challenge in terms of knowledge transfer.

Speaker 2: Will it be possible to get a foot in the door at the WTO ministerial conference - the body that would be empowered to include a new commodities chapter in the GATT?

Speaker 1: And what other concrete steps would be useful?

Marie-Christine Zeisberg: My concrete steps currently relate to national frameworks. To create awareness among other researchers, other lawyers for the topic. And I have to say, in the last four years, and this is now detached from my work, there has been a significant emergence of new publications in the field. When I started doing research in the area in 2017, there was very, very little current literature. Most of it was from the '70s and '80s. And now, in the meantime, I continue to follow it, of course, there are many more publications in this area. That is, the interest is already more there, more is coming out and as soon as more is published, a focus is put on this problem, of course it turns to politics. For me as an individual, it's not so easy to go to the WTO. And you also have to say, Trump, of course, has greatly weakened the WTO. The WTO is not at its zenith right now. That means it won't be possible to come up with a new raw materials chapter any time soon. That has to be said quite clearly, so don't get your hopes up. Nevertheless, I think that because the problems are there, because these problems have to be overcome, it will come up at some point and sooner than you can probably imagine. And then these solution concepts are there. Then a concept is developed for how to deal with the problem. But as is generally the case in politics, problems are usually tackled when it's

too late, namely when there are already problems. And then to take measures is always accompanied by harsher cuts than if you had developed it in advance.

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