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CORE LABOR STANDARDS AND THE MULTILATERAL TRADING SYSTEM: DO POOR COUNTRIES AND THEIR WORKERS GAIN FROM A LINKAGE BETWEEN LABOR STANDARDS AND THE WTO?

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Labor standards are a focus of attention not only for workers, firms and policymakers in developing countries, but also for increasing numbers of labor activists, economists, and others interested in international development. Commentators often assert that labor standards can be used to alleviate poverty and that the development community should agree on a universal set of global, enforceable labor standards in order to promote development. The purpose of this article is to investigate whether incorporating international labor standards into the multilateral trading system can effectively improve worker welfare in poor countries. The article reviews the theoretical and empirical literature related to this subject and scrutinizes the discourse surrounding it. The article concludes that stronger international enforcement of labor standards has the potential to improve worker welfare in certain cases. Nevertheless, linking this enforcement to the dispute settlement system of the World Trade Organization may harm workers in poor countries because it will likely result in rich countries' imposition of new protectionist trade policies.

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INTRODUCTION

Poverty remains the reality for one fifth of the world's population. More than 1 billion people subsist on less than one dollar a day and approximately 2.7 billion survive on less than twice that amount (World Bank 2006). An estimated 600 million children live in absolute poverty, of which more than 10 million die of hunger and preventable diseases every year (*The Observer* 2005). Poverty is a burning issue which rightfully has been given great attention in both academic discourse and the popular media.

Labor conditions and standards are an important aspect of poverty alleviation because people who live in poverty do not generally own significant amounts of land or capital that can be sold or invested; their only tradable resource is labor. This labor is sold to firms that use it as an input factor in the production process. In essence, therefore, the welfare and happiness of workers without land or capital depends to a large extent on their working conditions. Labor standards that can help to improve working conditions are consequently central to the successful alleviation of poverty (Martin and Maskus 2001). This is something upon which most scholars and activists agree. However, the real question is how to best improve labor conditions in poor countries.

Historically, most democratic nations have tried to find global solutions to "global" problems, or rather problems caused by globalization. Examples include the creation of the United Nations (UN) after World War II and the later establishment of the European Coal and Steel Community, which laid the foundation for the European Union. By the same token, the predecessor of the World Trade Organization (WTO), the General Agreement on Tariffs and Trade (GATT), was established in 1947 both to facilitate international trade and to enable member countries to address the challenges of economic globalization within a multilateral and legal framework. Nevertheless, while labor conditions are tied to globalization through international trade and capital movements, existing multilateral agreements on labor regulations are weak. In essence, labor regulations remain a national matter.

This national structure ignores the link between labor standards and global poverty. The absence of international labor regulations has been argued to worsen poverty in poor countries. In an open and interdependent world, firms in both developing and developed countries compete in the world market by keeping production costs and overall factor input prices down. As previously mentioned, labor is the primary factor of production in poor countries that are relatively capital-scarce. Assuming high labor standards cannot be implemented and maintained without certain costs to the firms, this implies that firms in the developing world have strong incentives to keep labor standards as low as possible. This minimizes production costs, which then helps firms compete on international markets. Furthermore, assuming that it is possible for countries to achieve competitive advantage by having low labor standards, this catalyzes a "race to the bottom" in national labor regulations. Many labor activists therefore argue that international labor standards are needed to prevent a global deterioration of labor conditions.

International rules and regulations, however, are seldom effective without a powerful enforcement mechanism. In light of this fact and of the issues raised above, supporters of a strong set of international labor regulations also advocate for a strong enforcement mechanism.

Since labor standards can be tied to international trade and since the WTO enforcement mechanism is unique in multilateral settings, many of these supporters believe that questions of labor rights and labor regulations should be addressed as part of the multilateral trading system.

This paper investigates the issue of labor standards and their possible effects on the welfare and standards of living of workers in poor countries, with the purpose of determining whether there is a legitimate and effective way to incorporate universal labor standards into the multilateral trading system. By reviewing the theoretical and empirical literature on this subject and the underlying theories behind both sides of the argument, the paper addresses one main question: *Will workers in poor countries gain from linking labor standards to the international trading system?* In order to answer this question appropriately, the paper also addresses the following questions: (1) What is the source of “inadequate” labor standards? (2) Do high labor standards improve worker welfare in poor countries? and (3) Do low labor standards in fact provide countries with a competitive advantage?

This article is organized as follows. First, the historical context of labor standards is investigated, beginning with the industrial revolution and the birth of economic globalization. The role of the International Labor Organization (ILO) in creating international core labor standards is then addressed. Third, relevant international labor treaties are reviewed, together with the main arguments for and against linking labor standards to the multilateral trading system. This approach identifies the reasons for developing nations’ generally skeptical view of international labor regulations. Finally, ideas of where labor standards belong on the international trade agenda are presented.

HISTORICAL CONTEXT OF NATIONAL AND INTERNATIONAL LABOR RIGHTS

The concept of regulating labor markets by implementing labor standards is almost as old as industrial manufacturing itself. When the Industrial Revolution took place in Great Britain in the late 18th and early 19th centuries, workers moved from farms to factories as farms’ manual labor was replaced by machinery. Working conditions in these factories were often far worse than those in the agricultural sector. Further, these working conditions were out of workers’ own control, which was different from the pre-industrialized situation. What was seen as inadequate labor conditions resulted in a growing dissatisfaction among factory workers, causing social activists to start advocating for labor protection (Brown et. al 2002).

As social activists and workers demanded government intervention, debate soon arose over whether government had a right to interfere with workers’ free choice. After all, some claimed, the workers had “voted with their feet” in favor of existing labor conditions by leaving the farm and moving to the city and into the factory. In this sense, it was not only factory owners and firms that opposed government intervention, but some workers as well. This is why initial labor legislation only corrected the conditions that most people—workers and citizens alike—found to be extreme, such as unreasonably long workdays and child labor (Brown 2001, 90). The birth of national labor standards is on a general level marked by Germany’s introduction of compulsory health insurance and old-age pensions in the 1880s and on a specific level marked by the passing of the English Factory Act of 1902 (Huberman 2002, 4).

The international labor agenda—which culminated in the ILO’s 1919 creation—emerged for moral, political, and economic reasons. A primary reason that workers in England had advocated for government intervention was that they felt incapable of changing their labor conditions in local factories. Two decades after England’s first factory act, however, labor conditions were still inadequate in both Great Britain and in other industrialized countries. Thus, the humanitarian aspect of worker rights was heavily emphasized when the ILO was created. The political reasoning for worker rights emphasized the concern that workers would rebel against capitalism if they were exploited by inadequate labor conditions. This possibility was particularly feared by Western nations after Russia experienced its socialist revolution in 1917. Finally, the economic reasons behind the creation of the ILO were tied to the promotion of economic integration and globalization. European nations in particular were eager to restore the relatively open economic climate that had existed prior to World War I, but were at the same time concerned that social welfare would be hurt if labor standards were not protected across borders.¹

The push for international standards was further justified under the banner of “fair competition” in the wake of the increasingly interdependent post-war world (Alston 2006, 8). There was concern that countries would use inadequate labor standards as instruments to improve their competitiveness in international markets (Brown 2001). As a result, the international labor rights agenda became important with regard to trade policy as well. With the creation of the ILO after World War I, the previous national labor rights agenda therefore broadened considerably. Social activists in newly industrialized European countries had started their struggle with a relatively narrow goal in mind—to improve labor conditions in factories—and based their advocacy mainly on humanitarian arguments. After the creation of the ILO, the labor rights agenda involved not only humanitarian aspects, but political, economic and peace-promoting components as well.

Despite significant political will, there was little success in establishing a rigorous set of international labor standards that could be enforced on a supranational level. Not even the Bolshevik revolution and more social unrest in many of the European countries could create the momentum necessary to establish the set of international labor standards that were promoted by the ILO. An important contributor to this lack of success was the gap between the ILO’s ambitions and governments’ willingness to address or even accept criticisms. The United States, for example, which by that time had turned into a major industrial player, refused to join the ILO until 1934, when peace in Europe again was threatened.

The labor agenda status quo remained until the end of World War II, after which the basic motivating issues of the international labor agenda again became relevant because social and political unrest had contributed to Hitler’s rise to power in Germany. The ILO began to place more emphasis on the humanitarian aspect of adequate labor conditions, strategically moving labor standards into the human rights frame that was ultimately created by the United Nations Universal Declaration of Human Rights.

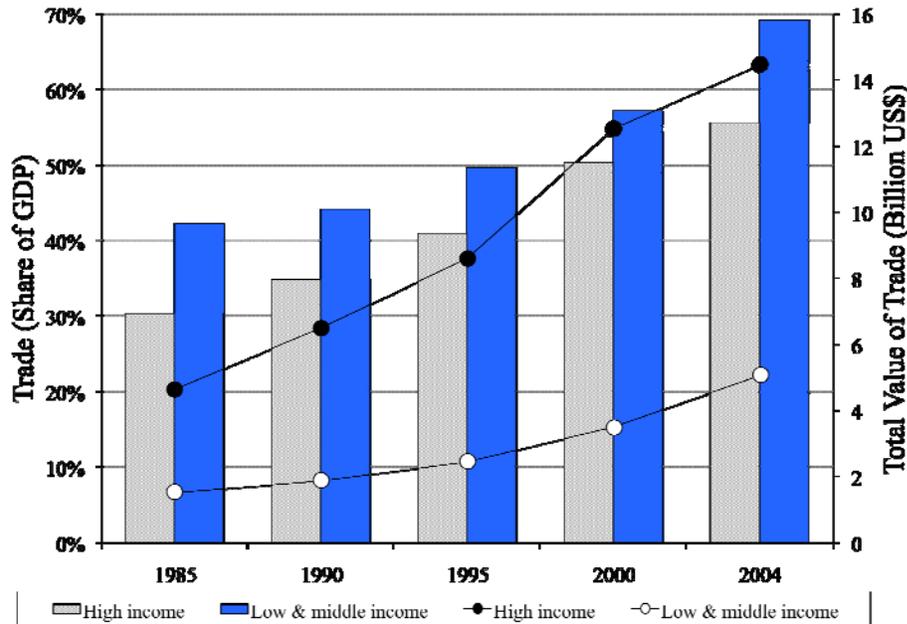
During the 1980s, following two decades in which labor standards were given great attention in international discourse, the collapse of the USSR again changed the rationale for having an international agenda on labor rights. The main threat to capitalism no longer existed,

which undermined the political motivation for labor rights promotion on a supranational level. Many Western nations had supported multilateral efforts to create an international set of labor standards because the Soviet Union opposed this idea; the prime targets of the ILO and of labor activists in the West had not been Western factory owners or governments, but rather the Communist regimes that were less concerned with improving labor conditions due to their “Big Push” industrialization strategy.

REVITALIZATION OF THE INTERNATIONAL LABOR RIGHTS AGENDA: THE FORMATION OF THE CORE LABOR STANDARDS

When the Berlin Wall came down and the Cold War came to an end, the ILO lost its main target of criticism. The organization struggled to justify its existence in a world where capitalism was expected by many to solve the problems of inadequate labor conditions via the process of economic growth and income convergence. Also, it became less strategically appealing for Western governments to argue for international labor standards because countries with insufficient labor standards were generally pursuing a neo-liberal agenda (Alston 2006). Therefore, pressure from rich-country governments to enforce higher labor rights standards weakened considerably during the 1990s. Transitional countries were told not to include labor standards in their constitutions since they were perceived to undermine private initiative. In particular, even though Western nations had criticized Communist regimes for inadequate labor standards, Western nations told several post-Communist nations that recognizing labor rights in the new, post-Communist constitutions would “pose especially severe risks” since the rights “could work against general current efforts to diminish the sense of entitlement to state protection and to encourage individual initiative” (Sunstein 1993, 35).

As the will of governments to strengthen the international labor rights agenda weakened considerably in the late 1980s and early 1990s, international economic globalization gained speed as nations significantly liberalized their national trade regimes. For example, the tariff rates of the so-called “post-1980s globalizers,” which includes countries like Argentina, Brazil, China, and India, fell from a 1980s trade-weighted average of 57.6 percent to a 1990s average of 34.7 percent (Dollar and Kraay 2004, F32). This increasingly open, global economic climate led to rapid growth in international trade. Foreign trade’s share of total world gross domestic product increased from 30 percent in 1985 to over 55 percent in 2004. For developing countries, trade now represents close to 70 percent of GDP on average.

Figure 1. The Global Expansion of Trade.

Source: World Bank, World Development Indicators.

The fast growth in cross-country trade and globalization meant that economic market reforms were implemented with increasing speed as well. The potential negative social effects of globalization were given less attention, however, and social reforms lagged behind economic reforms at the government level. This discrepancy between economic reforms and social reforms came to revitalize the international labor rights agenda, due not to the initiatives of public officials or government organizations but to the non-governmental organizations (NGOs) and grassroots movements that became more engaged in labor rights issues in the 1990s. Specific NGOs were formed to respond to the perceived lack of attention that governments paid to this serious issue. For example, a conviction that adequate labor rights are intrinsically related to human rights, together with the lack of attention given to these issues by rich country governments, prompted several large anti-sweatshop campaigns in the mid-to-late 1990s.

Civil society's increasing pressure on governments to mitigate globalization's negative impacts on social welfare ultimately resulted in the formation of the ILO's "Core Labor Standards" (CLS). This was done by the 1998 adoption of the ILO's Declaration on Fundamental Principles and Rights at Work, which transformed the earlier, fragmented set of ILO conventions into a soft law instrument. Eight fundamental ILO conventions on labor standards make up the CLS, which has the goal of securing four basic labor rights: (1) freedom of association and the right to collective bargaining; (2) elimination of forced and compulsory labor; (3) elimination of child labor; and (4) elimination of employment discrimination.

Table 1. The Fundamental ILO Labor Rights Principles and Conventions.

Principle	Convention
1	Freedom of association and effective recognition of the right to collective bargaining 87 <i>Freedom of Association and Protection of the Right to Organize Convention, 1948</i> 98 <i>Right to Organize and Collective Bargaining Convention, 1949</i>
2	Elimination of all forms of forced or compulsory labor 29 <i>Forced Labor Convention, 1930</i> 105 <i>Abolition of Forced Labor Convention, 1957</i>
3	Effective abolition of child labor 138 <i>Minimum Age Convention, 1973</i> 182 <i>Worst Forms of Child Labor Convention, 1999</i>
4	Elimination of discrimination in respect of employment and occupation 100 <i>Equal Remuneration Convention, 1951</i> 111 <i>Discrimination (Employment and Occupation) Convention, 1958</i>

Source: OECD (2000, p. 20).

Today countries indicate their acceptance of a certain core labor standard by ratifying the relevant ILO convention. When a country ratifies a convention, the ILO expects that country to domestically enforce the standards covered by the convention. The ILO secretariat reports annually to the ILO Governing Body on the progress of and prospects for convention ratification in various countries.

There are major differences in the number of conventions that individual countries have ratified. As shown in Table 2 below, some countries have ratified only one or two conventions and others have ratified all. The overall trend towards CLS ratification is nevertheless clearly positive, as the number of ratifications increased considerably between 1995 and 2005.

Table 2. Number of Country Ratifications of Fundamental Labor Conventions over Time.

	1960	1970	1980	1990	1995	2000	2005	2007
Convention 87	53	53	90	96	114	135	144	148
Convention 98	45	45	104	110	127	149	154	158
Convention 29	72	72	118	125	139	157	168	172
Convention 105	37	37	103	107	114	152	163	168
Convention 100	32	32	95	109	126	150	162	164
Convention 111	15	15	93	106	122	146	163	166
Convention 138			22	39	48	105	142	150
Convention 182						57	157	165

Source: ILOLEX (2008) and author's own calculations.

Note: Countries that ratified a convention but later denounced it are not included in the calculations, although this was only the case for two countries.

Looking at the number of conventions ratified by various member countries, it is difficult to explain the sometimes large differences in the number of conventions ratified. Generally speaking across regions, Europe has ratified the largest number of conventions. There is no robust empirical evidence, however, that tries to explain the link between specific country characteristics and the number of conventions ratified. The number of ratified conventions varies

with geography, income level and other factors. Furthermore, since ratification does not necessarily imply strict enforcement of the convention in question, it is not correct to proxy ratification with an actual labor standard being fulfilled.

Table 3. Country Ratifications as Share of Total ILO Members over Time.

	1960 (97 members)		1980 (144 members)		1990 (152 members)	
	Share of Members	Conventions Ratified	Share of Members	Conventions Ratified	Share of Members	Conventions Ratified
Convention 87	55%	53	63%	90	63%	96
Convention 98	46%	45	72%	104	72%	110
Convention 29	74%	72	82%	118	82%	125
Convention 105	38%	37	72%	103	70%	107
Convention 100	33%	32	66%	95	72%	109
Convention 111	15%	15	65%	93	70%	106
Convention 138			15%	22	26%	39
Convention 182						

	1995 (172 members)		2000 (175 members)		2007 (181 members)	
	Share of Members	Conventions Ratified	Share of Members	Conventions Ratified	Share of Members	Conventions Ratified
Convention 87	66%	114	77%	135	82%	148
Convention 98	74%	127	85%	149	87%	158
Convention 29	81%	139	90%	157	95%	172
Convention 105	66%	114	87%	152	93%	168
Convention 100	73%	126	86%	150	91%	164
Convention 111	71%	122	83%	146	92%	166
Convention 138	28%	48	60%	105	83%	150
Convention 182			33%	57	91%	165

Source: ILOLEX (2008) and author's own calculations.

CONCEPTUAL FRAMEWORK

This section focuses on the main arguments of the two opposing sides in this debate. As the arguments carried out in favor of and against a linkage often rest on completely different conceptual frameworks, it is important to first elucidate these fundamentally different views of the world. It is also helpful to acknowledge these differences when discussing the practical aspects of implementation.

Arguments For Linking Labor Standards to the WTO

Arguments in favor of linking the CLS and the multilateral trading system are generally based on the conviction that labor standards can be an effective poverty alleviation strategy. The fact that labor standards are associated with trade might justify the link on a basic level, but the idea that labor standards can alleviate poverty is usually at the core of the argument. It should be noted that the objective of poverty alleviation in this argument goes beyond improving the general welfare of workers exposed to poor labor standards, a goal emphasized by the humanitarian approach. In addition to a broad welfare improvement, supporters argue that wages of workers in

poor countries would improve due to higher labor standards because these standards may reduce the supply of labor in low-standard countries. Labor standards that prohibit children or adolescents from working, or limit the total number of hours one can work, would decrease the labor supply in affected sectors. If regulations focus on the tradable sector, then the terms of trade of countries would improve as a result of higher prices of labor-intensive goods. Since most poor countries are labor abundant and export labor-intensive goods, it can be argued from a theoretical perspective that imposing international labor standards would benefit workers and possibly poor countries as a whole (see e.g., Brown et. al 1996).

This perspective is influenced by the idea that inadequate labor standards—including disproportionately low wages—are the product of asymmetric power relations between labor and capital. In a perfect market, wages meet the conditions of work and workers are fully compensated for the risk and discomfort induced by existing working conditions. However, advocates of stronger enforcement of labor standards within the multilateral trading system generally assert that workers in poor countries are not appropriately compensated for the conditions to which they are exposed. In particular, it is often claimed that capitalists and governments in developing countries want to keep labor standards low in order to increase firm profits and the country's overall global competitiveness; these imposed standards therefore do not correctly link wages, welfare and productivity. If this analysis is correct, the situation could be remedied by forcing such countries to make their labor regulations "adequate" as to raise overall labor conditions for workers. This would force firms who do not compensate workers for bad labor conditions either to raise wages or improve working conditions. Thus, supranationally enforcing adequate labor standards could overcome political economy problems, improve worker welfare, and alleviate poverty over time (OECD 2000, 14).

In characterizing the main supporting arguments of labor activists, it is also important to point out that another issue often raised in this context is the assertion that multinational corporations are part of a system that maintains low labor standards in poor countries. The idea here is not so much that developing countries inherently like low labor standards, but that multinational corporations from rich countries demand non-stringent labor regulations in poor countries in order to minimize costs and maximize profit. In other words, multinational corporations from developed countries "export" poor labor standards in order to make imports in the West cheaper. This idea is consistent with the conceptual framework outlining political economy factors—such as asymmetric power relations between poor and rich countries—as the main reason why labor standards in developing countries are not more like those in the developed world.

Arguments Against Linking Labor Standards to the WTO

Most arguments against linking the multilateral trading system and labor standards are based on a neoclassical economics conceptual framework. These arguments are, in general, less critical about the process through which existing labor conditions and wages have been determined. Implicit in this view of the world is that workers receive compensation based on their marginal contribution to the value of output. Any additional risk or discomfort induced by the labor conditions is reflected in the compensation received by workers. Further, it is assumed that trade is determined by comparative advantage and that each country specializes in producing what they in relative terms do most efficiently. Consequently, the arguments against supranational

enforcement of core labor standards through the WTO legal framework are usually framed in a wider context of production theory. It is generally not disputed that labor conditions in many poor countries are inadequate by Western standards. However, opponents argue that assessing working conditions in poor countries against developed-country working conditions is not relevant. What matters is the achieved level of economic development, which ultimately is determined by labor productivity. Following this analysis, it is clear that labor standards cannot be considered the most appropriate or effective tool to alleviate poverty because standards do not target the source of the problem: productivity. Also, it is claimed that the cost of production will increase if higher labor standards are enforced exogenously. This will force some firms out of business, hurting economic growth and worsening poverty (see e.g., Krueger 1996).

As for the question of whether labor standards are undermined by multinational corporations, most economists and opponents of linking labor standards to the multilateral trading system fundamentally disagree with the basic assertion that multinationals set out to “exploit” workers in the developing world. Empirical evidence suggests that workers employed by multinationals in developing countries earn more than they would in alternative employment (e.g., Glewwe 2000, Panos 1999, Lukacs 2000, Brown et. al 2002). Moreover, opponents of a linkage often disagree with the notion that labor standards can be raised by supranational means without major disruptions in employment levels, since the underlying assumption is that developing country exports are sensitive to increases in production costs.

THE ISSUE OF ENFORCEMENT

The power to settle disputes supranationally, with binding authority, is a characteristic that distinguishes the WTO from other international organizations and from its predecessor, the GATT. While the GATT contained a procedure to settle disputes, this procedure was much weaker than the WTO’s “Dispute Settlement Mechanism” (DSM). GATT rulings were easy to block and were not subject to fixed timetables, which meant that the disputes could continue for long periods of time without any conclusion. It was problems like these that often caused GATT disputes to be settled by informal negotiations between trade ambassadors—using a “diplomatic” approach—rather than through the legal mechanism. Member countries therefore had little faith in the dispute settlement system. For a period during the 1960s, not a single dispute was brought up within the procedural framework.

Nevertheless, when discussions over necessary reforms were initiated, the United States and the European Community (EC) opposed a move towards legalism in the existing dispute settlement system. The U.S. and EC members had special interests in defending the status quo. Europe, for example, wanted to keep protecting its agricultural sector using trade policy instruments and therefore opposed any mechanism that could threaten its ability to do so. As a result, the diplomatic approach continued to be used until the 1980s, when the number of complaints and panel appointments increased dramatically. At this point, support for the diplomatic approach significantly deteriorated. The United States, in particular, began to criticize GATT’s lack of enforcement power because the country believed its important trading partners engaged in unfair and protectionist trade policies. In response to the increased U.S.

dissatisfaction with the GATT, other countries began to fear an increase in unilateral actions by large countries like the United States (Srinivasan 2005).

The growing problems of the GATT dispute system were at the center of discussion during the Uruguay Round, after which a new and more structured dispute resolution framework (the WTO's DSM) was created and put into place. A principal feature of the DSM is its clear procedural stages and its incorporation of rules that minimize countries' chances of blocking majority rulings. The preceding system, which had required consensus for any ruling to be accepted, was revised to a system in which consensus was instead necessary for a ruling to be blocked. Another distinctive quality of the DSM is its emphasis on swift settlement; it states that no procedure should take longer than 15 months. Even though the DSM is not a conventional legal system and has no third party to enforce its decisions, it provides a unique multilateral enforcement mechanism.

The ILO, on the other hand, has no meaningful enforcement mechanism. While it enjoys significant worldwide recognition due to its relatively long history, extensive knowledge of labor regulations, and record of successfully pressuring certain members to improve labor conditions, the ILO cannot directly affect members' compliance with the CLS (Moran 2004). Instead, the CLS publishes reports on the implementation and enforcement of relevant conventions in order to inform all members about possible convention violations.

In light of the WTO's ability to supranationally enforce standards, therefore, it is not surprising that people who see labor standards as an effective strategy to alleviate poverty want to see CLS incorporated into the WTO legal system. Proponents of a link between CLS and the WTO assert that the cost of CLS noncompliance is too low since the ILO lacks an effective enforcement mechanism, which is why some countries fail to improve their labor conditions. Proponents also argue that the threat of tariffs or other trade restrictions could increase CLS compliance and therefore also improve labor standards and worker welfare (Brown et. al 2002).

A major problem with forcing countries to comply with the CLS through the multilateral trading system, however, is that it is difficult to determine whether labor conditions in poor countries are kept artificially low due to political economy factors or if they are low due to other economy-wide reasons. Furthermore, the DSM, unlike a national legal system, lacks a third party in charge of enforcement and collecting potential penalty fees. The plaintiff, which looking at the history of the WTO since 1994 generally means large developed countries like the United States and the EU countries, instead takes on this role. Consequently, if CLS are brought into the DSM and the WTO jurisdiction, rich countries may use labor standards to justify certain protectionist trade policies. This means that developed countries could initiate labor standards proceedings in order to impose tariffs or other trade restrictions on labor-intensive goods, which would improve developed-country terms of trade at the expense of developing countries. Critics of a linkage between CLS and the WTO often claim that the risk of labor standards being exploited for protectionist purposes is relatively high.

STANDARDS AS A PRISONER'S DILEMMA

As we have seen, the frame in which labor standards are often placed rests on the idea that some developing countries use low labor standards as a “means of generating artificially low wages and augmenting the natural comparative advantage that low-wage countries have in labor-intensive goods” (Martin and Maskus 2001, 318). This fear was articulated in the original ILO constitution as well. It should be noted that labor activists often have a different take on this basic justification for international labor standards; while generally agreeing on the idea that low labor standards give some countries an unfair export advantage, labor activists usually frame the issue as being more about worker solidarity across borders.

Although it might be socially beneficial for all countries to support labor reform that improves working conditions and overall worker welfare, this may not happen because countries also have a strong incentive to enhance competitiveness by keeping labor standards low. This constitutes a classic “prisoner’s dilemma” and, if true, would ultimately lead to a “race to the bottom” in labor standards. Labor unions in rich countries often express a fear that the competition from poor countries with low labor standards is unfair and that there is a need for “leveling the playing field” via stronger enforcement.

One way of escaping this prisoner’s dilemma, which arguably traps countries in a situation where social reforms are not initiated because of the burden to export competitiveness, is to make labor standards mandatory for all countries. A strong set of universal labor standards enforceable through the multilateral trading system could provide such a solution. This question alludes to the other side of the argument: that labor standards do not significantly affect trade competitiveness and thus that the lack of enforceable supranational laws does not result in a prisoner’s dilemma.

Several studies have empirically assessed how labor standards impact trade competitiveness. If the theory of a prisoner’s dilemma, which keeps labor standards low and in the long run might lead to a worldwide race to the bottom in labor standards, is true—in line with the “social dumping” theory—then the global competitiveness of countries who enforce CLS would deteriorate. A study carried out by the Organization for Economic Cooperation and Development in 1996 focused on investigating this potential relationship. In particular, the study set out to quantify CLS’s export effect on countries that have embraced its freedom of association and collective bargaining clauses. The results did not suggest that implementing and enforcing these conventions were significantly related to a lowering of export performance from 1980 to 1990. Other studies have found the opposite to be true (Mah 1997, Busse 2002), and alternative theories indicating that low labor standards could worsen trade competitiveness further complicate the debate (Rodrik 1996). The mixed empirical evidence makes it difficult to determine how the implementation and strong enforceability of CLS would affect trade competitiveness. Additionally, most studies focus on correlation between CLS and trade competitiveness, rather than directly assess whether a causal relationship exists between the two variables.

CONCLUSION

A consequentialist perspective is more useful than a rights perspective.

The purpose of this paper has been to investigate whether there is a legitimate and effective way to incorporate labor standards into the multilateral trading system. To clarify the discourse it is vital to first address the reasons for and potential consequences of stronger labor-standard enforcement within a multilateral framework. Regarding the claim that labor standards are utterly tied to human rights, one basic take-away from the analysis should be that a moral perspective in itself brings little value to the discussion about whether it is a good idea for workers in poor countries to put labor standards on the trading agenda. Approaching this issue from a rights perspective is likely to make the rights themselves more important than alleviating poverty and enhancing workers' long-term welfare and does not seem to take into account the situation in many poor countries today. In many developing countries, for example, working children contribute to household income and determine whether the household will earn enough to feed all its members. To forbid the child to work and add to the family income might in fact worsen the household's standard of living. The child could thus be left relatively worse off. In light of this, it can be argued that the deontological approach in regard to labor standards should be given less weight in favor of a consequentialist perspective. This means that the potential outcomes on poverty and workers' welfare as a result of bringing labor standards into the WTO ought to be emphasized more than the morality or immorality of labor conditions in poor countries.

Stronger international enforcement of CLS could improve worker welfare in some cases but also may produce negative consequences.

In relatively well-functioning democracies, labor standards are determined by the productivity of labor. Basic theory suggests that labor standards will improve as countries develop economically, which makes linking labor and the multilateral trading system unnecessary. This has been the case in South Korea, Taiwan, Thailand and other newly industrialized countries. From this standpoint, the problem is not regulation or enforcement, but economic development.

Forcing poor countries to comply with a universal set of labor standards might increase production costs and lead to unemployment and more poverty. If improvement of labor standards is likely to happen without regulation, the question is whether international enforcement through the WTO is worth the risk of the potential problems this may cause. As demonstrated, however, these theories do not take into account potentially important factors, such as differences in real power between firms and workers. Markets are not always "perfect" in the sense that neoclassical economic theory often proclaims. As known, market failures might justify policy interventions. Additionally, it can be argued that the underlying assumptions of the neoclassical model are flawed with respect to certain developing countries where cultural, social and political structures impede the natural tightening of labor standards as labor productivity increases. It is a well-recognized fact that labor standards and wages in the Soviet Union did not improve with productivity. In socialist systems, rapid industrialization is often considered more important than the welfare of the current generation of workers. Thus, in cases like this it might not be enough to assume that market forces will take care of the problems of inadequate labor conditions. Stronger international enforcement of CLS could improve labor conditions in countries in which

economic development does not lead to enhanced labor standards due to inadequate democratic institutions, bad governance, or extensive corruption.

The problem of enforcing labor standards in the presence of market failure is that while the market failure might constitute a reason for policy intervention, the policy intervention could worsen worker welfare. If a monopoly firm hires all workers in the tradable sector, the number of employed workers will be lower than what would have prevailed under perfect competition. Imposing labor standards in this market would induce the monopoly to cut its labor force even further from an already relatively low level. Therefore, the policy intervention of linking labor standards to the WTO does not address the core of the problem, which is the monopoly.

In cases where workers are clearly exploited due to lack of democratic institutions, multilateral enforcement of supranationally enforceable CLS might not be quite as controversial. But is it true that certain developing countries with relatively poor labor conditions are intentionally upholding this situation? The question of intent is especially important in this regard, since a linkage to the multilateral trading system in principle only can be justified if weak labor laws and weak enforcement is used as an instrument to enhance trade competitiveness. As shown, the empirical literature on trade competitiveness and labor standards shows no clear support for the hypothesis that countries gain a competitive advantage by not enforcing CLS.

Countries may exploit WTO's dispute settlement mechanism if CLS are linked to the multilateral trading system.

The lack of evidence to support the argument that some developing countries gain a competitive advantage in international markets by not enforcing higher labor standards speaks against linking CLS to the multilateral trading system. Even if there is a chance that this might be the case, there is a great risk that the WTO's dispute settlement mechanism will be exploited for purposes beyond improving worker welfare or eliminating unfair trade policy instruments. Due to the design of the DSM, in particular the lack of a third-party enforcement body, a linkage between labor standards and the WTO will create additional opportunities for countries to impose restrictive trade policies against countries that do not comply with the CLS. As mentioned above, this might not be a problem if such policies are used exclusively to fight noncompliance with mutually agreed-upon rules. However, in view of the perennially increasing number of trade disputes brought before the WTO Dispute Settlement Body (DSB), such an optimal outcome seems very unlikely. The DSB administers the dispute settlement system of the WTO and essentially consists of all member states. The DSB has the sole authority to establish panels of experts, whose purpose is to investigate complaints in accordance with WTO law. One distinguishing quality of the DSM compared to the GATT system is the emphasis on swift settlement; it sets out a framework in which procedures should take less than 15 months. Nevertheless, by July 2005, 332 cases had been attributed to panels, but only 130 of them had reached the full settlement process.

Trade representatives and government policymakers in the realm of international trade are supposed to work for the public interest—in this case both the national and international public good—but are exposed to the risk of being captured by vested interests. Since the DSM allows plaintiffs to retaliate against countries that have been said to not comply with WTO law

by imposing restrictive trade measures against those countries, there are strong incentives for domestic interests in rich industrialized countries to challenge competing developing countries in the DSM. It is possible that labor standards will be used as a way for lobbying groups in developed countries to justify protection by pointing to low enforcement of labor standards in poor countries.

On balance, linking labor standards to the multilateral trading system is unlikely to enhance worker welfare.

Ultimately, can we say that workers in poor countries stand to gain from linking labor standards to the international trading system? As emphasized throughout this paper, labor standards can be analyzed from a wide variety of perspectives and the issue is related to several topics of political and economic importance. This makes a final conclusion very difficult. More research on this subject is essential for determining an appropriate and effective policy to deal with the challenges of globalization and labor. Nevertheless, in regards to the main question of this article—whether workers in poor countries stand to gain from linking labor standards to the international trading system—it should be clear that linking labor standards with the multilateral trading system will likely not enhance worker welfare or alleviate poverty in poor countries. The DSM of the WTO cannot ensure objectivity, and the incentives to exploit the system for protectionist purposes outweigh the potential benefits of including labor standards within the WTO.

At the same time, the conclusions of this paper should not be seen as supporting the idea of laissez-faire economics. Whether stronger multilateral enforcement of labor standards is necessary to avoid the exploitation of workers is a question that goes beyond the scope of this article. Multilateral enforcement can indeed be useful if it provides a framework to objectively assess and enforce labor conditions and helps promote “accurate” labor standards that enhance worker welfare. Still, it is highly unlikely that such an assessment can be possible in reality, since each country’s labor standards are influenced by country-specific characteristics. Labor conditions in some poor countries may be substandard relative to those in developed countries, but may actually be appropriate for those countries given their workers’ productivity, factor endowments, and level of development.

To arbitrarily impose on poor countries standards that are considered adequate by Western standards could cause negative employment effects and thus worsen worker welfare. Furthermore, since it is likely that labor-intensive exports are sensitive to price changes, the employment effects could be significant. Many developing countries already have an abundance of labor employed in non-tradable sectors. If internationally enforceable standards cause large negative employment effects for poor countries, this will not only hurt the workers that become unemployed, but will also hurt workers in alternative sectors since these labor markets will be flooded by workers from the tradable sectors. In this sense, international labor standards could be seen as causing not only a transfer of income from workers who lose their jobs to workers who remain employed, but also from poor countries to rich countries if the terms of trade are affected. Consequently, it should be stressed that enforcing one set of international labor standards through the multilateral trading system could be risky from a development perspective. As many

other grand worldwide policies have shown us, a “one size fits all” approach to development seldom works.

ENDNOTES

¹ It is easy to see how the humanitarian, political and economic reasons played an important role in the creation of the ILO. The second paragraph of the preamble of the ILO Constitution clearly spells out the humanitarian and the political concerns: “And whereas conditions of labour exist involving such injustice hardship and privation to large numbers of people as to produce unrest so great that the peace and harmony of the world are imperiled; and an improvement of those conditions is urgently required....” The third paragraph clearly addresses the concern about social welfare deterioration in light of globalization: “Whereas also the failure of any nation to adopt humane conditions of labour is an obstacle in the way of other nations which desire to improve the conditions in their own countries....” The constitution can be accessed at <http://www.ilo.org/ilolex/english/constq.htm>.

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