

South – North Global Labour Policy

RC-19 Social Policy Workshop

Florence, Italy

5-7 September 2007

Caption: New Chinese Olympic Event – Toxic Triathlon



Patrick Corrigan, Toronto Star, August 2007

This is a draft. Please do not quote or circulate without the author's permission!

Contact: Dr. Robert O'Brien

LIUNA / Enrico Henry Mancinelli Professor in Global Labour Issues

Department of Political Science

McMaster University, 1280 Main Street West, Hamilton, Ontario, L8S 4M4, Canada

Tel: 001-905-525-9140 ext. 23124, Fax: 001-905-527-3071

E-mail: obrienr@mcmaster.ca

One area of social policy in need of increased South-North dialogue is labour policy and labour rights. Labour regulation has proved controversial in relations between states and in the operation of corporations. As economies become increasingly integrated labour policy is seen to have increasing transnational implications, raising concerns in both Southern and Northern countries.¹

This paper contributes to discussion about the international and transnational dimensions of labour policy in a global environment. It is divided into four parts. The first section explains why labour issues are on the South-North agenda at this time. The bulk of the paper examines how labour standards have become articulated in policy discussions in the inter-state and corporate environments. A third section shifts its attention to the complicated political cleavages surrounding the issues. The paper concludes by speculating about possible future directions around international labour standards. It argues that despite the immense difficulty of implementing core labour standards internationally, the pressure to do so is unrelenting. This may result in new forms of global regulation.

There are many elements of labour policy which have an impact upon South-North relations. Examples include labour adjustment policies, outsourcing, immigration regulation, protectionist trade legislation, export processing zones, investment regulations, health and safety rules, and minimum wage regulations. This paper focuses upon what are called core labour standards or 'enabling rights'. These rights are: freedom of association, collective bargaining, freedom from forced labour, abolition of child labour, freedom from discrimination. They are referred to as enabling rights because they are seen the basic minimum rights that allow workers to organize their affairs and participate as partners in the economic negotiation and regulation. Enabling rights do not confer all the other labour protections advocated by the International Labour Organization (ILO), but they do allow workers to pursue those rights from a position of stability and independence.

¹ Following the title of the conference, this paper adopts the term 'North' to refer to the relatively rich countries of Western Europe, Japan, Canada, the United States, Australia and New Zealand. Alternative terms would be 'West', 'rich', 'advanced industrialized countries' or in a more critical vein 'Imperialist' or 'Colonial' countries. Similarly, the imprecise term 'South' is used to refer to the majority of the world's population inhabiting diverse countries in Asia, Africa and Latin America

Why is labour policy on the South-North agenda?

Labour policy is an issue in relations between Southern and Northern countries for a series of reasons. At the most immediate level the regulation of labour standards has become a salient factor in negotiations at international institutions and in the operation of globally engaged corporations.

Labour standards have become an issue because of the economic strategies pursued by key states and actors which involve increasing reliance on international competition for economic growth and profit. These strategies have focused attention upon the factors that may be contributing to the competitive advantage of firms and countries, including the area of labour (and other) regulation. Since the debt crisis of 1982 and the collapse of Communism in the Eastern Europe in 1989 most developing countries have abandoned the notion of autonomous development in favour of finding a niche in the global economy, often through export oriented industrialization (McMichael 2003). The key to development is seen to lie in attracting foreign direct investment to build factories to export goods, resources and occasionally services to the North. Northern countries rely upon imports from several key Southern countries to provide cheap mass consumer goods. These imports allow steady levels of consumption in the face of stagnant real wages and also reduce the risk of inflation as costs of many consumer products remain stable or decline over time. Transnational corporations are the vehicles for these economic strategies as they channel the movement of investment into productive enterprises in numerous locations and manage the distribution of the end product.

A number of factors have combined to highlight the labour dimensions of these economic activities in Northern states. The first factor is the condition of labour in countries importing mass consumption products. In general, advanced industrialized countries have seen a decline in traditional manufacturing industries and a growth in more insecure service industries. While some elements of the service industries provide secure and well paying employment many others areas are characterized by insecure, low waged employment (Vosko 2000). The decline of the standard employment relationship

based upon a full time male wage earner coincides with a flood of manufactured goods into northern states from the South.

The perception is that secure well paid manufacturing jobs have been exported to countries with poor labour standards. Although many economic studies show that decline of manufacturing employment is often related to technological change, labour's view that corporations are switching production to low wage, poor regulation areas is strengthened by the behaviour of corporate management. TNC's often demand wage concessions or roll back of benefits citing the threat of foreign competition and the possibility of relocating investment to developing countries.

The transition to a post-industrial society in Northern countries might not be linked to the labour standards issue if workers in the North sensed an improvement in their living standards. However, increased international competition has corresponded with stagnant real wages, rising inequality and transformations in the welfare state which in many cases has led to a more insecure population. This insecurity has led to greater scrutiny of the working conditions in countries producing exports for Northern countries.

A second factor is the rise of social movements concerned with ethical consumption. The rise of information technologies which facilitate global production have also allowed workers and consumers to communicate about the conditions under which products are created. Some workers have been able to communicate their plight to the consumers of their products. At the same time a growing number of consumers have decided to accept responsibility for the impact of their spending decisions on workers and the environment in other parts of the world. In some ways the ethical consumption movement is similar to the environmental movement where people recognize that their consumption patterns can have beneficial or harmful consequences for the environment. In its broadest sense ethical trade encompasses two elements (Blowfield 1999). The first element is a concern with how companies make their product. This involves pressuring companies to ensure that the production process respects key human rights and environmental standards. Examples include companies that adopt codes of conduct guaranteeing respect for workers rights or banning child labour. The second element is the fair trade movement which seeks to increase the financial return to poor producers as

a method of improving sustainable development. Major fair trade initiatives have taken place in products such as coffee and chocolate.

A third factor is the merging of the debate over global regulation and the public interest with concerns about labour issues. International economic agreements from the World Trade Organization (WTO) to regional trade agreements such as the North American Free Trade Agreement (NAFTA) have been criticized for securing increased legal protection for businesses, but neglecting the interests of many other sectors of society. The lack of protection for basic worker rights is often contrasted against new protections for corporate rights as in the case of intellectual property rights. Fears about a lack of accountability and democracy in supranational institutions seem to be confirmed when one examines the lack of progress on labour issues.

In many developing countries the issue of labour policy is extremely sensitive for three major reasons. First, many developing states have based their development strategy on exporting low cost products to advanced industrialized states. The labour standards debate threatens both to undermine one of the cornerstones of their competitive advantage – low wages. To the degree that development strategies are based upon attracting foreign investment to areas where wages are held low through regulation or force, a move to basic core labour standards such as freedom of association threatens to undermine economic planning.

Second, many developing countries have historically experienced Northern protectionism in the international trade regime (Williams 1994). They suspect that the labour standards issue will only be used to protect Northern markets. In international negotiations Northern states have consistently pressed for trade liberalization in areas where they possess economic advantages (e.g. services, intellectual property) while stubbornly shielding their domestic markets from full competition in areas where developing countries have an advantage (textiles, agriculture). The application of Northern countries' domestic trade laws to exclude competitive Southern products also raises doubts about how labour standards might be applied and who will pay the penalty for violations.

A third reason that labour policy is so controversial in many developing countries is that it goes beyond narrow economic concerns to questions of political power in member states. Many developing countries have export models based upon an authoritarian political culture which systematically excludes labour from decision making. Labour is excluded through a variety of means from being barred from political activity to being forcefully suppressed. Recognizing key labour rights such as freedom of association risks opening space for labour in the political, as well as the industrial, system. Respecting core labour standards or 'enabling rights' risks empowering groups that may become political opponents of existing regimes. One need only look at the role that trade unions have played in spreading democracy in countries as diverse as Poland, South Korea, South Africa and Brazil to see that this fear is justified (Adler and Webster 1995, Bielasiak and Hicks 1990, Eder 1997).

Thus, states and societies in both the South and the North are increasingly buffeted by global economic relations and labour policy is a key component of how states, corporations and firms respond to these challenges.

Recent articulations

The labour standards issue has become manifest both in the inter-state and corporate world economy arenas. The inter-state activity has focussed on the negotiation and implementation of trade and investment agreements, as well as the lending policies of international financial institutions. The corporate world has also been buffeted by labour issues as the employment practices of transnational corporations and their chain of subcontractors has attracted increasing public scrutiny.

The link between respect for labour standards and international stability was recognized almost 100 years ago with the founding of the ILO in 1919. The ILO promotes labour standards in its member states through its Conventions and Recommendations. Conventions are statements of principle which member states are asked to ratify while Recommendations outline administrative matters which carry less weight. The ILO has no coercive power and relies upon the force of its argument to influence state behaviour. The ILO also provides technical support to governments,

employers and worker organizations that wish to improve working conditions. The organization's primary task is to improve the living and working conditions of the world's population.

The United States and European governments created the inter-state institution in an attempt to pre-empt the appeal of Communism to their working classes. The ILO was designed to provide non-Communist worker's organisations with a voice in international labour regulation and demonstrate that liberal capitalist states were capable of protecting worker interests. In the 1940s labour issues became subsumed in the Cold War struggle between the United States and the Soviet Union. The ILO was riven by this conflict with the US withdrawing and rejoining the institution in protest over the role of Communist states and officials (Cox 1997). The end of the Cold War opened up the possibility of new political developments in the labour field. While the triumph of the capitalist West signalled convergence around the role of 'free' markets, the issue of labour protection and labour rights could now be addressed relatively free of Cold War divisions and animosities. In addition, an increasingly active and mobile global civil society took up labour issues as one of many subjects to be addressed in the emerging 'New World Order'.

By the mid-1990s advocates of international labour standards such as trade unions and social democratic parties had become discouraged about the possibility of ILO being an institution which could bring significant improvement. The problem lay with the inability of the ILO to ensure enforcement of its Conventions. Labour rights advocates shifted their attention to having labour standards written into trade agreements and institutions such as the newly formed WTO. The ILO's response to this marginalization was to focus attention on its role in defending labour rights through the creation of a new political instrument. In 1998 the ILO adopted the Declaration on Fundamental Principles and Rights at Work (ILO 1998). It committed all member states to respect and promote ILO conventions in four key areas: freedom of association and collective bargaining; the elimination of forced or compulsory labour; the abolition of child labour and the elimination of discrimination in employment. These are the core labour standards or enabling rights. Whether countries had ratified particular ILO conventions or not, they became bound by this Declaration.

A second component of the ILO's attempt to come to grips with labour standards in an increasingly globalized era was a recognition of the diversity of work relationships in the global economy. This involved a shift away from focusing upon the standard employment relationship of a male unionized worker in a factory to considering the variety of employment patterns in the economy which included precarious employment such as casual labour, work in the informal sector, various types of home work and contract work. The method for making this shift was two fold. One was the introduction of a new theme and work program – decent work (Vosko 2002). The other was the introduction of new conventions such as the home working convention. The shift to a rhetoric of 'decent work' was designed to take account of the large range of labour related issues beyond the employer – trade union relationship. Decent work covers issues such as fair incomes, employment security, social protection, social integration, freedom to express views and organize, equality of opportunity and treatment for all women and men. It allows the ILO to address issues of informal employment as well as broad policy debates around social security and public policy.

A third initiative has been the ILO's attempt to reinsert itself into debates about the impact and future of Globalization. The primary tool for accomplishing this object was the 2002 creation of the World Commission on the Social Dimension of Globalization. The Commission was composed of twenty – six high profile people from different parts of the world involved in government, business, labour and academic fields. The Commission published its report, titled "A Fair Globalisation For All" in 2004. While not challenging the general trend of existing globalisation, the report highlighted problems in current global economic governance and called for changes to ensure more equitable development (ILO 2004a). From a political point of view, the Commission's goal was to raise issues of equity and fairness back onto the global governance agenda. Similar to the UN's Millennium Development Goals, the ILO Commission was an effort to shift the economic agenda and focus attention on poverty and development.

A fourth area of activity has been the Institution's attempt to regain a prominent role in the architecture of international organizations. The ILO, similar to other international organization working in the social field, has been greatly overshadowed by international financial and trade organizations such as the International Monetary Fund

(IMF), World Bank and WTO. Even though the IMF, World Bank and WTO were taking initiatives that had a direct impact upon labour markets, the ILO was not a player in the formulation or implementation of those institutions' policies. In response to this lack of communication and feeling pressure from civil society groups, the ILO established formal inter-institutional channels of communication with the financial institutions and attempts to participate in their activities. In terms of policy, the ILO is attempting to influence other organizations view on labour related subjects. For example, the ILO has tried to influence the content of Poverty Reduction Strategy Papers (PRSPs) used by the IMF and World Bank to determine lending to heavily indebted countries.

Ideologically, the ILO challenges the international financial institutions (IFIs) because it suggests that macroeconomic stabilization plans undertaken in the absence of proper labour market institutions risk failure (ILO 2004b). It also disagrees with IFI policies which blame labour rigidity for unemployment. The ILO argues that 'Rather than create rigidities, the labour institutions that are built upon the realization of these fundamental principles and rights at work can be key to negotiating flexibility' (ILO 2000). The ILO review of early PRSP consultations also raised three concerns about the degree and significance of civil society participation in the 'pro-poor' IFI policies (ILO 2002). First, insufficient attention was being given to equity issues. Second, trade unions, ministries of labour and even employer's organizations had difficult participating in the process. Third, labour market issues, social protection and other elements of decent work were often absent from poverty reduction policies.

The arena where labour issues became most prominent in the 1990s was the negotiations surrounding the founding of the WTO and agenda setting in its early years. The establishment of the WTO in 1995 led workers rights activists to demand the inclusion of labour standards in its enforcement mandate. The WTO hosts a relatively robust legal structure which puts immense pressure upon states to implement its decisions. Disillusionment with the weakness of the ILO led campaigners to lobby their states and the WTO to enforce labour standards. This campaign proved unsuccessful due to the opposition of transnational corporations, neoliberal states in the developed world and many developing countries (O'Brien et al., 2000, 67-108). The leadership of developing countries feared that labour standards would be used as an excuse for

protectionism in developed states. They feared wealthier states would use labour standards to undermine their comparative advantage. While the effort to have the WTO deal with labour standards failed, it did result in the ILO refocusing its efforts (see above) and the initiative of new policies such as corporate codes of conduct or the Global Compact (see below).

Labour issues also emerged as an issue of contention in a series of regional trade agreements in the late 1980s and into the 21st Century. To varying degrees these agreements liberalized the flow of goods, services and capital, but were either silent or timid on the issue of social and labour protection. These agreements raised the issue of whether or not labour standards should be part of the economic packages. The response varied greatly between regions although the tendency was for labour standards to have a minor place.

Labour is both central and peripheral to regional integration. It is central because the conditions under which labour works and the ability of business groups to access particular types of labour is an integral component of regional economic agreements. Indeed, one could build a regional integration typology based upon provisions for labour rights and mobility. This would have the European Union (EU) with some common labour rights and representation on one end of the spectrum and Asia Pacific Economic Cooperation (APEC) at the opposite end because it only deals with labour issues under the heading of human resources. Labour is also central to the regional project because migration patterns and investment strategies are working at the non-state level to bind regions together.

At another level, however, labour is peripheral to regional integration projects because labour rights are often undermined and the lives of individual workers placed at risk by the form that regional integration takes. Labour as a commodity is of utmost concern to the designers of inter-state regional integration projects, but labour as a political actor and the interests it articulates are marginalized and undermined. Assessing the implications of inter-state regional economic agreements requires two steps. First, the provision or non-provision of labour issues within and around the agreements needs to be

judged. Second, these provisions should be compared to the institutional arrangements for other interests, such as investors.

A survey of labour provisions of regional trade agreements is beyond the scope of this paper, but some trends can be identified (O'Brien 2007). The approach in Asian integration arrangements has been to deal with labour issues primarily in the context of human resource management (Haworth & Hughes 2002). Trade unions have pushed for the issue of labour rights to be considered as part of APEC's activities, but even the discussion of tripartite arrangements has been halting as the majority of states remain opposed to dealing with labour in any context other than training or increasing competitiveness (Price 2000). Labour is seen to be relevant only to the degree that it can be mobilized for state and corporate competitiveness.

An alternative strategy to ignoring labour rights is to pre-empt transnational regulation by relying upon national enforcement of national standards. This is evident in North America's economic constitution, NAFTA. In an effort to blunt public criticism in the US during the negotiation of NAFTA, labour and environmental side accords were added to the agreement. The resulting North American Agreement on Labour Cooperation (NAALC) was particularly weak in two areas. First, rather than harmonizing standards upwards to create new robust continental standards, the side accord simply urged the three signatories (Canada, US and Mexico) to faithfully apply existing laws. Second, the scope of issues in which governments may be fined was severely limited. Relevant violations are confined to the issues of minimum wage, child labour and health and safety. The core labour rights of freedom of association, collective bargaining, and freedom from discrimination are not covered by this 'hard law' section of the agreement (Compa 2001). The core enabling rights can be the subject of discussion, but not enforcement. Even for the enforceable standards states must be shown to have tolerated a persistent pattern of failing to enforce regulation in these areas.

While the NAALC has stimulated substantial cross-border union activity, its limited legal and practical impact pales in comparison to the corporate rights enshrined in NAFTA (Ayers 2004). The most dramatic of these is NAFTA's "Chapter 11", which gives corporations the right to sue member governments in the event that public policy

initiatives threaten corporate profits. This subordinates public policy initiatives to a legal corporate veto if the public interest legislation threatens corporate profits.

The point here is not that labour provisions of regional agreements are useless. Hopeful analysts find some benefit in weak agreements such as the NAALC (Compa 2001; Teague 2003). However, the advances in labour rights are so minimal in contrast to the entrenching of corporate rights that one must conclude that these agreements are shifting the balance even further away from labour to capital. This is true even in the European case where some gains in worker rights are overshadowed by a general drift to increased labour flexibility and the erosion of rights and universal services (Beiler 2006).

Moving beyond trade and investment agreements the condition of labour and policies surrounding labour regulation also became an issue in the operation of international financial institutions such as the IMF, World Bank and regional development banks. Since the early 1980s these institutions have been advising governments to undertake structural adjustment and austerity programs (SAPs) to stabilize their finances and increase the opportunities for export oriented growth.

One aspect of the IFIs' 'Washington Consensus' style SAPs was labour market liberalization. Developing country labour markets were seen to be too rigid, so the advice was to downsize government services, deregulate the labour market by removing protections for the relatively small percentage of the labour force that enjoyed some union or political party protection. For example, a World Bank sponsored report on Mexico suggested that its labour laws be revised to increase flexibility because the labour code was 'at best, outdated, (part of it dates back to 1917), at worst, an impediment rather than a tool for workers'. (Oliver et al 2001). A Letter of Intent between the IMF and Ecuador outlines how the government's 'economic transformation law' will facilitate the introduction of temporary contracts to increase labour market flexibility and boost employment. (Ecuador 2000?)

As part of the general challenging of neoliberal policies at IFIs the issue of their interference in national labour policy has arisen. In response to these criticism the IFIs have taken a number of actions. They have taken steps to regularize (but not formalize) their contact with trade unions at the international level. Every two years the leadership

of the IMF and Bank meet with the Global Unions leadership with smaller yearly thematic meetings.² The Bank has indicated there might be some movement on the issue of freedom of association and collective bargaining. Indeed, as the Bank pursues its development strategies which touch upon numerous domestic governance issues, it is difficult to argue that advocacy of core labour standards is a greater interference in domestic affairs than the concept of good governance. In September 2003 the World Bank's private sector lending arm, the International Finance Corporation, announced that its loan recipients would soon have to abide by all the core labour standards. In January 2004 the IFC made approval of a loan to a free trade zone operator in Haiti conditional upon the employer recognizing its workers rights to freedom of association and collective bargaining. (ICFTU 2004).

Labour groups have become involved in the PRSPs that are now mandatory for the poorest countries seeking loans from the IMF and World Bank. The PRSPs mandate government consultation with civil society groups before structural adjustment programs are agreed with the IFIs. An August 2004 survey of trade unions in 23 developing countries showed the shortcomings of the PRSP process (Egulu 2004). While trade unions in most of the countries participated in the process in one form or another, the participation was superficial and had no discernible impact on policy. Participation was limited because trade unions were brought into the process at a late stage, were not supplied with crucial documents or given information at a very late stage. Many trade unions lack the resources to participate without external help, such as that provided by the ILO. Crucially, this participation was seen to have **no noticeable impact upon policy**. For example, Sri Lanka's PRSP contained policy recommendations in favour of labour law changes and widespread privatization despite labour resistance to these policies.

The inability of states to establish meaningful labour standards regulation has resulted in a flurry of activity in the corporate sector.³ Citizens determined to improve labour standards increasingly turned their attention away from governments to directly

² The Global Unions structure brings together the leadership of the Global Unions (formerly the International Trade Secretariats) with the International Trade Union Confederation (formerly the International Confederation of Free Trade Unions and the World Confederation of Labour).

³ This section draws heavily upon Deceanu and O'Brien 2007.

target the corporate actors engaged in transnational production and distribution. A series of boycotts, publicity campaigns and alternative production networks have emerged in an effort to force corporations to respect basic labour standards in their production processes and the activities of their sub-contractors.

The response of many corporations to an upsurge in public interest in labour standards and labour rights has been to argue that such concerns are best addressed within the private economic sphere through self-regulation. Self-regulation refers to corporations setting and monitoring their own rules. This could take place either through the actions of an individual corporation or through the activities of general business associations or groups of companies in a particular sector. The strategy has been to relieve the state of a labour enforcement role by privatizing labour standards.

Corporations have advanced the concept and practice of Corporate Social Responsibility (CSR) as the primary rejoinder to those arguing for state based international labour regulation. It has also come to be known as “the triple bottom line” or “corporate citizenship” signifying the responsibility of companies to create wealth, pursue sustainable development and enhance the lives of their employees and the communities in which they locate. As Chris Thomas, a corporate reputation consultant, writes, “CSR is a prudent adaptation to changing circumstances: countering the increased ability of stakeholders to scrutinize corporate activities and motives with openness and complementary action” (Thomas 2003). CSR policies have been put into practice by many firms, especially those caught in the sweatshop scandals.

While TNCs and business organizations suggest that CSR will advance social rights, critics contend that CSR has been developed as a substitute and diversion for action (Justice 2002). For example, one analyst argues that ‘In plain terms, business “talks the talk” *so as not to* “walk the walk” (Rowe 2005). (emphasis in the original). In this view CSR is a public relations ploy. The main targets are average consumers who may have encountered anti-corporate campaigns but are not particularly engaged with the issue and therefore largely ignorant of the ongoing situation on the company’s factory floors. The goal is “to solve guilty consumer consciousness” rather than to improve working conditions (Brooks 2005).

In response to scepticism over in house company codes of conduct many TNCs have been forced to support a number of third party or joint corporate-NGO initiatives. In addition to numerous partnerships between firms and NGOs, the most prominent response has been the creation of a number of multi-stakeholder initiatives in the US and Western Europe such as the Fair Labour Association (FLA), and the Ethical Trade Initiative (ETI), industry-based initiatives such as the Worldwide Responsible Apparel Production (WRAP) and the emergence of third-party certification providers such as Social Accountability International (SAI). All of these attempt to avoid traditional state-based regulation. For example the FLA was created after sweatshop scandals in the US in the early 1990s raised industry fears that Congress would pass tougher regulation (Jenkins 2002). Voluntary initiatives claim to support labour standards through a mix of cooperation between key actors, learning networks, “enlightened company self-interest,” benchmarking, internal and external monitoring and enforcement through market sanctions (O’Rourke 2003)

Numerous organizations have sprung up to support the corporate response to labour and social issues. For example in the UK there are the following organizations: Business in the Community (the UK member of CSR Europe), Common Purpose, the Institute of Business Ethics (IBE), and the Prince of Wales International Business Leaders Forum (PWBLF). Most major TNCs belong to more than one such organization in addition to having their own CSR committees. These initiatives are supported by academics within corporate-funded business schools who advocate CSR and carry out research to improve its practice and effectiveness. The vast majority of their focus is on how TNCs can use CSR to respond to anti-corporate activism, protect corporate reputations and brand names and encourage a “business-friendly” regulatory environment (Hartman et al 2003). Nationally based initiatives in the advanced industrialized countries such as the UK or the US have an impact upon global arrangements because their activity influences home corporations which have a global reach.

At the same time that businesses adopt CSR they drawn upon both liberal economic and cultural/nationalist arguments which suggest that movement to enforceable labour standards may hurt development. Many neoclassical economists argue that regulation and codes of conduct reduce wealth and harm the very workers labour activists

are attempting to help. In 2000 a letter was signed by over 250 economists was sent to US university presidents at a time when the FLA and the Worker's Rights Consortium (WRC) were quickly gaining university memberships. According to these economists the codes of conduct promoted by the FLA and WRC would cause employment in the developing world to shift away from the poorest workers. They also argued that regulation was unnecessary as TNCs already pay higher wages than the "prevailing market wage" (Wells 2004). The economists' intervention offered comfort to TNCs trying to avoid meaningful codes of conduct, much less effective regulation. Echoing arguments made by some developing country leaders (such as Mahathir Mohamad, the former Prime Minister of Malaysia), corporations have been able to argue that their hands off approach to labour issues respects national sovereignty and cultural diversity. For example, some members of the Toy Manufacturers of America, when faced with demands to live up to the ILO's universal standards argued that they did not want to be seen as imposing "western values" on non-Western cultures (Justice 2002). Thus, Northern TNCs try to move from being a threat to Southern values and interests to a protector of Southern sensitivities.

An attempt to bridge the worlds of state and corporate regulation is the United Nations' Global Compact. It was launched by the Secretary General of the UN in 2000 and asks corporations to incorporate ten principles drawn from the Universal Declaration of Human Rights, the ILO's Fundamental Principles on Rights at Work the Rio Principles on Environment and Development, and the United Nations Convention against Corruption into their corporate practices. The Compact does not monitor corporate practice nor does it assess corporate performance. It is designed to identify and disseminate good practices. The Global Compact asks leaders of some of the world's most prominent corporations to publicly commit themselves to good labour and environmental practices.

The Global Compact simultaneously addresses the concerns of some corporate, state and civic associations. From a Southern country point of view, the initiative is tolerable because it is aimed at influencing the policy of multinational corporations rather than restricting state policy or punishing developing states for poor labour conditions. This is

preferable to the WTO enforcing of standards because it removes the threat of Northern protectionism. From the corporate viewpoint, it is tolerable because regulations are voluntary and allow continued expansion of the global economy and accumulation of profits. They can claim to be good corporate citizens without being bound by compulsory regulation. For some civic actors, it represents a limited advance in enshrining some principles of social protection. It is a small step that might lead to more binding forms of regulation.

The Global Compact has severe shortcomings and many critics. Many of the companies participating in the venture are those which have been attacked as abusers of environmental and human rights or accused of engaging in super exploitation of workers. The list includes Shell, Nike, Disney and Rio Tinto. Each of these companies has been or is subject to boycotts or anti-corporate campaigns by civic associations. One can question whether their participation is an effort to deflect attention from their corporate record. Another problem is that the selection of participating civic associations in the Compact was very narrow and not reflective of the wider community. The UN selected civic groups based on their judgement of who would be the most likely to cooperate. Reaction from many other groups has been very critical. The initiative has been condemned because it threatens the integrity of the UN, as corporations attempt to 'bluewash' their record by association with the UN (TRAC, 2000).

This example of the Global Compact is informative for our efforts to understand global labour policy for three reasons (O'Brien and Williams 2004, 327-8). Firstly, it illustrates that the concerns of civic actors about the damaging aspects of globalization on labour are being taken seriously by other actors in the system. The United Nations is responding to public unease about the costs of globalization. This initiative follows public demonstrations against institutions such as the WTO and the IMF. The former UN Secretary-General tried to put a more humane face on globalization so that the process will continue, but in a less brutal manner. The goal is to restrain competition that is based upon the abuse of labour and environmental standards so that the public will not fight the liberal rules under which globalization is taking place. Corporations are also being forced

to respond to civic pressure by setting up codes of conduct and projecting the image of moral behaviour.

Secondly, it highlights the failure of existing global governance arrangements to deal adequately with global labour issues. We already have an institution that is designed to bolster labour standards – the ILO. However, the ineffectiveness of the ILO has forced labour activists to turn to the enforcement mechanisms found in the WTO to support labour standards. Many developing states oppose dealing with labour standards because they fear that developed states might increase their protectionism through the device of labour standards. Those groups in civil society trying to improve labour standards find themselves blocked at the WTO and faced with a weak ILO. Existing global governance mechanisms seem unable to improve social standards. Thus, new initiatives such as the Global Compact are being devised in an urgent attempt to resolve difficult dilemmas.

Finally, the Global Compact illustrates just how difficult it is to create global labour policy. The cost of freer markets is creating more public resistance, but many states and corporations resist instruments that would require better labour, environmental or social standards. Agreements which secure widespread corporate and state support are unlikely to satisfy the social interests which are pressing for protection.

In summary labour issues have been on the agenda both in the inter-state arena and in the corporate and civil society worlds. Progress in improving labour standards has been limited even though, or perhaps because, a large diversity of actors have joined the fray. The following section considers the primary political cleavages surrounding the labour standards issue.

Political cleavages

Given that Southern countries generally have an abundant supply of cheap labour while Northern countries have a more limited supply of relatively expensive labour one might hypothesize that the main conflict over labour issues will pit Southern states trying to exploit their comparative advantage against Northern states trying to protect their labour force. One could go further to the issue of migration and imagine that Southern states would have an interest in facilitating the migration of workers to earn foreign

exchange while Northern states would have an interest in controlling that migration process.

There are certainly elements of those divisions, but the politics around the labour standards issues are more complex and cut across state, corporate and class lines. While the debate is often portrayed as one in which Northern states advocate for labour standards and Southern states resist, this is an over simplification which misreads the politics of global labour policy. A better reading of the situation would group advocates and opponents into three different camps – those strongly in favour, those who will accept and implement labour standards under pressure or rewards and those strongly opposed.

Proponents

The group strongly in favour of global, enforceable labour standards includes virtually all trade unions in Northern states and many trade unions in Southern states, social democrats in various states and the leadership of traditionally social democratic states, such as the Nordic countries. This group believes that the state must play a role in ensuring fair working conditions. In a global marketplace action is needed to have global regulation. They have attempted to ensure that international economic agreements and institutions contain provisions that mandate adherence to core labour standards.

It is not surprising that social democratic states would seek labour standards at the international level. Ideologically, they are predisposed to creating a social democratic partnership between states, capital and labour on an international basis which mirrors the consensus they have forged domestically. They see respect for labour standards and economic development as complimentary. Social democratic states may also have some material interest in the issue since the spread of labour rights should raise labour costs in other countries and marginally reduce the competitive pressure on wages in Northern states.

The position of Northern trade unions is easily predictable. They seek international labour standards both on principle and because of material interest. They are committed to the spread of an industrial relations model that grants similar rights to all workers and they seek protection from the competition of labour which cannot

represent its own interests. In Southern countries there is also some constituency for international labour rights. This is particularly the case in countries with highly organized independent militant labour unions such as COSATU in South Africa and CUT in Brazil. These unions are accustomed to collective bargaining, making deals and working within regulatory frameworks. They are also seeking protection from the competition generated by unregulated capitalism and see labour standards as one element to advance their goals.

Conflicted

A second group contains actors that are either amenable to global labour standards or have an ambiguous position. For example, the United States has both advocated the adoption of core labour rights and taken steps which cast doubt on its commitment to core labour rights. The US government has been a prominent voice for labour standards at the WTO, but has always been willing to trade those standards off against other commercial gains. The US itself has not ratified all of the ILO's core labour standards conventions and makes some rights difficult to achieve. There are differing interpretations for this behaviour. One is that the US government is hypocritical and protectionist. It only advances labour rights to protect its own markets or gain commercial advantage. The other interpretation is that the subject of labour rights is still controversial within the US and a system of divided government leads to the simultaneous pursuit of contradictory policies.

There are also a number of corporations that can live or even thrive in a world of regulated labour standards. These are corporations that compete on the basis of quality or brand name. For some of these corporations the labour cost is a small amount of their overall costs so they can afford measures which increase labour costs. Other corporations may actually use respect for labour or environmental standards to bolster their brand image. They are able to charge a premium for ethical behaviour and use it as a competitive advantage over those firms that fail to comply with such standards. Several prominent retailers have carved out such a strategy such as Mountain Co-op in Canada and American Apparel in the United States.

A large question mark hangs over the political position of citizens in Northern countries. On the one hand the lack of labour standards in many Southern countries may

threaten the employment prospects, bargaining power and sensibilities of Northern workers and consumers. On the other hand, the cheap products produced by such labour allows consumers to enjoy a higher standard of living with greater choice of products than would otherwise be possible. It is this demand for cheaper products that provides the incentive for producers to cut labour costs through any means possible. Thus, one simultaneously witnesses people flocking to buy Chinese made products and a consumer movement for ethical consumption. Northern citizens remain a pivotal group in the struggle over international labour standards.

There are a number of labour groups in the South that are also in an ambiguous position. They agree that labour standards need to be improved and regulated, but disagree that this should be done through a system which imposes penalties on Southern governments when labour standards are abused in their territories. For example, Indian trade unions resist linking labour standards to the WTO or other trade agreements because of their anti-Imperial stance, but they do wish to see these basic rights extended. The difficulty these groups have is in suggesting an alternative mechanism for enforcement.

Opponents

A third group consists of those firmly opposed to international action on labour standards. This group is composed of international business associations, corporations that compete on the basis of price alone (most subcontractors in textile, clothing, toy industries) neoliberal states in the North, many neoclassical economists, authoritarian states and anti-imperialist states in the South, some labour organizations in the South that are either tied closely to their state or corporations or the more radical anti-globalization forces that reject international coordination.

International business associations such as the International Chambers of Commerce (ICC 2007) or national associations take a general position against international enforcement of labour standards. As mentioned above the general corporate position is that self-enforcement is the preferred mode of regulation. Self-regulation suits many businesses in the South and North because it allows them to utilize the difference in labour conditions across state borders to generate increased profits. This contrasts with

the clash of commercial interests in fields such as intellectual property rights where Northern TNCs tend to benefit from strict enforcement whereas many of the 'violators' are located in the South.

A large obstacle to implementing international labour standards are business and consumption models based upon continually providing cheaper products. In North America television commercials show a smiling yellow dot zipping through Wal-Mart stores rolling back prices. The commitment to continually reduce prices leads giant retailers to demand that their suppliers continually reduce their operating costs. In labour intensive industries, labour costs must be contained or reduced. When technological fixes have been exhausted or ignored this means squeezing productivity from workers through reduction in wages or changes in working conditions. A large section of the retail market competes with each other on the basis of price and suppliers compete for retailer business on the basis of price. This usually means Southern workers pay the real price.

Many Southern states such as India and China strongly oppose any measure which would link trade access with labour standards. Their general view is that this is yet another example of Northern states pushing a parochial concern that will be used to block imports from developing countries. Given the lack of Northern concessions on issues such as agriculture there is no desire to address the labour standards issue. Whereas some developing countries can see advantage in some Western proposals on services opening (e.g. India) there are few that see clear benefits to labour agreements. One exception is that there is some interest in working on labour agreements that would allow citizens of developing countries greater access to employment opportunities in Northern states.

Future directions

The debate over global labour policy is unlikely to go away in the near future for at least three reasons. First, workers in Northern countries suffering economic loss will continue to seek protection from imports manufactured in ways that violate core labour standards. Second, revelations about working conditions in export industries can be expected to continue since many of the offensive practices continue. This will provide

increased motivation for the ethical consumption movement. Third, the issue of labour standards within developing countries will increasingly be of concern to other developing countries. Developing countries basing their economic strategy on exporting to Northern countries are in competition with other developing countries more than they are with Northern states. The efforts by some states to gain a competitive advantage by suppressing labour rights threatens exporters in those developing countries that are more democratic and which do support core labour rights.

Although there are literally hundreds of corporate codes of conduct in existence, there is increasing doubt about whether this will resolve the labour standards issue. Numerous studies have documented the serious weaknesses of these private regulatory approaches and it is increasingly apparent that they do not serve as an effective substitute for traditional labour regulation (Bruno and Karliner 2002, CA 2004, Rowe 2005). Self and voluntary regulation of labour standards is not successful in national markets, it is even less likely to succeed transnationally.

Yet, if multilateral regulation has hit a roadblock and corporate self-regulation or consumer inspired codes of conduct are unlikely to work, what will? One possibility would be for Northern states to hold their own corporations responsible for labour standards violations. Northern TNCs would be responsible for the labour conditions under which their products and the products of their suppliers are produced. This has a number of attractions. First, it would target the primary violator of labour rights, corporations. This would get around the idea that Northern states are being protectionist to Southern states. Second, it would bring the state back into the business of enforcing regulation, rather than leaving it to corporations to self-regulate. Third, the costs of this system would be born by those most able to afford it – Northern based corporations, states and consumers. There are some factors that suggest such a system could be plausible.

First, there are legal precedents for holding Northerners responsible for their activities in Southern lands. Many Northern states have developed laws which hold their citizens responsible for sex crimes with children in the other countries. These laws were created because of a concern that Northerners were travelling to Southern countries to

engage in sex tourism with children. These laws established the principle that Northern states can prosecute their citizens, and by extension their corporations, for violating basic human rights in other countries. The question is whether or not states would care to extend such laws to the corporate sector.

Second, there is an institutional framework in place which provides some experience in this area and would allow for rapid expansion. The 2000 review of the OECD Guidelines for Multinationals extended the reach of OECD guidelines so that citizens from non-OECD countries can launch complaints against OECD multinationals in the home countries of those multinationals (www.oecd.org). For example, Sri Lankan women can launch a complaint in Seoul against a Korean TNC operating in a Sri Lankan export processing zone. Each member of the OECD has a national contact point (NCP) which must investigate the alleged abuses of their TNCs in other countries. There is a wide variety in how seriously different national NCPs take these issues and there are no enforcement powers or sanctions attached to the NCP process. Nevertheless, there is an institutional structure in place and a recognition that people in Southern countries should have some recourse against the actions of Northern TNCs.

Third, there is the issue of political feasibility. An approach that held Northern TNCs and their Southern sub-contractors responsible for labour rights violations would need to be implemented simultaneously in at least two major markets. It would be impossible for one state to unilaterally implement such regulation because domestic TNCs would claim they were at a competitive disadvantage and threaten to transfer their headquarters to another Northern state. A joint EU-US agreement could accomplish such a task. The difficult part would be to build the political power within the US and EU to pressure their governments to take such a step. Yet, if labour and social groups in the North cannot sway their governments, what is the chance that labour in the South can convince their states to take on TNCs?

There may be two underlying trends which will support such a move to increased TNC regulation and reduce the ferocity of opposition. One trend is that transnational capital may be starting to run out of places to relocate in search of cheap labour. The opening of China and end of the Cold War created significant new labour pools for TNCs

seeking cheap disciplined labour outside Northern states. Yet, the world must seem increasingly restricted for global investors. In Latin America leftist governments have begun to trim the most open aspects of neoliberal policy. Much of the world such as sub-Saharan Africa is unattractive because of the large infrastructure costs needed to facilitate investment. Even in China there are suggestions that the era of cheap, docile, labour may be coming to an end. Chinese factories are finding it increasingly difficult to attract young Chinese women from the country side to live in mass dormitories to produce the consumer goods destined for the North. This partially explains the movement of some industry to Cambodia and Vietnam. If this is the case, it implies that businesses may not see as large a profit in avoiding labour standards as in previous years. Their need to seek out other forms of competition may reduce opposition to core labour standards.

A second possibly significant trend is a revaluation of the costs of consuming cheap products. In the environmental field a remarkable transformation has taken place as consumers increasingly acknowledge the cost of environmental degradation in the production and consumption processes. This is leading to a shift in consumption patterns to greener productions. It is possible that a similar transformation can take place in other aspects of consumption. The costs of consuming goods made in a country which lacks the rule of law became increasingly clear in 2007 as toxic Chinese products poisoned some the Northern supply of pet food and toys (see cartoon on title page). Trade unions and consumer groups have attacked retailer Wal-Mart by emphasising the cost of low prices in an effort to shift the way in which people calculate the cost of a product. Perhaps the labour costs in products may also be of growing concern as consumption itself is transformed. This would allow for labour standards enforcement as consumers would be more willing to bear the 'cost'.

The issue of labour conditions was present during the British industrial revolution and has re-emerged as capitalism and consumer oriented industrialization globalizes. The debate over core labour standards has pitted a variety of states, corporations civic associations and labour groups against each other in a wide variety of settings. The first steps to finding a reasonable accommodation is paying close attention to the diversity of views amongst major actors in and across the South and North.

References

- Adler, Glen and Eddie Webster. 1995. Challenging transition theory: the labour movement, radical reform, and transition to democracy in South Africa," *Politics and Society* 23 1 (March): 75-106.
- Ayers, J. (2004) "Power Relations Under NAFTA", *Studies in Political Economy* 74: 101-23.
- Bieler, A. (2006) *The Struggle for a Social Europe* Manchester: Manchester University Press.
- Bielasiak, Jack and Barbara Hicks. 1990. Solidarity's self-organization: the crisis of rationality and legitimacy in Poland, 1980-81. *East European Politics and Societies* 4 (3) (Fall): 489-512.
- Brooks, E. (2005) 'Transnational Campaigns Against Child Labour', in J. Bandy and J. Smith (eds) *Coalitions Across Borders: Transnational Protest and the Neoliberal Order*, Lanham: Rowman & Littlefield
- Bruno, K. and Karliner, J. (2002) *Earthsummit.biz: The Corporate Takeover of Sustainable Development*, Oakland: Food First Books
- CA. 2004. *Behind the Mask: The Real Face of Corporate Social Responsibility*, London: Christian Aid.
- Compa, L. (2001) "NAFTA's Labor Side Agreement and International Labor Solidarity", in *Place, Space and the New Labour Internationalisms*, P. Waterman and J. Wills (eds), Oxford: Blackwell: 147-63.
- Cox, Robert W. 'Labor and Hegemony' *International Organization* 31, 2 (1977): 187-223.
- Diceanu, Alex and Robert O'Brien. 2007. "Labour and Business on a Global Scale" in Karsten Ronit ed., *Global Public Policy: Business and the Countervailing Powers of Civil Society* (London: Routledge), 43-64.
- Ecuador, Government of. 2000. "Memorandum of Economic Policies of the Government of Ecuador for 2000." edited by Minister of Finance and Public Credit. International Monetary Fund
- Eder, Mine. 1997. Shop floor politics and labor movements: democratization in Brazil and South Korea. *Critical Sociology* 23 (2): 3-31.
- Haworth, N. and Hughes, S. (2002) "International labour and regional integration in the Asia-Pacific", in *Global Unions? Theory and Strategies of Organized labour in the Global Political Economy*, J. Harrod and R. O'Brien (eds.), London: Routledge: 151-64.
- Hartman, L. P., Arnold, D. G. and Wokutch, R. E. (2003). *Rising above sweatshops: innovative approaches to global labor challenges*, Westport, CT: Praeger.
- ICC. 2007. "Where does the ICC stand on CR?" International Chambers of Commerce Statement, 11 June. Available at: www.iccwbo.org
- ICFTU. 2004. "World Bank's IFC Approves Haiti / Dominican Republic Loan, with Union Rights Conditions." *Press Release* January 20
- ILO 1998. 'ILO Declaration on Fundamental Principles and Rights at Work' 86th Session, Geneva, June 1998 available at www.ilo.org
- ILO 2000. "Organization, Bargaining and Dialogue for Development in a Globalizing World." edited by Working party on the Social Dimensions of Globalization. International Labour Organization.

- ILO 2002. "Poverty Reduction Strategy Papers (PRSPs): An Assessment of the ILO's Experience." edited by Committee on Employment and Social Policy. International Labour Organization
- ILO. 2004a. *A fair globalization - Creating opportunities for all* Geneva: International Labour Organization available at www.ilo.org
- ILO 2004b. "Macroeconomic Policy for Growth and Employment." Pp. 15, edited by Committee on Employment and Social Policy. International Labour Organization
- Jenkins, R. (2002) 'The political economy of codes of conduct', in R. Jenkins, R. Pearson and G. Seyfang (eds) *Corporate Responsibility and Labour Rights: Codes of Conduct in the Global Economy*, London: Earthscan
- Justice, D. (2002) 'The international trade union movement and the new codes of conduct', in R. Jenkins, R. Pearson and G. Seyfang (eds) *Corporate Responsibility and Labour Rights: Codes of Conduct in the Global Economy*, London: Earthscan
- McMichael, Philip. 2003. *Development and Social Change: A Global Perspective* 3rd edition, Pine Forge Press.
- O'Brien, Robert 2007. 'No Safe Havens: Labour, Regional Integration and Globalization' forthcoming in *Regionalization and the Taming of Globalization* ed. Andrew Cooper (London Routledge)
- O'Brien, Robert, Anne Marie Goetz, Jan Aart Scholte, and Marc Williams. 2000. *Contesting Global Governance: Multilateral Economic Institutions and Global Social Movements* Cambridge: Cambridge University Press.
- O'Brien, Robert and Marc Williams. 2004. *Global Political Economy: Evolution and Dynamics* New York: Palgrave.
- O'Rourke, D. (2003). 'Outsourcing regulation: Analyzing Nongovernmental Systems of Labor Standards and Monitoring', *Policy Studies Journal*, 31 (1): 1-29
- Oliver, Lafourcade, Vinh H Nguyen, and Marcelo M Giugale. 2001. *Mexico: A Comprehensive Development Agenda for the New Era*. Washington: World Bank.
- Price, J. (2000) "Challenging APEC: The Asia Pacific Labour Network and APEC's Human Resource Development Working Group", *Asia Pacific Business Review* 6: 34-53.
- Rowe, J. K. (2005) 'Corporate social responsibility as business strategy', in R. Lipschutz and J. K. Rowe (eds) *Globalization, Governmentality And Global Politics: Regulation For The Rest Of Us?*, London: Routledge
- Teague, P. (2003) "Labour-standard Setting and Regional Trading Blocs: lessons Drawing from the NAFTA Experience", *Employee Relations* 25: 428-52.
- Thomas, C. (2003) 'Cyberactivism and Corporations: New Strategies for New Media', in S. John and S. Thomson (eds) *New Activism and the Corporate Response*, New York: Palgrave
- Vosko, Leah F. 2000. *Temporary Work: The Gendered Rise of a Precarious Employment Relationship*. Toronto: University of Toronto Press.
- Vosko, Leah F. 'Decent Work': The Shifting Role of the ILO and the Struggle for Global Social Justice' *Global Social Policy* Vol. 2 no. 1 (April 2002), 19-46.
- Wells, D. (2004) 'How ethical are ethical purchasing policies?', *Journal of Academic Ethics*, 119-140
- Williams, Marc. 1994 *International Economic Organizations and the Third World* New York: Harvester Wheatsheaf.