
Chazen Society Fellow Interest Paper

Fair Trade: A Proposal for Labor Standards in Trade Agreements

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The concern for labor rights has played a role in many of the political, social and economic movements of the past few centuries.¹ Although Marx's clarion call on behalf of laborers is perhaps the most well known, there have been several more inclusive attempts to secure workers' rights against the perceived injustices of free trade. In the past decade the debate in Western countries, and in the United States in particular, has shifted to whether labor and environmental standards should be included in multilateral, regional or bilateral trade agreements. This paper proposes a framework for linking labor standards with trade agreements.

The early 20th-century movement for greater worker rights helped spawn the International Labor Organization (ILO) in 1919. Since its formation, the ILO has been responsible for monitoring and enforcing labor standards across the globe, though many argue that it has failed in this regard.² In 1998 the ILO issued a Declaration on Fundamental Principles and Rights at Work, which identified four "core labor standards": freedom of association and the effective recognition of the right to collective bargaining; elimination of all forms of forced or compulsory labor; effective abolition of child labor; and elimination of discrimination in respect of employment and occupation.³

¹ Examples range from the Bolshevik Revolution and the cold war to Keynesian economics and plans for an International Trade Organization after Bretton Woods.

² The ILO is often accused of being toothless because its main means of enforcement is public shaming. However, the ILO has been instrumental in promoting discussion of labor rights and ensuring the organization remains a relevant part of the discussion surrounding globalization. The ILO consists of 181 member nations and has brokered approximately 200 conventions. Nine of these are "core" conventions, which pertain to the four fundamental principles and rights. Each member state is free to ratify or not ratify each convention. Members must file periodic reports detailing their compliance with ratified conventions, an obligation that most nations do not take very seriously (deadlines are often missed). If a violation is suspected, a member state can file complaint. The ILO then creates a three-person commission of inquiry to investigate and issue recommendations. This happens very rarely. If the plaintiff state alleges a continued violation of the commission's recommendations, the commission can refer the case to the International Court of Justice, although this has never happened in the ILO's 90-year history.

³ International Labor Organization (ILO), "The Four Fundamental Principles and Rights at Work," <http://www.ilo.org/declaration/principles/freedomofassociation/lang--en/index.htm>.

These core standards represent the starting point for most modern discussions of labor rights. Many recent U.S. free-trade agreements either incorporate some reference to the ILO standards, such as NAFTA, or attempt to make them binding, such as the United States–Peru Trade Promotion Agreement.

In the domestic debate over the inclusion of labor standards in trade agreements, there is one primary criticism of labor standards: that they are a thinly veiled excuse for protectionism. Protectionism is viewed as counterproductive because barriers to trade inhibit countries from specializing in those areas in which they have a comparative advantage, thus creating a world that is less productive than optimal, according to economic theorists, and artificially depressing the GDP per capita of those countries. Because GDP per capita is often inversely correlated with poverty levels, free-trade theory argues that protectionist barriers lead to higher poverty levels, which are worse for workers in the long term than a lack of labor standards. Many governments of developing countries echo this argument and note that cheaper labor is one of their most significant comparative advantages.

The issue with protectionism is an important and familiar one: a rising tide will lift all boats, and barriers to trade prevent the tide from rising. However, there is more to this story. The reality is that protectionism is a constant fact of international trade, and this has been true for centuries. The most recent attempts to revive the Doha trade round in Geneva in 2008 ended in failure in large part because of disagreements over trade barriers, including large U.S. agricultural subsidies. Although the causes of underdevelopment in many countries are numerous, certainly one of them is the presence of trade barriers in developed countries. Given this reality, a possible solution presents itself in the form of a policy compromise that benefits both sides: the developing world agrees to labor standards in trade agreements, and the developed world reduces barriers to trade that affect industries in developing nations.

However, first the threshold question must be addressed: Should labor rights be linked to trade agreements? Free-trade theory, as outlined earlier, argues that labor rights should not be linked to trade because they will reduce the overall GDP of poor countries and thus negatively affect workers in those countries. However, there are reasons to believe the economic model of free trade is incomplete, because it presupposes rationality and the absence of protectionism. As past centuries have demonstrated, protectionism is ubiquitous in international affairs.

Given the political forces in democratic countries surrounding election and reelection campaigns, it can safely be postulated that domestic political concerns will always play a role in

developing international trade agreements. However, this reality is unaccounted for in the economic model, and it presents the possibility of each country responding to economic crises by imposing protectionist measures that will be reciprocated by other countries, leading to a downward spiral and a race to the bottom. For example, most economists believe that protectionist measures postponed the recovery from the Great Depression by several years. The world is faced with a similar crisis in 2009, and the presence of the “Buy America” provision in the congressional stimulus bill indicates that U.S. legislators have not learned this important lesson from the past.

In addition to the political realities of protectionism, the economic model of free trade also fails to acknowledge the dramatic inequality that often results from trade liberalization. Empirical studies have shown a direct correlation between trade liberalization and income inequality, and many economists argue that the vast majority of the GDP gains through trade are concentrated at the top of the pyramid. Although such GDP gains tend to reduce overall poverty levels, they do not do much for labor rights or working conditions.

It is entirely possible that labor rights combined with GDP growth could be the optimal solution, but nations have a coordination problem in arriving at that solution for labor rights. Several game theorists argue that including labor rights in trade (or other binding) agreements helps to standardize these rights and resolves the coordination problem, allowing countries to arrive at a higher equilibrium state in terms of GDP per capita.

Finally, the Obama administration has made it clear that it intends to take seriously social compacts, including those involving labor and the environment, as part of the trade debate. The new U.S. trade representative, Ron Kirk, testified before Congress that the administration will proceed more slowly with free-trade agreements than the Bush administration did so that it can reevaluate them along these lines. To further this policy, and to address the shortcomings of the free-trade theory, this paper suggests the previously mentioned policy compromise.

It is somewhat hypocritical for the United States to be arguing for free-trade principles while maintaining high tariffs and large subsidies. In the interest of maintaining a coherent trade policy, as well as furthering global economic welfare, the United States and other developed nations should take bolder actions to reduce domestic tariffs and subsidies. In such areas as agriculture and ethanol, among others, this is exactly what developing countries are asking for so that they can gain access to developed nations’ markets. However, in return, developed nations can—and should—ask developing nations to adhere to a more rigorous set of labor standards,

starting with the ILO core labor standards. Just as these core standards were developed by an international body, they would be monitored by an international inspection organization modeled after the International Atomic Energy Agency (IAEA).

This policy compromise entails developed nations making specific deals with individual countries and thus lends itself to bilateral trade agreements. For example, the United States could offer to reduce its tariff on Brazilian ethanol in return for a Brazilian commitment to enforce the four core ILO labor standards. This agreement should be modeled after the United States–Peru Trade Promotion Agreement—often hailed as a high-water mark in labor rights—which commits each country to enforce these principles and creates a binding dispute-resolution mechanism.⁴

In addition, this policy compromise allays one of the major fears of free-trade advocates: that, stemming from domestic political concerns rather than concern for labor practices, labor standards will be used selectively to impose trade barriers on particular countries. Entrusting the monitoring and enforcement of such an issue to an independent international organization means there is less risk of this kind of manipulation. The ILO has been effective in monitoring such practices in single industries, such as textiles in Cambodia, but it has proven less effective on a larger scale. An increase in funding, and perhaps even joining forces with effective independent organizations, such as the Worker Rights Consortium, would be a large step toward credibility.

A policy compromise along the lines outlined in this paper would help make the lowering of trade barriers a politically palatable proposal. The labor unions, such as the AFL-CIO and the American Federation of State, County and Municipal Employees (AFSCME), which have traditionally been the major advocates of protectionist measures, will be more likely to acquiesce to a reduced protectionist stance if labor standards are folded into trade agreements that lower other trade barriers, such as the agricultural and steel tariffs.⁵ The developing countries will be enticed into agreements of this sort by the prospect of new large Western markets for their main exports, such as agriculture and textiles. The workers will enjoy higher wages and better working conditions. There are, of course, downsides to this proposal—for example, several classes of laborers, in both developed and developing nations, stand to lose their jobs. But this is an

⁴ Article 17 of the United States–Peru Trade Promotion Agreement specifies the binding commitment of both parties to the labor rights in the 1998 ILO declaration. This agreement was the result of a congressional compromise reached in May 2007 between Republicans, who disapprove generally of labor or environmental agreements, and Democrats, who generally are in favor of much stronger labor and environmental protections.

⁵ The AFL-CIO has been a strong proponent of such labor rights because they help create a more competitive landscape for the American worker, who cannot compete effectively with workers in less developed countries on a cost basis. John Sweeney, the president of the AFL-CIO, has twice unsuccessfully petitioned, based on § 301(d) of the Trade Act of 1974, for trade sanctions against China for just this reason.

inevitable aspect of an evolving trade system, and it would happen whether trade was linked to labor standards or not. The policy compromise outlined in this paper allows this evolution to proceed in a way that respects the rights of workers and individuals.