

WTO, International Labour Standards, & concerns of India



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Linking Trade and Labour Standards in International Trade Agreements

- ILO advocated such linkages in its Constitution, but failed.
- The Havana charter, precursor to ITO, noted existence of link between the two, but the charter was not ratified by USA and failed.
- In GATT, Article XX (e) had a reference to ban of imports made by prison labor.
- Efforts to incorporate a social clause-linkage of Labor standards with trade by using trade sanctions- in WTO framework by developed countries ,particularly USA and EU-in particular France , in successive rounds, were rejected by the opponents, mainly developing nations and had weak support from some developed countries, like UK.



Social Clause - what is?

- **A social clause refers to a legal provision in a trade agreement aimed at removing most extreme forms of labour exploitation in exporting countries by allowing importing countries to take trade measures against the exporting countries, which fail to conform to a set of internationally agreed labour standards.**



The two opposing groups

Proponents:

- **Neo Keynesians**
- **International Employers with ethical codes of conduct-"Ethical Sourcing"-case-Levis**
- **Trade Unions**
- **ILO**
- **Activists**
- **NGOs**

Opponents:

- **Neoclassical economists-free trade advocates**
- **TNCs**
- **Third world governments**
- **Some economic elites like Prof. Bhagvati**



What are the real fears?

- **For the proponents of LS –IT linkage:**

Relocation of production facilities to cheap labour and poor labour standards countries by TNCs, resultant unemployment, falling real wages, increasing working poor, growing income inequalities in developed nations since 80s.

- **For the opponents of LS-IT linkage:**

The inclusion of one non trade issue like labor standard will open the gates for other issues like environment protection standards also being linked to trade .

- **WTO may become too burdened with issues which it is not competent to handle.**

- **There is nothing like universal labour standards and the disputes regarding interpretation of their violation will be subjective and decided by only the powerful developed nations.**



Linking International labour standards to international trade

■ Arguments for

- Will provide a universal social floor
- Work first and Rights latter-violation of human rights
- Rights and representation critical to achieve decent work
- ILO can not enforce decent work principles
- Avoid race to the bottom-Social dumping
- International trade is not without rules, e.g. code on IPR, market access and subsidies which are beneficial to corporate, similar codes for labor can not be overruled.

■ Arguments against

- seeks to deny primacy of comparative advantage of abundant cheap labour to developing country - Protectionist non tariff barrier-seeks to prevent developing countries from achieving faster development.
- Political and cultural imperialism-Common standards on any matter constitute an infringement of national sovereignty and cultural identity.e.g. US-Mexico Tuna disputes over latter's use of nets that trapped dolphins is cited as an example of this, where US unilaterally suspended Mexico's Tuna trading rights.



Application of labour standards in trade : Levels

- Unilateral-Country legislation containing social clause that covers all its trade relations
- Bilateral-Workers' rights clauses in trade relations between a country and its trade partner, e.g. GSP (Generalised system of preferences)
- Multilateral-In GATT, WTO
- Regional-NAALC_(North American Agreement on labor cooperation), Labor side agreement of NAFTA, Social charter of the EU)



Implementing Labour Standards:

- **Not merely an economic issue**
- **Important social and cultural implications**
- **No conclusive empirical evidence to either prove or disprove any link between differences in implementation of labour standards and competitive advantage, as per an OECD study in 1996.**



Foundation of ‘Decent work’

- **The ILO Declaration on Fundamental Principles and Rights at Work, 1998:**

Affirming the right of every one to “conditions of freedom and dignity, of economic security and equal opportunity.”

Four standards classified as core labor standards in 8 conventions:

- 1. Freedom of association- conventions-87 & 98**
- 2. Abolition of Child labour- conventions 138 & 182**
- 3. Elimination of forced labour-conventions 29 & 105**
- 4. Elimination of Discrimination-conventions 111 & 100**



India – A statistical profile

- Population : 1 bn. Plus
- Workforce: 384 mn. Plus
- Organised labour force: 28 mn.
- Unionised labour force: 16 mn. Plus
- Unemployment – No. on rolls of employment exchanges: 40 mn. Plus
- Educated unemployment increasing
- Incidence of poverty poor among employed than unemployed!



India & International Labour Standards

- **ILO Member since 1919**
- **Ratified 38 out of 182 conventions**
- **Ratified only 3 of the 8 core conventions 29- forced labour, 100-equal remuneration, and 111 – anti -discrimination**
- **Still has reservations about ratifying 87 and 98**
- **Government position is that though some conventions are yet to be ratified, in practice they are being followed through constitutional mandates and national laws.**



Social clause and Indian legislation

- Social clause aspect
 - Freedom of association and right to collective bargaining
- Legal position
 - Freedom of association fundamental right under Article 19
 - Trade Unions Act, 1926 meets with part of the objectives of Conventions 87 and 98



Social clause and Indian legislation

- Social clause aspect

- Forced labour
Conventions 29 and 105

- Legal aspect

- Article 23 of Constitution and Bonded Labour System (Abolition) Act, 1976. India ratified Convention 29, not 105



Social clause and Indian legislation

- Social clause aspect
 - Minimum Age Convention 138 prescribing it at 15, with some exceptions and 182 concerning immediate action to end the worst forms of child labour.
- Legal aspect
 - Child Labour (Prohibition and Regulation) Act, 1986 prohibits employment of children below 14



Social clause and Indian Legislation

- Social clause aspect

- Equal Remuneration Convention 100

- Legal aspect

- Ratified Conv. 100
- Equal Remuneration Act, 1976 seeks to provide for equal remuneration to men and women



Social clause and Indian legislation

- Discrimination (Employment and Occupation) Convention 111
- Legal aspect
 - India ratified Conv. 111
 - Caste discrimination still a problem. Became an issue in Durham conference in 2001



Universal Social Floor and India

- Freedom of association and right to collective bargaining – not ratified
- No child labour – one of the highest in India
- No forced labour - persistent
- No discrimination – still a problem



Decent work deficit - Employment gap

- Employment gap : subsistence to existence
 - 160 million openly unemployed
 - with underemployed, the number skyrockets to one billion
 - Half the population lives on less than US\$2 a day
 - 500 million new jobs required over the next 10 years
 - job creation is priority. Work without rights is a permanent trap into poverty – all these are a problem in India



Decent work deficit - Rights gap

- 250 million child workers
- 20 million workers in debt bondage
- Nearly 2 out of 5 countries in the world have problems with freedom of association
- Decentralisation and deregulation is adversely impinging on union density, coordination and bargaining power
- World Bank orchestrating support for labour law reform that reduces existing protection



Decent work - social protection gap

- Only 20 per cent of workers have social protection
- 3000 people die every day due to work related accidents or disease
- In some countries more man days are lost due to work related depression than strikes and lockouts
- Only 7% enjoy a semblance of social protection in India



Decent work deficit - Social dialogue gap

- Representational gap
- 27 million workers in export processing zones have no or little voice
- Less than 7% participate in social dialogue
- Weak tripod. Huge social exclusion
- Civil society institutions growing in strength and asserting. In India public interest litigation, consumer courts and environmental litigation restraining and relegating the rights of labour and management to a backseat



Balanced approach - dual concern for equity and efficiency

- Flexibility and competitiveness
 - employment friendly - need for wage moderation
 - should not be synonymous with insecurity
 - socially responsible and people sensitive enterprise restructuring
 - Markets should work for all: not just shareholders, but all stakeholders



Different approaches to international labour standards

- ILO Principles: moral persuasion without sanctions
- WTO - keep off
- Voluntary initiatives - sanctions at market places - new non-tariff barriers making compliance a condition for trade, investment, etc.



ILO approach to universal social floor

- Singapore Trade Ministers Conference, 1996
- WTO keep off issue of linking trade with LS
- ILO Fundamental Principles Declaration, 1998
- Decent work, 1999
- Doha WTO Ministerial Conference (2002) reaffirmed Singapore declaration



Voluntary private efforts

- Corporate Codes of Conduct
 - Ethical Trading Initiative (ITI)
 - Clean Clothes Campaign (CCC)
 - Fair Labour Standards (FLA)
 - Social labeling
- Consumer boycotts



The Fair Labour Association

- US based NGO and US universities
- Large apparel firms
- Developed a code
- Developing, monitoring and reporting procedures
- Plans to publish audit results
- Issue sweat-free labels
- Remedies and sanctions not clear



Voluntary Initiatives and Indian situation

- NGOs in the forefront in securing minimum social floor
- Carpets: Kaleen and Rugmark
- Sports goods in Jallundhar – Initiative similar to Sialkot in Pakistan
- Commerce Ministry taking initiative in textiles
- Worry about core labour standards becoming non tariff barriers



Attitudes of social partners in India

- Reject labour rights – WTO linkage
- Uphold the principles of universal labour rights and the need for evolving structures to monitor the enforcement of labour rights
- Set up UN labour rights Commission
- Establish national level powerful National Labour Rights Commission
- Unions reject rights-WTO linkage globally but locally strive to improve them.



Three steps in labour standards regulation

- Develop standards
 - relatively easy
 - ILO core labour standards
 - Corporate codes of conduct
- Monitor and enforce-How?
 - relatively harder
- Remedies and sanctions
 - Most difficult



Implications for employers and workers

- **Exploitation and discrimination can perpetuate an inefficient system in the long term-e.g. use of child labour hinders formation of human capital.**
- **Voluntary initiatives at market place have slow pace and low coverage.**
- **Adherence to fair labour practices is key to remain in business and succeed,e.g. discrimination in employment results in inefficient use of Human Resources.**
- **It is necessary to focus on the entire supply chain as competitiveness does not depend on low wages but on labour productivity differences.**
- **Need to overcome the notion: jobs first and rights later. Jobs without rights will make 'decent work' elusive forever.**



Thank you all!