

LABOR HISTORY SYMPOSIUM

Editorial Note

Can Labor Standards Improve under Globalization?

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Washington, Institute for International Economics, 2003

In the latest Labor History symposium, leading experts on labor and globalization issues respond to Kimberly Ann Elliott and Richard B. Freeman's *Can Labor Standards Improve under Globalization?* In this important book, the two renowned economists put forth concrete plans for advancing core labor standards through the International Labor Organization (ILO) and the World Trade Organization (WTO), thus furthering healthy debate on seminal questions of concern to all labor scholars.

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Editor

Global Labor Standards and the WTO: A Crack Opens?

In their book *Can Labor Standards Improve under Globalization?* Kim Elliott and Richard Freeman set out a cautious, but nevertheless significant, proposal for incorporating protection of labor rights into the sanctions-cum-dispute-resolution procedures of the World Trade Organization WTO. Similar, if more comprehensive, ideas have circulated for a long time and have generally been beaten back by trade economists and developing-country governments. What may be most significant here is that two prominent economists, who are anything but naïve about how the WTO operates and what dangers are posed by expanding its scope, nevertheless advocate the injection of labor standards into enforceable trading rules. Their proposal deserves a full and sympathetic hearing.

The book itself is notable for bringing much-needed clarity to the often confused debates about the nature of labor standards, the role of consumer preferences and

corporate codes in addressing them, and the global institutional structure surrounding them. It is also a welcome compilation of information and facts that should help dispel a number of misconceptions and misperceptions about markets, trade, and labor rights. This is especially true as regards the famous cases of Pakistani soccer balls and Bangladeshi garments. These instances frequently are held up by opponents of mixing trade and labor standards as demonstrating that potential trade sanctions, whether through consumer embargoes or formal trade barriers, can only harm the prospects of those they are supposed to help. However, rather than force children into prostitution or street work en masse, as some have believed, it appears in the medium run that these incidents resulted in some improvement in educational opportunities. These case studies should be read and discussed widely; I only wish the authors had devoted more effort to tracing through these impacts.

The volume also presents some much-needed information on the 'demand' for labor standards in the sense of the premiums consumers in the United States seem willing to pay for products made under decent working conditions. Survey results and experimental work suggests that consumers there are willing to pay for knowledge that their products are 'clean.' Still, the asymmetry the authors identify, that demand is highly elastic for goods produced under good conditions and inelastic for goods produced under bad conditions, is sobering for those who are optimistic about labeling and price premiums to solve the problem. It is curious in this regard that the authors go on to place considerable hopes in precisely those approaches. Curious, but perhaps not surprising, for economists generally look to information revelation (through labeling and monitoring) within markets as the most sustainable and effective solutions to cross-border problems of social protection.

A surprising feature of the analysis is that their discussion of the 'supply' of standards focuses completely on means by which firms and monitors might choose to improve working conditions on their own accord, even if under considerable pressure from NGOs and consumer groups. The responses of Nike, The Gap, and similar enterprises in setting codes of conduct for their subcontractors are indeed central to any effective improvement of labor rights in poor countries. They are not, however, the target of moral suasion by the ILO or of potential trade sanctions by the WTO. Rather, the actions of governments, whether in formally or effectively denying rights to collective bargaining or in permitting discrimination and exploitative use of child labor, are at issue in terms of international policy.

To me, therefore, the main questions surround the inability or unwillingness of governments to increase their 'standards supply' function through better laws or stricter enforcement. This situation is all the more perplexing because, as I have written elsewhere, recognition and enforcement of the core labor standards—absence of forced labor, elimination of exploitative use of child labor, prevention of discrimination, and permission of free association and collective bargaining rights—are more likely than not to improve productivity and export performance for developing economies.¹ For example, discrimination that reduces wages of women below their undistorted equilibrium levels would constrain output on the labor-supply side, tending to reduce exports if the discrimination were in export sectors.

Keeping children out of school and placing them in hazardous work is likely to diminish productivity and dynamic growth prospects. A ban on labor organization and collective bargaining supports monopsony labor practices, which may be expected again to restrict output rather than to raise it beyond competitive levels. The role of collective bargaining in that context would be to move labor markets closer toward competitive outcomes, unless the recognized unions excessively establish 'insider gains' as their basic objective.

Whether or not one accepts these theoretical propositions as valid, it is virtually impossible to deny the consensus of empirical evidence reviewed by Elliott and Freeman that foreign direct investment (FDI) tends to avoid countries with very weak labor rights. It is not difficult to understand why, for even if multinational companies were attracted to places in which they could operate free of unions, those same places tend to have miserable infrastructure, poor productivity, and lousy governance. Furthermore, there is no credible evidence that denying basic labor protection generates any systematic export advantages, even in labor-intensive goods. A major reason is that many of the problems exist in non-traded sectors. Put simply, the anticipated competitiveness advantages from aggressively restricting worker rights are either false in principle, unavailable in practice, or both.

Why, then, do some governments continue to repress labor unions, permit discrimination, and fail to end the worst forms of child labor, despite the strong likelihood that doing so restricts productivity, investments, and growth? Presumably it is because those same governments are not representative of the interests of their citizenry and are fundamentally anti-democratic. It is not difficult to see that individual enterprise owners can gain from weak labor rights (consider the profit potential from being one of a few employers in the mining sector) and would lobby to preserve those benefits even if the economy generally is harmed. Where governance is weak and corruption is rife, all manner of efficient regulation can be stifled in the name of 'enterprise,' where that is a euphemism for monopoly. There are, in short, strong interests in preventing the natural emergence of labor standards that, while perhaps costly to some agents in the short run, would support and expand market processes in the long run.

A related factor, which Elliott and Freeman acknowledge, is that in many countries federal and local governments prefer to repress the development of collective bargaining rights because the unions could become independent, and threatening, power sources. To governments in China, Myanmar, Indonesia, and elsewhere, the specter of the Solidarity Labor Movement in Poland in the early 1980s still looms large. In this light, repression of labor rights is less about markets and productivity than it is about sustaining power in what might be considered, in a more open framework, illegitimate government institutions. Those unions permitted to exist are more partners of government and business than they are advocates of labor interests. All three are more engaged in rent-seeking and rent-sharing than in institutional innovation and productivity growth.

If this reading of the problem is correct, what can be said about involving the WTO and raising the threat of trade sanctions as a means of overcoming what is

fundamentally a political economy problem arising from weak institutions and an absence of democratic processes? This question can be broken down into two more basic queries. Should the WTO be involved as a matter of global governance? And can WTO involvement be effective, recognizing that there may emerge unintended and costly consequences in bringing its enforcement powers to bear? These are not simple questions.

Consider first the question of whether it is appropriate to invest in the WTO the power to regulate core labor practices. The arguments marshaled by the authors are as follows. First, corporate interests have succeeded in greatly expanding the purview of the WTO by demanding that the rights to invest capital and to enjoy exclusive exploitation of intellectual property be protected in member states. The inclusion of intellectual property rights in particular, by favoring the interests of innovative enterprises in rich countries over the needs of competition in poor countries, raises questions of legitimacy for the WTO. Why, it is asked, should capital and intellectual assets be protected from theft, expropriation, and imitation, upon pain of trade sanctions, while laborers cannot be protected in the exercise of their own core rights? Put in those terms it is difficult to argue against bringing labor standards into the WTO as a matter of fairness and legitimacy. Elliott and Freeman are particularly concerned that respect for the trading system may erode badly if this asymmetry is not repaired. While I am doubtful of this prospect on the simple ground that not many people outside trade-concerned NGOs and think-tanks actually are aware of or care about the asymmetry, it is a valid point.

Second, the authors make an explicit link between weak labor protection that affects exports and the appropriate role of trade sanctions. That is, the WTO should be involved only in clearly 'trade-related' cases, recognizing that the basic core competence of the institution does not extend beyond that level.

While these are important arguments, I do not think they are sufficient for making the case in principle. They are debatable on their own grounds. In the first instance, one can argue that introducing intellectual property rights into the WTO was a mistake in terms of its imbalance of benefits and of the questionable relationship to trade in the context of deep standards.² It is not clear that adding labor standards will do much more than compound this difficulty. Next, the vast majority of difficulties with labor standards seem to reside in non-traded sectors and would not seem to have identifiable impacts on trade. Even limiting sanctions to egregious and clearly trade-related cases may have little ability to influence the situation while raising a number of potential roadblocks for export growth in developing nations.

Further, economists generally point to two other conditions that need to be satisfied in order to argue for WTO involvement in regulating national policies.³ First, intervention is appropriate if, by failing to observe core labor standards, governments generate cross-border externalities that may be internalized through the threat of sanctions (or the promise of market access). In the case of labor standards the apparent externalities lie in consumption: consumers in rich countries are bothered by the possibility that the products they import were produced under substandard working conditions. It is evident that the appropriate resolutions of this market failure

lie first in improving information flows through labeling, monitoring, and advertising and second in transferring consumer benefits to education programs and other means of improving labor rights in poor countries. In contrast, an import tariff serves in part as a tax on consumption, at best an indirect solution to the consumer problem, and in part as a tax on foreign production. The latter element raises the problem, noted by many economists, that the tariff could directly harm the workers it is designed to help. In this regard, the externality argument is weak in the case of labor standards.

The second condition is that, acting unilaterally in the area of labor standards, governments would find themselves mutually in a prisoner's dilemma of excessively low worker rights.⁴ This 'policy coordination' problem could be resolved by some international institution mandating minimum labor standards and finding a credible means of enforcing them. In fact, this problem seems real in the area of labor standards, since governments (acting mainly for political economy reasons as mentioned above) may not see any scope for gains except in a coordinated multilateral solution. In essence, this is the primary justification for a WTO-related solution to improving worker rights through core labor standards. It cannot easily be dismissed by economists or trade diplomats. Neither theory nor empirical analysis suffices to exclude labor standards definitively from the WTO on fundamental grounds.

Thus, attention turns to the second general question: would WTO involvement invite unintended consequences in implementation that would place the system at risk of excessive and arbitrary trade restrictions? In this area trade economists are justifiably wary of any proposal to permit individual governments to impose trade sanctions on the basis of their views of weak labor protection. Like anti-dumping and, ultimately like intellectual property rights, such a system could damage trade more than it improves working conditions. Indeed, the danger remains that the plight of workers could deteriorate as a result of tariffs.

Elliott and Freeman take the sensible view that trade specialists overstate this concern and, in any case, it can be managed by sharply proscribing the extent of WTO involvement. Their proposal is straightforward. It would expand Article XX (the general exceptions clause in the General Agreement on Tariffs and Trade [GATT] / WTO) to permit countries to exclude imports of goods produced under egregious violations of core labor standards. Presumably the 'egregiousness' would be defined by importing governments but they would be subject to WTO dispute resolution processes if they chose to define the term too loosely (that is, to raise disguised protectionist barriers to trade). Moreover the authors envision a coordinated, multilateral approach to identifying those export-related violations of core labor standards, limiting the scope for individual countries to act with mischief. They seem confident that these limitations on procedure would rein in protectionist tendencies.

Like many other trade economists I am less optimistic, especially about the latter provision. Imagine, for example, the barriers that could emerge if a group of middle-income economies jointly wished to limit import competition from poorer countries in labor-intensive goods. The former group could constitute a formidable presence within the WTO, both in negotiating extensions of Article XX and in arguing before dispute settlement panels. I am not persuaded that, even given the rigor of Article XX

procedures, resort to 'social protection' would not become widespread, perhaps especially in terms of proliferating South±South trade barriers. There is, finally, the prospect of a considerable expansion of labor-protection rules beyond what even these authors would advocate, once the system is underway. After all, if trade sanctions can be aimed only at clearly export-related production processes, they can have little impact on the much larger problems of weak labor rights in non-traded goods and the informal economy. Enthusiasts could be persuaded to expand the purview of the WTO accordingly into broader trade sanctions.

In the end, therefore, my position is to acknowledge that Elliott and Freeman have a good case for cracking open the WTO to labor standards, but to be wary of actually doing so. I would not, at this point, dismiss the possibility out of hand but simply encourage trade negotiators to think deeply about mechanism designs and constraints on behavior if member states choose to go down that road.

However, I would suggest an alternative course of action, which is consistent in any case with the general thrust of the Elliott±Freeman analysis. The traditional role of the ILO, of illuminating problems in working conditions and bringing moral suasion to bear, could achieve similar goals in principle. Indeed, the ILO has two significant advantages over the WTO in this context. First, it has expertise and experience in identifying and publicizing problems. Second, the reliance on moral suasion should make it easier to achieve a global consensus among member states that particular issues are egregious and need coordinated action.

A useful step, therefore, could be to bestow upon the ILO even greater authority than it already has to approve multilateral sanctions (in trade, investment, or technical assistance) against countries with recognized and significant violations of core labor rights. Such an approach would be analogous to the sanctioning power of multilateral environmental agreements, which have served to reduce damaging production of chlorofluorocarbons and trade in endangered species. It has the advantages of commanding a consensus for action (thereby reducing individual national incentives to impose barriers) focusing attention on truly difficult cases. Moreover, it could signal to international development agencies cases in which aid should be expanded (to improve educational opportunities, for example) or cut (to punish poor governance). This approach strikes me as both more direct and less subject to capture than the implementation of WTO rules.

Of course, the singular failure of the ILO to date to induce reforms in basic labor standards should make us question how effective that approach could be. I would advocate putting both the Elliott±Freeman proposal and the ILO proposal (which is not far removed from other recommendations they make in any case) on the global governance table and invite serious analytical work to decide their relative merits.

Notes

[1] Maskus, 'Should Core Labor Standards Be Imposed?'

[2] Panagariya, 'TRIPs and the WTO.'

[3] Maskus, 'Regulatory Standards in the WTO.'

- [4] A related concern, that weak standards in poor countries would generate a 'race to the bottom' and induce rich countries to reduce their own protection, has not been borne out in practice.

References

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