**TRADE - SIGNIFICANT WEAPON IN THE ARMOURY OF THE WORLD ORDER**

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ABSTRACT

The expansion of world trade will definitely benefit the workers. In order to assist least developed countries with very low share of global trade, the WTO is called upon to give them increased technology transfer, aid and debt relief protection from negative consequences of the agreement. The WTO is not a watchdog but it is the custodian of world’s multilateral trading system. It is a rule-based organization that works essentially on the basis of consensus. The key to evolution of an appropriate role for the WTO with respect to labour rights is the dynamic relationship between WTO and ILO. A rights-based approach entitles workers to the guarantees enshrined in the ILO Declaration, whereas the basic needs theory treats them as passive recipients of social benefits. If respect for human dignity is taken seriously, empowerment of people is crucial. The WTO needs ability to distinguish justified labour rights. However it is encouraging to note that WB and IMF have made it clear their commitment to continue its activities concerning labour rights.

**Keywords:** World trade, consequences, organization, activities

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The idea of international labour rights is being invoked by international institutions namely World Trade Organization (WTO) as a way of demonstrating the justness of a legal order. In this view the international labour law is realigning its relationship to international human right law around shared task of mitigating the distributional consequences of globalization and transnational flexible production – a task in which the right to bargain collectively performs a critical function. Trade labour linkage incorporated into trade treaties will be diluted in the process of negotiations and trade conditional ties would unfairly penalize all workers in the defaulting country, even if only small percentage of traded goods were not compliant. To understand the welfare effects of compliance with core labour standards, it is important to bare in mind a fundamental distortion in world labour standards: restrictive immigration policies that prevent most people from moving to locations where employment conditions and standard Government policies maximize their preferences.

The expansion of world trade will definitely benefit the workers. But the actual outcome depends on the design of the trade agreement. Various features in trade agreement can affect the amount of job creation, work place conditions and prospect of raising standard of living. Worker mobility is logically a part of economic integration and importing and exporting can benefit both sending and receiving countries. Adoption of effective manpower adjustment measures calculated to facilitate trade liberalization by eliminating or reducing some of the grounds for opposition to them, proved beneficial. Adjustment assistance is considered preferable to import restriction. WTO in 2003 issued a study on adjusting to trade liberalization. Governments can facilitate the adjustment process. It discusses social nets, labour markets education, training and other issues. Although the WTO effort to delve into labour issues is commendable the study was a disappointment, because it ignored opportunities of international co-operation. Against this backdrop the current WTO rules seek to protect procedures against dumping and subsidies.

WTO has to respond to members themselves either individually or collectively to impose trade sanctions on other members who violate core labour rights or fail to enforce those rights within their domestic jurisdiction. Ironically the ILO which concerns itself with international labour rights does not possess the jurisdiction to determine whether trade sanctions under taken by its members for labour rights violation are consistent with trade rules under WTO treaties. The country or countries targeted by sanctions or at least some firms within those countries change their domestic labour practices and adhere to the minimum labour standards. Therefore imposition of sanctions against violation of laour standards is said to achieve desired effect. Until WTO jurisprudence evoked constraints that may go far beyond; what is needed is to prevent abuse of labour rights for protectionist purposes. Therefore WTO needs the ability to distinguish justified labour rights – based sanctions from protectionist cheating on liberal trading rules and to protect integrity and legitimacy of the trading system. An alternative to trade restrictions is social labeling which allows individuals as consumers to express their moral preference for labour rights protection.

In order to assist least developed countries with very low share of global trade, the WTO is called upon to give them increased technology transfer, aid and debt relief protection from negative consequences of the agreement. Over years WTO has accumulated greatly increased responsibilities from its contractual character, recurrent rounds of trade negotiations and their follow up.

To settle disputes between members concerning the rights and obligations under provisions of the agreement of WTO, the Dispute Settlement Body (DSB) is established. The DSB shall have the authority to establish panels, adopt panel appellate body reports, maintain surveillance of implementation of rulings and recommendations and authorize suspension of concerns and obligations under the covered agreements. The member countries feel more comfortable with the dispute settlement process of the WTO. Its success and popularity is evident from the fact that while a total of 315 trade disputes were brought to the old GATT between 1948 and 1994, as many as 120 trade disputes have gone before the WTO in just little over three years from its inception as per records.

The WTO is not a watchdog but it is the custodian of world’s multilateral trading system. It is a rule-based organization that works essentially on the basis of consensus. It is also the only international organization with enforcement power over even the advanced countries, which is a major source of its strength. The major difference from other organizations is that because of “one country – one vote” rule in the WTO the developing countries have a much larger voice in the WTO in the formal sense.

The key to evolution of an appropriate role for the WTO with respect to labour rights is the dynamic relationship between WTO and ILO. The WTO needs ability to distinguish justified labour rights. This ability depends on the evolution of ILO as an organization capable of generating wide spread consensus on at least the essential content of fundamental labour rights with effective tools for monitoring and measuring compliance.

INTERNATIONAL FINANCIALINSTITUTIONS ACTING AS INTERNATIONAL INSTRUMENTS:

The international financial institutions affording protection of human rights and insisting practice of labour standards in the countries receiving aid and loan are World Bank (WB), International Monetary Fund (IMF). The WB and IMF are US created international financial institutions which were started in 1946 in Brettonwoods Massachusetts to assist countries recovering from the devastation of World War II. While the WB took to financing development project, IMF provided financial policy advice to donor countries. Their aim is to stabilize national currency and balance of payments in order to encourage foreign investments. They also provide aid and loans in exchange for structural adjustment policies the donor countries have to implement.

While the WB and IMF Articles of agreement do not explicitly refer to human rights, development and social welfare are mentioned several times and can be interpreted according to the practice established within human rights agencies. Owing to this reason for a long period of time these institutions have considered human rights as political and internal matter of State. Neither the World Bank nor the International Monetary Fund is a party to the ILO Conventions and UN Covenants relevant to core labour rights. Nor have they adopted the ILO Declaration on Fundamental Principles and Rights at Work. Also, the Conventions and Covenants mainly address obligations of states rather than those of international institutions. Finally, Article 24 ICESCR is often put forward to underline the argument that specialized agencies are subject to their own charters. This position can be challenged by two facts: first core labour rights as defined by the ILO Declaration have reached the status of at least emerging general principles of law according to Article 38 of the ICJ statute. Second, and even more striking, most Member States of the WB and IMF are also members of the ILO and thus bound by the Declaration and the conventions mentioned therein.

It is important to note that the obligations of states to protect labour rights also extend to their participation in international organizations, where they act collectively. The obligation to protect labour rights does not stop at the domestic level but requires states to apply the same standards when they participate in international organizations. This approach is reflected in Article 5 of the international Law Commission’s draft on state responsibility and has also been emphasized by the Committee on Economic, Social and Cultural Rights on several occasions. It translates into an obligation for international economic institutions not to require measures that would hinder a member’s ability to comply with core labour rights.

In response to UN direction to the international financial institutions to respect social, economic and cultural rights in their own activities and to tailor their programmes so as to facilitate the promotion of these rights in the respective countries, conditional ties with respective social and economic rights are imposed on countries receiving financial assistance. This is of course limited to extend that non-compliance which such obligations would jeopardize the objectives of the assistance programme. Before programmes and policies are implemented assessment of their effects on core labour rights are therefore necessary. However the WB and IMF to varying degrees have been slowly accepting their roles in the promotion and protection of the ideas encompassed by human rights. This policy change reflects the realization of worldwide development of human rights concept. Human rights violation was recognized in extending aid or loan to the countries launching large scale projects.

Large scale projects especially in rural areas; wilderness and frontier areas may displace people just as war and natural calamities do. The displaced persons are in general not properly rehabilitated. Sometimes paltry sums are paid in compensation and sent them to settle to their choice. Human rights are thus violated in the name of development. According to WTO these rights should not be impaired on grounds of national sovereignty or national economic interest. While such considerations may justify a project, they do not justify the nullification of these basic human rights.

Apart from economic aspect in insisting upon labour rights, there is also “humanistic” motivation. The protection of human rights serves many purposes of which increasing economic welfare is just one; leading a life with human dignity and the “pursuit of happiness” is another. This moral aspect has become apparent in last few years as consumer pressure on enterprises in countries with high child labour rates and unequal working conditions for women, increases steadily. Boycotts against companies violating labour standards have made it clear that many consumers no longer tolerate exploitative working conditions.

WORLD BANK (WB):

With regard to labour rights, WB considers equitable access to safe and well-planned employment to the one of the most important aspects of risk reduction. The WB recognizes that adherence to core labour standards can substantially contribute to improving welfare.

According to the basic labour standards including the prohibition of forced labour and discrimination in employment, the freedom of association and the right to collective bargaining play an important role in formulating the labour relationship. Since all countries do not embrace the last two standards because of their political implications, the WB opts for a pragmatic and country-by-country approach.

The Bank is less reluctant to impose conditionalities on receiving countries when it comes to dealing with harmful forms of freedom of association and collective bargaining. In other words the Bank applies higher standards of scrutiny in relation to own actions where the protection of Children and Women from economic exploitation is involved.

The explanation for this different approach seems to be two fold: On the one hand there is, a strong economic evidence suggesting that gender equality and prevention of exploitative child labour enhance economic progress and welfare and help to create the stable social conditions that are crucial for sustainable development. Apart from this economic argument which instrumentalise labour rights, there is also what could be called humanistic motivation. Consumer boycots under some circumstances have made the situation for the groups they intended to protect, worse. From a legal and humanistic point of view, the Bank’s approach in taking a clear position in favour of the most vulnerable groups makes perfect sense. In addition, the Bank’s guidelines in this area, although not legally binding, have considerable impact on the behaviour of corporations involved in the World Bank projects. However the question of whether this approach should be extended to the other core labour rights-freedom of association and right to collective bargaining remains open.

It is clear that interpreting Bank’s statutes as precluding it from actively promoting labour rights and in particular freedom of association and collective bargaining is flawed in two respects. First, such an interpretation neglects important developments in international law that recognize a right to participate fully in a democratic society and to have access to justice and the legal protection. Second, the Bank’s reluctance to include core labour rights in its programmes is inconsistent with its policy regarding access to justice. These programmes prove that substantial progress can be made without undermining the sovereignty of member states and without overstepping the Bank’s mandate.

The Bank guidelines in the area of labour rights protection, although not legally binding, have considerable impact on the behavior of corporations involved in WB projects. The Bank set up in inspection panel in 1993 to provide an independent forum to groups of private citizens and NGOs, to inspect whether their rights and interests have been harmed by a project financed by the WB. The panel is a review procedure but not an enforcement mechanism nor is it a Court. Nonetheless the panels’ nonbinding recommendations to the bank are often influential and the publicity surrounding an adverse report can put significant pressure on the WB board to change or even to put an end to the project.

INTERNATIONAL MONETARY FUND (IMF):

Consultations used by the IMF to develop its policies relating to health care, welfare, environmental protection, housing, employment, labour standards etc. towards individual country influence the conditions that country must meet in order to access IMF funds. Since the advice given by the IMF in consultations may be converted into the conditional ties attached to IMF financing, the IMF is able to exert greater influence over member countries needing financial assistance from IMF. With these conditions the IMF is able to promote and protect labour rights. Thus the improvement of labour conditions is seen as positive side effect of social policy rather than an objective of IMF. Alleviation of poverty was introduced into IMF’s objective for concessional lending in September 1999. Poverty reduction in the context of growth-oriented strategy is now considered IMF’s another objective. A close examination is necessary between unemployment rates price stability and labour standards in order to estimate the impact of IMF’s core functions on core labour rights. IMF has a mandate to exercise firm surveillance. In its surveys the IMF often refers to standards such as labour standards established by other international organizations such as ILO. Nevertheless nothing in the Articles of agreement prevents the IMF from addressing core labour rights, if poor labour performance negatively affects economic situation of the country. Some countries complain that IMF oversteps its mandate by applying some conditionality outside its areas of responsibility and expertise. Co-operation with the ILO in enhancing labour standards is an example.

Negative perception is attributed to the functioning of WB and IMF. They include privatization, withdrawal of subsidies, factory closures, the opening of domestic markets, currency devolution, inflation and reduction in social services. They act as elements contributing to the depletion of resources and security of poor of these drastic economic measures such as privatization of public services and cuts in subsidies for products essential for the population may result in social unrest and turmoil. Therefore the WB and IMF have to ensure that the member countries take corrective measures to eliminate the woes of the poor. International economic institutions clearly are quiet uncomfortable with the language of human rights. They prefer to address specific “social issues” rather than open themselves to the far broader and sustentative human rights and labour rights.

Instead of introducing new concept to deal with labour rights and thereby reinventing the wheel, several arguments can be made for WB and IMF to formulate and establish an appropriate legal framework:

1. Almost all WB and IMF member countries are also members of the ILO and thus bound by the ILO Declaration on Fundamental Principles and Rights at Work(1998). This legal obligation does not end the door to the IMF and World Bank boardroom. The obligation of states to ensure that international institutional institutions of which they are members do not violate these rights. States have to fulfil their obligations whether they act in an international or domestic context. Thus in the interest of consistency, they must ensure that collective decisions within the WB and IMF are made in accordance with their obligation to comply with the ILO Declaration. Before programmes and policies are implemented, assessments of their effects on core labour rights are therefore necessary.

2. A rights-based approach entitles workers to the guarantees enshrined in the ILO Declaration, whereas the basic needs theory treats them as passive recipients of social benefits. If respect for human dignity is taken seriously, empowerment of people is crucial. Moreover, the “mother” of all human rights, the Universal Declaration of Human Rights, talks about rights and responsibilities, not about development and needs.

3. Whereas complying with social policies is voluntary for states, a rights-based approach imposes clear legal obligations on them, thus holding them legally accountable for the implementation of core labour rights.

4. Give their board acceptance; core labour rights have reached the status of emerging general principles of international law, according to Article 38 of the ICJ statute. Hence, these rights also bind international organizations such as the IMF and the World Bank. They oblige the WB and IMF not only to follow a “do no harm policy” but also actively to promote core labour standards within their respective mandates. This reflects a general shift in international law away from bilateralism towards a system that functions as a large community whose members are comprise of not just states but also individuals and international organizations. In fact, holding the entire international community responsible for protecting human rights was exactly the intention of early documents such as the Universal Declaration of Human Rights.

5. By adopting a legal framework for addressing core labour rights, the debate about their economic advantages becomes less important.

It is unfortunate that WB and IMF have an influence over the developing countries only but not on the developed countries. Because of weighed voting pattern in WB and IMF, the developing countries are related to the back. As long as poor nations are compelled with the dictates of WB and IMF who in turn cater to the interests of powerful industrialized nations and multinational corporations, it is feared that the world would be divided into haves and have-nots.

However it is encouraging to note that WB and IMF have made it clear their commitment to continue its activities concerning labour rights. Even though the member States are primarily responsible for labour rights, the WB and IMF should also ensure that they are respected and implemented in view of the effect of their violations on economic front.

THE ROLE OF MEDIA AND VOLUNTARY ORGANISATIONS:

The promotion and protection of human rights and labour rights can be realized through responsible press and effective social organizations, backed by an alert judiciary. A major drawback in the development of human rights is that of enforcement which is dependant on largely voluntary compliance. Moral pressure and exertion of influence of public opinion on States and its enforcing machinery will be some of the important measures, apart from legal instruments, for protection of human rights and labour rights violations.

To cause public awareness and thereby mould public opinion against human rights and labour rights violations, the press plays an important role. In reporting incidents of violation of human right’s, it must act with responsibility and publish the truth

Most international organizations lack law-enforcing sanctions, and those have them are reluctant to invoke them in practice. Instead they increasingly resort to fact-finding, a potentially significant weapon in the armoury of the world order. Fact finding is used as a technique in the protection of human rights and labour rights.

The promotion and protection of human rights and labour rights can be realized through effective non-governmental organizations (NGOs) or voluntary organizations.

The later part of 20th century has provided many lessons during our struggle for human rights. The 21st Century will consolidate our gains through the existing human rights organizations which need to be strengthened. A single umbrella organization covering and coordinating the many faceted activities of the UN is essential. .

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