

Trading Up: Labor Standards, Development, and CAFTA

By Kimberly Ann Elliott*

Summary: The debate over linking trade and workers' rights is often a dialogue of the deaf, with advocates on either side paying little attention to the scope for positive synergies between labor standards, development, and globalization. Instead, each side views the other as promoting positions that, intentionally or not, will impoverish poor people in poor countries. Opponents of global labor standards fear that these would undermine developing countries' comparative advantage in low-wage goods or be abused for protectionist purposes, thereby denying people jobs. Advocates of standards argue that failure to include these in trade agreements increases inequality and leads to a race to the bottom for workers worldwide.

Both sides have some things right but others wrong. Globalization enthusiasts are right that increased trade can contribute to growth and that the jobs it creates are generally better than those in agriculture or the informal sector. But they downplay the increased income inequality that sometimes accompanies globalization, the disproportionate influence that multinational corporations have had on trade negotiations, and the possibilities for improving conditions for workers in developing countries without jeopardizing economic growth. Workers' rights advocates are right that global labor standards can spread the benefits of globalization more broadly, discourage the worst abuses of workers, and increase public support for trade agreements. But they undervalue the need for increased market access for developing-country exports to enable poor people to move to more productive jobs.

This brief examines the potential positive synergies between globalization, development, and labor standards. It argues that certain core labor standards can be applied globally without undermining comparative advantage, and that doing so would be good for development. The issues are also examined in terms of the recently concluded Central American Free Trade Agreement (CAFTA), whose fate in the U.S. Congress is currently uncertain because of a combination of protectionist interests on both sides of the aisle and Democratic concerns that the labor provisions are not strong enough.

Recommendations for addressing labor concerns to ease CAFTA's ratification

The enforcement provisions in the CAFTA labor chapter, like those in other recent U.S. agreements are relatively weak. But unlike other recent FTA partners, the CAFTA countries export labor-intensive apparel and sensitive agricultural products and, in much of the region have worse working conditions and lower labor standards. Vigorous action on other fronts is needed to encourage reforms and bolster the prospects for ratification. Key among them:

1. Match rhetoric with a roadmap. Despite announcement of various projects and multi-year funding for improving labor standards in the region, many remain suspicious of the Bush administration's ongoing commitment to labor standards once the agreement is ratified. The administration's credibility would be enhanced by development of a detailed work plan and budget for improving labor standards in Central America, in collaboration with key congressional leaders in the House and Senate.

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- 2. Enforce existing laws while continuing legal reforms.** The most important problems with labor standards in the region arise from inadequate enforcement of existing laws. Nevertheless, there are discrepancies between these laws and international norms. Governments in the region could gain credibility by passing labor reforms in key areas, including barring employers from using and circulating blacklists of union organizers, and providing for prompt reinstatement of workers illegally dismissed for union activities.
- 3. Invest in people and institutions.** Institutional reform and strengthening of the labor inspectorate are also important but will take time. Important interim steps include creating mechanisms that allow workers to pursue complaints outside the normal inspection process, such as alternative dispute resolution bodies and ombudsmen.
- 4. Expand private-sector initiatives.** While government capacity is being developed, the private sector can contribute to improving labor standards compliance in part through expanded monitoring of corporate codes of conduct in the region. Three areas in particular should be strengthened: more resources for training and certifying independent auditors, mutual recognition among competing monitoring initiatives that meet minimum standards, and increased transparency with respect to monitoring results.

International labor standards, globalization, and development

Ensuring that labor standards, globalization, and development are mutually reinforcing depends on four key distinctions

- core versus cash standards
- universal versus uniform standards
- competitive versus comparative advantage
- lack of capacity versus lack of political will.

Extensive research and analysis suggest that certain core standards can be applied universally without harming developing countries' comparative advantage in labor-intensive products. But some evidence also suggests that concerns about short-run competitiveness in some sectors or firms can undermine the political will to implement standards effectively.

Universal core labor standards: Strengthening markets, advancing democracy

Some labor standards—for example, wages and health and safety regulations—must vary with the level of development and local living standards in countries. Such “cash standards,” if set too high, can raise labor costs beyond what is justified by productivity levels and can decrease employment and exports. Core labor standards, in contrast, are framework standards that are comparable to the rules that protect property rights and freedom of transactions in product markets—rules widely viewed as necessary for market economies to operate efficiently.

In 1998 more than 170 International Labour Organization (ILO) members identified four standards as “fundamental principles and rights at work” that all countries should promote, regardless of their level of development. These core standards—freedom of

association and the right to organize and bargain collectively, the abolition of forced labor, the elimination of child labor, and nondiscrimination in employment—strengthen markets because they protect workers' rights to choose whether and under what conditions to work. But they are also based on democratic principles and are recognized as fundamental rights to which all workers are entitled.

The global application of these standards does not mean forcing developing countries to adopt rich-country standards, for they do not imply uniformity in the details of the protections or in the institutions that implement them. Even the legally binding ILO conventions that define the core standards leave substantial room for national differences—for example, they do not prescribe any particular set of industrial relations institutions.

Three of the four standards—ending forced labor, child labor (as the ILO defines it), and discrimination—are broadly shared.¹ The expected benefits of tackling child labor and discrimination are clear from the priority they are given in the Millennium Development Goals. The UN target of achieving universal primary school enrollment cannot be achieved without addressing child labor. ILO estimates that the global benefits of moving children from work to school, while also improving educational quality and offsetting some lost family income, might be seven times higher than the costs.² Quantifying the costs and benefits of eliminating gender discrimination is more difficult, but the World Bank has documented extensive benefits from empowering women, including better health and well-being for women, children, and men; higher overall productivity and economic growth; and better governance.³ These goals will not be achieved if women face widespread discrimination in the workplace.

The fourth standard—freedom of association and the right to collective bargaining—is more controversial. Governments and

employers often resist it because freedom to form unions and negotiate over work conditions increases the power of workers relative to the state. But giving workers a mechanism for raising and negotiating workplace problems lays the foundation for addressing other labor standards, particularly in developing countries where governments lack the resources to enforce labor laws. Union rights are also a means of ensuring more equitable distribution of the gains from globalization.

A World Bank survey of more than 1,000 studies on the economic effects of unions concluded that there is “little systematic difference in economic performance between countries that enforce [union rights] and countries that do not.”⁴ It found that what unions do depends on local institutional and legal arrangements and the competitive environment in which they operate. In general, it found that estimates of the economy-wide welfare losses from union wage premia are small and that high union density reduces earnings inequality.

Some observers, while not opposing freedom of association in principle, regard unions in developing countries as elitist, corrupt, rent-seeking institutions that reduce a country’s growth prospects, and so they oppose them in practice. Unions fit that image in countries where politicians and firms are also elitist, corrupt, and rent-seeking. In other countries, unions are a force for democracy and the protection of property rights, without which workers would lose their jobs. Since the late 1990s, for instance, Zimbabwe’s trade unions have been the main opposition to the Mugabe dictatorship and its land seizures. Unions were also a leading force in the campaign against apartheid in South Africa. The Solidarity trade union was a major force in toppling the communist leadership in Poland in the 1980s. Where unions are elitist and corrupt, the solution is the same as for firms and politicians: exposure to competition and democratic reforms to ensure accountability to members.

In sum, the core labor standards support sustainable and broadly shared political, social, and economic development. Moreover, since transparency, democratic accountability, and competition are central goals of globalization enthusiasts, their goals and those of labor standards proponents are consistent and mutually reinforcing.

Comparative and competitive advantage: Real versus perceived costs of standards

Relative endowments of land, labor, human and physical capital, and other factors of production determine the comparative advantage of countries. Developing countries usually have abundant labor and therefore a comparative advantage in low-wage, labor-intensive activities. Whether labor standards could, in theory, affect this comparative advantage depends on the standard in question and the environment in which they are applied. In practice, the evidence suggests that the costs associated with imple-

menting the core labor standards would not be so great as to undermine overall comparative advantage in labor-intensive activities.

In the short run, forced labor and child labor increase the number of workers and could be used to raise low-wage exports, but both are uncommon in export industries. Thus, taking action against them would have little impact on international competitive advantage. And in the long run, taking children out of factories and enrolling them in schools could even increase productivity by expanding human capital.

The effects of efforts to combat discrimination and promote freedom of association are less certain. For exam-

ple, discrimination in the export sector lowers the potential labor supply, raises the cost of labor, and reduces exports. In that situation, raising standards could help comparative advantage. But in many developing countries, discrimination discourages employment of women outside of less-skilled work in low-wage industries such as clothing, footwear, and toys. This increases the supply of female workers in those industries, which could lower prices and raise production and exports of those goods relative to what would happen otherwise. Whether enforcing nondiscrimination standards would affect short-run competitiveness in certain sectors depends on available alternatives for women and on the productivity effects of treating all groups equally. Either way, promoting nondiscrimination would contribute to achieving general development objectives and would not undo overall comparative advantage.

The economic effects of freedom of association and bargaining rights are also contingent on the sector and the environment in which they are exercised. The labor-cost effects depend on the net result of potential increases in wages and productivity. Moreover, stiff competition in export markets will tend to constrain the “monopoly face” of unions but still allow the “voice face” to work on improving conditions with low immediate costs for the employer—such as verbal and physical abuse, fire safety measures, bathroom breaks, and other health and safety measures.⁵ In general, the evidence does not suggest that globalization is leading generally to a race to the bottom or that countries with lower labor standards attract more foreign direct investment or grow faster. There is evidence, mostly anecdotal, that many developing-country governments, employers, and multinational buyers perceive that there are costs associated with higher standards and that they try to gain competitive advantage by ignoring labor and other laws. Such practices, however, are usually

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associated with low productivity, undermine the rule of law, and do not contribute to development in the long run.

Nevertheless, labor ministry officials sometimes concede in private that foreign investors threaten to go elsewhere if they must deal with unions. Factory managers complain that foreign buyers often demand they follow a corporate code of conduct and then place an order that cannot possibly be met without forcing workers to stay on the job 14–16 hours a day, seven days a week, without overtime pay. Also, some theoretical and empirical cross-country research, albeit not robust, suggests that core labor standards and competitiveness could be negatively correlated in some sectors.⁶ That is, there could be a race to the bottom from the bottom among low-wage countries competing in highly price-competitive, low-skill, geographically mobile sectors such as clothing and footwear.

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Some countries make no pretense about this. Pakistan, Bangladesh, and a few other countries explicitly restrict core labor standards—usually freedom of association and bargaining rights—in export processing zones (EPZs) with the stated goal of attracting foreign investment and increasing exports. In many more countries, union organizers are blacklisted by firms or denied access to EPZs. Workers in export firms are often fired with impunity for trying to organize unions, even when local law prohibits such dismissals. In the garment sector in Bangladesh, young women are overrepresented in sewing jobs and underrepresented in more-skilled jobs in apparel factories and in all other sectors of the economy. Manufacturers there reportedly prefer women in sewing jobs because they are more docile, less likely to join unions, and more likely to accept low wages, in part due to discrimination in other sectors.⁷ Bangladesh is hardly alone in these practices.

Capacity and political will: Too little of both?

Poverty, lack of resources, and weak governmental capacity are not the only reasons why developing countries do not effectively enforce labor standards. Some also lack the political will to do so, which suggests the need for a multifaceted approach to promote compliance. Meaningful progress will be most likely in countries that want to improve implementation of labor standards and are given financial and technical assistance to do so. But sticks are also sometimes necessary.

ILO is the leading international agency on these issues, and in addition to providing technical assistance to labor ministries and other agencies, unions, and employer groups, it has two other tools for improving working conditions. First, it supervises com-

pliance with global labor conventions and publicizes violations of standards to shame countries into improving matters. Second, contrary to conventional wisdom, it has an enforcement mechanism—albeit one that it did not use until the 1990s.

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In addition to official assistance, private-sector initiatives—including independent monitoring and verification of codes of conduct—can be an important complement to fill gaps while local capacity is being strengthened.

But the evidence that some countries repress labor standards or look the other way to promote trade or investment suggests that the international community needs to retain the stick of trade sanctions to address egregious violations that are trade-related and not otherwise amenable to remedy. Incorporating measures against violations in trade agreements would also help build support among critics who believe these agreements are biased in favor of corporate interests. Thus far, labor standards have been included only in a few U.S. bilateral trade agreements. The jury is still out on whether the carrots and sticks included in these agreements are more than window dressing.

Ratifying CAFTA: The politics and prospects for advancing labor standards

After eight years of debate over whether and how to incorporate labor and environmental standards in trade agreements, Congress finally passed the Trade Act of 2002, which included “trade promotion authority” allowing the President to negotiate trade agreements that Congress must vote up or down without amendment. Since 2000, the U.S. has negotiated and approved three free trade agreements (FTAs) incorporating labor standards. But they were relatively minor agreements with small countries with high standards, good working conditions, and few sensitive exports: Jordan, Singapore, and Chile. Ratification of the Central American Free Trade Agreement (CAFTA)—an agreement with six countries—is likely to be more contentious.⁸

These countries—Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, and Nicaragua—export labor-intensive apparel and sensitive agricultural products and in much of the region have worse working conditions and lower labor standards than other recent FTA partners. The enforcement provisions in the CAFTA labor chapter are like those in the other U.S. agreements—relatively weak. Vigorous action on other fronts is needed to encourage reforms and bolster the prospects for ratification. Promises, without detail or dedicated funding, to implement a cooperation program to promote labor standards

Box 1: Is the Bush administration committed to promoting labor standards?

The last two years of the Clinton administration saw the budget for promotion of international labor standards, especially regarding child labor, increase sharply. The Bush administration has repeatedly tried to cut this budget (see table). So far, Congress has restored most of the cuts, but the majority of the funds are going to child labor programs. Support for ILO technical assistance outside the special program for eliminating child labor has largely disappeared. By fiscal 2004, \$82 million of the roughly \$100 million in technical assistance funds was earmarked for reducing child labor, and only \$2.5 million was slated for bilateral and multilateral technical assistance to improve compliance with labor standards in other areas. In fiscal 2003, in contrast, \$37 million was provided for multilateral and bilateral technical assistance programs.

Budget Requests and Appropriations for the Bureau of International Labor Affairs

Fiscal year	Appropriated	Bush administration request \$ millions
2000	70	n.a.
2001	148	n.a.
2002	148	72
2003	152	55
2004	110	12
2005	n.a.	31

n.a. = not applicable
Source: Various official White House budget documents.

compliance will be insufficient because the weak implementation of the labor and environmental side agreements to the North American Free Trade Agreement has disillusioned standards proponents. More recently, action—or in some cases inaction—by U.S. and Central American governments has reinforced this skepticism.

U.S. commitment: Rhetoric without a roadmap

The Bush administration's repeated efforts to shrink the Bureau of International Labor Affairs of the Department of Labor (DOL), which funds technical assistance on labor standards, have called into question the administration's commitment to a "parallel track" for labor standards (see Box 1). The Office of the U.S. Trade Representative (USTR) announced in October 2003 that the government would provide nearly \$7 million in technical assistance over four years to improve labor standards in Central America. But bringing labor standards in the region up to international norms will take more than four years and the sustainability of these efforts is questionable given the administration's request for \$12 million for the international bureau for fiscal 2004, which is not enough to cover operating costs.

In addition to cutting the overall budget, the Bush administration has reduced U.S. budgetary support for ILO. The USTR fact sheet on CAFTA lists "working with ILO" as the second part of its three-part strategy for improving conditions in the region. But DOL awarded \$6.75 million for technical assistance in the region to a Costa Rican nongovernmental organization that works on

democracy but that appears to have little experience with labor issues (www.funpadem.com). Involving ILO would have brought far greater expertise and credibility to the effort.

Finally, with respect to encouraging private-sector efforts to improve standards compliance, administration fact sheets refer only to the Worldwide Responsible Apparel Production (WRAP) program, an industry-sponsored initiative that is regarded as the weakest and least transparent of several private code monitoring projects. Overcoming suspicions about the depth of the administration's commitment to labor standards requires, at a minimum, releasing a detailed and sustainable workplan and budget for the task when introducing implementing legislation for the trade agreement.

Regional reforms: A premium on transparency and enforcement

As part of the process of restoring democracy after the civil wars of the 1980s, El Salvador, Guatemala, and Nicaragua reformed their labor laws, often with help from ILO and sometimes under pressure from U.S. threats to withdraw benefits under the Generalized System of Preferences because of a failure to meet workers' rights conditions. Problems continue, however, in those countries and in Honduras and, to a lesser degree, Costa Rica, particularly in the area of freedom of association.

Given the November 2004 U.S. election, there will undoubtedly be a delay between signing and ratifying CAFTA. Central American countries could use this time to rectify legal deficien-

cies so that concrete progress can be demonstrated when the implementing legislation does come up for a vote. For example, the countries of Central America (and many elsewhere), have nationality requirements for union leaders, a clear violation of ILO conventions and a potentially serious problem in a region where there are many migrant workers. Along with easing nationality restrictions and registration requirements for unions,

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But labor law reforms are only the first step, and institution building is at least as important. The CAFTA labor chapter rightly emphasizes the need for due process and public awareness in implementing laws effectively. The annex on labor cooperation and capacity building also lists as priorities improved labor administration (including tribunals), improved labor inspection systems, and development of alternative dispute resolution mechanisms. These are all worthy of support, but resource constraints are likely to limit progress in the short run. USTR documents have few specific ideas on how to achieve these goals and even less discussion on funding.

But building government enforcement capacity is only a partial solution and less important than empowering workers to protect their rights themselves. Mechanisms that allow workers to pursue complaints outside the normal inspection process, including through unions and collective bargaining agreements, are essential. Experiments in Central America and elsewhere that might be worth developing include:

- the creation of fee-free complaints hotlines for workers, as was reportedly done in Costa Rica with U.S. funding;
- the use of official or unofficial ombudsmen to investigate complaints, a tool effectively employed on an ad hoc basis by the Fair Labor Association (FLA);⁹ and
- development of independent and impartial conciliation and arbitration mechanisms.

In addition to government programs, such as the ILO and U.S. supported creation of a national arbitration council in Cambodia, some groups are exploring proposals to expand private capacity to conduct and encourage the use of mediation and arbitration to resolve labor disputes.¹⁰

It is notable, however, that these projects can only be effective if workers know their rights. The CAFTA labor chapter emphasizes the need to increase public awareness of labor laws and institutions but, again, there are no specific proposals on how to do this.

Private sector multistakeholder initiatives, such as of the FLA and Social Accountability International (SAI), can also be useful in

other legal reform priorities include explicitly prohibiting employers from using and circulating blacklists of union organizers and providing for prompt reinstatement of workers illegally dismissed for union activities.

supplementing inadequate official capacity and informing workers about their rights. FLA works primarily with the apparel and footwear sectors, but SAI certification is available to plants in a variety of manufacturing and a few service sectors. SAI is also conducting pilot projects to explore adaptation of its SA8000 standard to small enterprises in the agricultural sector, and Chiquita recently succeeded in getting certification for all its banana operations in Costa Rica. Currently, more apparel plants in Central America are reportedly monitored under the WRAP initiative than by FLA or SAI. But this is difficult to verify because WRAP does not publish a list of certified factories. Moreover, as noted earlier, close observers regard WRAP as the least credible of the three, and its certifications are unlikely to carry much weight when CAFTA comes up for ratification.

Recognizing this, U.S. retailer The Gap has been working with U.S.-based multinational buyers and producers in the Central American apparel sector to strengthen and expand private-sector initiatives to improve labor standards compliance. Ideas reportedly under consideration include giving the ILO a prominent role, either in directly monitoring conditions in the sector, as in Cambodia, or in accrediting the auditors that would do the monitoring, or creating a body with its own code and accreditation and monitoring procedures.

These are worthy ideas, but more results could be obtained quicker and with fewer resources if existing initiatives in three areas were strengthened:

- providing more resources for training and certifying auditors,
- mutual recognition among monitoring initiatives that meet minimum standards, and
- increased transparency regarding factory conditions.

Mutual recognition is needed to address reports of “monitoring fatigue” from factory managers who face demands from multiple buyers to comply with different codes and monitoring procedures that are not always

consistent. And transparency about conditions in factories is vital. The simplest and potentially most effective initiative that the business community could take would be to encourage all suppliers and buyers in Central America to affiliate with an existing code initiative, perhaps including WRAP if weaknesses in its code are rectified, and then to agree to publish factory reports.

Transparency varies widely among the major code initiatives. FLA publishes a global report that summarizes the status of working conditions in the supply chains of each of its member companies (based on external monitoring of only a fraction of suppliers in the chain), as well as “tracking reports” for each factory inspected,

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release any reports on conditions or remediation efforts. WRAP provides no public information about the factories it certifies. In Cambodia, in contrast, initial ILO reports identifying problems with labor standards compliance are given only to the factory manager, with suggestions for remediation. A second inspection is done six months later, and a public report identifies by name and location the facilities visited and indicates what actions were taken to improve conditions and what problems remain. If this model of maximum transparency were adopted more broadly by the apparel sector or the business community more broadly in

which list problems found and remediation steps taken. These reports do not reveal suppliers' names and locations, however, so they cannot be verified. SAI takes the opposite approach, releasing lists of the names and addresses of certified facilities, along with information on the resolution of third-party complaints, but does not

Central America, it could have a powerful impact on labor standards in the region.

Conclusion

In sum, globalization and worker rights are complementary, not competing, ways of improving welfare. Globalization is not leading to a worldwide race to the bottom for workers, but greater respect for the core labor standards could help spread its benefits more broadly. Trade agreements can also play a role by focusing attention on labor issues and by encouraging trading partners to reform further. Ultimately, ensuring that globalization and labor standards progress together requires a multifaceted approach, including a stronger and more effective ILO, more and better monitoring of corporate codes of conduct, and, in extreme cases, sanctions against egregious violations of workers' rights.

Notes

- 1 The ILO definition of child labor does not encompass all economic activity but only work that endangers the health of children or interferes with their ability to go to school (up to a minimum age of 15 or 16). In 1999, ILO further delineated priorities in this area by adopting a new convention calling for immediate action against the "worst forms of child labor."
- 2 International Programme on the Elimination of Child Labour, *Investing in Every Child: An Economic Study of the Costs and Benefits of Eliminating Child Labour* (Geneva: International Labor Organization, 2004), p. 4.
- 3 World Bank, *Engendering Development through Gender Equality in Rights, Resources, and Voice*, Research Policy Report (Washington, DC: 2001).
- 4 Toke Aidt and Zafiriz Tzannatos, *Unions and Collective Bargaining: Economic Effects in a Global Environment* (Washington, DC: World Bank, 2002, p. 4).
- 5 Richard B. Freeman and James L. Medoff, *What Do Unions Do?* (New York: Basic Books, 1984).
- 6 This research is summarized in Kimberly Ann Elliott and Richard B. Freeman, *Can Labor Standards Improve Under Globalization?* (Washington, DC: Institute for International Economics, 2003), Chapter 1, and in UK Department for International Development, *Labour Standards and Poverty Reduction*, Consultation Document, version 2 (London: 2003), p. 13.
- 7 Pratima Paul-Majumder and Anwara Begum, "The Gender Imbalances in the Export Oriented Garment Industry in Bangladesh," Background Paper, in World Bank, op. cit. note 4.
- 8 The negotiations with the Dominican Republic were conducted separately; with the recent change in government, it is not yet clear how labor issues will be handled.
- 9 The Fair Labor Association is currently working with the Worker Rights Consortium, which also conducts ad hoc investigations of alleged labor rights violations, and with Notre Dame University to improve labor standards capacity in the region, including trying to identify candidates for an ombudsman's role in each of the six countries.
- 10 Arnold Zack, "Alternative Dispute Resolution and the Settlement of International Labor Disputes: A Proposal for Conciliation through the Permanent Court of Arbitration," prepared for the Permanent Court of Arbitration, photocopy, 2003.

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