

Compacts, Conventions, and Codes: Initiatives for Higher International Labor Standards

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Compacts, Conventions, and Codes: Initiatives for Higher International Labor Standards†

Kaushik Basu*

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Introduction

The International Labor Standards (ILS) movement is meant to be an initiative to promote better working conditions and higher living standards for workers in the Third World. It therefore seems baffling that the most vociferous opposition to ILS comes from the Third World, and not just from elite groups and government, but also from workers and grass roots activists. However, this opinion from the South, encountered all over developing countries gets little representation in international forums and global meetings. Is the dissent from the South based on the South's misperception of its own interests? Or is it founded on a realistic perception of global politics and power? The purpose of this essay is to argue the latter—that the Southern apprehension is understandable and to ignore this while drafting policy for the well-being of the workers will not only be an injustice, but it will give rise to global tensions and instability.

The contemporary world has seen a bewildering number of initiatives for ILS, the latest being the UN's Global Compact, which attempts to make big firms and corporations join hands in a voluntary contract to adhere to certain minimal labor standards. This stands in contrast to the effort of the International Labor Organization (ILO) to make *nations* ratify 'conventions,' which then require them to enforce minimal labor standards within their national boundaries; and in even sharper contrast to the proposed plan to introduce a 'social clause' in the World Trade Organization (WTO) agreements, which would allow the international community to place trade sanctions on countries that violated minimal labor standards.

† This article originated at the *Cornell International Law Journal* 2001 symposium.

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This paper will argue that, on the whole, the existing ILS initiatives are ill-conceived and likely to have undesirable fall-outs. This is true even though global opinion has become more sophisticated and nuanced in recent years and some of the more recent proposals, such as the UN Global Compact, are better than some earlier plans. For any ILS effort to succeed and to actually help those it is meant to help, it is imperative to take account of the opinions of developing nations. Accordingly, the paper ends with a discussion of global democracy.

In summary, it is argued that at this stage ILS is best left to individual nations and only a minimal global coordination, and, further, that this global coordination is best done through the ILO and the UN. The WTO, *the way it currently functions*, is not the appropriate body for enforcing labor standards. In the long run, there must be an effort to democratize global organizations and institutions, such as the WTO. Only when that is done, or at least when the process is reasonably underway, can global organizations be seriously entrusted with the task of promoting higher international labor standards.

I. The Issues and the Historical Background

Most people, when they think of labor standards, think of the law as its natural hand-maiden. If workers are to be better off, avoid excessively hazardous work, keep their children out of the workplace, and so on, our natural tendency is to think of the law as the natural instrument for achieving these. Thus we may think of direct laws (such as minimum wage legislation and the legal prohibition of child labor) and indirect laws, which enhance worker power (such as the right to bargain collectively) as essential instruments for raising worker welfare.

A large part of mainstream economics is a warning that this kind of reasoning is faulty. It reminds us that the absence of government action does not necessarily mean that labor standards will remain low. As productivity and the demand for labor rise, workers can achieve higher living standards through the forces of the market. The mere threat that a worker may quit his or her job could ensure that he or she will be paid well and not be exposed to excessive risks, made to work excessive hours, and so on. Of course, some economists go overboard and argue that the well-being of the worker can be left entirely to market forces.

In reality, there are two broad reasons why interventions may be called for. First, markets often fail because of externalities, asymmetric information, or the difficulties of monitoring, and we may need laws to correct for these failures. And even when markets do not fail, the market outcome may be more inequitable than we are willing to tolerate. Second, even when each nation prefers a higher labor standard this may be impossible to achieve unless several nations coordinate their behavior. When this happens, not only do governments immediately come into play, but the need arises for an internationally coordinated effort. The subject of Interna-

tional Labor Standards pertains to this second kind of intervention.¹

The historical roots of the labor standards movement go far back into history, beginning with Sir Robert Peel's introduction of the English Factory Act of 1802, which is now treated as a landmark. The problem of inter-country coordination in the context of labor standards dates back to 1818, and in particular to the writings of Robert Owen, which were soon followed by the advocacy of numerous French intellectuals and activists.² Awareness of the inter-regional nature of the labor standards problem increased through the nineteenth century and early twentieth century as the federal government of the United States battled to curb inter-state competition and adopt common labor standards.³ The U.S. historical experience nicely mirrors the current global problems.

In the U.S. the first child-labor legislation was enacted by the state of Massachusetts in 1837. Thereafter, different states brought in different legislation, often backing down for fear that firms and capital would leave and go to states where labor laws were more lax. Some of this history is nicely recounted by Florence Kelley.⁴ The openness of this inter-government competition is transparent from the following account in her book:

For lack of uniformity, progress has been hindered in many states, notably in the glass industry which, during 1904, successfully represented to the legislature of New Jersey that, if deprived of the privilege of employing boys under the age of sixteen years at night, it would migrate to Delaware and West Virginia, where no such restrictions yet await it.⁵

The inter-state competition came to an end as recently as 1938 with the passing of the first nationwide law in the U.S. to monitor labor standards—the Fair Labor Standards Act.⁶

After the Second World War, and especially in the last one or two decades, as the process of globalization gathered momentum and labor and capital, began to move more freely across nations, the labor standards concern spilled beyond national and regional boundaries and became properly an international matter. Ever since the formation of the International Labor Organization (ILO) in 1919 there has been a forum for these international concerns. But for a long time the ILO was an ineffective body, with some doubts about its survival. Initially it had only 44 member nations.

1. This view of ILS is explicit in Kaushik Basu, *International Labor Standards and Child Labor*, 42 CHALLENGE 80, 89 (1999); NANCY H. CHAU & RAVI KANBUR, *THE RACE TO THE BOTTOM, FROM THE BOTTOM* (Cornell University, CEPR Working Paper No. 2687, 2000), available at <http://www.arts.cornell.edu/poverty/Kanbur/ck15.pdf>.

2. See Stanley Engerman, *The History and Political Economy of International Labor Standards*, mimeo: Rochester University (2001), available at <http://www.egdi.gov.se/pdf/study/study1.pdf>; see also Steve Charnovitz, *The Influence of International Labour Standards on the World Trading Regime: A Historical Overview*, 126 INT'L. LAB. REV. 565 (1987).

3. See FLORENCE KELLEY, *SOME ETHICAL GAINS THROUGH LEGISLATION* 3-104 (1905).

4. See *id.*; see also Carolyn M. Moehling, *State Child Labor Laws and the Decline of Child Labor*, 36 EXPLORATIONS ECON. HIST. 72, 74-78 (1999).

5. Kelley, *supra* note 3, at 91.

6. Jagdish Bhagwati, *Trade Liberalisation and 'Fair Trade' Demands: Addressing the Environmental and Labour Standards Issues*, 18 WORLD ECON. 745 (1995).

Membership grew slowly until 1946 when the ILO became an agency of the United Nations, and its membership grew rapidly thereafter. By 1969 it had 174 members.⁷

The globalization of these concerns led to the codification of labor standards. The standards were classified under four kinds of "rights": (1) *Basic Rights*, which included the right against involuntary servitude and injunctions against exploitative child labor and discrimination; (2) *Civic Rights*, which gave workers the freedom of association and collective bargaining rights; (3) *Survival Rights*, which ensured a minimum wage, accident compensation, and the right not to be exposed to excessive hazards; and (4) *Security Rights*, which placed restrictions on employers from firing workers and gave workers the right to retirement benefits.⁸

Resisting the tendency for proliferating labor standards and recognizing that if the same standards are to be imposed on all regions, from sub-Saharan Africa to Western Europe, the requirements have to be fairly minimal, there has now emerged what is often referred to as the list of 'core labor standards.'⁹ These consist of (1) prohibition of forced labor, (2) prohibition of discrimination in employment, (3) right to freedom of association, (4) right to bargain collectively, and (5) prohibition of exploitative child labor.¹⁰

While the core labor standards are much more reasonable and realistic, the crux of the matter is not the agreement, in the abstract, of the importance of these minimal standards—most reasonable people will accept these—but the practical interpretation of these precepts and the methods used to implement them.

II. Existing Initiatives and Their Shortcomings

There are two broad classes of global actions that have been used thus far to promote higher ILS. Following my earlier usage,¹¹ I shall call these *extra-national* and *supra-national* actions.

Extra-national action is action taken by a nation within its own territory that creates incentives in other countries to improve ILS. An example of an extra-national action is Harkin's Bill, more formally known as the Child Labor Deterrence Act, which has, fortunately, remained a bill.¹² The

7. Engerman, *supra* note 2.

8. Alejandro Portes, *When More Can be Less: Labor Standards, Development, and the Informal Economy*, in U.S. DEPARTMENT OF LABOR, LABOR STANDARDS AND DEVELOPMENT IN THE GLOBAL ECONOMY 219 (1990); KEITH E. MASKUS, SHOULD CORE LABOR STANDARDS BE IMPOSED THROUGH INTERNATIONAL TRADE POLICY? 4-7 (The World Bank, Development Research Group, Policy Research Working Paper, 1997); Nirvikar Singh, *The Impact of International Labor Standards: A Survey of Economic Theory*, mimeo: University of California, Santa Cruz (2001), available at <http://www.egdi.gov.se/pdf/study/study2.pdf>.

9. For discussion, see Kenneth A. Swinnerton, *An Essay on Economic Efficiency and Core Labour Standards*, 20 WORLD ECON. 73, 76-84 (1997).

10. *Id.*

11. Kaushik Basu, *Child Labor: Cause, Consequence, and Cure, with Remarks on International Labor Standards*, 37 J. ECON. LITERATURE 1083 (1999).

12. S. 613, 103rd Cong. (1993).

aim of this bill was to enable the United States to put a ban on any import that has a child labor input. The law works within the United States but creates incentives in other nations to keep children out of the labor force because nations who do not do so will be prohibited from exporting to the United States. One can go further and argue that children should be empowered as actors in the process of decision-making concerning their own rights.¹³

The weakness of the bill is its failure to recognize that (1) parents do not typically send their children to work out of sloth but out of desperation, and (2) it is possible for children to suffer a worse fate than labor, such as starvation. In the poorest nations an abrupt halt to child labor is likely to cause children to suffer acute poverty and hunger.¹⁴ Clearly, we must not be so single-minded in eradicating child labor that we are prepared to do so by making children starve. Additionally, this kind of extra-national action is likely to drive children away from the export sector to other sectors, which may be worse for the children's welfare. There is now mounting evidence from Nepal's carpet industry and Bangladesh's garment industry that the anticipation of legislative and other punitive actions by industrialized nations has driven children away from labor to prostitution.¹⁵

The trouble with such bills is that even if they are inspired by a genuine concern for workers in the South, as they often are, they enable protectionism in the North. Interestingly, while the current versions of the Harkin's bill appeal only to the welfare of the child in motivating the legislation, the early versions of the bill had open reference to the fact that child labor in the Third World may cause unemployment in the North.¹⁶ An implication of the analysis in this paper is that more effective solutions would attack child labor at a nationwide level, rather than in the exports sector alone.¹⁷

13. This is argued by JO BOYDEN & DEBORAH LEVINSON, *CHILDREN AS ECONOMIC AND SOCIAL ACTORS IN THE DEVELOPMENT PROCESS* (EGDI Working Paper No. 1, 2000), available at <http://www.edgi.gov.se/pdf/workpaper.pdf>.

14. There is a lot of evidence that it is poverty that drives households to send their children to work. For cross-country evidence, see Alan Krueger, *International Labor Standards and Trade*, in *THE WORLD BANK, ANNUAL WORLD BANK CONFERENCE ON DEVELOPMENT ECONOMICS 1996* (Michael Bruno & Boris Pleskovic eds., 1997). And for evidence based on inter-temporal micro data, see Eric Edmonds, *Will Child Labor Decline with Improvements in Living Standards?*, mimeo: Dartmouth College, available at <http://www.dartmouth.edu/~eedmonds/vnivc.pdf>, and see also *infra* note 29.

15. See UNICEF, *Girls in Especially Difficult Circumstances: An Action Report*, Kathmandu: UNICEF; Drusila Brown et al., *US Trade and other Policy Options and Programs to Deter Foreign Exploitation of Child Labor* (University of Michigan, Discussion Paper No. 433, 1999), available at <http://www.spp.umich.edu/RSIE/workingpapers/wp.html>.

16. A superior extra-national legal action is the Sander's Amendment of the Tariff Act of 1930, which seeks to ban imports of goods that use *forced* child labor. This move towards distinguishing between different forms of child labor is a move in the right direction.

17. See Kaushik Basu & Pham Hoang Van, *The Economics of Child Labor*, 88 AM. ECON. REV. 412 (1998).

A supra-national action is an action undertaken by a *collectivity* of nations to sanction against the violation of minimal labor standards. Two prominent examples of supra-national actions are the UN Global Compact and the various ILO conventions. In the case of the Global compact, companies voluntarily agree to abjure certain practices. In the case of the ILO conventions, countries commit to adhere to certain standards. The important difference between these two voluntary schemes is that they place the primary responsibility of ILS on different agencies. The Global Compact places the responsibility on multinationals and big corporations while the ILO conventions place the responsibility on the nations, and primarily the Third World nations since these are the potential violators of the standards.

Perhaps the most potent form of supra-national action contemplated is to have a social clause in the WTO provisions, which would allow the WTO to impose trade sanctions on an erring country.¹⁸ The risk of empowering the WTO thus is that this will become a powerful instrument of protectionism in the North.¹⁹ Powerful lobbies may have already misused similar well-meaning legislation.²⁰ An interesting case in point is the use of the Sander's Amendment against the Brazilian company Sucocitricio Cutrale.²¹ The charge was that the company was using children to pluck oranges. However, as the *Wall Street Journal* pointed out this was probably an act of reprisal headed by the Teamsters Union against Cutrale for downsizing some Minute Maid plants it had bought from Coca-Cola Co. in Florida.²²

The problem is not just that the power of the WTO will be misused, but that, as things stand, it is likely to be used disproportionately by industrialized nations against developing countries simply because the latter do not have the resources—money or expertise—to fight out cases in Geneva. Hence, the across-the-board negative reaction of developing countries to the idea of empowering the WTO seems to have some basis.

Faced with these criticisms, there is a groundswell of opinion in the industrialized nations, at least among the intelligentsia, to use more informal, and therefore flexible, arrangements to raise labor standards.²³ What

18. Robert Staiger, *The International Organization and Enforcement of Labor Standards*, mimeo: University of Wisconsin, available at <http://www.egdi.gov.se/pdf/study/study4.pdf>.

19. Much has been written about the dangers of giving WTO the power to uphold ILS. E.g., Jagdish Bhagwati, *Trade Liberalisation and 'Fair Trade' Demands: Addressing the Environmental and Labour Standards Issues*, 18 *WORLD ECON.* 745 (1995); see also T. N. Srinivasan, *International Trade and Labor Standards from an Economic Perspective*, in *CHALLENGES TO THE NEW WORLD TRADE ORGANIZATION* (Pitou van Dijck & Gerrit Faber eds., 1996).

20. Matt Moffett, *Citrus Squeeze: U.S. Child-Labor Law Sparks a Trade Debate Over Brazilian Oranges*, *WALL ST. J.*, September 9, 1998, at A1.

21. *Id.*

22. *Id.*

23. For a very interesting suggestion of how to organize a flexible system, see Archon Fung et al., *Realizing Labor Standards: How Transparency, Competition, and Sanctions Could Improve Working Conditions Worldwide*, *BOSTON REV.*, Feb./Mar. 2001, at 4. Their scheme shares the spirit of the UN Global Compact in one respect—they both place the primary responsibility for upholding standards on the corporations. However, the scheme does have important flaws. See, e.g., Pranab Bardhan, *Some Up, Some Down*;

has caught a lot of the liberal attention is the idea of 'product labeling,' that is, to have stickers on 'suspect' goods that declare these goods are "child labor free" or, more generally, produced under circumstances that meet a minimal ILS.²⁴ Hence, the ultimate decision whether or not to boycott such a product is left as a decision of individual consumers. In fact the UN Global Compact is likely to have a very similar effect. By publicizing the list of companies that are signatories to this compact it can create a sense among consumers about which companies meet minimal labor standards and consumers can then boycott the others or buy from them only when there is a substantial price advantage.

Such informal schemes can be deeply unfair. There is, first of all, the large question of whether moral judgements ought to be dispensed through the markets. At first sight, this may appear to be an instance of consumer's sovereignty. But a preference against a carpet that uses child labor is not quite the same thing as one's preference for red apples or against green apples. The former is intimately tied to the urge to sanction a certain kind of behavior. It is a moral preference of a particular kind, which may be called a "sanctioning preference."

While social sanctions do play important roles in civic life, it is not obvious that they are always the right method for dispensing justice. And there is good reason for this. When we express an interest in one good over another as a form of our sanctioning preference, our aim is not just to gratify a personal hedonism, but to punish or reward some people (for instance, those involved in the production of a certain good who, in the process, violate or adhere to certain standards). But what we really want is that those who violate certain standards should be punished to a certain degree, for instance, by losing a certain percentage of their business—say 40%. But there is no way for a *single* consumer to express this preference in the market. If he boycotts the good in an effort to hurt the producer and all those involved in the manufacture of a certain product, how does he know that all other consumers will not do the same and so end up drying up 100% of the business, instead of exactly 40%? Likewise, when a consumer decides to buy a particular brand name to reward the manufacturer a certain amount, there is no way to ensure that the right amount of consumers will do the same and so the reward will be commensurate with the good act. In brief, there is a huge coordination problem in the dispensing of justice that cannot be solved by the atomistic decisions of thousands of individual consumers.

Robin Broad, *A Better Mousetrap?*; Mark Levinson, *Wishful Thinking*; David Moberg, *Union and the State*; Guy Standing, *Human Development*; Heather White, *Educating Worker*; and Kaushik Basu, *The View from the Tropics*, in *id.*

24. For analyses of product labeling, see Drusilla K. Brown, *A Transactions Cost Politics Analysis of International Child Labor Standards*, in *SOCIAL DIMENSIONS OF U.S. TRADE POLICY* (Alan V. Deardorff & Robert M. Stern eds., 2000); ARNAB K. BASU ET AL., *GUARANTEED MANUFACTURED WITHOUT CHILD LABOR* (Department of Agricultural, Resource, and Managerial Economics, Cornell University, Working Paper 2000-04, 2000); S.L. Bachman, *The Political Economy of Child Labor and Its Impact on International Business*, 35 *BUS. ECON.* 30 (2000).

Hence, punishments dispensed through informal social sanctions often turn out to be witch-hunts causing disproportionate pain to some and too little pain to others. Not surprisingly, when it comes to justice, most societies prefer to use a centralized, non-democratic system, namely, that of the courts and the judiciary. The free market is not the right instrument for passing moral judgements.

More specifically, the method of product labeling has the disadvantage of being too blunt an instrument. It treats all countries on par. Take, for instance, child labor. Some sub-Saharan African countries, such as Ethiopia, have a huge dependence on child labor, with close to 45% of all children in the age group 10 to 14 years working. On the other hand, in most Asian countries, including China and India, the participation rates are much lower (respectively 11% and 14%).²⁵ If consumers in industrialized nations begin to totally boycott goods with a child-labor input, it is arguable that some of these countries where the participation rates are low will suffer, but be able to withstand the boycott. On the other hand, for several African countries and even some Asian and Latin American countries—the poorer ones—there may be a major adverse impact on the economy, causing a disproportionate suffering for all, including the children, who were meant to be protected by this action.

Additionally, this action is likely to be biased in favor of large manufacturers. Consider a small producer of soccer balls in Pakistan. For him the production unit is likely to double up as factory shed and bedroom. For such a producer to persuade a labeling agency that it does not use child labor and so should get a label will be very hard, since the children are never far away from the areas of production. On the other hand, a large producer can centralize its production and prevent children from even entering the factory. This is in fact exactly what Reebok International has done in Sialkot, Pakistan.

Finally, these informal methods of product boycott share the problem of extra-national action discussed above, which drive bad practices, such as the use of child labor, from the export sector of developing countries to the indigenous sectors where conditions are often worse.²⁶

What then are we to do to improve labor standards?

III. Recommendations

One general recommendation for upholding labor standards that economists make is the importance of keeping trade channels from the Third World open. It is the greater demand for goods from the Third World that translates into a higher demand for labor, which raises the bargaining

25. These and other statistics were compiled by the ILO in *ECONOMICALLY ACTIVE POPULATIONS: ESTIMATES AND PROJECTIONS, 1950-2010* (International Labor Organization CD-ROM, 1996).

26. For an interesting study in the context of Bangladesh of how global monitoring can backfire, see NAILA KABEER, *THE POWER TO CHOOSE: BANGLADESHI WOMEN AND LABOUR MARKET DECISIONS IN LONDON AND DHAKA* (2000).

power of workers. This argument has been made so many times²⁷ that there is no reason to dwell on it beyond endorsement.

A related and more specific recommendation, in the context of child labor, is for policies that improve conditions in the adult labor market. While some early work held parents responsible for child labor, it was argued in Basu and Van that a child's non-work is likely to be a luxury good in a household's decision-making.²⁸ In other words, parents do not like to send their children to work if they can help it; it is only when they are driven by acute economic hardship that they send their children to work.²⁹ This argument does not deny that there are exceptions in the form of abusive parents who buy their own leisure by making their children work and that other factors, such as the availability of decent schooling, have a large influence on the incidence of child labor. But in general, when child labor is a mass phenomenon, as in contemporary developing countries, it is wrong to equate child labor with child abuse. It follows that a policy for eradicating child labor should treat the parent as an ally in this task rather than an adversary. Hence, if we can intervene to reduce adult unemployment and raise adult incomes, parents on their own will withdraw children from the labor market. There will be no need to use the stick to achieve this. So, somewhat paradoxically, the one policy always worth using to combat *child* labor is to improve the conditions of *adult* labor.

All these policy interventions through the market are desirable but will clearly take a lot of time to implement. Even if we use them in the long run, we have to think of more direct interventions in the short run. What should these be? We have seen above how it is likely to be better to rely on conventions such as the ones adopted by the ILO or compacts such as that of the UN, rather than to use the social clause of the WTO. Yet even these are not good enough. Nor is it a good idea to leave sanctions to the consumers.

As things stand, the main agency for labor standards policy has to be with the national governments, which can tailor the policy to each nation's specific needs and context. Yet this alone is not enough, since labor stan-

27. E.g., Avinash Dixit, *Comment on A Transactions Cost Politics Analysis of International Child Labor Standards*, in *SOCIAL DIMENSIONS OF U.S. TRADE POLICY* (Alan V. Deardorff & Robert M. Stern eds., 2000); Saqib Jafarey & Sajal Lahiri, *Will Trade Sanctions Reduce Child Labour? The Role of Credit Markets*, mimeo: University of Essex.

28. See *supra* note 17; see also Swinnerton et al., *The Economics of Child Labor: Comment*, 89 *AM. ECON. REV.* 1382 (1999). Very different kinds of problems arise with street children, but unfortunately on this there are as yet few studies, an exception being William Myers, *Alternative Services for Street Children: The Brazilian Approach*, in *COMBATING CHILD LABOR* (Assefa Bequele & Jo Boyden eds., 1988).

29. There is ample evidence for the luxury axiom. For empirical studies that shed light on this axiom see, for instance, Ranjan Ray, *Child Labor, Child Schooling, and Their Interaction with Adult Labor: Empirical Evidence for Peru and Pakistan*, 14 *WORLD BANK ECON. REV.* 347 (2000); Sonia Bhalotra, *Is Child Work Necessary?*, mimeo: University of Cambridge (2000); Patrick Emerson & Andre Souza Portela, *Is There a Child Labor Trap? Inter-generational Persistence of Child Labor in Brazil*, mimeo: Cornell University (2000), available at <http://econ.cudenver.edu/emerson/childlabor/pdf>; Samuel Freije and Luis F. Lopez-Calva, *Child Labor, School Attendance, and Poverty in Mexico and Venezuela*, mimeo: Cornell University (2000).

dards have an important inter-country dimension. The tension is not between the North and the South but between the South and the South, as argued in Basu (1999) and Kanbur and Chau (2000).³⁰ With globalization it is now easier for capital to move from one country to another. It is only natural that when one developing country contemplates raising a particular standard it has to worry that it may drive capital to another developing country.

This was borne out quite strikingly when, because of political reasons, the U.S. stopped importing carpets from Iran. With one developing country's exports cut off, another developing country took over the business. In this case, India became the largest exporter to the U.S. It is this very fear that exports will shift to another developing nation that ties the hands of individual governments of developing countries from taking more action. On the other hand, the chances of an export activity shifting from a developing nation to an industrialized nation because of the raising of labor standards are negligible because the two types of nations have such widely differing comparative advantages. There is therefore need for multi-country coordinated action, but the coordination has to be among the developing countries in their own collective interest.

Hence, we need a global organization to do the coordination. The difficulty stems from the fact that there is no organization that adequately represents the opinion and interests of developing nations. A prerequisite for handing over labor standards policy to an international organization is the democratization of the organization. Indeed, the WTO, in principle, could be an enforcer of ILS, *if* developing countries felt it represented their interest adequately. So, though for now we do not have too many options, other than relying on market-oriented policies, such as bolstering the demand for adult labor in developing nations and keeping open trade channels, and for some effort by national governments, there has to be a major effort to democratize international organizations, such as the WTO, so that they can then be entrusted with the important task of crafting and implementing policies for better labor standards.

The democratization of international organizations is a large topic. The concluding section of this essay is a brief incursion into this complicated subject.

IV. Restructuring International Organizations

One concomitant of globalization and technological progress that has either gone unnoticed or been hushed up by those who did notice it is that it has a natural corrosive effect on global democracy. As a consequence of this phenomenon, even if individual countries become democratic, the aggregate of global democracy may well be on the wane. Democracy entails many things—the existence of a variety of political and legislative institutions, avenues for citizens to participate in the formation of eco-

30. Basu, *supra* note 1; CHAU & KANBUR, *supra* note 1.

conomic policies that affect their lives and, in the ultimate analysis, a certain mind-set. Yet at the core of it and in its simplest form, democracy requires (1) that people should have the right to choose those who rule them and (2) the principle that the vote of each person should count as much as another person's vote.

Note that globalization, almost by definition, means that nations and people can exert a greater influence on other nations and the lives of citizens in other nations. Moreover, this power of one nation to influence another is by no means symmetric. The U.S., for instance, can cut off virtually all the trade lines of Cuba. It can do so not only by curtailing its own trade with Cuba but by threatening punitive action against those who trade with or invest in Cuba. This is not just a hypothetical possibility; the Helms-Burton Act in the U.S. is testimony to how this can actually happen.³¹ Cuba, on the other hand, can do little to hurt the American economy or polity. Likewise, China can do things to Taiwan, which Taiwan can in no way reciprocate.

As the world shrinks and powerful governments develop a variety of instruments and ways to influence the lives of citizens in other nations, it is no longer enough for people to be able to choose the leaders of their own nations. Since transnational voting does not happen (and even its hypothetical suggestion sounds absurd to us), globalization is bound to cause a diminution of global democracy.

Thanks to globalization there are a variety of instruments that nations can use to influence outcomes elsewhere. For the purposes of the current essay the most important is the cessation of international trade, such as would happen if the WTO were empowered to enforce ILS. International trade (after a slow-down in the years between the two World Wars) has risen steadily. These global linkages have fuelled unprecedented growth rates of national incomes (during the 1990s China grew at around 8% per annum and India 6.5%), but they have also created new vulnerabilities. Governments and international organizations can now use the threat of disrupting these flows (or the lure of releasing greater flows of money or goods) to enforce conformity to certain kinds of behavior. And such threats have been used. International organizations have given money while insisting that the developing countries fulfill certain conditions, many of which have had nothing to do with ensuring repayment. These conditionalities have, at times, even been contradictory, such as requiring the debtor nation to practice democracy and to privatize certain key sectors, unmindful of the fact that this may be against the collective wishes of the people.

Some of these conditions have been blatantly in the interest of the donor nation. In 1998, during the Asian crisis, the rescue package put together with money from several industrialized nations, most prominently

31. I have discussed the role and consequences of "triadic" threats in my *PRELUDE TO POLITICAL ECONOMY: A STUDY OF THE SOCIAL AND POLITICAL FOUNDATIONS OF ECONOMICS* (2000).

Japan and the U.S., had clauses that required Korea to lift bans on imports of certain Japanese products (which Japan had long been trying to sell to Korea) and to open up its banking sector to foreign banks (an item that had long been on America's bilateral agenda with Korea). Some of these demands may well be good for the borrower, but that is not the issue here. From the point of view of assessing global democracy what is relevant is that people of the weaker nation have very little say in the imposition of these policies.

Given that the benefits of democracy are ample, as academic research has shown and non-academics always knew, this erosion of global democracy must have negative fall-outs. Indeed, it is arguable that the rise in global unrest and instabilities are a manifestation of this retreat of democracy. And the inchoate demands of the protestors in the streets of Seattle and Washington may be founded in an intuitive but ill-articulated perception of this erosion of democracy.

What can be done about the erosion of global democracy? Utopian schemes, such as a global government or a global bank that is answerable to all nations in the world, are a distant dream. The process of globalization will course on, and inter-country democracy will continue to get bruised. It will be some time before this can bring us to discussing global governance and banking. In the mean time, what is open to us are small measures, namely those of strengthening the democratic structure of global institutions, such as the World Bank, the IMF and the WTO. These are small measures, but extremely important.

Therefore, the appropriate measures are, ironically, quite different from the dismantling of these organizations, which is what the protestors in Seattle and Washington, and also some arch conservative groups in industrialized nations, want. On the contrary, we need to restructure these organizations and recognize that they have an especially important role to play today. Of course there will be need for vigilance. There is enough evidence that powerful politicians in powerful nations like to think of international institutions as valuable only to the extent that they can use them to their own advantage.

On January 20, 2000, Senator Jesse Helms, arguably the most important congressional voice in the U.S., told the council members of the UN:

*If the United Nations respects the sovereign rights of the American people, and serves them as an effective tool of diplomacy, it will earn and deserve their respect and support. But a United Nations that seeks to impose its presumed authority on the American people, without their consent begs for confrontation and, I want to be candid, eventual U.S. withdrawal.*³²

Helms went on to express distaste for "supranational institutions," including the international criminal court, which was created in 2000. What is most damaging about this kind of remark is that any organization that meets with Jesse Helms' approval immediately becomes suspect from

32. <http://www.conservative.org/columnists/helms01202000.htm> (last visited Oct. 10, 2001) (my italics—but also my hunch that those would be Helms' italics).

the point of view of the world as a whole. The last thing that a credible international organization will now want is Jesse Helms' blessing. A WTO or a UN that has Helms' blessing and is entrusted with enforcing international labor and environmental standards will immediately be unacceptable to other nations, especially the developing countries whose interests are often orthogonal to that of industrialized nations.

We need to work to give nations, rich and poor, equal say, at least in international organizations that are supposed to play a mediating role in world economics or international relations. This horizontal equity is violated in most organizations through at least one of two routes. First, there is the open channel, which gives a larger share of votes to the nations contributing more to these organizations. This is certainly true of the IMF and the World Bank. The second route is through the lack of transparency of decision-making. One can see the importance of this for democracy by looking at policy-making within a country. If the process of decision-making is visible to all, it becomes difficult for any group or lobby to hijack the agenda. The same holds true for international organizations. Big and powerful nations, by virtue of contributing senior personnel and money to these organizations have much greater access to them. If decisions occur behind opaque walls powerful nations are much more able to divert the agenda to suit their own interests. Take the case of the WTO. While it does follow the important principle of one-country one-vote, it is widely perceived as a preserve of powerful and rich nations. This is in part because of what some analysts call the "green room" process, that is, what goes on behind the scenes.³³ It is the green room where the agenda is set and what is to appear on the table for all member nations to discuss and vote on is determined. Many of the end results are determined at that stage. If the WTO is to become a more democratic institution, it must not allow its green room to be hijacked by a few.

This problem is nowhere more obvious than in the drafting of international labor standards. These are ostensibly designed in the interests of the workers of developing countries. But the form that these standards are tending to take—and the increasing talk of using trade sanctions to impose these standards—is close to what protectionist lobbies in industrial nations seek. This is not surprising given the greater access that the lobbies of rich countries have in the corridors of power in international organizations.

Most sound surprised by this criticism of global institutions. The fact that *the questioning* of the practice of richer nations (who contribute more funds) exercising more voting power in these organizations sounds outrageous simply shows how far away we still are from *global* democracy. It does not at all seem outrageous that Bill Gates does not have multiple votes in the U.S. elections on the ground that he contributes more to government coffers. In fact, the suggestion that he could have more votes sounds outra-

33. See Jeffrey J. Schott & Jayashree Watal, *Decision Making in the WTO*, in INSTITUTE FOR INTERNATIONAL ECONOMICS, *THE WTO AFTER SEATTLE*, 283, 285-286 (Jeffrey J. Schott ed., 2000).

geous. This is because democracy within a nation is a much more settled idea.

Fortunately, opinions change. Multi-nationals nowadays talk in terms of environmental responsibility and the importance of respecting labor standards, even when that implies taking a cut in profits. This seems to violate age-old beliefs and also the textbook description of multinational corporations. When the one-person one-vote idea first came about, the rich feudal landlords must have been shocked and cried foul at this blatant injustice and the chaos in the process of decision-making that this would cause. But no longer does this democratic principle *within a nation* seem strange.

Now, with the call for restructuring international organizations ringing out from the streets of Seattle and Washington and also congressional committees, such as the commission headed by Allan Meltzer,³⁴ this is a good time for us to think through some of these issues. We must consider these issues not just from the point of view of economic efficiency and greater cost effectiveness, but also from the point of view of representation of the poor. It is only when we manage to make these changes in the structure of international organization that we will be able to entrust them with important tasks such as monitoring labor and environmental standards across the globe.

34. REPORT OF THE INTERNATIONAL FINANCIAL INSTITUTION ADVISORY COMMISSION (2000), available at <http://www.house.gov/jec/imf/meltzer.pdf>.