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Promoting Higher Labor Standards, WTO or ILO?

Several weeks ago, upon request, I sent the above topic in for the title of my after-dinner remarks.

Upon reflection, the submitted question was too easy; the right answer would be the ILO.

Yet my question has many embedded assumptions. Let's explore them.

First, should we promote higher labor standards in the first place?

Second, if so, is the ILO still the relevant and best international organization to do so?

Let's take these queries in order.

How do we know when a polity's labor standards should be raised? Maybe the labor standards in operation don't need to be raised.

The key thing to see is that the answer to this question will be geographically specific.

How about Geneva? Instinctively I posit that we would all say that labor standards are high enough here.

Except, perhaps, at the WTO, where the employees went on strike in 1996!

Yet how about Bangladesh? I would posit that we would all say "no, labor standards are not high enough in Bangladesh."

There could be two reasons for such a criticism:

First, the Bangladesh government could be getting it wrong. We commonly make that assumption about governments. And the assumption that governments are not regulating in their own interest is the assumption that, to some extent, underlies international trade rules.

Second, Bangladesh is getting it right for its own domestic interest, but the international community has a different interest that they want to impose on Bangladesh. Sometimes in international law, the international community seeks to change the way a sovereign country acts. The classic example is action by the UN Security Council. But often in projecting international law onto the domestic level, sovereign nations are given a great deal of discretion (or sovereignty) to set their own domestic standards.

That's the case for international labor policy. The ILO recognizes the autonomy of governments to decide whether to subscribe to a particular labor Convention.

So even if Bangladesh standards are lower than other countries, that, without more, does not render it to be an international issue. What makes labor standards an international problem rather than a domestic problem?

The founders of the ILO answered this question in the early 20th century by explaining in the Treaty of Versailles that "The failure of any nation to adopt humane conditions of labor is an obstacle in the way of other nations which desire to improve the conditions in their own countries." The founding of the ILO in 1919 also showed the existence of a global social community and the solicitude of the denizens of one country about the working conditions in others.

The ILO was premised, in part, on the worries that low labor conditions elsewhere could exert a race-to-the-bottom competitiveness dynamic. In other words, could low labor conditions in Bangladesh make it more difficult for the workers of Switzerland.

But equally if not more important in the debates for establishing the ILO was the expressed concern that "Labour is not a commodity." In other words, the view of a labor standards as a right of individuals that should be promoted as an end.

My second meta question for tonight: Is ILO still relevant?

I suppose for a Geneva audience this question seems impertinent. Forgive me.

I would posit that though this question would be answered differently in Washington DC than here. My guess is that if ten US international affairs specialists were quizzed on that question, at least half would say that the ILO is basically irrelevant.

Assuming I'm right about this one must wonder, why? If the ILO was right for 1919, why not 1998. Has anything really changed in intervening years?

Of course, the question really answers itself. A lot has changed. Let me point out a few of these changes:

1. Achieved a good deal of world peace, and therefore fulfilled one of the goals of the ILO.
2. Learned that other ways to achieve social justice that don't involve employer-employee relationships. Income maintenance, retraining programs.
3. International competition not as enervating as people thought. Looking at the eight decades of experience with the ILO, one realizes that low labor conditions in other countries has proved less than a barrier than thought to raising labor conditions locally.

4. Labor unions have agency problems.

5. Most important is that ILO has been emulated. Its attention to labor rights helped spawn human rights movement. Other institutions besides ILO are promoting worker rights.

Nevertheless, despite these changes, the ILO is still relevant and perhaps more relevant with growing globalization. The ILO is the international agency tasked with the social question and with a mission to empower the worker.

--Social Question. Strategy of empowerment of worker.

--Need government cooperation to find best employment policies. ILO institutionalized role of international organization that searches for best policies. But now others do. OECD, G-7, World Bank, IMF.

Yet from 1970–95, these institutions have underemphasized importance of labor market and skilled workers.

--Open trade depends on public support. Many people question moral underpinnings of trade. ILO can help.

--Functional international organizations need to cooperate. ITO and ILO planned to do this in 1948. GATT never did. Part of the ILO role is looking at labor aspects of international economic policy.

--The problem of unemployment can never be definitively solved. Different from smallpox or protectionism.

Let me summarize my presentation so far. One, there is an international interest in promoting higher labor standards in every country. Two, the ILO since the early 20th century has been the international agency tasked with the role of helping countries, workers, and employers set and raise labor standards.

So, to my announced topic. WTO or ILO? Should the longtime ILO role be reassigned to the WTO?

The short answer is No. The ILO remains the appropriate international agency with the jurisdiction to promote higher labor standards. Labor is part of the ILO's competence with both meanings of competence – that is, jurisdiction and qualifications to do the work. And part of the ILO's competence in that latter meaning is that the ILO is tripartite unlike the WTO which has only governmental participants.

Is the ILO doing enough to promote higher standards? Certainly not. The ILO is currently working on the adoption a supplemental new strategy to promote core or fundamental labor standards. In my view, this is a step in the right direction.

Another task for the ILO is the streamlining and recodification of its numerous conventions and recommendations. This will be a multi-year or even multi-decade effort. For example, I think it is time to retire ILO Recommendation 21. #21 advises on the Development of Facilities for the Utilization of Workers' Spare Time. Swimming is good, it says, gambling bad. While #21 is quaint -- indeed we yearn for the days when we had spare time -- keeping it on the books undermines the serious mission of the ILO.

Another reform is more attention to national labor standards that are too high. Too high can be harmful. ILO Article 19 evades this truth. Refocusing the ILO's attention on this aspect would give employers greater stake in ILO.

ILO should also try to emulate the success of international environmental treaties. Why are new environmental treaties get ratified so quickly -- for example, Montreal Protocol? Is it that harmonization in these treaties is so convincing on its face? I don't think so. It's because environment treaty writers do two things the labor treaty writers don't do. One is incorporate commitments on funding. Two is the environmental trade treaties, sometimes rely upon trade measures. ILO treaties do not use trade measures.

In laying out a progressive agenda for the ILO in the 2000s, does that preclude a role for the WTO? No. I can think of a lot of useful steps the WTO might take to improve labor standards.

1. Analyze the effects of trade liberalization on employment standards.
2. Use the TPRM to look at national practices for trade adjustment assistance.
3. To provide normative principles for export processing zones (EPZs).
4. To make sure that the new TBT Agreement does not interfere with social labeling.

WTO attention to its social dimensions will be especially important as WTO mission expands -- investment, competition policy. But there is no evidence yet that the WTO recognizes that its inattention to the people who make the goods being traded already undermines public support for free trade.

I have always thought it ironic that the GATT -- and now WTO -- occupies the building erected for the ILO. For below that is building is a foundation stone that says in Latin, "If you seek peace, cultivate justice." The post-war trading system has certainly contributed to world peace. But I'm doubtful that it is doing enough to cultivate justice.

