

////////////////////////////////////
KNOWLEDGE FOR ACTION
////////////////////////////////////

REGULATING THE GLOBAL SUPPLY CHAIN: APPLYING ILO FUNDAMENTAL PRINCIPLES TO “BUSINESS”

*Janice R. Bellace
Wharton School, University of Pennsylvania
Prato, Italy, 15 September 2014*



Raising Working Standards

How to improve the situation of workers?

- Get employers to raise wages, reduce hours, improve safety

Problem:

Any employer who did so would not be able to compete

-- unless all employers did so

Solution: national legislation

BUT that country would be uncompetitive unless other countries did so

Raising Working Standards

→ How to get many countries to agree to improve the situation of workers (in order to make employers do so)?



Take an issue (e.g., length of the work day)

Draft a “standard”

Get countries to agree to abide by that standard

Setting Standards

January 1919

Paris Peace Conference begins

Labor Commission set up



British proposal: create an international organization that will be charged with drafting standards with the aim of “**social justice**”

March 1919 -- agreed

Chapter XIII in Treaty of Versailles

International Labor Standards



Treaty of Versailles

Labour

PART XIII

Whereas the League of Nations has for its object the establishment of universal peace, and such a peace can be established only if it is based upon **social justice**

What are Labor Standards?

Broad meaning:

Term refers to national regulations on employees' right to organize, to bargain collectively, to be free from forced labor, and to enjoy decent working conditions.

Narrow meaning:

Minimum wage, working hours, safety and health provisions at work

Joseph Lee (Taiwan) *Labor Standards and Economic Development* (1996)

Post – WW II Period

- 1945 United Nations established
- 1948 Universal Declaration of Human Rights
broadens notion of what areas the ILO should consider
- 1948 C. 87 on Freedom of Association



Globalization

- 1990s globalization
companies sourcing worldwide
 - technological change
 - Many companies now focus on buying products in making the product themselves in another country
 - Trade rounds
- 1995 WTO established
-



Buyers of manufactured goods search for country and supplier with the most competitive price

1990s Globalization

“Labor problem” of 1919 appears once again in newly industrializing countries, e.g., in Asia



- long hours, unsafe working conditions, child labor, forced labor

1990s Globalization

- Buyers of products are *not* the employer of the workers.
 - Not covered by national labour laws
 - Do not feel responsible for labour conditions at suppliers' factories
- NGOs focus on abusive working conditions of those in the global supply chain *and* often target the buyers of the products.
- Emergence of global retailers and “brands” in low wage industries

WTO Opts Out

- Drive to have WTO consider a country's worker rights record before granting preferred trading status
- WTO says ILO is “competent body to set and deal with these standards”
 - December 1996 Singapore Ministerial meeting
- ILO confronts issue of imposing its standards on those active in the **global supply chain** (not limited to “employers”)

Identifying Rights at Work

- 1994 *Defending Values, Promoting Change*
ILO identifies four fundamental values
- 1996 WTO opts out of worker rights debate
- 1998 ILO adopts a “Declaration of Fundamental Principles and Rights at Work”

ILO Declaration - Principles

- **freedom of association** and the right to collective bargaining
- the elimination of all forms of **forced labour**
- the effective abolition of **child labour**
- the elimination of **discrimination** in employment

ILO Declaration - RIGHTS

- Four fundamental principles express the **rights** set forth in “core conventions”
- 4 principles linked to 8 core conventions
- ✓ Declaration is “promotional” -- not legally binding
- ✓ Conventions are binding obligations for signatory countries

ILO “Core Conventions “

- Freedom of Association
 - C. 87 and C. 98
- Abolition of Forced Labor
 - C. 29 and C. 105
- Elimination of Child Labor
 - C. 138 and C. 182
- Non-discrimination in employment
 - C. 100 and C. 111



Responding to Globalization

UN Global Compact

- January 1999 Kofi Annan at Davos proposes “a global compact of shared values and principles”
- Calls on **businesses** to “embrace, support and enact a set of core values in the areas of human rights, **labour standards**, and environmental practices”

UN Global Compact

- July 2000 UN Global Compact launched
- Two general human rights principles
- **Four “labour” principles**
- Three environmental principles
- Anti-corruption principles later added

UN Global Compact - Principles

- **freedom of association** and the right to collective bargaining
- elimination of **forced labour**
- effective abolition of **child labour**
- elimination of **discrimination** in employment

➔ *UNGC uses ILO Declaration's 4 principles*

UN Global Compact

- Labour principles ***not*** expressly linked to core conventions
 - No mandatory coverage – a *voluntary* alignment by businesses
 - No supervision or monitoring
- Thousands of companies sign the Global Compact

UN – Ruggie Principles 2011

UN Human Rights Council

- 2011 Report of the Special Representative of the Secretary-General on “the issue of human rights and TNCs and business enterprises”
- Protect, Respect, Remedy framework
- Part II: “**Business enterprises** should respect human rights.”

UN - Ruggie Principles 2011

“The **responsibility of business enterprises** to respect human rights refers to internationally recognized human rights – understood, at a minimum, as those expressed in the International Bill of Human Rights and the **principles concerning fundamental rights set out in the ILO’s Declaration on Fundamental Principles and Rights at Work.**”

Part II, para. 12

Ratification of Core Conventions

	C. 87	C. 98	C. 29	C. 105	C. 138	C. 182	C. 100	C. 111
Cambodia	X	X	X	X	X	X	X	X
China PRC					X	X	X	X
India			X	X			X	X
Indonesia	X	X	X	X	X	X	X	X
Malaysia		X	X		X	X	X	
Vietnam			X		X	X	X	X

Ratification of Core Conventions

	C. 87	C. 98	C. 29	C. 105	C. 138	C. 182	C. 100	C. 111
Japan	X	X	X		X	X	X	
Korea					X	X	X	X
Myanmar	X		X			X		
Nepal		X	X	X	X	X	X	X
Singapore		X	X		X	X	X	
Thailand			X	X	X	X	X	

CSR Approach

- ***Companies*** accept that they are obligated to act responsibly
 - Company codes of conduct
- Responsibility beyond shareholders → to stakeholders
- Orientation: ***companies*** *define* for themselves what constitutes socially responsibly behavior
- Most codes of conduct include clauses relating to treatment of workers

What is in the Code?

Assume a company in its code of conduct agrees to respect worker rights

→ *Which ones?*

- Child labor ban -- *nearly always*
- Forced labor ban -- *nearly always*
- Non-Discrimination -- *yes, but definition varies*
- Freedom of Association -- *the one sometimes omitted*

International Law Approach

Governments

- come together and adopt conventions that represent international agreements on rights and proper conduct
- voluntarily accept legally binding obligations
- enforce these obligations on those within their jurisdiction (e.g., employers)

Wider Impact of ILO Labour Standards

- 2012 - International Labour Conference controversy over meaning of Convention no. 87 Freedom of Association (1948)

→ *Why now?*

- Employers object that Committee of Experts view is being used by some to understand what the UN Global Compact and the Ruggie Principles mean

Wider Impact of ILO Labour Standards

→ What's the problem?

Example:

- Activists say that a company has committed to a core labour standard (e.g., freedom of association) and that the work practices at a major supplier do not comport with the meaning of freedom of association as expressed in ILO conventions, which is what the Ruggie Principles state is the minimum

Janice Bellace

Hoisted on their won petard? Business and human rights (JIR June 2014)

What Does the Company Code of Conduct Mean?

- ***Using what standard***
 - Support for general principle?
 - Meaning in ILO convention?
 - As defined in national law or practice ?

- ***Committing to what form of enforcement***
 - De-listing of vendor?
 - Discipline of errant managers?
 - Independent inspectors, independent auditors?

Can Private “Law” Achieve Social Justice?

- *Highly unlikely*
 - Lack of agreement on specific standards among ALL players in the industry
 - Inability to “police” compliance
 - Lack of private dispute resolution mechanisms and way to enforce decisions
 - Impact of sort term view of buyer company (retailers/brands) and insistence on lowest prices /tight deadlines on employer practices

Richard Locke: The Promise and Limits of Private Power (2013)

////////////////////////////////////
KNOWLEDGE FOR ACTION
////////////////////////////////////