

**SHOULD CORE LABOUR STANDARDS BE IMPOSED  
THROUGH INTERNATIONAL TRADE POLICY?  
AN ASSESMENT OF THE DEBATE ON  
GLOBALISATION AND LABOUR STANDARDS**

by

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**Biography**

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The opinions presented are those of the author and should not be regarded as the views of the Hanns Seidel Foundation or NEPRU.

**Abstract**

The advent of globalisation has created several opportunities for economic progress around the world but at the same time introduces strategic challenges for all trading nations. It has given rise to a number of interrelated concerns with respect to its social repercussions. These include its impact on employment, the distribution of income, and the role of labour standards. The aim of this paper is to briefly review the issues relating to the impact of globalisation on labour standards, with a particular emphasis on the international public policy issues that have been raised in the literature. We begin with a brief conceptualisation of core labour standards, followed by a discussion of current thinking on social or labour standards and whether a social clause is needed to address divergent social standards. Finally, we consider the implications of this debate for Namibia.

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**Acronyms**

GDP	Gross Domestic Product
ILO	International Labour Organisation
LDCs	Least Developed Countries
OECD	Organisation for Economic Co-operation and Development
US\$	United States Dollar
WTO	World Trade Organisation

## 1. Introduction

The protection of workers' fundamental rights is again prominent in the international policy arena with proposals from developed countries, most notably the United States, to include a 'social clause' within the WTO that would penalise countries found using low labour standards to gain unfair competitive edge in export markets. The motivation for this proposal rests on the assumption that developing countries are deriving unfair costs advantages as a result of maintaining low labour standards. Developing countries, on the other hand charge that developed countries are making this proposal with a hint of hidden protectionism and not because they are genuinely concerned about the state of workers in poor countries. A charge denied by proponents of a social clause.

As pointed out by Lee (1997) the issue of trade and international labour standards predates the establishment of the ILO in 1919. He recalls a few salient features on the historical developments underlying this debate. Firstly, the ILO was established to undertake joint international action to improve labour conditions worldwide. The Preamble to the Constitution of the ILO captures this noble objective, which begins:

Whereas universal and lasting peace can be established only if it is based upon social justice; and whereas conditions of labour exist involving such injustice, hardships and privation to large numbers of people as to produce unrest so great that the peace and harmony of the world are imperilled...; Whereas also the failure of any nation to adopt humane conditions of labour is an obstacle in the way of their nations which desire to improve the conditions in their own countries;...(ILO, 1919 as quoted in Lee, 1997, p 173-4)

Lee (1997:174) lists three motives behind the statements in the ILO Preamble:

- Social justice and humanitarian concern over the existence of conditions of labour that cause hardship and privation to large numbers of people;
- To stave off unrest that would imperil the peace and harmony of the world<sup>1</sup>; and,
- The third motive rested on the notion of the need to eliminate the negative cross-border externalities generated by countries, which failed to observe humane conditions of labour.

One key development has rekindled the debate on labour standards. The increasing globalisation of the world economy has raised the priority given to the promotion of international competitiveness in the name of public policy (Lee, 1997). The logic is as follows. Heightened international competition as a result of globalisation increases the pressures to cut costs, including labour cost, and to achieve greater flexibility in the production system. Those who advance this

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<sup>1</sup> This is understandable given that it was in the aftermath of the WWI and the Bolshevik revolution.

argument sustain that this would imply a negative impact on acquired levels of labour standards suggesting that poor labour practices in some markets may have implications for working conditions cross-nationally, i.e. there will be a race to bottom in terms of labour standards.

In fact, there has been a growing anxiety in the industrialised countries over the process of globalisation. Rising wage inequality in the midst of high unemployment in many industrialised countries intensifies such anxieties. Specifically, there has been a growing perception that increasing imports of manufactured goods from low-wage countries in the wake of trade liberalisation are displacing jobs and causes social 'dislocation' in the industrialised countries (Lee, 1997). A debate has ensued on the necessity for a social clause. In addition, thanks to the global communications revolution vivid public awareness of appalling labour conditions, such as the exploitation of child labour, has been forged on citizenry in the industrialised world. Thus, the establishment of universal core labour standards is typically justified on both humanitarian grounds and notions of fair competition in international trade

The main objective of this paper is to assess this debate by reviewing some recent research in this area. We shall evaluate the merits of the need for enforcing labour standards through international trade policy. We will focus in particular on those standards that are typically referred to as core labour standards and these are defined below. Another objective is to draw policy implications of this debate for Namibia.

## **2. Defining core labour standards**

In June 1998, the ILO adopted a declaration on Fundamental Principles and Rights at Work, which stated four principles and rights and committed ILO member states to respect them. It stressed that labour standards are not to be used for protectionist trade purposes. According to the declaration, these principles and rights include:

- a) Freedom of association and the effective recognition of the right to collective bargaining;
- b) The elimination of all forms of forced or compulsory labour;
- c) The effective abolition of child labour; and
- d) The elimination of discrimination in respect of employment and occupation.

These four rights and principles are collectively referred to as the 'core labour standards'.

### 3. The debate on labour standards and the inclusion of a social clause within the WTO<sup>2</sup>

As hinted above the case for internationally established core labour standards rests on the view that trade with low-wage countries has increased unemployment and even slowed growth in, or even lowered, the wages of unskilled workers in industrialised countries. Thus, to the extent that poorly protected labour rights cause low wages in developing countries, trade based on low wages is seen, by some, to be unfair. Given this aspect of the debate on labour standards, it will suffice to summarise the empirical evidence concerning the impact of international trade on the wage profile in OECD countries. Brown (2000) presents a very helpful survey of recent literature on this and other aspects of this debate. We shall summarise some key points here.

The evidence on the extent to which trade impinges on wages is not quite conclusive<sup>3</sup>. Some studies suggest that there has been a skill-biased technological change which led to an increase in the relative wage of college educated workers as the demand for skills increased throughout the 1980 (Brown, 2000). As a natural response to this observation other researchers set out to determine whether the wage shifts attributed to technological change might not in fact be due to the influence of international factors. However, the evidence appeared to support the view that technological change rather than international trade is the driving force behind increased demand for non-production workers<sup>4</sup> in the United States with similar results obtained for other industrialised countries<sup>5</sup>. However, several studies have shown a greater role for trade. A notable and a widely cited study is Wood (1994). Wood, adopting a factor content approach, calculates the factor content for skilled workers, unskilled workers and capital per unit of exports to LDCs and per unit of imports from LDCs. He applies net factor content to total trade to calculate the impact on the implicit net demand for each factor of production in the industrialised countries and concludes that all of the growing wage dispersion in the industrialised countries is attributable to North-South trade. However, his results, though they imply a larger role for trade than those studies using the same approach should be interpreted with caution. When calculating the implicit supply of factors to the

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<sup>2</sup> This section relies heavily on Brown (2000), Lee (1997), and Maskus (1997).

<sup>3</sup> Frank (1977) found that international trade played only a very small role in employment determination. He found that net imports resulted in a decline of 600 000 jobs over the, 1963-1971, which was 0.2% of the US manufacturing labour force at the time. However, recent studies have shown a greater role for trade (see Brown, 2000 for a survey). For example, Katz and Murphy (1992) found that between 1979 and 1985, international trade resulted in a decrease in the demand for male high-school dropouts by between 0.6% and 1.5% and a fall in the demand for female high-school dropouts by 2.2% to 4.0%.

<sup>4</sup> Non-production workers include supervisors, those engaged in installation and servicing, sales, delivery, professional, technological administration, etc.

<sup>5</sup> See Brown (2000) for a survey.

industrialised countries embodied in LDC exports, he assumes that LDC exports are not competing with industrialised country production. Therefore, rather than use the labour coefficients in industrialised countries to calculate the implicit factor flows, Wood uses the labour input coefficients in developing countries. In other words, as Brown (2000) succinctly points, Wood is calculating the 'actual labour embodied in the trade flow from developing countries rather than the labour that would have been embodied in the goods had they been produced by the importer'. Therefore, the assumption made by Woods (1994) has important implications for his results since developing countries tend to use a more unskilled-labour intensive technique of production. Moreover, studies based on the factor content approach are critiqued by some scholars as evidence without theory. There is a debate on this but we shall not get into that. *What one can conclude is that researchers are largely divided on the magnitude of the impact of trade on wages.*

### **3.1. Core labour standards, trade and comparative advantage**

The above discussion suggests that the recent experience of trade with developing countries and the impact on wages and unemployment in industrialised countries is difficult to assess. Yet, we know that in principle, goods trade between two countries can have important implications for the distribution of income when trade flows are sufficiently large. Now let us turn to the question as to whether variation in labour standards across countries might impact on the volume of trade, competitiveness and comparative advantage.

Once again Brown (2000) presents a marvellous summary of recent research on this question. He concludes that most of the studies have varied standards to the extent they control for country specific characteristics. Most studies find a positive correlation between export performance and core labour standards. Mah (1997) analyses the trade performance of 45 developing countries. Mah regresses the export value as a fraction of GDP on several institutional measures such as measures of freedom-of-association rights, the right to organise, the right to collective bargaining, prohibitions against forced labour and discrimination in employment and the real interest rate. The study finds that each country's export share of GDP is negatively correlated with the freedom-of-association rights and strongly negatively correlated with rights to non-discrimination. Exports are also negatively correlated with the right to organise and collective bargaining, but the relationship is much weaker. What can be concluded from Mah (1997) is that *developing countries that ratify ILO conventions with regard to certain core worker rights are more similar to their trade partners in terms of the characteristics that determine trade than are developing countries that do not ratify ILO conventions.* However, as Brown (2000) points out, since the estimated relationships do not have any controlling variables other than the real interest rate, it is not possible to determine which characteristics are determining trade-related country differences.

Given that core labour standards are only part of several determinants of trade performance, there is a need to control for other determinants of trade. Rodrik

(1996) has done just that which lends more credibility to his results compared to Mah (1997). Rodrik (1996) uses several different measures of core labour standards. These are:

- Total number of ILO conventions ratified.
- Number of ILO conventions pertaining to core labour standards ratified. These are Conventions 29, 87, 98, 105, 111, and 138.
- Different indicators of civil liberties and political rights, which focuses on actual practice rather than formal obligations.
- An indicator of the incidence of child labour. This index captures inadequacies in legislation or enforcement relating to child labour restrictions.
- Statutory hours of work in a normal week in manufacturing and construction.
- Days of paid annual leave in manufacturing.
- Percentage of the labour force that is unionised.

We shall jump to the results skipping the technical aspects. He finds large and statistically significant coefficients for ILO conventions ratified, the index of child labour, and the indicators of democracy. For example, introducing child labour legislation or intensifying enforcement of existing child labour laws raises labour costs per worker by US\$4,849—US\$8,710. Rodrik thinks that child labour law by itself cannot produce such a large change in cost but rather that the child labour variable is a proxy for all labour standards. An important implication arising from Rodrik (1997) is that countries with weak democratic institutions and child labour practices attract less US capital than democracies that protect child labour. *Therefore he concludes that it is an illusion that low standards countries provide a safe haven for foreign firms.*

### **3.2. Core labour standards and competition in legal institutions and labour contracts**

From an analytical point of view, the international transmission of non-homogenous core labour standards may manifest itself as competition in legal institutions and labour contracts, as well as through trade in goods and international capital flows (Maskus, 1997; Brown, 2000). Below we discuss some of the concerns raised in the literature with regard to divergent and competing standards.

As Bhagwati (1998) points out there is indeed a diversity of labour standards around the world. As a case in point he asserts that worker participation in decision making on the plant is much more pertinent than unionisation of labour but remains less

visible in North America. The question of course, is whether such diversity of standards will lead to a worsening of social standards across countries. This is the so-called *race-to-the-bottom* argument.

Advocates of this view suggests that in the absence of cooperative international action, increasing competition in the era of globalisation will lead to downward pressure on labour standards, i.e. a prisoners-dilemma will emerge over labour standards. Countries will each lower their own standards in order to gain a competitive advantage over foreign exports. This is clearly an empirical issue.

But as Brown (2000) hints the “possibility of a prisoners dilemma outcome raises the question as to how much coordination of core labour standards is desirable”. He continues and asks the question of whether core labour standards must be harmonised according to a universal guideline or whether some limited coordination will be more effective in establishing an efficient resource allocation? However, this is more of an academic concern. We are more interested in the empirical evidence on a *race to the bottom*. Disappointingly, the empirical evidence of a potential wholesale collapse of standards across nations is inconclusive. Levinsohn (1996) as cited in Brown (2000) finds very little evidence that environmental regulation affects firm location. The study finds that most firms employ the same technique of production in their foreign plants as they do at home and a similar argument applies to the foreign practices of labour standards. However, Elmslie and Milberg (1996; also cited in Brown) claim to find considerable historical evidence of a race to the bottom. *Once again the evidence is mixed.*

Next we consider the related issue of whether the imposition of core labour standards will erode developing countries comparative advantage. It is widely argued that developing countries comparative advantage lies in low wages and therefore any foreign demand that raises labour costs will deny them their right to exercise their comparative advantage in international trade. However, what is not often stated publicly is that developing countries have low wages because they have low productivity; rather the comparative advantage is derived from a relatively abundant unskilled labour. Recent research has established that productivity-adjusted wages are very similar across countries<sup>6</sup>. Therefore, imposing higher labour standards will not necessarily raise the costs of labour. Instead it will simply require labour in developing countries to divert some of their money wages to benefits, which may make workers worse-off in the medium term.

Now, since there is not an overwhelming case or rather evidence for a *race to the bottom* should we conclude that there is no need for some competitive change in labour regulations? Brown (2000) thinks otherwise and suggests that co-ordination in the setting of standards may be desirable but as the above discussion as shown there is not a case for harmonising standards across countries. In fact, to the extent that heterogeneous standards reflect differences in income levels and tastes,

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<sup>6</sup> See for example, Rodrik (1997).

efficiency dictates a variety of standards across countries. *Having reached this conclusion does not mean that a variation in socially optimal standards across nations is less likely in the case of core labour standards than for other labour standards that are more elastic to levels of economic development* (Brown, 2000).

### **3.3. Empirical evidence on the motivation for international core standards policy**

Notwithstanding, the theoretical and practical challenges to international labour standards, some industrialised nations continue to push for the harmonisation of standards inside and outside the WTO<sup>7</sup>. Leading trade theorists such as Bhagwati (1998) argue that the motivation for international labour standards is fundamentally protectionist, but the empirical results on this point is mixed (see Krueger (1996)). Furthermore, as Brown remarks the economic effects of an international core labour standards policy are as varied as the models used for their analysis.

### **3.4. Core labour standards and trade liberalisation**

Casella (1996) has analysed the connection between labour standards and trade liberalisation from a theoretical perspective. Her departure point is that differences in labour standards are in part driven by differences in income. Therefore trade will cause 'endogenous convergence' in labour standards if trade also gives rise to convergence in income levels. In her model, the convergence is not triggered by a drive for competitiveness but rather a convergence in the underlying demand for standards, meaning that open trade will raise the demand for higher standards in a democratic political set-up.

## **4. Summary and conclusions**

The aim of this paper was to provide a brief review of the issues pertaining to the debate on the inclusion of a social within the WTO to bolster labour standards across the world. It is clear that most of the answers to the issues raised remain unclear, which points to the complexity of the issues involved, and as a result the empirical evidence is mixed. However, it does not seem that there is a legitimate and effective role for international trade sanctions in penalising countries that fail to observe core labour standards. In fact, Maskus (1997), points out that trade restrictions are blunt and indirect instruments that could be counterproductive in that they harm the individuals they are designed to help, and are ineffective in achieving their goals. *Therefore, we conclude that there is little economic basis for a social clause based on labour standards in the WTO.* Better approaches may be

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<sup>7</sup> See Leary (1997) in a recent issue of the *European Journal of International Law*, vol. 8, issue 1, which captures the debate on the WTO and the Social Clause after the first Ministerial Conference of the then newly created World Trade Organisation which was held in Singapore in December 1996.

designed, for example, compensation programs from wealthy countries that are concerned about core labour standards, focussed directly on poverty alleviation and improved educational access for children, are likely to be far more effective and less costly than trade restrictions in discouraging the use of child labour (Maskus, 1997; Brown, 2000).

*What are the implications of this debate on social standards for Namibia?* Namibia is a lower middle-income developing country with a highly segmented labour market. There is a high-wage formal sector coexisting with a low-wage, high underemployment informal sector. Typically, little data exists on the informal sector. Unemployment remains high at over 35%. The institutional framework governing the labour market makes provision for collective bargaining and other core ILO standards (see Appendix for details). Trade unions are recognised and in fact a large number of low-skilled jobs have tailor made trade unions structures in place. The Labour Act of 1992, which is now being amended, provides the regulatory framework for employers and employees since 1992. However, this Act only applies in the relatively high-wage formal sector, as it is difficult to enforce in the elusive informal sector.

A 1999 Child Activities survey reveal that there is some incidence of child labour in Namibia. According to this report of the total population of children aged 6 to 18 years of 445,007, 72,405 or 16.3% were found to be working with more boys than girls working. About 95.4% of these working children are in the rural areas, implying that most of the child labour activities do take place in the informal sector. The majority (63%) of these working children are engaged in elementary occupations and the report suggests that a substantial proportion of "children do not appear to be intensely engaged; 84.1% usually work for less than 6 hours a day. Most of these children are family workers.

Regarding children and work, the Namibian Constitution states as follows:

- Children are entitled to be protected from economic exploitation and shall not be employed in or required to perform work that is likely to be hazardous or interfere with their education, or to be harmful to their health or physical, mental, spiritual, moral or social development. For the purposes of this sub-article children shall be under age of 16 years (Art. 15 (2)).
- No children under the age of 14 years shall be employed to work in any factory or mine, save under conditions and circumstances regulated by Act of Parliament (Art. 15 (3)).
- Any arrangement or scheme employed on any farm or other undertaking, the object or effect of which is to compel the minor of an employee to work for or in the interest of the employer of such employee, shall for the purposes of Article 9 hereof be deemed to constitute an arrangement or scheme to compel the performance of forced labour (Art. 15 (4)).

Furthermore, the above conditions of the Constitution has been amplified by the Labour Act of 1992, Section 42 as follows:

- No child under 14 years may be employed for any purpose.
- No child under 15 may be employed in any mine or industrial undertaking.
- No child under 16 may be employed underground in any mine.

Based on the above provision and brief discussion of the extent of child labour and general labour standards in Namibia it is easy to conclude that Namibia does have relatively high social standards. With regard to the informal sector, it is important to note that both the Namibian Constitution and Labour Act of 1992 (currently being amended) are quite specific with regard to human rights and the treatment of labourers at the workplace. Of course, the degree to which these measures can be enforced differ between the formal and the informal sectors. However, indications are that these measures are properly enforced. For example, between 1990 and 1999 more than 30,672 complaints with regard to labour relations were received countrywide and resolved accordingly. Labour inspectors visited the premises of 4,807 businesses for routine inspections during the period under review.

Furthermore, the part of the Labour Act that deals with conditions of employment has been translated into six vernacular languages with the aim of assisting the social partners to better understand the Act. In addition, the National Assembly passed a code for HIV-AIDS at the workplace, which serves as a guideline for employers, in 1998. This code is based on the SADC code on HIV/AIDS at the workplace. Therefore, a tentative conclusion, which we shall venture with regard to the implication of the debate on social standards on Namibia, is that the impact will be minimal because of the relatively excellent labour standards existing in the formal sector, although enforcement remains a challenge for the informal sector.

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## Appendix: Namibia's labour environment, Labour Act

### Basic Employment Conditions

The Labour Act of 1992 makes provision for the following:

#### *Working Hours*

- Normal hours of work should not exceed 45 hours a week, except for security guards where a maximum of 60 hours a week applies;
- If the working week is five days, then the working day may not exceed nine hours a day. For those working six days per week, ordinary working hours should not exceed 7.5 hours a day. This translates to 12 hours a day and 10 hours a day respectively for security guards.
- Casual employees should not work more than nine hours a day and not for more than two days a week.
- The maximum working hours for shift workers is set at 7.5 hours per shift.

#### *Overtime*

- An employee may not work more than 3 hours overtime per day, or 10 hours overtime per week.
- Overtime rates are 1.5 times the hourly rate on normal working days and double the hourly rate on Sundays and public holidays.

#### *Paid Holidays*

- Namibia has eight paid public holidays. Any extra days are gazetted from time to time.

#### *Annual leave*

- An employee is entitled to 24 consecutive days of annual leave with full remuneration.

#### *Sick Leave*

- During the first 12 months of employment, employees who work five days per week accrue one day's sick leave for every five weeks of employment.
- Five-day per week employees are entitled to 3 working days of sick leave annually and six-day per week employees are entitled to 36 working days of sick leave annually. A medical certificate must be provided to the employer.

#### *Maternity leave*

- After 12 months of continuous service, a female employee is entitled to four weeks of maternity leave before the expected date of confinement and at least eight weeks of leave after the date of confinement. A medical practitioner should certify the confinement.
- The rights of any female employee, including seniority, promotion and other benefits shall continue uninterrupted during

the period of maternity leave.

**Child labour**

- No child under 14 years may be employed for any purpose.
- No child under 15 may be employed in any mine or industrial undertaking.
- No child under 16 may be employed underground in any mine.

**Industrial relations**

The Labour Act regulates industrial relations between employers, employees and trade unions. It also regulates the prevention and settlement of labour disputes.

Some of the main provisions of the Act are:

- The prevention and remedy of any unfair dismissal and unfair disciplinary actions against employees.
- The regulation of termination of contracts of employment.
- The provision for registration of trade unions and employers organisations.
- Provision for the settlement of disputes between employees or registered trade unions and employers or registered employers' organisations.
- Definition of the powers, duties and functions of the Labour Commissioner and labour inspectors.
- The establishment of a Labour Court, District Labour Courts and Wages Commission for the purpose of the Labour Advisory Council.
- Provision for the health, safety, welfare and incidental matters of employees.

**Trade union/Employer's Organisations**

The Labour Act also regulates these. Some of the most important provisions are:

- All trade unions and employers' organisations are registered with the Labour Commissioner's office.
- Constitutions of trade unions and employers organisations are scrutinised by the Labour Commissioner's office during the process of application for registration, to ensure compliance with the provisions of the Labour Act, and any other law in force in Namibia.
- Trade unions and employer's organisations should define the industry in which they wish to operate as an industry, occupation or trade.
- Notice in case of a strike or lockout action should be issued to the other party in the dispute within 48 hours before such action is taken.

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