Hemispheric Options in a Turbulent Environment:

Is the power of labor growing or declining in the Americas?

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Introduction.

The technological transformations that occurred in the world in the last few years have deeply affected economy and labor relations, such as in developed and in emerging countries. Since the debt crisis of the early 1980s there has been a radical series of transformations in the economic, political, social and cultural spheres of Latin America. This paper seeks to explore this discussion from an international and economic perspective, taking the linkage between social rights and commerce as the main phocus. Moreover, it seeks to discuss the needing of including a "social clause" within international trade agreements, as a way of encouraging countries to respect labor standards. In order to understand what is happening in Latin America, in means of labor power, it is necessary to point out some considerations.

Democracy in Latin America.

A major transformation since the early 1980s in Latin America has been the transformation from authoritarian governments to democratic systems. Between 1964 and 1976 political tensions caused many Latin American democracies to give way to authoritarianism. The military governments that followed proved equally incapable of managing the political economy of their actions. A wave of democratization – which crested in the 1980s – ensued. Today, most of the states in the region are democratic. Until

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now, the presence of democracy in the region has been characterized by a cyclical pattern in which democratic and authoritarian “moments” have been constantly alternating with each other.

This political transformation led to a greater state involvement in the management of the economy and in attempt to reduce the linkages with the wider world economy to promote industrialization. Indeed, there is a special link between democracy, modernization and neoliberalism. In this sense, the neoliberal policies introduced throughout most of Latin America over the past one or two decades opened a new development era which could be referred to as the globalization phase succeeding the earlier import-substitution phase. This globalization reveals the defeat of the socialist project and the triunph of capitalism in Latin America.

One cannot forget that capitalism is the dominant socioeconomic system in the global economy, and capitalism has always been an international system. However, at the close of the twentieth century, the international integration of the world market economy is progressing at a very rapid pace. This process enconpasses economic transformations in production, consumption, technology and ideas. In this sense, there are two important characteristics of this process relevant to Latin America. First, the great majority of direct foreign investment during the 1980s and 1990s of the large multinational firms originating in the three economic poles (North America, Japan and European Union) has been in counstries of the other two poles. Second, firms in these poles have identified hinterlands or spheres of influence, where they can subcontract labor-intensive operations and extend the regional markets for their products.

Concerning this linkage – globalization, investments and labor – derived from the neoliberal approach, an important key, though less publicized, to neoliberal reform is that of restructuring labor markets. New wage and employment bargaining systems have been introduced, giving more power to employers and less to trade unions. New employment laws have been passed in order to make labor markets more flexible and to reduce the social security contributions and responsibilities of employers. Overall, according to most of commentators, these reforms have restructured labor markets in favor of employers, as they have gained a more flexible system of hiring and firing and lower wage and non wage costs.

Private sector employers are seen as the key targets of trade reform. In essence, trade reforms are concerned with making Latin American economies more outward looking and private sector firms keener on becoming more competitive in the international market place. Trade liberalization has emphasized the need to promote exports and to reduce tariffs on imports. Such reform is deemed to create more international competition for firms so that they change from producing for just the home market and raise their horizons to global markets. At this point, private sector employers see labor costs as part of their production.

Labor has suffered much more heavily than have holders of capital during economic restructuring. The adoption of an outward-orientated economic policy has normally been associated with large increases in unemployment in key industrial sectors, at the same time as the privatization of state firms has been characterized by a significant loss of labor. This has generated the need to restructure labor markets in order to lower wage costs, to have a more flexible hiring and firing system for employers and to lower employers’ nonwage costs.

The state has also tried to reduce the power of trade unions in order to reduce worker protection and to lower labor costs (as in Chile and Peru). Labor has increasingly suffered reduced bargaining power with the acquiescence or indeed active support of the state. These processes have often been perceived as the necessary prerequisites to produce a more flexible labor market and to create more competitive labor conditions for employers in the international market place. Overall, labor has become more vulnerable and insecure as a result of the growth of short-term contracts, the shift to more competitive labor markets and the decline of social security.

The transformation of labor markets introduces the wider theme that neoliberal reform has been associated with negative effects in such social areas as income distribution and poverty. These negative effects can be seen in the impact of neoliberal reforms in various areas of the labor market. Trade liberalization, fiscal and labor-market reform have combined to increase unemployment substantially during economic crisis. Companies which are unable to compete with foreign firms in the domestic market usually lay off workers and contract others under short-term contracts. As a consequence, there is a pressure to reduce real wages. On the other hand, domestic capital markets and increased inflow of foreign capital has been to increase substantailly the wealth of the top two deciles of income earners.

In this sense, concerning political and economic transformations in Latin America, followed by a neoliberal model, it is correct to affirm that its labor force has declined and lost power[1]. Indeed, as far as globalization is an irreversible process, it is an argument to believe that this decline is also irreversible. Therefore, a new face for labor market must also be drawn by concerning more market-based and outward-orientated economic policies. In this context, labor force must be thought as an element of production and it must have a similar treatment as capital investments. Labor and trade must be linked.

The linkage between labor and trade.

There has been much debate about the use of labor standards as part of international trade. Some countries with emerging economies have been adamantly opposed to having such standards enforced through the World Trade Organization (WTO). Such countries charge that pressure from the more-developed world – particularly the U.S. – to enforce labor standards is simply disguised protectionism, and/or amounts to an

[1] We may argue that this decline also considers Latin America’s agricultural. Agriculture continues to provide a major share of Latin American foreign exchange earnings although its contribution declined substantially in the 1970s and 1980s. The technlogical transformation of agriculture has largely been confined to what has become known in Latin America as *agricultura empresarial* (entrepreneurial agriculture) which refers to the modernizing capitalist farms. The modernization of the *latifundio* has been accompanied by a structural shift in the composition of the agricultural labor force. Four major changes can be highlighted: a) the replacement of tenant labor by wage labor; b) within wage labor, the growth of temporary and seasonal labor; c) the increasing feminization of the agricultural labor force; d) the “urbanization” of rural workers.

impingment on their national sovereignty. On the other hand, some developed countries argue for such standards on the basis of defending themselves against lost competitiveness.

We argue that there are two areas of potential impact and the both investment and labor are part of trade; each is a factor of production.

Two impacts.

For the most part, labor standards are conceived as constraints that will have an impact on the emerging economies. As we will note, however, the impact might also fall on a developed country such as the U.S. But in terms of the impact on an emerging economy, the two areas of impact are: a) a direct effect on the local labor market; b) an indirect impact through the political channel, giving access to markets in developed countries.

Investment Rights and Labor Rights.

The response of governments and the international community to labor and investment appears to be dictated by the differences in their inherent natures. We take this two concepts, because investments are results of political action of developed countries in relation to emerging countries. Labor rights is related to labor costs. Labor costs may constitute an obstacle to international capital flows.

Capital is a factor of production. Capital is a property which is a commodity under the control of persons. Capital, and investment as a use of this property, exists because legal systems created a medium of exchange and then dictated its uses. Investment exists when capital is devoted to a purpose. The trade-related aspect of investment is its contribution to the creation of goods and services that are traded.

Labor is also a factor of production. Yet, the international labor community has frequently reiterated that “labor is not a commodity”. Labor derives from the efforts of human beings and, therefore, implicates human dignity. Unlike capital (and investment) human beings and their efforts exist beyond commerce and legal systems.

Limiting the comparison between labor and investment to this level, may suggest some of the reasons why trade linkage provokes different impacts.

Moreover, we believe that investment rights and protections fall within the ambit of existing trade and trade related rules. Investment rights are created when a country chooses to allow foreign investors into its economic system by granting them the right to establish themselves in the market and to control and/or own assets that produce goods or services. Investment protections are designed by governments to secure the continuing existence of or non-interference with the property rights obtained through investment activity. The creation and rcognition of international investment rights and protections, therefore, facilitates international trade.

By contrast, the usual focus in a discussion of labor rights is on the human factor. There is emphasis on the premise that labor rights are an aspect of human rights. Labor is not a commodity because acceptance of such a characterization would demean human dignity. Viewing labor rights only in this way, however, cuts off most trade-related dialogue. Labor rights, so viewed, must be protected by a system which focuses on the unique nature of the rights.

Reconceptualization of labor rights.

In order to have a useful trade-related discussion there must be a reconceptualization of labor rights. A useful alternative description would involve seeing labor rights, like investment rights, as necessary for the creation of a type of property [2]. Those entitled to labor rights should be seen as having a property right in the product of

[2] The suggestion for this rethinking of the nature of labor rights came from a question posed during the IELIG Linkages Conferece by Steve Charnovitz, *apud "Observations on Trade and Investment and Trade and Labor"*, C. O'Neal Taylor, 19 University of Pennsylvania Journal of International Economic Law, Summer 1998, 650.

their efforts. Such a reconceptualization makes the recognition and protection of "core labor rights", as rules devoted to ensuring minimally acceptable standards for the exploiting of these property rights, more closely akin to investment and intellectual property rights.

A new conception of labor rights does not undercut the human rights view. It captures the role that labor plays in the commercial world.

Economic restructuring.

The images of the State are changing and a new political order, common among nations, is emerging. The movement of formerly closed communist and socialist centrally planned economies to more market-oriented open capitalista economies is likely to generate huge changes in the world economy over the next several decades. These changes promise to cause much conflict, pain, and suffering as the world markets adjust, but also large profit opportunities.

The conservative system of mass production combined with cheap labor and unskilled workers for rapid economic growth does not fit the new international economic feature, although, on the one hand, this fordist system of production is capapble of absorbing the marginalized workforce. In this pathway, despite the fact that economic hanges bring losses to workers, adaptability to new economic directions is necessary. Since every redirection of economy is a result of political action and since the economy presents great intervention in labor relations, it is possible to affirm that labor relations is also linked to political action. Politics is thus responsible for reshaping a country's labor relations system through three entities: (a) workers; (b) government; (c) management.

Therefore, by using a new concept of labor rights, government may build efforts to reshape the labor relations in its country in order to adjust it to the new economic order. Including a "social clause" within international trade agreements is a pathway to allow international investment flows to any country. Capital can be transferred easily if a currency is freely convertible. The restrictions that exist on this inherent mobility come from government regulation aimed at restricting, attracting and retaining capital or by the market value of the investment. Labor, by contrast, is more likely to be less mobile. But mobility can be encouraged by immigration policies. For both investment and labor, a government has a sovereign interest in regulation. Labor and capital are core components of a country's wealth, productivity and competitiveness.

The international community has ways of pressing or encouraging change in government laws and regulations. Intergovernamental organizations, like the WTO, the ILO, the OECD, and non-governmental organizations can monitor existing governmental practices and rules while governments can negotiate new multilateral rules (binding or nonbinding) on the protection of investment and labor rights.

The question is wether standards will do more good than harm in terms of direct effect on the emerging economies.

From an economic perspective, labor-abundant, low-wage countries will continue to export labor-intensive products, but any notable effect will be felt in the labor markets of developed countries because these countries will be directing their capital to these countries. In fact, multinationals and retailers from the developed world are increasingly locating operations in, or obtaining prodcts from, countries whose labor standards differ from those in their home countries.

But consideridering labor standards within trade agreements there will be felt an indirect impact on economies and a potential positive gains from access to markets. These include the need for political leaders to maintain internal political credibility in the face of perceived threats to national sovereignty.

Conclusions.

Labor and trade.

There is no doubt that reconceptualizing labor rights and realocating them besides investments rights, as far as labor and capital are equal factors of production, as a property right, will allow countries to include a “social clause” within international trade agreements. Any of such rule-making process may be accompanied by a mechanism for enforcing the multilateral rules, such as binding dispute settlement and sanctions. In this sense, it follows that the two institutions capable of doing it are the WTO and the OECD.

Despite direct and indirect impacts of a “social clause” as a result of the linkage between trade and labor, it is possible to identify some gains from the protection of core labor rights: (a) promotion of human dignity by protecting core labor rights; (b) the long term economic interests of the state involved. For investments rights, gains would also be identified: (a) investments, trade and business woul be facilitated by providing some measure of stability in the rules; (b) contribution at some level to the economic growth and potential development for all countries.

Hemispheric integration in the Americas.

More market-based and outward-orientated economic policies have thus become the norm in Latin America during the 1990s. In may cases, they have provided a period of economic growth after the “lost decade” of the 1980s. Arguably, there is some evidence of more dynamic labor markets, increased employment and reductions in poverty, although the pattern remains sketchy. However, one result of the increasing opennes of Latin American economies is to make countries more enthusiastic and interested in hemispheric integration.

Hemispheric integration is on the agenda for the early part of the twenty-firs century. This agend is presently being pushed by at least five major schemes of regional integration:

- the North American Free Trade Agreement (NAFTA) countries – Canada, USA, Mexico;
- the Central American Commom Market (CACM) – Guatemala, El Salvador, Honduras, Nicaragua, Costa Rica;
- Caricom (Caribbean Community) – members include Barbados, Guyana, Jamaica, Surinam, Trinidad and Tobago;
- The Andean Community (formerly Andean Group) – Venezuela, Colombia, Ecuador, Peru and Bolivia;
- Mercosur – full members are Argentina, Brazil, Paraguay and Uruguay; associate members include Chile and Bolivia.

The important key to be pointed out is that trade liberalization at the national level has been reinforced by these regional attempts to create freer trade. Such a process has been labelled “open regionalism”, the objective of which is to strengthen the potential of the regional market while at the same time creating a basis for competing in global markets. Suche regionalism has emerged as a potent new force in Latin America during the 1990s and can be seen to strengthen neoliberal policies at the national level. Substantially closer trading and investment links are now occurring between the member countries of at least two trading blocs (NAFTA and Mercosur). However, each member country is also pursuing the liberalization of trade with as many countries as possible in the wider global economy.