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BACKGROUND PAPER FOR THE
WORLD DEVELOPMENT REPORT 2013

Aligning Rights and Interests: Why, When and How to Uphold Labor Standards

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world development report

2013 

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Introduction

A job can mean little more than the wages that cover food and shelter, but it can also be a means to a better life for the worker or her children. The returns from labor can be purely individual, or they can have positive consequences for a larger community. Jobs that combine individual and aggregate benefits are more likely to be *transformational*, raising living standards of those who work and stimulating economic development throughout the whole polity. Economic growth and progress generally requires the abolition of jobs that are detrimental to health and safety and that violate generally held and internationally acknowledged norms of decency.

To establish what we do and do not know about how the protection of labor rights contributes to the developmental value of jobs (through living standards, productivity and social cohesion), we review the available literature and evidence. When possible, we rely on scholarly research, but, when necessary, we also use credible data and other information collected by advocacy organizations. Throughout, we provide available quantitative and qualitative evidence on how improvements in rights contribute positively to economic development. On the whole, our conclusion is that they do.

Our analysis of the costs and benefits of labor protections is in four steps. The first is to discuss the key labor standards and offer a refined typology, derived from the International Labour Organisation (ILO) four core standards, which many governments have adopted as national law. We recognize—and include in our typology—rights beyond those encompassed in the core standards. Sexual harassment, trafficking, immigration, and physical torture all have serious impacts on the work life, but in this paper we focus on the four core standards. We next present the available information on violations, the costs of failure to enforce, and the tradeoffs between better jobs and business investments. The focus then shifts to implementation, and we consider primary agents and instruments and how they affect and are affected by international norms and institutions, domestic institutional context, state capacity, private regulation, non-governmental organizations, and labor rights campaigns. In the final section of the paper, we discuss the conditions under which corporate and government actors might have incentives to support and benefit from improved labor rights and standards.

As political scientists and political economists, we presume that corporations, governments, and NGOs calculate the costs and benefits of improved labor rights. We suspect that the most important obstacle to the creation of labor rights is the power of some groups to block change to protect private benefits and rents and that the biggest incentive is the power of other groups to make effective demands for change. Thus, our review attempts to document sources of influence and resistance. In many countries and localities powerful actors capture the state, inhibiting government action, undermining worker organization, negating the effects of campaigns or international pressure, and discouraging entrepreneurial innovation or its dissemination. Sometimes the state simply lacks the capacity to implement its own laws, whatever the personal commitments of government officials. Weak institutions and weak organizational capacity make it difficult to translate laws, norms, or pressure into practice. Sometimes, government actors have a strong vested interest in the status quo, and it is their unwillingness to act that is the problem.

A principal aim of paper is to identify the factors that align actors' incentives with the collective good. The most important of these appear to be:

1. **International norms** that set the baseline for how workers are to be treated
2. **Campaigns and international pressure** threatening to imperil trading relationships by tarnishing the reputations of governments and firms that violate basic standards
3. **Worker organizations** able to raise costs of rights violations
4. **Private regulation** that transforms brand and firm behavior
5. **Government regulation of basic rights** which take cost-saving abuses out of competition

Normative change, institutional change, and increased capacity of the less powerful to mobilize can shift incentives, raising the benefits and reducing the costs of creating good jobs. Our review of the literature reveals that these factors often act in combination. Corporate and government actors may come to realize possible gains from investments in workers' well-being and human capital, and resistant labor representatives may come to appreciate the advantages of new technologies or work organization. We find that government action is often the key to sustained protection of labor rights; it is a means for taking basic labor rights and standards out of competition. This does not necessarily require massive government interference in the market, but it does require government to invest in human capital formation and in the construction and enforcement of regulations that ensure workers remain healthy, safe and productive.

A Typology for Examining the Costs and Benefits of Labor standards

A number of international treaties and organizations protect and advance labor rights. The International Labour Organisation (ILO), established as part of the League of Nations in 1919 and the first specialized agency of the United Nations in 1946, is the primary international organization responsible for drawing up and overseeing international labor standards. It brings together governments, employers, and workers to promote policies and programs to support labor protections. While countries can choose whether or not to ratify ILO standards and conventions, the ILO continues to monitor labor practices in all countries. Consequently, the ILO has developed numerous data bases and significant statistical capacity.

The ILO has a total of 158 conventions on a range of labor issues. Each convention is open for ratification by ILO member-states. Since 1998, the ILO has promoted four core labor standards, each based on two specific conventions.

The four core labor standards (and associated conventions) are:

1. Elimination of forced and compulsory labor (29, 105)

2. Abolition of worst forms of child labor (138, 182)
3. Elimination of discrimination in respect of employment and occupation (100, 111)
4. Freedom of association and collective bargaining (87, 98)

Although all four of these standards are essential for ensuring a minimum floor for worker's rights, they vary in their effect on productivity, living standards, and social cohesion. The first two promote basic protections of health and safety, the third ensures that a country makes the most efficient use of its work force, and the fourth has more to do with processes that help workers protect their other rights. When we think about labor standards in this way, a useful distinction emerges:

We delineate between physical integrity rights and civil and political rights. Forced and compulsory labor, child labor, and other forms of bodily harm are universally decried as normatively unacceptable and are embedded in the ILO's core conventions. Physical integrity rights, both conceptually and normatively, are baseline rights. They protect individuals from the worst forms of abuse in the workplace.

Civil and political rights concern the ability to participate in civil and political life without discrimination or repression. As Mosley (2011), notes

...freedom of association and collective bargaining rights are, among core labor standards, the most directly related to the general capacity of workers to improve their treatment, wages, and benefits. Standards governing workers' collective rights provide the capacity to achieve more favorable outcomes with respect to pay, overtime, and working conditions.

Figure 1



Figure 1. The timing of ratification of eight important ILO convention and the practice of labor rights in 35 countries. Countries are sorted by the average date of ratification, so that early adopters cluster at the top of the list, and laggards at the bottom. Some countries have failed to ratify some conventions, as indicated at right. In two cases, conventions were ratified and then denounced; these are treated as “not ratified.” The ILO conventions considered pertain to free association and collective bargaining (Conventions 87 and 98), forced labor (Conventions 29 and 105), discrimination (Conventions 100 and 111), and child labor (Conventions 138 and 182).

Figure 1 shows when and whether 35 selected countries chose to ratify the eight conventions associated with these four core labor standards. Countries are listed in order by the average date on which they ratified the conventions, and conventions are color-coded to show the labor standard they uphold. With respect to conventions to eliminate employment discrimination (shown in blue) and forced labor (shown in brown) and to protect free association and the right to collective bargaining (shown in green), countries appear to be either early adopters or laggards across the board. (In an exception, the more recently proposed conventions urging abolition of child labor—shown in lavender—were quickly ratified in most of the 35 selected countries.) Countries that tend to adopt conventions quickly are also more likely to have adopted all eight conventions; the more delayed a country's ratifications are, the more conventions they tend to pass over completely (shown to the right of the figure). While there are certainly exceptions, the speed with which countries ratified these conventions also seems to correlate with reported violations of labor rights (Mosley 2010).

Physical integrity rights

Elimination of Forced and Compulsory Labor

A majority of national governments have ratified ILO conventions (29 and 105) prohibiting the use of forced and compulsory labor. Forced labor includes: slavery and abduction, misuse of public and prison works, forced recruitment, debt bondage, bondage of domestic workers, and trafficking (Ruwanpura et al. 2004).

Abolition of worst forms of child labor

The ILO conventions on child labor (138 and 182) establish guidelines for setting a minimum age to work. Children under age 18 may not do hazardous work, although this age limit is lowered to 16 when under strict supervision. Age 15 is established as a basic overall minimum, while ages 13-15 are suggested only for light work that does not affect educational training, including agricultural work (ILO 2011b).

The ILO conventions require the elimination of the “worst forms of child labor”¹:

1. All forms of slavery or practices similar to slavery
2. The use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances
3. The use, procuring or offering a child for illicit activities, in particular for the production and trafficking of drugs
4. Work that by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children

¹ See Article 3 of Convention 182.

The ILO's Recommendation 190 more specifically defines "hazardous work" to be the exposure of children to physical, psychological or sexual abuse, work underground or underwater, work at dangerous heights or confined spaces, work with dangerous machinery, work in unhealthy environments, unnecessarily long work hours, or work that confines the child to the premises of the employer (ILO 2011a). Even states that have not legally prohibited all forms of child labor may have laws prohibiting children from doing certain types of dangerous and hazardous work. For example, the Indian Ministry of Labour proscribes children from a list of hazardous jobs and industries, such as loom industries, mines, foundries and slaughterhouses (Labour 2012).

Child labor in the household or in subsistence agriculture has proved to be a thorny area for policy makers because it is difficult to establish and enforce limits to child labor in these settings, and some families depend on the unpaid work that children provide for subsistence.

Civil and political rights

Elimination of discrimination in respect of employment and occupation

Elimination of employment and occupational discrimination, promoted by ILO Conventions 100 and 111, is central to achieving greater socioeconomic equality and to promoting development through a more efficient allocation of resources. Discrimination includes "any distinction, exclusion or preference" made "on the basis of race, color, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation" (ILO 1958).

Freedom of association and collective bargaining

More than sixty years ago ILO conventions 87 and 98 established the right of workers and employers to freely create and participate in organizations to promote and protect their interests. Signatories further agree to establish mechanisms to ensure the right to organize and to encourage formal negotiations between employers and workers' organizations.

Documenting the violations

What do we know about violations of these core labor standards? How widespread are they? What are their consequences and what are consequences of limiting violations? Some of these questions have received attention from policy makers and from scholars in economics, political science, and other disciplines, but large gaps remain.

While the comparability across cases is problematic, substantial historical and contemporary evidence exists on the frequency of labor rights violations in OECD countries. Little systematic evidence is available for the rest of the world, though there are recent efforts to secure the necessary data. One early attempt is provided by (Mosley 2010), who has coded an index of labor rights for 199 political entities for the period 1985-2002. This data draws on assessments of violations in six categories of labor rights (freedom of association, the right to unionize, the right to participate in other union activities, the right to collectively bargaining, the right to strike, and

rights in export processing zones) from three different sources (the U.S. State Department, ILO, and the International Confederation of Free Trade Unions). She builds on the template developed by (Kucera 2002) by using multiple sources to reduce potential bias, and by expanding the cross-sectional measure to include changes over time.

Figure 2

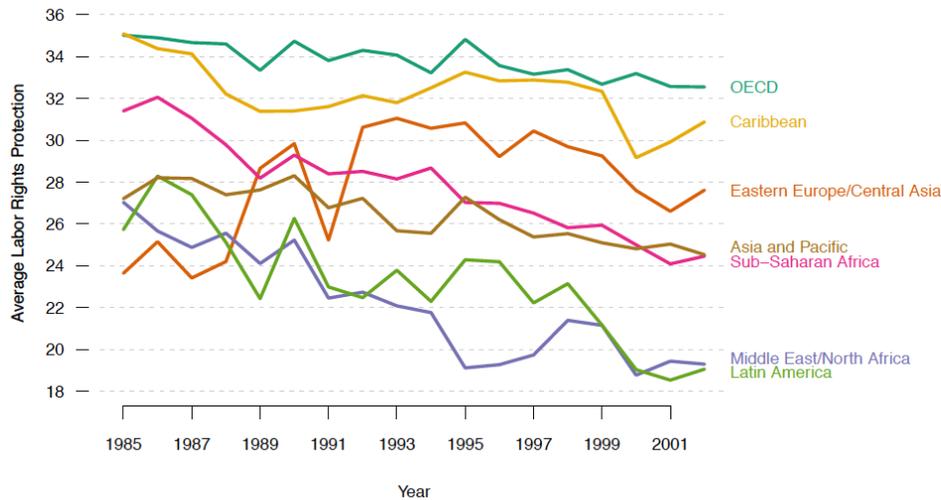


Figure 2. Protection of labor rights over time for seven regions of the world. Lines track the regional average of protection against violations of labor rights in 37 different categories over the period 1985–2002. Lower values indicate more categories in which labor rights violations were observed. Source: Mosley (2011).

There are, however, important limitations to the resulting measure. Chief among these is that Mosley’s index counts the number out of 37 subcategories in which labor rights violations fall, neglecting the intensity or frequency of violations within any specific area (e.g., a country with five instances of one type of violation would score better than a country with five different violations, and the same as a country with just one violation in one category). Nonetheless, this measure can yield important insight into the magnitude and trends of labor rights violations around the world.

Figure 2 illustrates the trends over time for seven regions of the world, using Mosley's aggregate measure of labor rights. While there is considerable heterogeneity in each region, regional averages suggest important global differences. In most regions of the world, labor rights violations are far more commonplace than they are in OECD countries, with the most violations tending to occur in countries in Latin America and the Middle East and North Africa. Even more important, the overall trend over the period from 1985 to 2002 appears point to decreasing protections. Not only do most regions exhibit no sustained improvement over time in average labor rights performance, but most appear worse off in 2002 than in 1985.

Other official statistics also suggest considerable violation of the four core standards. According to the ILO (2009), at least 12.3 million people are trapped in forced labor. Forced labor is difficult to measure given its illegal and clandestine nature. However, in contrast to child labor, which occurs primarily in the developing world, forced labor challenges “virtually every country in the world, whether industrialized, transition or developing.” Unlike historical slave labor and colonial corvees, “most forced labour today is exacted in the private economy, rather than directly by the State,” making it difficult to identify and eliminate (ILO 2009).

Child labor is an also ongoing global problem. However, comparable cross-national statistics are hard to find, in part because of variation in definitions and laws protecting children. Politicians and interested parties may have perverse incentives to restrict child labor laws to particular sectors. For example, Basu and Van (1998) find that many labor laws prohibiting child labor only punish use of child labor in export industries, while the majority of worldwide child labor actually occurs in the agricultural sector and the household.

There is some data available on violence related to efforts by workers in the arena of freedom of association and collective bargaining. In their 2010 annual survey, the International Trade Union Confederation (ITUC) documented 11 murders, two attempted murders, 11 threats and 896 arrests of union activists in Asia and the Pacific; six of the murders were in Bangladesh. In Africa, there were three murders, 39 threats, and 561 arrests. In its report on the Americas there were 75 murders, of which 45 were in Colombia and ten were in Guatemala (ITUC 2011). While the number of murders may be an extreme indicator, these statistics indicate the degree to which governments or firms will go to create barriers to collective action for workers. The more subtle, and possibly most pervasive, violations such as intimidation or abuse during interrogation are much more difficult to observe, measure, and document.

The Costs of Failure to Enforce

Case studies may not provide systematic evidence, but they often clarify the costs workers bear and the consequences for their productivity, living standards, and social cohesion. Stories and documentary films about child labor, unhealthy working and living conditions, are sources of information and provide ammunition for campaigns. For example, Edmund Heery’s (2010) account of the harassment of union organizers reveals forms of violence not necessarily caught by statistics. He documents (p. 34) that in 1979 Vladimir Klebanov, a “former Russian miner...had tried to set up an independent trade union in the Soviet Union and was sent to the notorious Dnepropetrovsk Special Psychiatry Hospital where he was reportedly treated with drugs.”

The benefits that arise from forced labor and child labor are unclear, but there is substantial evidence that the negative impact on victims, societies, and economies heavily outweigh employer benefits. Violation of civil and political rights also can have serious negative consequences for individuals, communities, and economic performance. Improved documentation of the costs to the economy as well as the reputational costs of implementation failure may help transform the cost-benefit calculations of employers and governments, motivating greater compliance and enforcement.

Table 1 illustrates that forced and compulsory labor creates losses national economies. In Asia and the Pacific alone, more than \$8.8 billion U.S. dollars (column 4) are lost in underpayment or non-payment of wages. This figure does not include victims of forced commercial sexual exploitation (ILO 2009). Worldwide, the estimates total over \$21 billion US dollars lost in wages and recruiting fees (column 6). Social and economic losses are even higher because these estimates do not include the loss of tax revenue to the state, legal costs for prosecution, or costs that states incur when building up both the fiscal and legal capacity to have effective anti-forced labor programs. For the poorest developing countries these costs make active and successful prevention, monitoring, and prosecution extremely difficult.

Table 1: The Estimated Costs of Forced Labor Worldwide (in US \$). This table is reproduced using data from the ILO (ILO 2010, p. 32).

Regions	Number of victims in forced labor exploitation	Number of victims trafficked	Total underpayment of wages	Total recruiting fees	Total cost of coercion
	(thousands)	(thousands)	(millions)	(millions)	(millions)
Asia and The Pacific	6181	408	8897	142	9040
Latin America and the Caribbean	9955	217	3390	212	3602
Middle East and North Africa	229	203	2658	551	3210
Industrialized economies	113	74	2508	400	2908
Sub-Saharan Africa	5375	112	1494	16	1511
Transition economies	615	59	648	42	691
Total	8117	1075	19598	1366	20964

Forced labor and coerced commercial sexual exploitation have grave implications for the social cohesion of states and communities. According to Nunn and Puga (2010), the historical slave trade increased ethnic and political fragmentation. Nunn and Wantchekon (2011) found that “individuals whose ancestors were heavily threatened by the slave trade today exhibit less trust in neighbors, family, co-ethnics, and their local government.” Studies of contract laborers in United States document how those who signed up willingly for transport and jobs overseas come to distrust both the co-ethnics who subsequently exploit them, and the governments in sending and receiving countries who fail to protect them (Cook et al. 2005; Nee and Sanders 2000). From this one could infer broader distrust of others and of governments among the trafficked and contract laborers throughout the world. Indeed, there appears to be a close link between government service provision and protection, citizen confidence in government, and citizen willingness to comply or otherwise participate in government (Levi and Sacks 2009).

Case studies and documentary films point to the abusive living conditions and treatment borne by children at the hands of factory owners and governments (Hindman 2009), but we have found no systematic cross-national data or studies that robustly test the social or economic effects of child labor on children themselves or on economic growth. National household surveys rarely include questions about labor market participation of children, and labor force surveys seldom include respondents under 14 or 15 years of age (Grootaert and Patrinos 2002). While general household surveys are broader than national surveys and typically include questions about the number of economically active family members, they are expensive, erratically undertaken in developing country contexts, and difficult to compare across countries.

Systematic and extensive data is not really necessary to make the argument that child labor is detrimental to a child's long-term economic and social well-being. Baland and Robinson (2000) use formal modeling to reveal that child labor, often used as a substitute for bequests and borrowing, has a negative impact on inter-generational wealth. Rather than leave their children future income or borrow money from creditors, families instead use their children and their children's economic productivity to temporarily boost household income. Children who go to work usually have to leave school, ensuring a "lack of human capital formation [that] condemns the child and the child's family to an intergenerational cycle of child labor and poverty and impedes social and economic progress of the country" (Ray 2009).

International organizations and advocacy groups provide examples of child labor violations and their effects. Human Rights Watch (2011) estimates that anywhere from 20,000 to 40,000 children work in the artisanal gold mining sector in Mali. According to their report, these children

...suffer injury, exposure to toxic chemicals, and even death. They dig shafts and work underground, pull up, carry and crush the ore, and pan it for gold ... Child miners are also exposed to mercury, a highly toxic substance, when they mix gold with mercury and then burn the amalgam to separate out the gold. Mercury attacks the central nervous system and is particularly harmful in children. Child laborers risk mercury poisoning, which results in a range of neurological conditions, including tremors, memory loss, and concentration problems.

The ILO concurs that the health outcomes associated with many forms of child labor are severe (ILO 2011a; also, see Pinzon-Rondon et al. 2010).

For women and children exposed to commercial sexual exploitation, the strong social stigma that victims face in many parts of the world makes reintegration into the home communities difficult. Non-profit organizations working to end forced prostitution, such as Free the Slaves, report that young girls who are trafficked for prostitution suffer HIV/AIDS, tuberculosis, and other sexually contracted diseases at very high rates by the time they are rescued (Bales and Lize 2005; Hyde et al. 2006). This increases the social stigma that victims face upon release, raises medical costs and dependence on the state, and reduces the likelihood the woman will develop productive livelihoods and social networks.

An analysis of plant-level data from factories in Cambodia provides no support for the oft-made claim that adherence to the core labor standards, including the prohibition of child labor, increases the probability of plant closure; rather adherence may even increase the probability of plant survival (Robertson et al. 2011). While this is only a single case study, it offers suggestive evidence that prohibiting child labor may enhance economic productivity and growth in export sectors.

Some national governments recognize that child labor is costly to the economy. Under Daniel Ortega, Nicaragua ratcheted up domestic labor law to include “zero tolerance” for severe labor violations such as child labor and forced labor (Bair and Gereffi 2011). Other developing countries with profitable export industries and histories of pervasive child labor violations, such as India, have started to implement policies aimed at reducing child labor.² Passing legislation is a necessary but not sufficient step in the process, as enforcement remains a serious issue.

Evidence is also mounting there are costs of non-enforcement of rights to association and collective bargaining and freedom from discrimination. Using cross-sectional data, Kucera (2002) has argued that collective bargaining rights lead to greater political and social stability, which in turn contribute to economic growth. This study only directly tested the relationship between freedom of association and collective bargaining rights and a single outcome, foreign direct investment (FDI) inflows. He found that these rights are associated with higher wages, which are associated with less FDI. They also are associated with increased political and social stability, which may lead to higher FDI. In some models, the (non-wage) positive effects of association and bargaining rights countered the (wage-based) negative effects. In others, the overall effect of freedom of association and collective bargaining rights on FDI was positive and significant.

Addressing the conventional wisdom that stronger bargaining rights negatively impact exports, Kucera and Sarna (2006) also found a positive relationship between stronger trade union rights and higher total manufacturing exports. However, their results were exclusively for labor-intensive manufacturing exports and are sensitive to model specification.

With data drawn from developed and developing countries, Tzannatos and Aidt (2006) considered multiple outcomes of unionization (which is generally a correlate of bargaining rights), including productivity, new technology implementation, physical investment and research and development, human capital formation, firm-level profitability, and finally overall economy-wide efficiency. The findings were mixed, but they found no conclusive support for the conventional wisdom that unionization hurts economic efficiency.

Another study by (Bazillier 2008) focused on the effects of labor rights on living standards via higher long-term per capita income. Using an index combining measures of the ILO’s four core

² For instance, in 2006, India introduced a new law prohibiting child labor, which has been enforced by the Supreme Court which set the minimum age to 14 for work in factories and mines as well as anything else categorized as hazardous work. For more information on this legislation in India see:

<http://www.ilo.org/legacy/english/regions/asro/newdelhi/ipcc/responses/india/national.htm>

standards and a modified Mankiw, Romer and Weil growth model, he found that stronger standards are associated with higher standards of living, even in a subsample restricted to developing countries. This study confirms evidence for an argument already made in many developed countries. For example, Freeman and Medoff (1985) found a positive relationship between unionization and standard of living in the United States.

Another important potential outcome of labor rights is social cohesion. The scholarly consensus is that the left-leaning states of the European Union have actively promoted social cohesion through their labor market structure and collective bargaining laws (see, e.g., Hix and Lord 1997; Schneider and Urpelainen 2011). Less work, however, directly addresses the effects of labor rights on social cohesion in developing countries. One exception is Galli and Kucera's (2004) study of labor standards and informal employment in Latin America. They reject the conventional wisdom that higher labor standards would push more workers into the informal sector. Instead, they find that stronger freedom of association and collective bargaining rights lead to higher shares of formal employment and lower shares of informal employment.

Freedom from discrimination is a policy tool used by governments to combat economic and social disparities between genders and among racial, ethnic, and religious groups. However, little research has been done on the effects of discrimination. The previous discussed article by (Kucera 2002) also found positive effects of decreased gender discrimination and inequality on FDI inflows, attributing the finding to the contribution of decreased gender inequality to human capital growth. Ehrenreich (2003) noted that among workers in South Africa, those with more skilled jobs, greater job security, and better enforcement of trade union legislation experience greater social cohesion. In general, the conclusion of these studies has been that collective bargaining rights lead to higher wages (Morici and Schulz 2001). Negative economic effects are countered, and sometimes even overcome by the positive effects on productivity, living standards, and social cohesion.

Tradeoffs

Thus far, we have addressed the costs of violating labor standards, and the benefits of upholding them. But there is also another side to this discussion—the potential benefits to be derived from violating labor standards, and the costs of upholding them. The simple fact that violations remain so widespread, and compliance with the ILO's core labor standards so uneven, suggests that costs of protection and benefits of violation often dominate.

Why do states fail to comply with labor standards? There are three possible explanations. The first is opposition by state actors. The state may oppose compliance because it would lose some measure of authority, be obliged to expend resources, or no longer be able to promote certain export sectors by ignoring labor standards violations. The second explanation is opposition by private actors who have captured state policy: domestic and multinational businesses may oppose compliance to reduce cost and preserve flexibility. Finally, the state may lack the capacity to implement; many developing countries face “a severe dearth of the requisite scientific, technical, bureaucratic, and financial wherewithal to build effective domestic enforcement systems” (Chayes and Chayes 1993).

The political and economic costs and benefits to either upholding or violating labor standards present a series of tradeoffs, each creating different sets of winners and losers. The evidence suggests the positive externalities of strong labor standards—in terms of productivity, living standards, and social cohesion—outweigh the costs of upholding such standards. The one possible exception may be in circumstances where business activity necessary for development is driven out of a country. But even when countries compete on the cost and organization of labor, the use of forced labor and child labor is not a legitimate or legal form of economic competition.

How can these labor standards best be achieved, given the continuing benefits of noncompliance? The next section explores different mechanisms driving the implementation of labor standards around the world, thus contributing to the growth of good jobs for development.

Implementation

In what follows we summarize what we know about when, how and why labor standards are upheld. We first consider the necessary conditions for the implementation of labor standards in domestic contexts. These are evolving international norms, domestic state capacity, and capacity of workers and their allies to mobilize. International norms spread new ideas about what standards of working conditions are appropriate. They are embedded in international institutions and can be appealed to by groups pressuring states and employers. Without international norms to create pressure for implementation of labor standards, few of the other factors we consider would be as effective.

We then turn to the capacities of the state to implement international norms and conventions, and the capacities of workers and their domestic allies to mobilize for that implementation. Given that the costs of implementation may be substantial, and that states face pressure from private actors who enjoy the benefits of continued violations, it is essential that state actors have both the incentives and ability to implement labor standards. Finally, we review the research on the important contribution of private regulation and transnational advocacy campaigns to the implementation of new standards and the reduction of violations.

Table 2: Factors affecting successful labor rights implementation

International Laws and Treaties

- Can shift norms re suitable working conditions
- Permits filing of grievances (at least with ILO)
- With ratification, mechanisms of redress

Domestic Government Institutions

- Formal labor laws
- Leftist parties in power or competitive for power
- Relatively strong democracy, *ceteris paribus*
- Increasing capacity of labor rights enforcement institutions
- Empowered labor ministries and tripartite councils

Workers' Organizational Capacity

- Unions
- Creating international linkages with union federations or advocacy groups

Private Regulatory Schemes

- Monitoring and pressure by global brands re contractors in supply chains
- Shorter supply chains
- Long term investments and ownership by firms
- Codes of Conduct and capability building programs

Transnational Advocacy by NGOs

- Sources of credible information
- Education and training of workers on how to recognize and address rights violations
- Undermine brand reputation

International Norms and Institutions

Many political scientists have argued that global norms of appropriate behavior can powerfully drive the actions of states (Finnemore and Sikkink 1998; Jepperson et al. 1996) and firms (Kollman 2008; Ruggie 2007; Berliner and Prakash 2012). In the case of labor rights, Hassel (2008) argues that a global labor governance regime has evolved based on soft norms encouraging self-regulation, rather than hard law. Normative convergence is around the focal point of the ILO core labor standards, particularly after 1998 when the ILO moved away from a conventions-based approach to emphasize core labor standards be “respected, promoted, and realized” by all members, whether or not they had ratified the actual conventions.

Many codes of conduct, international covenants, and international trade agreements now routinely include the core labor standards, but the extent to which these norms have translated into better practices remains unclear. Many have argued (e.g., Aaronson and Zimmerman 2008; Lafer 2011) that the inclusion of the core labor standards in corporate codes of conduct and free trade agreements are “cheap talk,” masking the continued prevalence of poor standards and common violations.

ILO conventions, even when ratified by states, may not necessarily translate into changed labor rights laws or practices. Simmons (2009) has documented a similar dynamic for international human rights treaties, whereby many ratifying states are “false positives”—states which commit to treaties even though they have no intention of upholding the principles involved. Such false positives often arise out when states with poor rights performance seek “social camouflage” in order to avoid or blunt criticism from the international community. The result is that ratification of international human rights treaties correlates only weakly, if at all, with states’ actual human rights practices. Indeed, (Mosley 2010) offers some initial evidence that a similar phenomenon is at work for several ILO conventions, in that ratifying and non-ratifying states show little difference in her labor rights measure. However, more research is needed to explore this relationship more fully.

The ILO also maintains formal processes for resolving labor disputes and supervising the implementation of its conventions and standards. These processes are similar to those the UN uses for upholding human rights. Article 22 of the ILO Constitution requires member-states to submit yearly reports to the Director-General. Once these reports are received, two ILO bodies examine them to assess the implementation of ILO standards.³ The examiners may also take into account observations submitted by employer and worker representatives.⁴

The ILO also maintains three representation and complaints procedures—although complaints can often take years to resolve, if resolved at all. First, unions and workers may file a representation against any member state, which, in its view, “has failed to secure in any respect the effective observance within its jurisdiction of any Convention to which it is a party.” A

³ The two bodies are: (1) the Committee of Experts on the Application of Conventions and Recommendations; and (2) the Tripartite Committee on the Application of Standards, a standing committee of the ILC.

⁴ <http://www.ilo.org/global/standards/applying-and-promoting-international-labour-standards/lang--en/index.htm>

tripartite committee is then set up to examine the representation and the government's response, then issues a report and recommendation. If the government's response to the recommendations is deemed unsatisfactory, the Governing Body may publish the representation and the response.

Second, one member-state may file a complaint against another member-state for not complying with a ratified convention. When a member-state is accused of committing persistent and serious violations that it has repeatedly refused to address, the Governing Body is likely to set up a Commission of Inquiry, consisting of three independent members, to investigate the complaint and make recommendations. To date, eleven Commissions have been established. When a country fails to fulfill its recommendations, the Governing Body can take action under article 33 of the ILO Constitution and "...may recommend to the Conference such action as it may deem wise and expedient to secure compliance therewith."

Third, in 1951 the ILO set up the Committee on Freedom of Association (CFA) composed of an independent chairperson and nine members (three government, three employer, and three worker representatives). The CFA examines complaints about freedom of association violations, whether or not the country concerned had ratified the relevant conventions. Both employers and workers' organizations can initiate complaints. If the CFA finds a violation has occurred, it issues a report and recommendations through the Governing Body. Since 1951, the CFA has examined over 2,300 cases. More than 60 countries on five continents have acted on its recommendations and improved freedom of association conditions over the past 25 years.

Other international processes

There are a number of other international institutions that protect labor rights, including the European Convention on Human Rights, the European Social Charter, the Inter-American Convention on Human Rights, the International Covenant on Economic, Social and Cultural Rights, and the International Covenant on Civil and Political Rights. Each of these treaties provides explicit protections for a range of labor rights, including complaint procedures that mirror those of the ILO. Given historical commitments and supranational capacity, the European system provides the most comprehensive regulation of labor standards, yet still faces numerous domestic barriers to full implementation (Fudge 2011; Ewing and Hendy 2010).⁵

Domestic Institutional Context

Labor standards may originate either in national laws or from international norms, but their implementation is generally the provenance of domestic governments. Enforcement depends on the quality of domestic institutions, defined as both the formal laws and regulations and the more informal normative rules that constrain the behavior of relevant actors (North 1990).

⁵ For a discussion of the ways in which the European Court of Justice has served as a mediator between national policies and international economic exchange on issues of labor mobility and social rights, see (Caporaso and Tarrow 2009).

The gap between labor standards in law and labor standards in practice emerges either because the actors who created them did not have the incentives to enforce them in the first place, or because they lack the power to enforce them (Levitsky and Murillo 2009). Political actors may create regulations and laws that they do not intend to enforce because they are responding to international expectations or demands, pursuing domestic legitimacy, or attempting to achieve moral or symbolic goals. Alternately, political actors may lack the power to enforce formal rules due to limited state capacity to monitor and sanction, because the actors with formal authority to make rules are not those who hold real power, or because of a lack of societal compliance. When governments are weak or failing, or when the preferences of ruling political actors run contrary to such standards, implementation is often incomplete or absent altogether.

Workers and their Allies

Pro-labor political parties are often crucial for enhancing labor rights, but analysis of their role is complicated by the cross-national variety of electoral arrangements. There has also been a disproportionate focus on Europe. Even so, the numerous comparative historical analyses of European countries facilitate examining the processes by which labor conditions improved over time as these states developed politically and economically.

A strong finding from a long research tradition in political science and political sociology is that leftist political parties, typically aligned with and supported by workers' organizations, consistently spend more on social welfare than their conservative counterparts (Hibbs 1977; Bueno de Mesquita et al. 2003a; Huber and Stephens 2001; Korpi 1978; Korpi et al. 1998). These social welfare programs can have an enormous impact on the quality of life for workers. Variables such as the degree of labor commodification (Esping-Andersen 1990), union strength (Mares 2001) and the structure of the electoral system (Iversen and Soskice in process) appear to affect the degree to which social welfare and labor rights are enhanced.

Other research applies these approaches to developing countries. In a study of Latin America in the 1980s and 1990s, Murillo and Schrank (2005, 972) argued that "traditionally labor-backed parties have ensured the ongoing support of their core constituencies—unions and their members—by adopting increasingly union-friendly collective labor laws in an otherwise uncertain political and economic environment." Despite a broad trend of labor market deregulation in Latin America, some left-wing political parties have used labor market policy as a tool to retain electoral support, primarily to benefit organized, formal sector workers (Murillo 2001). Mosley's (2008) findings are consistent with these arguments. Trade openness is negatively associated with collective labor rights under centrist or right wing governments but positively associated under left wing governments.

The generalizability of the theories emerging from this subset of the political economy literature is limited, however. Few scholars have investigated how these relationships may play out in other regions of the world such as sub-Saharan Africa and Asia, which have more recently democratized or have strong leftist traditions. Leftist parties in these regions often pursue markedly different policies than their European and Latin American counterparts.

Regime type is another important factor affecting implementation of labor standards. The expectation is that social policies in democracies should benefit larger portions of the population than those in autocracies. The broad electoral base and the freedom of interest group organization allows for representation of groups including workers and their allies (Bueno de Mesquita et al. 2003b; Mares and Carnes 2009). A panel analysis of 90 developing countries from 1986 to 2002 appears to confirm that the level of democracy is a major determinant of collective labor rights, even when taking into account the effects of global economic factors (Mosley and Uno 2007). A complementary cross-national analysis finds that more democratic states experience fewer collective bargaining rights violations (Neumayer and de Soysa 2006).

What studies comparing labor rights in democracies and autocracies seldom address, however, is variation among different types of autocratic regimes. Some autocracies pursue strategies of political oppression, and others collude with privileged groups of insiders. A third type encourages organizational proliferation with corporatist relationships (Gallagher 2005; Haber 2006). Autocratic regimes that corporatize labor, such as Mexico, Argentina, and Brazil, typically offer considerable social benefits and rights to labor, (Mares and Carnes 2009).

State Capacity

Even when workers' interests are represented in the preferences of ruling political actors, weak state capacity can prove an enduring barrier to the implementation of labor standards. State capacity, or more specifically its administrative and regulatory capacity, includes the ability to deliver services, enforce contracts, and protect rights. This typically requires bureaucratic effectiveness and the territorial reach of the state (Levi 2002; Sacks and Levi 2010). A 2009 assessment of the protection of labor rights among Nike's suppliers found that the level of institutionalization of the rule of law in countries of production significantly impacted the extent to which labor rights were upheld in factory audits (Locke et al. 2009).

However, in assessing the impact of state capacity on the enforcement of labor rights, it is important to consider other factors beyond the rule of law. Analysis of a single variable obscures the various ways in which states can fail to protect citizens from labor violations. More useful would be a disaggregated evaluation of administrative capacity that includes monitoring mechanisms, rule of law, judicial independence, technical competence, personnel management, and reach of coercive authority. The state is not a unitary actor: any analysis must consider the micro-foundations of individual interactions, recognizing that institutions are made up of individuals with interests and values acting purposively and responsive to the demands of both domestic and international players. The institutional environment shapes behavior and interests.

If the state does not have basic extractive capacity or means of distributing revenue, then individual agencies such as courts, labor ministries, or tripartite councils in which governments are a player may be unable to promote labor rights regardless of agent preferences.

Labor Ministries

Dynamic Labor Regulation in the Dominican Republic

The Caribbean Basin Initiative (CBI) and DR-CAFTA trade agreement, which stipulated that the Dominican Republic had to bring its labor laws into compliance with international standards, motivated reform. Despite a general perception that CAFTA governments have essentially abandoned their responsibilities to protect workers, labor ministries in the region have increased workplace inspections, taking a cue from the French labor inspection model. The Dominican Republic in particular responded to foreign pressure by increasing the number of labor inspectors as well as increasing the salary for the position and attracting higher skilled inspectors. Moreover, the ministry switched its approach from one of concentrating on the prosecution of violations to one of preventing violations from occurring by increasing random inspections.

Labor ministries can be an important institution during development and for workplace regulation and rights. They bring together government, industry, and labor interests, and are key to government driven participation in international organization projects that promote better workplaces such as the ILO/IFC-sponsored Better Work program. Labor ministries are key to the important private/public partnerships that create complementary regulatory regimes (Amengual 2010; Graham 2006; Utting 2005). Labor ministries in some countries are active and involved in remedying labor violations, even in cases where courts are corrupt or inefficient. This demonstrates that domestic institutions should not be conflated as one variable.

Research on labor inspectors in Latin America suggests that increasing the regularity of factory inspections is a key to enforcing compliance, and establishes a pattern of joint consultation and problem solving between inspectors and managers (Piore and Schrank 2008). Emerging research on the innovative regulatory strategies of labor bureaucracies and inspectors exists for Brazil (Coslovsky 2011; Pires 2008), Cambodia (Polaski 2006; Robertson et al. 2011) as well as the Czech Republic and Mexico (Locke forthcoming).

Tripartite Councils

Some labor rights issues—in particular negotiated issues such as wages and hours—require a dialogue between management and workers. Governments often mediate to facilitate discussion, enforce agreements, and protect the collective good. Tripartite councils and “social dialogue” form a pillar of the ILO’s Decent Work agenda (ILO 1999). The only serious theoretical or comparative analysis is on OECD countries (Ahlquist 2010). What we know about tripartite councils in the developing world is largely descriptive.

Still the extant research does permit some inferences about their impact on labor standards and jobs. Tripartite councils can contribute to economic growth, as in Ireland (Auer 2000; Wallace 1998; Roche 1992); help tackle the effects of economic downturn, as in South Korea (Choi 2002); and serve as venue for new public policy ideas, as in the Czech Republic (Casale 2000). Fashoyin (2004) makes the case that tripartite dialogue contributed to sustainable economic development in Barbados, Indonesia, the Czech Republic, Panama, and Kenya. Other work analyzes the experience of such councils in negotiating minimum wages in Central and Eastern Europe (Kohl and Platzer 2007; Cox and Mason 2000). Many countries in Latin America have tripartite councils that date back to the 1970s including Argentina, Brazil, Costa Rica, the

Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Mexico, Nicaragua, Panama, Paraguay, and Venezuela (Trebilcock 1994). These councils tend to deal with a relatively narrow range of labor issues, including negotiation of the minimum wage, social security responsibilities and benefits, and, in some cases, labor disputes.

However, not all of the research on tripartite councils shows positive results. In particular, Han et al. (2010) challenge the rosy picture of the role social dialogue played in South Korea during and immediately after the Asian Financial Crisis. They find that the council was primarily a tool to legitimize an existing political agenda. Likewise, Magure (2008) identifies the capture of the institutions by status quo political interests in Zimbabwe as the primary obstacle to productive tripartite dialogue and improved labor relations. The Chinese case also casts doubt on the efficacy of tripartite dialogue, given the political agenda of the national union (Clarke 2002).

New experiments with tripartite dialogue in the context of a fledgling IFC/ILO sponsored Better Work program creates the possibility for reform and revival (ILO and IFC 2011), but to date the research on tripartite council indicates only that they work better in some contexts than in others. The next step is to clarify the conditions that make them effective.

Union Drives

Labor unions were a major organizational means workers used to win and protect rights in most of the now developed countries. However, unions are declining within most of the OECD and in many developing countries the percentage of workers represented by unions is lower than one per cent.⁶ Nonetheless, where they exist, they often play an essential role in campaigns for labor rights (Anner 2011). Unions, like NGOs, can pursue both domestic and international strategies. They can pursue collective bargaining with employers to seek better wages or working conditions, threatening strikes, job actions, and whistle blowing to allies to promote their interests. Where direct bargaining with employers fails, unions may also assist workers in taking cases to domestic courts or filing grievances with Ministries of Labor or other agencies. Unions can also lobby the state or otherwise advocate for favorable policy changes, such as laws protecting a minimum wage, restricting the number of hours that can be worked per week, or outlawing pregnancy tests as conditions of employment.

Some unions pursue international strategies, seeking to gain the attention of actors in the global north with greater political or economic resources. In this context, unions will form alliances with NGOs or activist groups such as United Students Against Sweatshops (USAS), Maquila Solidarity, or Amnesty International that can conduct media/advocacy campaigns, boycotts, or fundraising. Filing petitions with the Inter-American Commission for Human Rights, submitting complaints to the ILO or bringing cases to the regional courts (such as the European Court of Human Rights or the Inter-American Court of Human Rights) are additional possibilities. Transnational labor organizations such as the International Textile, Garment, Leather Workers

⁶ For more detailed statistics on international unionization rates both in developed and developing countries see the ILO's Trade Union Membership Statistics available at http://laborsta.ilo.org/xls_data_E.html

Federation (ITGLWF) and the International Transport Workers Federation (ITF) can unite workers across borders to lobby for changes to policy and practice in multiple countries at once.

The potential for unions to achieve significant gains for workers depends a great deal on the political context in which they operate. Stepan (1978) found that the political inclusion of labor contributed to a relatively more stable political evolution (as in Mexico) whereas the exclusion of labor contributed to regime instability (as in Brazil). Collier and Collier (2002 (1991)), also studying Latin America, found that labor mobilization led by political parties creates a political backlash in the short term but is also more likely to lead to the long-term integration of labor interests into the political system and ultimately to political evolution and stability (also see Dion 2010).

Private Regulation

A large and detailed literature exists on private regulation of supply chains. Some emphasizes corporate voluntary compliance, particularly private codes of conduct and internal monitoring and auditing schemes. Others investigate efforts to build the capacity of sub-contracting firms in the supply chain and examine the role of NGOs as either a third party monitor or as a participant in campaigns to change corporate and government practices. Analysis of the characteristics of global supply chains that can affect the implementation of labor standards is the backdrop to all these discussions.

Global Supply Chain Dynamics

How do the dynamics of global supply chains influence the implementation of labor standards? Research to date has arrived at four major conclusions. First, powerful global brands can often dictate practices to their suppliers. Second, there is evidence that shorter supply chains and FDI can create better working conditions. Third, short-term ownership of factories that constantly relocate in search of lower input costs and to evade regulation damages the ability for workers to assert their rights. Finally, both state capacity and political incentives to regulate foreign and domestic producers have a large impact on outcomes for workers.

Gereffi's (2005) influential work concentrates on asymmetrical power relationships in vertically integrated manufacturing networks where global brands retain control over high value-added functions but outsource labor-intensive production processes. When suppliers wish to "upgrade" (i.e. move up the value chain), they are more likely to be responsive to corporate demands, be it for product quality, speed, or higher labor standards. The assumption is that when global brands can dictate the terms of business to their suppliers, they must also have the power to monitor their suppliers. Auditing and monitoring allows brands to identify and punish the non-compliant. A strategic supplier will raise standards due to fear of losing contracts.

The assumption that global brands have sufficient power over their suppliers to enforce compliance is very contextual, however. Locke (forthcoming) documents how large suppliers in Asia, e.g. Hon Hai in China, have specialized skills and have carved out niche markets for themselves. Such suppliers have significantly increased their bargaining power in relationship to global brands based in the developed world.

Another contextual factor is factory ownership. Quantitative analyses demonstrate that factories owned by multinational corporations (MNCs) generally improve labor rights, and factories owned by subcontracting companies are correlated with a deterioration of labor rights (Mosley 2010). This finding contrasts sharply with previous research findings that FDI has a negative impact on human rights, including labor rights (Gachter 2002; Greider 1997). What the newer research takes into account is: 1) the different kinds of foreign ownership (small fly-by-night owners versus large corporations); and 2) the interaction between a producing country's rights regime and corporate investment.

The mobility of small companies who produce at the bottom of the supply chain is another major and persistent problem. According to O'Rourke (2001), "the problem is not with individual factories or evil managers. The problem is a global production system that...encourages highly mobile, fly-by-night, secretive, and completely unaccountable garment factories." While high profile cases like Foxconn garner media attention, thousands of other factories with potentially much worse working conditions continue to operate under the radar. When challenged by workers forming unions or pressured by MNCs trying to induce compliance with private regulatory schemes, many factories will simply shut their doors without paying severance to workers and re-locate.

Codes of Conduct

Many global brands have, in recent years, introduced codes of conduct to protect the conditions of subcontracted employees. However, these codes vary widely in content (Locke 2007, 2009; Esbenschade 2004). Some codes employ vague language and abstract principals that are difficult to enforce, while others are littered with highly specific provisions that may cause "auditing fatigue." Some include detailed provisions for labor rights, and yet others are geared at simply protecting brands from legal accountability for subcontracted employees.

Although codes of conduct adopted by global brands are intended to apply to all supplier factories, the reality is that corporations do not always have accurate information about who their subcontractors are. When a brand's principle supplier subcontracts orders to other factories without the knowledge of the brand, the management of the subcontracted firms may have lack knowledge of the code or incentives to enforce it.⁷

Drawing on ethnographic fieldwork done in Guatemala and Mexico, Rodríguez-Garavito (2005) finds that most codes emphasize working conditions, hours, and other work protections but give inadequate attention to the civil and political rights that help maintain labor standards over the long term (also see Barrientos and Smith 2007). He also claims that stringent corporate monitoring schemes have the potential to supplement (not replace) national state labor laws in

⁷ The Fair Labor Association code of conduct requires brands to disclose each of the factories that produce goods sold by universities. However, in a recent labor controversy involving two of Nike's subcontracted factories in Honduras, university purchasers found that Nike's disclosures were inaccurate. Given that Nike is one of the global brands committed to disclosing production locations for its subcontracted apparel, the fact that it is often unable to do so with any accuracy indicates the problems faced in this area.

addressing labor violations. Having considered variations in modes of auditing, i.e. internal company initiatives, independent monitors, and multi-stakeholder initiatives (MSIs), across contexts, several evaluations conclude that increased transparency and improved capacity are key to better monitoring but are most effective if complemented by government regulation (Smith and Feldman 2003; O'Rourke 2003).

Locke's (forthcoming) remarkable access to several major corporations has allowed him to conduct the most serious evaluation to date of the possibilities and limits of corporate schemes. Using Nike's internal audit data, he shows that Nike's private compliance initiatives "are not producing the significant and sustained improvements in workplace conditions that many had hoped for." He reaches similar conclusions after examining audit data for Phillips Van Heusen and Hewlett-Packard. The supply chains of all three companies improve in specific areas, such as health and safety, deteriorate in labor standards, and cycle in and out of compliance over time. Locke concludes that researchers and policy makers have often inappropriately specified the power relationships between brands and suppliers and under-theorized the conflicted incentives inherent in CSR initiatives in the competitive global economy. In spite of non-compliance with brand codes of conduct, Locke finds it is rare for a company to fire the supplier or pull out of a factory, especially if there is strong demand for turnaround on a particular product. Moreover, suppliers who are in full compliance seem to receive little reward, such as increased orders for suppliers, for full compliance. Asking suppliers to compete on price and simultaneously raise labor standards gives them fundamentally conflicting signals. On the other hand, some evidence from China suggests that firm level improvements, such as the institutionalization of formal grievance procedures, may result from suppliers wanting to compete for contracts with global brands (Guthrie 2006). Private regulatory regimes may also have the effect of undermining the legitimate role for the state and of labor unions in labor regulation (Esbenshade 2004; Seidman 2007; O'Rourke 2003; Reich 2007a).

Capability Building Programs

Capability building programs, which encourage an iterative process of learning and innovation (Morrison 2008), are a response to the shortcomings of the traditional auditing and monitoring model. Typically they involve either collaborations among global brands, their auditors, and suppliers to improve production processes, or they are public-private partnerships in which government labor inspectors monitor and provide feedback to local suppliers. The premise of these programs is that suppliers lack the technical expertise and resources to address the "root causes" of compliance failures. Global brands engage with suppliers to prevent violations by providing technical expertise that will increase firm efficiency and thereby increase profits, which hypothetically would translate into better working conditions and higher wages for workers. Some capability building programs empower shop floor workers either by giving them the power to stop the line of production to address quality problems or by offering further training.

Nike's Generation 3 program, the Fair Labor Association's 3.0 program, and Social Accountability International's SAI 800 certification program are all ongoing capability building programs. Perhaps the largest and most interesting capability building program is the Better Work Program, a joint effort of the ILO and IFC. The original initiative was a partnership with

the Cambodian government. Early assessments of its successes and failures reveal that particularly effective were repeat ILO visits with detailed feedback to factory managers on how to correct deficiencies in the production process (Polaski 2006).⁸

The literature on private regulation and capability building paints a mixed picture, making apparent the limitations. Neither global brands nor their suppliers are adequately incentivized to make the kinds of fundamental changes necessary to significantly improve working conditions at the bottom of the supply chain. Better designed compliance efforts and capability building programs may help improve working conditions sometimes in some factories, but they “appear unable in and of themselves to resolve persistent workplace issues” (Locke forthcoming).

Non-governmental organizations

NGOs can improve labor standards for workers in global supply chains by offering credible information of what is happening in factories, providing training and education to workers, and by coordinating global and domestic campaigns.

Information

Subcontracting within supply chains poses a challenge to acquiring adequate information among stakeholders. In the locations in which labor rights violations occur, local NGOs together with unions and workers, are uniquely positioned to gather information about labor violations. NGOs have at least two different kinds of monitoring roles; they can provide fire alarms, alerting others to violations, and they can act as formal monitors. Groups, particularly those in country, such as COVERCO in Guatemala, often play both roles. More often, as with the WRC and FLA, specialization occurs.

In terms of raising the alarm about violations, local NGOs, comprised of committed activists intimately familiar with the domestic country context, often have unique access to aggrieved workers and sometimes even to the factories. They can identify violations not picked up by private or international monitors and can counteract “greenwashing,” or the cleaning up of factories and working conditions in preparation for inspectors. Local NGOs familiar with the culture, context, and even with individual workers in specific factories, may be better attuned to nuances that international inspectors may miss in interviews with workers who may fear for their job security if they express dissatisfaction towards their employers.

The biggest problem for NGOs is convincing relevant publics of the credibility of their accounts. Gourevitch and Lake (2012) theorize that NGOs can enhance their credibility when they share common interests with their target audience, engage in costly efforts, suffer penalties for misrepresentation, and permit external verification of their claims. Other recent research lends support to their argument (Gugerty and Prakash 2010; Gourevitch and Lake 2012).

⁸Also see more recent assessments on the Better Work Conference website:
<http://www.betterwork.org/EN/events/research2011/Pages/Home.aspx>

Training and education

Training and educating workers in global supply chains is another service of NGOs. Factory and agricultural workers at the bottom of the supply chain typically have extremely low levels of education and little knowledge about their rights (Rodríguez Garavito and Santos 2005; Levi 2003; Lee 1998). NGOs offer information not easily accessible and some attempt to raise consciousness and provide advocacy tools. For example, the Honduran NGO *Centro de Derechos de Mujeres* instructs workers on basic rights enshrined in Honduran law, educates factory workers in the apparel industry how to count hours of overtime worked, and helps them build a union.

Coordinating Campaigns

Some NGOs also coordinate campaigns to change government and corporate behavior. The extent to which NGOs are effective at pressuring brands or domestic governments to enforce labor laws and standards depends on a number of factors but especially on the availability of sufficient resources to coordinate a targeted campaign against the offending company.

One implication of Keck and Sikkink's (1998) "boomerang model" is that the stronger the transnational NGO networks in a given political context, the greater the likelihood that local campaigns will influence state policies and behavior. Strong transnational advocacy networks (TANs) that foster links between NGOs in different country contexts can exert pressure domestically and internationally on an offending regime or corporation. Cross-national studies on international human rights treaties find that international human rights treaties (including those providing protections for labor rights) only lead to improvements in practice in countries with a "high NGO context," that is, a strong presence of both domestic and international NGOs (Hafner-Burton 2005; Neumayer 2005; Simmons 2009).

Labor rights campaigns

Labor rights campaigns generally target factory owners, global brands, consumers or governments. They, like other campaigns, are typically most effective when they involve a broad coalition of actors (Tarrow 2005).

Corporate Counter-Branding

Many of the memorable anti-sweatshop campaigns of the 1990s encouraged consumers to boycott brands such as Nike and GAP due to poor labor standards in their apparel factories. The boycott campaigns were effective, winning real concessions for workers (Armbruster-Sandoval 2005; Klein 2000; Bartley and Child forthcoming). They also appear to have changed corporate practice, at least to some extent (Locke forthcoming; Seidman 2007; Klein 2000).

Other campaigns focus on licensing contracts between brands and universities. The aim is to embarrass brands that fail to uphold the codes of conduct they have signed and to threaten non-renewal of licenses for goods bearing the university logos. One example is Russell Athletics, in which an American apparel brand was pressured by activists to improve working conditions in

their factories as a result of losing their licenses at universities throughout the United States (Greenleaf et al. 2011). Another example is Kizone in Indonesia.

The PT Kizone Case: Korean Ownership, Indonesian Law, and U.S. Apparel Brands

Apparel workers in Tangerang, Indonesia were left unemployed and without their rightful severance pay when South Korean owner Jin Wook-im abruptly shut down their factory, Kizone. The workers were owed severance pay totaling Rp 30.8 billion (\$3.5 million). Woo-kim fled Indonesia in January 2011 just a few months prior to his company, Green Textile, shuttering operations. Under Indonesian labor law, the workers were owed terminal compensation totaling about one year's pay at minimum wage. Athletic companies Nike, Adidas and the apparel division of the Dallas Cowboys all contracted with Kizone to produce their merchandise. Though not legally liable, accountability in such circumstances is understood by labor rights groups to fall to the companies that subcontracted their manufacturing to the local firm. The codes of conduct of many U.S. universities require apparel providers like Nike and Adidas to ensure the factories they work with adhere to minimal labor standards and the labor laws of the countries to which they outsource. Nike has agreed to pay a percentage of the severance to the workers proportional to the amount of production they were responsible for in the factory. Adidas, however, will not concede responsibility and insists that the burden of enforcement lies with the Indonesian government. The dynamics at play in this case are similar to a number of other cases involving factories that have gone bankrupt and the factory owners have fled the country.

For further documentation of the ongoing Kizone case as well as other cases such as the Hugger and VisionTex cases in Honduras available on the Workers' Rights Consortium website at <http://www.workersrights.org/>.

Why Uphold Labor Standards?

Having documented the importance of labor standards and a variety of means of implementation, why and when are corporations likely to comply themselves and effectively demand compliance of their subcontractors with corporate codes of conduct? Diffusion of international norms may be a large part of the explanation, but norms are most effective when self-interest reinforces them.

What factors make corporate actors realize it is in their interest to promote and enforce higher labor standards? The literature points to three explanations. The first possible answer is one we have already noted: loss of reputation as a result of either international investigations or campaigns attacking corporate practices. Second, under some conditions, asset specificity, that is, the specialization of a subcontractor that increases interdependence with contractor, may increase the probability of effective monitoring of the supply chain. Third is some form of competitive advantage, which would require a perception that there is market growth through social labeling. Of equal if not greater importance are government regulations and actions, both in the home countries of the brands and in the countries where suppliers are located.

Loss of reputation

We have already seen that negative publicity and consumer boycotts can represent credible threats to both the present and future value of the brand in question. Brand reputations are a principal asset and promote a strong business interest in avoiding controversial or divisive political, environmental or labor scandals that will damage a brand identity (Bartley and Child forthcoming; Bartley 2005).

Threats to present and future sales as well as the long-term sustainability of global brands may take various forms. Campaigns organized by NGOs and student groups have targeted both consumers at large and institutional purchasers (Greenleaf et al. 2011; Levi and Linton 2003). While the threat of losing a few institutional contracts with churches, governments, universities, and sports teams may not severely damage company revenue in the short term, the threat of losing multiple institutional purchasers may be a cause for concern. Campaigns that threaten the long-term reputation of brands among end consumers are likely to be particularly effective in influencing corporate and factory policy. Elliott and Freeman (2003) argue that consumer pressure can provide the necessary incentive for global brands to take seriously the need to monitor and audit their suppliers. Our research suggests that consumer pressure, important as it is, may not be enough to create sustained compliance: campaigns are sporadic and not always effective.

Asset specificity

Drawing on transaction cost economics, Heritier, Mueller-Dubus, and Thauer (2009) argue that “the higher the asset specificity between contracting partners, the more cautious both actors will be in protecting their investments by drawing up strict governance rules and, thereby, acting as inspectors.” In a study of the automotive and textile industries in South Africa, they find support for their theoretical claims about the importance of asset specificity in promoting labor standards, particularly where the products are high end.

Competitive advantage

Locke (forthcoming) argues consumer and retailer demands drive tight turnaround times for new products that translate into violations of working hours downstream. Changing consumer behavior may not be easy although obviously advertisers believe in the responsiveness of buyers to targeted messages.

Ethical consumption, or the demand for products produced under fair labor conditions, can also motivate the brands. Although the jury is still out as to whether ethical consumers constitute a large or constant enough market to maintain long-run corporate responsibility, social labeling appears to be a growth industry. Behavioral evidence increasingly confirms that there is a significant group of consumers who would prefer to purchase coffee, chocolate, garments, electronics and other goods that they believe were produced under high labor standards (Broukhim and Hiscox 2009; Hainmueller and Hiscox 2011). At least one major brand, Knights Apparel, has made a strong commitment to garments meant for ethical consumers.

The Alta Gracia Story

In 2010, Knights Apparel, the largest supplier of collegiate licensed apparel in the U.S. (Nike is second), opened a factory in the Dominican Republic to produce collegiate clothing under the brand name, Alta Gracia. It is the first garment factory to pay its workers a living wage, certified by an independent auditor. Calculated by considering the basket of goods and services a family needs, the living wage amounts to more than 300 % of the legally mandated minimum wage. Workers have the right to unionize and engage in collective bargaining. They have health and other benefits, and they work in safe, healthy and environmentally sustainable conditions. The Workers' Rights Consortium (WRC) certifies that Alta Gracia continues to provide the living wage and meet other high labor standards, and the firm provides the WRC auditor with an office in the factory, encourages her to meet with workers off premises, and offers access to its books.

Alta Gracia is the brainchild of Joe Bozich, the CEO of Knights Apparel. Personal tragedy influenced his decision to create a factory that ensures its workers and their children a path out of poverty through a good job. But he also believes good jobs are a good business model. Knights expected to subsidize Alt Gracia for three years, but it is breaking even after 18 months. Bozich has plans to open a second factory. The company does take a smaller return on Alta Gracia products in order to ensure that it can sell the garments at the same price point as its closest competitor and that retailers get their standard margin. There is no advertising for Alta Gracia other than the hangtags and posters that let consumers know what the living wage has meant for the workers; the web site <http://altagraciaapparel.com/>; and considerable word of mouth and campaigning by supporters, including several student groups.

By setting its standards in collaboration with representatives of the WRC, the United Students Against Sweatshops (USAS) and other vocal critics of violations of universities' codes of conduct in supply chains, Bozich was able to build and manage a factory that they support while winning their patience in his efforts to improve the conditions in contracted factories. Moreover, they have assisted him in marketing the Alta Gracia brand.

Positive externalities of Alta Gracia result from the increased spending power of the workers, who can now buy their children equipment and clothes needed for school, move to better housing, and get loans. Small transport and food service businesses have sprung up to meet the needs of workers who can now afford taxis and purchased lunches.

Government regulation

Consumer demand for low cost goods and lots of them may be driving the cycle of labor standard violations in supply chains, as both Locke (forthcoming) and Reich (2007b) argue, but they and other analysts also agree that the solution is, at least in part, government regulation of brands through labor laws and trade agreements.

Home countries can regulate brands by refusing to import goods made under conditions that violate the core labor standards. However, this rarely occurs. More effective are the labor laws and rules imposed by states where subcontractors are located. We have already documented how difficult it is for many developing countries to implement the labor standards they have on their books; lack of state capacity and failures of political will are widespread. Indeed, government involvement, as India's creation of Kaleen, the quasi-governmental agency charged with reducing child labor in the rug industry, may even decrease the credibility of its label (Nooruddin and Sokhey 2012).

Nonetheless, incentives for implementation exist. On the one hand, states may wish to avoid sanctions for poor standards, and, on the other, they want to reap the benefits of high standards. Costs of low standards include reprimands from international organizations such as the ILO, bad publicity, and ultimately threats of plant closure (Seidman 2007; Greysen 2009). Malaysia, for

instance, began to implement its laws when the Textile, Clothing and Footwear Union of Australia (TCFUA) embarrassed both Nike and the Malaysian state for illegal contracting of immigrant workers into virtual slave conditions (Maher 2009). Noorudin and Sokhey (2012, 84-5) argue that NGOs, instead of acting as surrogate regulators themselves, should pressure the state to become a more effective regulator by a combination of publicizing violations and embarrassing government agents who fail to do their jobs.

Positive benefits also exist. Systematic and comparative accounts suggest that countries exporting to destinations with higher levels of labor rights will enhance their own labor standards to compete in the global economy (Mosley and Uno 2007; Greenhill et al. 2009). Similar work has been done on the diffusion of environmental norms via private regulation schemes although the degree to which these findings are transferrable to labor rights is uncertain (Prakash and Potoski 2006; Prakash and Potoski 2007).

Developing countries with respect for human rights seem to be more successful in attracting FDI than those that violate human rights, according to at least one cross-sectional time series statistical analysis (Blanton and Blanton 2009). The authors infer that respect for human rights signals political stability and a lower risk of public relations embarrassments for global brands. Therefore, social responsibility may actually be a source of competitive advantage that can directly enhance profitability. This was the belief of the Lesotho, Cambodia, and Sri Lankan governments that partnered with Better Works, but it seems to be a competitive niche only under certain economic conditions (Seidman 2009; Goger 2011; Arnold 2011).

Conclusion

Jobs that contribute to economic growth and performance by enhancing productivity, higher living standards, and social cohesion may depend on the creation and enforcement of core labor standards. That proposition is fairly easy to demonstrate. The problem is aligning incentives so that brands, their suppliers, and governments actually implement those standards. International norms, labor rights campaigns, and ethical consumption all play a role in encouraging the two major sources of change: private regulation and government regulation. Given that corporations are not always responsive to campaigns, nor willing to acknowledge violations, nor effective at eliminating them, the limits of voluntary compliance schemes are manifest. Government regulation is the essential complement to brand and firm action, but making government actors want to and able to intervene on behalf of workers demands continued pressure and inducements from international institutions, consumers, NGOs, and labor rights activists. Countervailing influence to that of business and other vested interests is only part of the solution, however. Also critical are reforms of government practices, rules, and power structures, reforms that become viable as government actors change their perceptions of what constitutes their enlightened self-interest. The results of governments taking greater responsibility for upholding the core labor standards will be jobs that improve the lives of workers and enhance the economic performance of the country

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