Human Rights Council

Workers’ Rights and
International Labor Standards

United Nations Human Rights Council

The United Nations Human Rights Council is a deliberative body within the United Nations system that was established by the General Assembly resolution 60/251 of March 2006, replacing the former UN Commission on Human Rights. It is responsible for strengthening the promotion and protection of human rights around the world, addressing human rights abuses and making recommendations on them (United Nations Human Rights Council, 2014). UNHRC’s members meet at least once a year at the UN Office in Geneva. The Council’s resolutions are not binding, but they do have great social and political relevance, because they represent the opinion of the international community about the application, recognition and fulfillment of fundamental human rights across countries. This year, the United Nations Human Rights Council will debate workers’ rights and international labor standards.

Historical Background

After World War I, world economic disintegration, followed by increasing retaliatory tariffs, raised concerns about international labor conditions. Developed countries feared that since they had superior labor conditions, they would be at a competitive disadvantage in international markets (Flanagan, 2006, p. 3). In this context, in 1919, the International Labor Organization (ILO) was created – a part of the League of Nations that was later incorporated in the United Nations. It is responsible for developing and promulgating voluntary international labor standards in negotiations between workers’ representatives, private enterprises and national governments (Flanagan, 2006, p. 4).

In fact, the ILO is the only surviving creation of the Treaty of Versailles and it is the only UN agency where labor and employer representatives are equally represented with governments, creating a three-part approach (Flanagan, 2006, p. 161). Even though it is the main body responsible for international workers’ rights, most of its documents are complemented and
supported, direct or indirectly, by other deliberative organs of the United Nations, namely the United Nations General Assembly (UNGA) and the UNHRC.

Workers’ rights, labor rights, or simply labor standards, are a set of rights related to labor relations. Nowadays, these rights usually refer to negotiations about work environment, respect for safety and health, wages, benefits, labor inspection and basic labor administration (Asian Development Bank, 2006). Even though general labor rights are considered a part of fundamental human rights, a precise definition of what are international basic rights or international labor standards is still something controversial and misunderstood.

In a globalized world economy, the setting of international labor standards becomes more fundamental, because new production processes, complex supply chains and the fast mobilization of capital and production units make workers around the world suffer from “the quantum leaps (and falls) of the global economy (Asian Development Bank, 2006, p. 9). International labor standards may be found in international treaties and recommendations. According to a report released by the Asian Development Bank, international labor standards are important for two main reasons:

First, they represent the international consensus on minimum best practices, whether on human rights generally or more precisely on labor matters. Second—and more immediately important in many cases—when they have been ratified by member countries they constitute binding legal obligations in national and international law, and may even be incorporated in national law. Most ADB project documents require governments to apply their own laws, and that usually includes ratified international human rights conventions (Asian Development Bank, 2006, p. 10).

With industrialization, capital mobility (the ability to move money across borders cheaply and easily) allowed multinational corporations to look across borders to find cheaper production sites, especially in countries that possess low wages as their main comparative advantage in trade. “In principle, the effect of globalization is that everyone benefits. When free market forces are able to transcend national boundaries, tariffs, subsidies, and other artificial
barriers are removed and efficient firms are rewarded [and the consumer benefits]. Unfortunately in the real world…this cheerful theory has a problem: as corporations transcend national boundaries, they can force workers, communities, and countries to compete for lower labor, social, and environmental costs—force them into a ‘race to the bottom.’” (Sapp; see also inset: 2013 blog post from The Economist).

Labor activists have used the language and tactics of the international human rights movement to defend their own cause against what they see are the present and future dangers associated with a globalized “race to the bottom”: lower and lower wages for more and more work, hazardous working conditions, poorly enforced laws intended to protect workers, and so on. The idea of including labor rights in the set of fundamental human rights comes from the fact that human rights appeals a wider audience, making it easier for labor activists to show the reality of production in countries and enterprises that lack regulation for “health and safety conditions, that have no protections for children, pregnant women or other vulnerable groups that refuse to set a floor under wages or prevent abuse and brutality from employers” (Seidman, 2011, p. 170).

**Previous International Actions to address Workers’ Rights**

Due to constant appeals of labor activists, workers’ rights were also included in the *Universal Declaration of Human Rights* (UDHR) of 1948, in the articles 23 and 24. Produced right after the horrors of the Second World War, the UDHR is considered the first international expression of rights to which every person is inherently entitled. The Declaration states as follows about specific labor rights:

**Article 23.**

(1) Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.

(2) Everyone, without any discrimination, has the right to equal pay for equal work.

(3) Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.

(4) Everyone has the right to form and to join trade unions for the protection of his interests.

**Article 24.**

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay (United Nations, 1948)
GLOBALISATION sceptics often warn of the pernicious effects on labour standards of international competition for investment. In the race for foreign business, the argument goes, countries cut back on regulation and enforcement of decent working conditions in order to lower labour costs.

But are tragedies like the Rana Plaza collapse in Bangladesh (see http://www.bbc.com/news/world-asia-27107860) in April freak occurrences or the sign of a wider problem of falling labour standards? There is not a great deal of economic research on that question. Evidence for a race to the bottom is pretty patchy. But a recent paper* makes for uncomfortable reading.

The paper looks at data for 135 countries over 18 years (annoyingly, only up to 2002). It focuses on measures of labour rights: such as whether workers can bargain collectively, the right to protest and the elimination of all forms of forced labour. In total there are 37 indicators (unfortunately the index includes neither minimum wages nor employment benefits). A country can achieve a maximum score of 56. The mean score across the sample of 135 countries is 26.6.

Some results are rather unsurprising. Countries with better civil liberties tend to have higher labour standards. Countries in the OECD, which are richer, do better than those outside (only one OECD member, Turkey, has a score less than 15). But other results in the paper are alarming. During the 1980s and 1990s, the labour-rights index fell precipitously (see the blue line below). The authors reckon this is down to competition for foreign direct investment.

The authors conduct a series of regressions and reveal the factors that influence the labour-standards index. And there is evidence of between-country competition. If the labour standards across all other countries decline, those of the excepted country also tend to fall. The regressions also show that membership in the World Trade Organisation, a multilateral institution which aims to promote trade, leads to a lower labour-rights index.

But the race to the bottom operates more subtly than most people suppose. The regressions suggest that while countries do compete with each other by instituting laws that are unfriendly to workers, such competition is not that pronounced. The real problem is that countries compete by enforcing labour laws less vigorously than they might—leading to increases in violations of labour rights prescribed in local laws. Competition between countries to attract investment is less in rules than in their practical application.

Besides the UDHR, approved by the UNGA, most of the instruments concerning international labor rights were produced under the framework of the ILO. By September 2014, ILO had already approved 189 conventions with different percentages of ratifications by its 185 member countries. The ILO stresses that there are eight fundamental conventions covering “subjects that are considered as fundamental principles and rights at work” (International Labor Organization). In chronological order, these main labor conventions are listed as follows (ILO):

- Forced Labour Convention, 1930 (No. 29)
- Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)
- Right to Organise and Collective Bargaining Convention, 1949 (No. 98)
- Equal Remuneration Convention, 1951 (No. 100)
- Abolition of Forced Labour Convention, 1957 (No. 105)
- Discrimination (Employment and Occupation) Convention, 1958 (No. 111)
- Minimum Age Convention, 1973 (No. 138)
- Worst Forms of Child Labour Convention, 1999 (No. 182)

The ILO has a series of regulations of workers’ rights, but most of its conventions state policy goals rather than specific outcomes, like minimum wages or precise labor standards.

Ratification of the conventions created under the framework of the ILO is voluntary for its members. These conventions support what IGOs and NGOs consider the four main axes of labor rights: 1) freedom of association and a collective bargain; 2) nondiscrimination in employment and pay; 3) minimum age of employment and prohibition of the worst forms of child labor; and 4) the abolition of forced labor (Flanagan, 2006, pp. 13, 162). As is the case for other international regimes, however, the ILO fails to properly enforce most of its regulations.
Under the Article 26 of its charter, for example, the ILO may investigate noncompliance complaints and, after a phase of inquiry, it may only suggest changes in countries’ practices.

According to some union activists, the ILO has not been effective in terms of enforcing its conventions and marshaling global support for the labor cause. Even though it has constantly called upon its members to sign model conventions to protect labor rights, they still lack serious and effective enforcement mechanisms. Countries like Cambodia, Vietnam, China and Laos, for instance, have already ratified at least four of the fundamental conventions of the ILO, but labor rights in these countries are known for being constantly abused.

Despite these complaints, many studies point out positive results in countries that ratified ILO conventions. Findings show that ILO social security conventions ratifications increase social security expenditures in developed countries (Strang & Chang, 1993). Similarly, ILO ratifications have been shown to increase manufacturing wages in industrialized countries and significantly reduce the wage gap between male and female employees (Rodrik, 1996; Boockmann, 2009). On the other hand, Boockmann (2009) did not find evidence that ratification of minimum age conventions on child labor and school attendance.

The **United Nations General Assembly** has passed some resolutions regarding labor rights, especially migrant workers’ rights (A/RES/50/168, A/RES/54/138, A/RES/60/139). Besides, it constantly called upon its members to sign the “International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families”, recognizing “principles and norms established within the framework of the International Labor Organization and the importance of the work done” (A/RES/53/137).

The idea that poor labor conditions grant an unfair competitive advantage in international markets is refuted by Robert’s findings that there is no correlation between pool labor conditions and superior export performance or larger inflows of foreign direct investment. Besides, its study points out that ratification of international conventions of the ILO do correlate positively with national labor regulation and actual labor condition (Flanagan, 2006, pp. 160, 164). These findings are refuted by other authors who found a negative correlation between ratification of ILO conventions and export shares (Mah, 1997). There are dubious findings about the effect of wage conventions ratifications on the trade balance of ratifying countries (Boockmann, 2009). Bearing in mind the importance of joining the international labor standards regime, other
international deliberative bodies, like the UNGA or the UNHRC, may play a major role in compelling states to sign and ratify ILO conventions.

UNHRC recommendations regarding international labor standards matter not only because they can call upon its members to sign ILO conventions and, thus, make them assume a binding international commitment under international law. These recommendations can also act as model legislation and give countries knowledge about best practices, being a benchmark for legislators (Boockmann, 2009).

Questions to ponder

1) Many labor rights activists stress a lack of enforcement of the ILO conventions aiming to protect workers’ rights. What can the UNHRC and its members do to better enforce existing labor rights conventions?

2) International labor standards cover a variety of subjects, such as freedom of association, industrial relations, child labor, equality of opportunity and treatment, family responsibilities, employment security, working time, protection against risks at work, social security, maternity protection, migrant workers, safety and health, etc. What do you think are the most important subjects to be discussed by the UNHRC? Why?

3) Many developing countries fear that improving workers’ wages by legal means could cause multinationals to migrate to other countries with lower wages. As stressed by the Universal Declaration of Human Rights, what can the UNHRC do to help workers receive a “just and favorable” remuneration without unnecessarily endangering large corporations’ incentives to invest in their countries?
Important Links


References


-- Matheus M. Hoscheidt