



## W.T.O. AND LABOUR ISSUES: A CHALLENGE

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*Article history: Received on 20<sup>th</sup> December, 2015, Revised on 10<sup>th</sup> February 2016, Published on 06<sup>th</sup> March 2016*

### ABSTRACT

Labour standard is the most burning agenda of the WTO ministerial dialogue held in Doha because advanced countries want to counter the demand of developing countries eg. opening market for agro exports, reduction of subsidy and support by developed countries etc. but the true picture of labour force in developing countries is that they do not have skilled, socially, economically child labour protected work force due to lots of reasons at the international standard. The International Labour Organization (ILO) is the competent body to set and deal with these standards, and we affirm our support for its work in promoting them. We believe that economic growth and development fostered by increased trade and further trade liberalization contribute to the promotion of these standards. We reject the use of labour standards for protectionist purposes, and agree that the comparative advantage of countries, particularly low-wage developing countries, must in no way be put into question. In this regard, we note that the WTO and ILO Secretariats will continue their existing collaboration.

**Keywords:** *International labor standard, World trade organization, labor conditions,*

### INTRODUCTION

WTO is the successor organization of the GATT. Its came into effect on 1st January 1995 as a result of the conclusion of the Uruguay round of multi lateral trade negotiation. WTO is a permanent organisation which achieved the international status like IMF & IBRD but it is not an agency of the UNO. India is a founder member of WTO. At present there are 154 members Labour has always remain a top in agenda for whole of the world.

Labour standard is the one of the most debatable issues that has been taken for the consideration for the unanimous consensus of the WTO members especially the developing countries. It is the top agenda for the international trade by the non- governmental institutions and the trade unions during the Fourth Ministerial conference in Doha, Qatar, of the WTO. Labour standards are explicitly seems to be simple because these are applied to the way workers are treated. The term covers a wide range of things: from use of child labour and forced labour, to the right to organize trade unions and to strike, minimum wages, health and safety conditions, and working hours. But it the harsh reality that it can not be applied to whole of the world in the same manner, because labor standards vary from country to country, depending on the stage of development, per capita income, political, social, and cultural conditions and institutions, efforts have been made to identify and achieve consensus on a group of so-called core labor standards that ideally should apply universally.<sup>1</sup> WTO has taken initiative to remove the disparities and tried to set up the core labour standards to improve the quality of environment of the workplace and to provide the adequate measures of social security to them to live in the dignified manner.

This paper is an attempt to draw a real picture of the WTO and pitiable picture of the labour class of the developing countries. These developing countries have to face the cruel sanctions if their labour standards are not up to the mark according to the WTO norms.

### HISTORY AND DEFINITIONS OF LABOUR STANDARDS

Practically, in the Uruguay Round Agreements, the United States has included the labour standard as the matter of discussions in the WTO regime. The principle negotiating objectives of the talk regarding the workers right are;

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<sup>1</sup> Robert M. Stern and Katherine Terrell, Labor Standards and the World Trade Organization Research Seminar in International Economics Gerald R. Ford School of Public Policy, The University of Michigan, Ann Arbor, Michigan, Discussion Paper No. 499

- a) to promote respect for the workers right, which when translated amounts to workers human rights;
- b) to secure a review of the relationship of workers rights to GATT articles, objectives and related instruments with a view to ensuring that the benefits of the trading system are available to all workers; and
- c) to adopt, as a principle of GATT, that the denial of workers right should not be means for a country or its industries to gain competitive advantage in international trade.<sup>2</sup>

Havana Charter/ITO of 1947 was also related to the labour standards as common interest of member nations for achieving and maintaining fair labour standards. The International Labour Organization (ILO) which has been established in 1919 also directly related to the labour standard issues.<sup>3</sup>

Agreement on the universality of these core labour standards derives ostensibly from adoption of the United Nations Universal Declaration of Human Rights in 1948, acceptance (though not necessarily ratification) of the pertinent ILO Conventions that deal with human rights and labor standards, and the ILO Declaration on Fundamental Principles and Rights at Work in 1998. In addition to these aforementioned core standards, there are other labor standards that are currently being discussed by labor advocates that relate to “acceptable conditions of work,” which include: a minimum (living) wage; limitations on hours of work; and occupational safety and health of management of non-governmental organizations (NGOs) that deal with the international monitoring of labour rights.<sup>4</sup>

According to the Organization for Economic Cooperation and Development (2000, p.20), there are eight fundamental International Labor Organization Conventions that form the basis of consensus among the ILO’s constituents. These include:

- (1) prohibition of forced labor (ILO Convention No. 29 and 105);
- (2) freedom of association and protection of the rights to organize and to collective bargaining (No. 87 and 98);
- (3) equal remuneration for men and women for work of equal value (No. 100);
- (4) non-discrimination in employment and occupation (No. 111); and
- (5) minimum age of employment of children and abolition of the worst forms of child labor (No. 138 and 182).<sup>5</sup>

The International Labour Organization (ILO) has played a significant role in promoting International Labour Standards. (ILS’s). The ILO has formulated international labour standards at various conferences. In 1944, the conference of Philadelphia adopted the Declaration of Philadelphia , which restated the fundamental aims and purposes of the ILO. Several acronyms have been used to describe labour standards such as fair labour standards, minimum labour standards, basic or core labour standards etc. Several factors have also been attributed to non-observance of labour standards such as unfair trade and labour practice, state of underdevelopment, absence of work place co-operation and so on. With a view to improve labour conditions through the forum of tripartite committees, the international labour organization passed the convention on June 1976. The preamble of the last ACP-EEC (African Caribbean and Pacific States ) convention signed at lome in 1984. Besides, the world summit on social development held at Copenhagen in March 1995 had tried to establish the basis for such a minimum level of social protection by creating an international consensus on fundamental minimum labour standards. Since its inception the international labour organization has adopted 181 legally binding conventions and 188 recommendations aimed at improving labour standards across the globe.<sup>7</sup>

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<sup>2</sup> Autar Krishen Koul, Guide ti the WTO and GATT Economics, Law and Politics, Second ed., Satyam Law International, 2010, p.520.

<sup>3</sup> *ibid.*

<sup>4</sup> [www.fordschool.umich.edu/rsie/workingpapers/Papers476-500/r499.pdf](http://www.fordschool.umich.edu/rsie/workingpapers/Papers476-500/r499.pdf)

<sup>5</sup> [www.ilo.org](http://www.ilo.org).

<sup>6</sup> Mishra Lakshmidhar , Can Globalization and Labour Rights co-exist? The Indian Journal of Labour Economics, Vol.44 No.1 January–March, 2001.

<sup>7</sup> Dr. W.N. Salve, Labour Rights and Labour Standards for Migrant Labour in India.

The OECD adopted similar language in 1996, but it exclusively limited to abolition of 'child labour to exploitative, forms merely. European Union's (EC) 'Social Charter' also explained a broader list of labour standard as the labour rights.<sup>8</sup>

At the first WTO Ministerial Conference in Singapore in December 1996 the issue was taken up and addressed in the Ministerial Declaration at Singapore, Ministers stated:

"We renew our commitment to the observance of internationally recognized core labour standards. The International Labour Organization (ILO) is the competent body to set and deal with these standards, and we affirm our support for its work in promoting them. We believe that economic growth and development fostered by increased trade and further trade liberalization contribute to the promotion of these standards. We reject the use of labour standards for protectionist purposes, and agree that the comparative advantage of countries, particularly low-wage developing countries, must in no way be put into question. In this regard, we note that the WTO and ILO Secretariats will continue their existing collaboration."<sup>9</sup> Thus the purpose for these standards is to give the protection, job satisfaction privileges and immunities of the workers rights under the umbrella of WTO. But it is irony that these labour standards are only the sham words for the developing countries.

### LABOUR STANDARDS AND DEVELOPING COUNTRIES ESPECIALLY INDIA

With the advent of industrial revolution in Europe, in the 18th and 19th centuries, a new class of factory workers emerged in the world economy. Capital and labour were main factors of production in the production processes of industrial revolution. Consequently, producers or owners and workers emerged in the private economy. According to International Labour Organization's principles and rights at work, core rights are important for working class in the world economy. India is a developing country. India adopted new economic policy in 1991, which is known as liberalization, Privatization and Globalizations (LPG). New economic policy has changed the face of the country. Globalization brings in its wake restructuring of production processes, and employment relations.<sup>10</sup>

The concern for developing countries for imposing upon them international labour standards rests chiefly on the argument that it will erode their comparative advantage which lies in paying low wages to their workers. Any demand that raises labour costs will deny developing countries their right to exploit their comparative advantage in international trade. Developing countries provide low wages because of low productivity and the comparative advantage is the fall out of the relative abundance of low skilled labour. The imposition of labour standards on developing countries may not raise the cost of labour but may divert some of their money wages benefit as a consequence of which the workers in the developing countries may become worse off. The agreement that 'core labour standards' have a profound impact on trade standards is to some a myth, as low standards countries will enjoys gains in export market shares to the detriment of high standards countries and also the fear that better labour standards would negatively affect the economics performance of the developing countries or their competitive position on world markets is not born out by economic analysis.<sup>11</sup> International economists have always believed that linkages between varying international labour standards and international trade policy is at best tenuous.<sup>12</sup>

Beyond the crisis of the above debate, the developed countries especially the united states are determined to bring to the WTO the imposition of trade sanctions on countries that do not internationally recognize and enforce the labour standards, it is clear that developed countries which support a formal link between trade and international labour standards are against the ILO supervisory role on basic standards and would prefer to insert a social clause concerning labour in Article XX of the GATT 1994, which when violated would entitle a country to impose trade sanctions.<sup>13</sup>

<sup>8</sup> OECD, Trade, Employment and Labour Standards- a study of Core Workers' Rights and International Trade 1691 (1996)

<sup>9</sup> [http://www.wto.org/english/thewto\\_e/whatis\\_e/tif\\_e/bey5\\_e.htm](http://www.wto.org/english/thewto_e/whatis_e/tif_e/bey5_e.htm)

<sup>10</sup> Mishra Lakshmidhar (2001), Can Globalization and Labour Rights co-exist? The Indian Journal of Labour Economics, Vol.44 No.1 January-March.

<sup>11</sup> E. Lee 'Globalization and Labour Standards: A Review of Issues', 136 International Labour Review.

<sup>12</sup> B. Hepple. New Approaches to International Labour Regulations', (26) 356 Industrial Law Journal (Dec. 1997, Special Issues)

<sup>13</sup> Supra note-3.

## WTO AND ENFORCEMENT OF LABOUR STANDARD

As the labour standards are at the centre stage of negotiations, the following problem may be faced by the WTO in accommodating the core labour standards.<sup>14</sup>

Article XX (General Exceptions) of the GATT 1994 is considered as a proper candidate for tackling the problem of international labour standards for the reason that the language of Article XX permits the incorporation of enforcement of lax labour standards in contracting parties. As the Article XX allows countries to restrict imports which are necessary to protect public health, public morals, or the imported products made with forced labour, or to secure compliance with other GATT/ WTO consistent laws, a broad reading of the article could permit law linking trade to labour standards and that such a reading would be GATT consistent.<sup>15</sup>

The above argument of including core labour standards in Article XX find support in the WTO ruling in the much publicized and criticized case United States import prohibition of certain shrimp and shrimp products.<sup>16</sup>

After scanning the labour-trade link throughout the evolution of ITO down to the establishment of WTO<sup>17</sup>, it may be concluded that member states in the GATT or WTO did not see anything intrinsically improper about discussing labour standards in the context of trade negotiations and as such confirms the conventional wisdom of supporting a labour trade link but it cannot be extended to support the modern human rights concept of 'fair labour standards'

## CONCLUSION

Though it is true that the concept of labour and environmental standards is a step ahead towards enjoyments of changing social, economic and political justice to the labour across the globe. It is an attempt of WTO along with other international forums specially ILO to give equal chance of rising and claim other social security measures for labours of the developing countries as developed ones. But due to poverty the labour of poor developing countries are dire to work for low wages and less developed standards. They work for livelihood, not for the labour standards; and the capitalist of these countries derives profits from their need. For the implementation of these labour standards, developing countries have to do the first generation reforms, than only they can switch over to second generation reforms. The skills of labour in developing countries are highly low graded. It should be improved and the problem of child labour have also deal carefully. HDI reports also reflect the pitiable condition of labour force in LDCs therefore all labour force have to bring as per international standard before bargaining in international level standard of labour. Although some technicalities has improved in LDCS on labour standards due to liberalisation globalization, privatization and marketization.

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<sup>14</sup> Ibid.

<sup>15</sup> Salman Bal, International Free Trade Agreements and Human Rights; Reinterpret ting Art. XX of the GATT,' Minn. J. Global Trade 62 63(2001); Charlovitz, 'The Moral Exception in Trade Policy', 38 Va J. Int.L. 689-724(1998).

<sup>16</sup> Report of te Appellate Body, WT/DS 58/ab/R(Oct. 12, 1998).

<sup>17</sup> Act Regulating State contracts with Companies Doing business or in Burma, Ch. 1301996 Mass.Acts 239, codified at Mass. Gen. Laws ,7 22-4-22M 40F1/2 (Wes Supp.) 1998.