Natural Resources and Ethical Trade --- Natural Resources Institute
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Labour standards and social codes of conduct: what do they mean for the forest industry?

Introduction

In recent years labour standards have risen up the policy agenda. Conventions agreed at the International Labour Organisation, some many decades ago, have acquired an increased resonance. This paper discusses core labour standards and the statutory and voluntary mechanisms by which they are being implemented. The debate on labour standards is explored in the context of trade policy and their relevance to the forest sector.

International labour standards and the ILO

The ILO is the custodian of conventions and recommendations that form the basis of internationally agreed labour standards. Among the United Nations institutions it is unique as it does not involve just state representatives, but also representatives of employers and workers. Member governments are encouraged to ratify and then implement in national statutes the ILO's Conventions, which have the force of international law. Recently there have been renewed efforts to promote labour standards, culminating the declaration of four fundamental rights at work (see Box 1) that all members of the ILO are obliged to 'respect, promote and realise' whether they have ratified them or not. These fundamental principles and rights at work are embodied in the Conventions listed in Box 2.

Box 1: Declaration of Fundamental Principles and Rights at Work

1. Freedom of association and the effective recognition of the right to collective bargaining

2. The elimination of all forms of forced labour or compulsory labour

3. The effective abolition of the worst forms of child labour and implementation of minimum ages of employment

4. The elimination of discrimination in respect of employment and occupation

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Reasons for labour standards being on the agenda mostly relate to the implications of globalisation and the concurrent re-examination of the role of the state. There are fears that labour standards might fall due to increased global competition and the increased mobility of capital. The apparent power of the

World Trade Organisation has led to fears that trade objectives will overpower social and environmental goals. Civil society criticism of multinationals has put the spot-light on to the working practices of companies, especially where there are allegations that basic rights are being exploited. The revolution in global communications means that news of unacceptable breaches of standards in corporate behaviour travels increasingly quickly, followed by mobilisation of protest (Ladbury and Gibbons, 2000; Lee, 1997).

Box 2 Core ILO Conventions

Convention 29, Suppression of forced labour (1930)

Convention 87, Freedom of association and protection of the right to organise (1948)

Convention 98, Right to organise and collective bargaining (1949)

Convention 100, Equal remuneration (equal payment for work of equal value) (1951)

Convention 105, Abolition of forced labour (1957)

Convention 111, Prevention of discrimination (1958)

Convention 138, Minimum age of workers/ child labour (1973)

Details of the ILO's conventions can be found at: www.ilo.org/

In international law, Core Labour Standards have the status of rights, in the same way as the United Nation's Universal Declaration of Human Rights (1948) and both the International Covenant on Civil and Political Rights (1966), and the International Covenant on Economic and Social Rights (1966) (Maxwell, 1999). Whilst the UN framework of human rights may not be perfect, Frankental and

House (2000) argue that to a large extent it reflects the values of civil society. '*Human rights are based on rules of human behaviour common across diverse cultures to achieve stable, peaceful and equitable societies*' (ibid: 22).

The ILO's conventions are primarily binding on states, but the Universal Declaration of Human Rights also calls on 'every individual and organ of society to play a role a role in that realisation'; so if companies are 'organs of society', they have responsibility for upholding human rights.

There are a variety of instruments through which the labour standards addressed in the core conventions might be implemented and promoted:

1. Regional agreements (e.g. the EU's Generalised System of Preferences for trade)

2. National legislation

3. Voluntary regulation (codes of conduct and voluntary labelling programmes)

4. Collective agreements specific to industry or workplace (between employers/ groups of employers/ government and TUs and other worker representative groups)

5. Procurement and government contracts (encourage implementation by national and international suppliers)

6. Consumer/ civil action

(Ladbury and Gibbons, 2000: 8-12).

There has been considerable debate about the universality of human rights, including core labour standards. Bhagwati (as cited by Lee, 1997) argues that labour standards are not really rights as they cannot be universalised. This debate was one of the reasons for the declaration on the fundamental labour standards, about which there is less disagreement. In implementing labour standards there is a clear need for 'sensitivity to the local development and value context in which suppliers operate' [which] 'suggests that companies should distinguish between "prior universal social values" and "technical standards" on environment or employment practices" (Ward, 2000).

The strength of the Core Labour Standards is that they apply to all members of the ILO. However, there are no hard sanctions to ensure their implementation and most standards, with the exception of the four core standards mentioned in the Fundamental Declaration, are voluntary. Another potential weakness of international labour standards is that they apply only to people in formal employment: what are the mechanisms for raising labour standards for those out of the reach of employment law and are not covered by trade union agreements? (Ladbury and Gibbons, 2000: 8; 22).

Labour Standards and Trade Policy

There has been pressure in recent years to strengthen the role of the ILO, and other bodies protecting human rights, especially in the context of the increased power of the World Trade Organisation and its dominant members' liberalising agenda. The on-going process of liberalisation, a central part of globalisation, has raised considerable concern about the potential for trade policy to over-ride national state law on labour standards and indeed international labour standards. The protests by labour groups and NGOs at the WTO meeting in Seattle in November 1999 vividly demonstrated these concerns.

It is important to separate the general promotion of core labour standards from the more specific proposed link between the observance of core labour standards to trade agreements, a policy known as 'a social clause' (see Shaw, 1996). The inclusion of social clauses into trade agreements, thereby permitting one member to instigate trade sanctions against another accused of violating core labour standards, has proved highly controversial. To date there has not been an official trade dispute over the use of trade measures to promote the implementation of labour standards. It remains a contentious issue especially amongst developing countries that claim that their level of development prevents them from implementing many labour standards. There is thus strong opposition to concept, which is seen as thinly veiled protection. The consensus emerging is that conditionality linked to trade agreements is probably an inappropriate way to encourage global commitment to core labour standards, a view increasingly shared by northern governments (with the significant exception of the US) and some development NGOs (Norton, 2000). The UK government stresses importance of the core labour standards, within the context of open trading and is opposed to a social clause. However, a recent report argued that there is a need for change in current international practice if the liberalising trade agenda and social development goals and good labour standards are to be achieved (PIU, 2000: 23).

Promotion and Implementation of Labour Standards

The international consensus is that labour issues are most properly dealt with by the ILO and there is no clear rationale for trade to be linked to labour issues. In theory therefore, the ILO is the undisputed guardian of labour standards, but others now 'vie for prominence and the power to set international agendas of corporate social responsibility' (Seyfang, 1999: 2). The Singapore WTO Ministerial meeting in December 1996 made a provision for a stronger relationship between the ILO and the WTO, but the question remains as to whether the WTO will heed the ILO. There are other actors, however, influencing the way in which labour standards are being promoted. Seyfang notes that 'the ILO is increasingly being regarded as a benchmark or role model for other initiatives, rather than as a regulatory body in its own right' and that a wider group of actors are involved (1999: 3). Increasingly, voluntary initiatives for corporate social responsibility are drawing on core labour standards and other human rights. This is most clearly shown in the proliferation codes of conduct.

Labour standards and codes of conduct

Codes of conduct are written statements of principles, criteria and indicators with which all companies using the code must comply. Most codes are at the company level but they have also been developed by representative industry bodies or by independent organisations wishing to promote the social dimensions of good business practice. A recent study by Amnesty International and the Prince of Wales Business Leaders' Forum noted:

'Human rights have become a key component of the debate on corporate responsibility. Many companies have advanced from a paternalistic, philanthropic interpretation of business in society to a broader view of the role of the corporation in society based on reputation assurance, risk management and license to operate' (Frankental and House, 2000: 22). [1]

There has been some convergence in the content of codes of conduct in terms of their inclusion of ILO minimum labour standards (King and Marcus, 2000: 31). However on the whole codes of conduct are still quite selective as regards which Conventions are included and in their use of internationally agreed standards. This is particularly apparent with rights to collective bargaining and freedom of association. An ILO study of 215 private sector codes and social and labour programmes noted that the ILO standards covered most frequently were: occupational health and safety (75% of codes); discrimination in hiring/ terms and conditions of employment (66%); elimination of child labour/ no use of child labour (45%); wage levels (40%); no forced labour (25%); freedom of association and collective bargaining (15%) (Dillier, 1999: 112). In another survey, only 44% of the codes of conduct in a survey of Fortune 500 companies explicitly referred to human rights, and these were clustered in oil, gas and mining firms (cited by King and Marcus, 2000: 51).

A key advantage of codes of conduct in terms of the promotion of labour standards is that they are adopted voluntarily and therefore, they are more likely to be sustainable than codes imposed from the outside. They can also lead to labour standards being implemented by small companies normally out of the 'reach of national legislation and outside the sphere of influence of trade unions' (Ladbury and Gibbons, 2000: 9). However, code development is still in its early stages, there are many questions about how they can be monitored and verified and they tend to operate mostly in sectors which have a high public profile, particularly in relation to consumers. They are also largely northern driven, which raises a number of questions as to how sensitive they are to different socio-economic and cultural conditions. For example many codes insist on a ban on child labour, but this if implemented inflexibly, children could end up in much more hazardous occupations. A recent report from Save the Children explains that policies to end child labour must also include measures to promote former child workers' welfare and offers useful steps to remedy the worst cases of child labour (King and Marcus, 2000).

Freedom of association and the right to organise to bargain collectively are the most contested issues in practice. Whilst companies and governments see the merits in conventions setting out maximum working hours and equal remuneration, there are often objections to freedom of association and collective bargaining. Companies and governments have '*sought to find ways around these rights in order to prevent unions finding an opening from which to organise'* (Frankental and House, 2000: 53). But these rights are seen by many people to be important enabling rights, ones

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[1] This discusses human rights from the perspective of business, giving examples of how companies have implemented human rights in their business practice. Examples include Reebok's steps to promote right to collective bargaining and freedom of association and Levi's arguments to supplier about the benefits of adopting their code.

that help ensure that the other core labour rights are observed.

Labour standards in the Forest sector

Ethical trade in the forest sector, especially for timber, has been largely driven by environmental rather than social concerns. Nevertheless, the Forest Stewardship Council has principles relating to the rights of indigenous peoples and has recently strengthened principles and criteria with regard to worker rights (see motion at the 1999 general assembly to take a proactive approach to workers and their representative organisations).

Codes with labour standards

SA 8000	International human rights and worker welfare standard, administered by Council on Economic Priorities Accreditation Agency
Ethical Trading Initiative	Base code of human rights and worker welfare
Amnesty International Human Rights Guidelines for Companies	International guidelines for business
Milieu Project Sierteelt (MPS)	International standard for cut-flower production that includes social criteria.
Flower Label Programme	International standard for cut-flower production that includes social criteria
Horticulture Promotion Council	Zimbabwe code of practice for fresh fruit and vegetables, including worker welfare
Guidelines for Multinational Enterprises, Organisation for Economic Co-operation and Development (OECD)	Comprehensive standard addressing the responsibilities of business operating internationally
Fairtrade Labelling Organisations International	International label for a variety of standards for different fair-trade commodities (include Fairtrade Foundation, Max Havelaar and Transfair)

Historically however, the concerns of employees in forest operations have rarely been expressed, partly because they are geographically dispersed and therefore very difficult to organise. This also creates problems for labour inspectorates. The ILO indicates that there are now fewer workers who might typically join unions, i.e. permanent workers, but that 'tripartite co-operation at the national and local level have worked very well in some countries and companies' (ILO, 2000). For example the International Federation of Building and Wood Workers has signed a number of agreements with companies to protect workers' rights. Nevertheless there have been particular efforts to promote unions in countries where they have been less active in the past (for example southern Africa) and the number of African affiliates to the IFBWW has increased from 30 unions in 1993 to 67 in 2000 (IFBWW, 2000).

There are about two million people working in the forestry industry, plus self-employed forest workers and those involved in non-timber forest product enterprises and the collection of forest products for subsistence use (ILO, 2000). The ILO has expressed concern about the growth of contract labour (especially where they are 'employees in disguise'), working conditions in general, especially in isolated areas, health and safety and adequate training..

Some of these concerns are heightened in the context of global competition and pressures to cut costs (ILO, 2000).

As more and more forests are certified according to FSC and ISO 14000 which are both strong on environmental criteria, it is possible that the spotlight will move to improving labour standards and the extent to which employees of plantations are able to exercise their rights. A useful guide to the relevance of ILO standards has recently been published (Poschen, 2000).

Another issue that is emerging is the ability of small timber growers to meet certification standards and whether the implementation of social standards excludes some producers from markets?

Research is being undertaken in South Africa to explore the capacity of small timber growers to meet certification or national standards and in the process identify and define suitable social and environmental principles and criteria for small scale timber grower standards and or certification (Lewis and Maynard, 2000).

Conclusions

The importance of core labour standards has been underlined by their inclusion in a growing number of voluntary sector initiatives to further responsible business practice. Nevertheless continued support for the ILO is required to underpin labour standards both in national and international law. A growing number of donors are gradually taking on board the idea that labour standards are a key issue for development: poor people are in employment and have employment rights as well as more basic rights (Ladbury and Gibbons, 2000). However, it is critical that labour standards are 'applied in accordance with their own priorities

…. with the active participation of the workers which the standards will affect" (ibid).

To date forest certification has not fully addressed social issues, including labour rights. If forest enterprises are to be responsible businesses they have to respond to the challenge of considering the livelihoods of key forest stakeholders.

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