

WORLD TRADE AND WORKERS' RIGHTS: TO LINK OR NOT TO LINK?

Rohini Hensman

The saddest thing about the confrontation which took place in Seattle in November-December 1999 was the absence of any voice speaking for Third World workers, either among official delegates to the World Trade Organisation (WTO), or among the protesters outside. One reason could be that it would be difficult for workers or their representatives from developing countries to travel to Seattle. But at least a subsidiary reason is the failure of trade unions from our countries to articulate a principled and consistent standpoint which could be argued at such a forum. This is a lack we urgently need to remedy.

Before we look more closely at the issues raised by the meeting, I would like to make my basic standpoint clear. Very simply, as I see it, the present world system is a capitalist one, and capitalism is by nature exploitative and oppressive. I would like to see it replaced by a more egalitarian, cooperative, compassionate and caring system. However, I do not think that this end can be achieved without the active and conscious participation of the vast majority of the world's working people. This is not possible in the immediate future since these protagonists have a long way to go before they can unite around such a common goal. We are therefore constrained at the moment to work *within* the capitalist system in order to create the conditions in which a revolutionary transformation of the world system can take place. So the question which confronts us is: given these constraints, what should our attitude be to the linking of trade agreements of the WTO with workers' rights?

Who are the Actors ?

Who were the main protagonists in the Seattle drama, and what were their agendas? First and foremost, of course, were the various governments. The agenda of each, to put it simply, was to get the maximum advantage for domestic production; for example, to get maximum access to the markets of other countries while giving away the least possible rights to protect its own sectors which it saw as being vulnerable. They were representing *mainly* the interests of business groups in their own countries; the extent to which other interests figured in their calculations varied. At one extreme was the US, which was forced by powerful domestic trade union and environmental lobbies to put labour and environment on the agenda.¹ However much we may criticise Clinton's crude bid to win votes for the Democratic Party in the forthcoming US elections by threatening trade sanctions against countries violating minimum labour standards,² we have to concede that at least he was treating labour as an important constituency. His proposal to involve 'civil society' in the form of NGOs in the WTO also represents a concession to mass movements in his country.³ In most of our countries, unfortunately, political parties may treat ethnic, reli-

gious, linguistic, caste, regional and business groups as well as rich farmers as vote banks, but *not* workers, despite the fact that the overwhelming majority of our people survive by means of some form of wage labour, if we include the rural poor who cannot make a living from their tiny plots of land.

The other extreme was represented by India, which was representing *exclusively* business interests, and made no attempt to hide the fact. For example, in the period leading up to the WTO meeting at Seattle in November-December 1999, "N.N.Khanna, special secretary in the commerce ministry...said India's negotiations at the Seattle round of World Trade Organisation would be corporate-driven and would genuinely reflect the needs of industry. At a seminar on General Agreement on Trade in Services organised by Federation of Indian Chambers of Commerce and Industry... Khanna told industry to come out with policy papers which were knowledge-based so as to give inputs to the negotiations."⁴ Were workers and trade unions issued with any such invitation by the government? Of course not. Another headline says it all: "Industry spells out India's strategy for Seattle talks".⁵ One cannot accuse the Indian government of excluding civil society from the WTO negotiations: Indian business was very much involved, both before the Seattle meeting and even as part of the official delegation.⁶ The problem is that only the miniscule section of civil society constituted by the wealthy and powerful was involved. The Indian government was there not as the representative of its one billion people, but as the representative of Indian capital.

The other protagonists in the drama were the protesters outside. While many reports emphasise the rich variety of the protesting groups, they can be divided into two major groups: (1) those protesting against the WTO itself, and its agenda of globalisation and trade liberalisation; and (2) those calling for the incorporation of labour and environmental standards in WTO agreements. As one observer pointed out, there is an inherent contradiction between these two demands, although it was not apparent to many.⁷ What we are looking at in more detail here is the demand made by the labour activists.

What is the proposal?

First we need to be clear what exactly is being proposed, since the term that is being bandied about - i.e. 'labour standards' - doesn't tell us very much. What has in fact been demanded is that multilateral agreements of the WTO should contain a '*social clause*' setting out minimum labour and environmental standards which all members will have to abide by. The labour standards, demanded mainly by US trade unions (the AFL-

CIO) and the International Confederation of Free Trade Unions (ICFTU), consist of the International Labour Organisation (ILO) Core Conventions.⁸ What are these, and why have they been given such importance?

They are called 'Core Conventions' because they have been identified as being *fundamental* to the rights of human beings at work and a *precondition* for all other rights. They are seen as rights of *all* workers, including those in the informal sector and Free Trade Zones. In fact, on 18 June 1998, the International Labour Conference (i.e. the annual conference of the ILO) adopted the *ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up*. This declares that *all member states have an obligation to implement the Core Conventions even if they have not ratified them*. The ILO offers support and assistance to countries trying to ensure observance of these fundamental rights.

The Core Conventions deal with:

the right to organise and bargain collectively;
the elimination of all forms of forced or compulsory labour;
the abolition of child labour; and
the elimination of discrimination in employment and occupation.

The Right to Organise and Bargain Collectively

This is dealt with by Convention No.87, the *Freedom of Association and Protection of the Right to Organize Convention*, 1948, and Convention No.98, the *Right to Organize and Collective Bargaining Convention*, 1949.

Convention No.87 says that the right to organise will be granted to *all* workers and employers; only the armed forces and police may be exempted. Workers and employers are guaranteed the right to establish and join the organisation of their choice. The state cannot interfere with these organisations or suspend or dissolve them. These organisations have the right to establish and join federations and confederations, which have the same rights. All of these have the right to affiliate to international organisations of workers or employers.

Convention No.98 says that workers will be protected from anti-union discrimination and victimisation. For example, employers should not make employment conditional on not belonging to a union, nor should they dismiss or victimise workers in any way for joining a union or participating in its activities. Employers should not interfere with workers' organisations, for example by setting up employer-dominated unions or trying to control unions in any way. And the state is under an obligation to promote voluntary collective bargaining between employers and workers' organisations with a view to arriving at collective agreements regulating terms and conditions of employment.

These Conventions protect the more general fundamental right to freedom of association, but in the context of work and employment. The ILO considers them the most basic of the principles underlying its work. Therefore ILO members agreed in 1950 that even states

which have not ratified these Conventions should be subjected to a special system of supervision, to make sure that they respect organisational and collective bargaining rights. In 1951, a tripartite *Committee on Freedom of Association* was established to examine complaints from workers' organisations, employers' organisations and governments that member states are not respecting the basic principles of freedom of association. It meets three times a year, and can examine complaints even against countries that have not ratified the Conventions. *It is easy to see why the ILO considers these Conventions to be fundamental. If workers are free to organise themselves and bargain collectively, they can win many other rights.*

The Elimination of Forced Labour

This is dealt with by Convention No.29, the *Forced Labour Convention*, 1930, and Convention No.105, the *Abolition of Forced Labour Convention*, 1957.

Convention No.29 bans the use of forced or compulsory labour in all its forms, except when it is exacted by the state in an emergency or for military or public service. In such cases, the workers must be granted normal wages, working hours and weekly off-days, compensation for sickness or accidents, and support for their families if they are disabled or die. It cannot be for more than 60 days in a year.

Convention No.105 refers to the abolition of debt bondage, where workers are advanced money by the employer, and then forced to continue working for the same employer on the excuse that they have not paid back the debt. This Convention says that wages should be paid regularly. It rules out methods of payment which deprive the worker of a genuine possibility of ending or changing employment.

Forcing someone to work is obviously a violation of that person's human rights. What is less obvious is that it undermines workers' rights in general. If some people can be forced to work against their will, often for below-minimum wages or even no wages at all, this reduces the demand for free labour and exerts a downward pressure on everyone's wages and conditions.

The Abolition of Child Labour

This issue is covered by Convention No.138, the *Minimum Age Convention*, 1973. This calls for a national policy to ensure the effective abolition of child labour. It specifies that for most member states the minimum age for employment should not be less than 15 years, but less developed countries may initially specify a minimum age of 14 years. If the work is a risk to the health, safety or morals of a young person, the minimum age should be 18. But it may be lowered to 16, provided the health, safety and morals of these young workers are fully protected and they receive proper vocational training.

There has been a great deal of controversy about the abolition of child labour, with some people arguing that it is caused by poverty and can only be abolished if poverty is eliminated. But the following points should be kept in mind:

Anyone who has worked with children will know how much cruelty is involved in making a child do the same task for hours on end. In this sense, *all child labour is forced labour, which makes child labour as such a violation of human rights*. In addition, much of the work children do has a long-term negative effect on their health, and may lead to premature death. Children are extremely vulnerable to physical and sexual abuse and have far less capacity to fight back. Some forms of child labour are really forms of slavery. By denying the child's right to education, child labour condemns these children to unskilled and badly paid employment when they grow up.

Child labour results in adult unemployment and lower average wages, and is therefore a *cause* of poverty. Many countries with a large number of child workers have a high level of adult unemployment. Where children are working while adults sit at home jobless, we should ask ourselves, why aren't the adults being employed instead? Isn't it because employers use children in preference to adults in order to reduce their wage costs?

Different countries or even different regions within the same country with similar poverty levels can have very different levels of child labour. This suggests that it is not poverty as such but social attitudes to children which perpetuate child labour. NGOs taking children out of employment have found that parents learn to manage without their children's earnings once they have been convinced that child labour is wrong.

In most countries, girls suffer more from child labour because there is less emphasis on educating them. In such cases, child labour (including domestic labour) reinforces gender discrimination.

To sum up, it is clear that child labour is a gross violation of the human rights of child workers as well as detrimental to the labour force as a whole. It is also a violation of the *UN Convention on the Rights of the Child*, 1989, which deals with the human rights of children in a more general way. None of the arguments against its abolition have any validity.

However, it is true that actually taking children out of employment requires a great deal of time, effort and resources. The children may have to be provided with food, education, and in some cases (street children, for example) accommodation. Without this, the children could end up in an even worse situation. International assistance from the ILO and other agencies may be necessary for a government and local NGOs to tackle high levels of child labour.

Eliminating Discrimination

From the beginning, equality of opportunity and treatment has been one of the fundamental objectives of the ILO. This issue is taken up in Convention No. 100, the *Equal Remuneration Convention*, 1951, and Convention No. 111, the *Discrimination (Employment and Occupation) Convention*, 1958.

Convention No. 100 calls for equal pay for men and women for work of equal value. This applies to basic wages or salaries and all other payments, both direct and indirect. Deciding whether work is of

equal value would require objective evaluation of jobs on the basis of the work to be performed, without any discrimination based on sex.

Convention No. 111 calls for a national policy to eliminate discrimination in access to employment, training and working conditions, on grounds of race, colour, sex, religion, political opinion, national extraction, social origin or anything else, and to promote equality of opportunity and treatment in employment or occupation. Governments are required to pass laws and organise educational programmes to promote acceptance of equality of opportunity and treatment, and to set up a national authority to implement the policy.

Equality between women and men is also dealt with by another UN Convention, namely the *Convention on the Elimination of all forms of Discrimination Against Women (CEDAW)*, 1979.

Discrimination against particular sections of the labour force is not only a violation of the rights of those individuals; it also undermines the strength of the labour force as a whole. If some sections are paid less than others to do the same work, this undermines the job security of the better-paid sections, because employers will always be tempted to shift work to those who are paid less. If large numbers of workers are excluded from the formal sector on grounds of sex, ethnicity, religion, caste, national origin, etc., this creates a vast pool of informal workers who are so desperate that they will accept work on almost any terms. Employers can easily shift work to them at the expense of formal sector workers.

There is also a danger that discrimination converts differences within the labour force into sources of division and conflict between workers. Workers who are treated differently and denied equal opportunities have little or no motivation to join in the struggles of more privileged sections or to organise jointly with them. At best, this results in lack of solidarity; at worst, it can lead to bitter conflicts that tear the labour force apart.

These Conventions are especially important for women, who form the section most widely discriminated against throughout the world. But many other groups are also denied equal rights as workers. The fragmentation and weakening of the workers' movement which results from discrimination can be avoided only by a thorough implementation of these two Core Conventions.

What has been suggested already, and was reiterated by Clinton during the Conference, was that WTO member states which violate these Core Conventions should be penalised by trade sanctions.

The attitude of Third World workers to this proposal is necessarily more complex than that of either our governments - many of which articulate the interests of business groups without being much concerned about workers' rights - or developed country workers, who are not, on the whole, concerned about inequalities of power between nations. We have to be concerned about both issues. Hence we have to examine this question carefully, breaking it down into its constituent parts.

What Attitude Should We Take To The WTO?

The mandate of the WTO is to promote free trade, breaking down barriers to the movement of commodities and capital from country to country. Is this good or bad for developing countries?

For countries which adopted an import substitution strategy, this depends on their degree of industrialisation. China, Korea, India and various other countries would never have industrialised to the extent they have without some amount of protection - i.e., barriers to the free import of commodities, which would have ruined their nascent industries if it had been allowed. However, after a certain degree of industrialisation, trade barriers can become a fetter to further development. Barriers to imports can make local industry technologically backward, producing lower quality commodities at higher prices than they would if they were exposed to international competition and able to import technology. Barriers to exports (that is, import barriers erected by *other* countries) can prevent industries from expanding. For countries which have adopted an export-oriented strategy, the process of industrialisation and the very survival of the economy *depends* on access to markets in other countries. Imagine what would happen to the economy of Sri Lanka if it were unable to export tea and garments! Even if all imports were stopped at the same time, the effect would be devastating!

So if we look at the issue from the standpoint of the economies of most developing countries, access to global markets is crucial, and trade liberalisation - which removes barriers to such access - is actually in their interests. The complaint of most developing country governments is not that they are opposed to free trade (in which case, there is nothing to stop them from staying out of the WTO), but that they are not getting a fair deal: that developed countries are forcing them to remove barriers to imports even while they themselves retain or put up barriers against imports from developing countries. Thus, for example, Indian Minister for Commerce and Industry, Murasoli Maran, said that India "was committed to a strengthened, rule-based, non-discriminatory multilateral trading system that should be fair and equitable... He underlined that trade negotiations should concentrate on the core issues of market access ensuring smooth flow of trade..."⁹ Nor was this the concern only of the more industrialised developing countries. The United Nations Conference on Trade and Development (UNCTAD) did not issue a nearly 300-page handbook for trade negotiators from the Least Developed Countries (LDCs) simply in order to tell them to oppose globalisation and trade liberalisation;¹⁰ clearly, the message is that *equitable* trade liberalisation is in their interests. And Clinton picked up this suggestion when he argued that developed countries should provide tariff concessions to LDCs without demanding similar concessions in return.¹¹

It is not only domestic business in the Third World that would suffer if globalisation and trade liberalisation were reversed in favour of high levels of protectionism. Millions of workers who work in export production would at one blow become unemployed and destitute. The loss of their purchasing power could in some cases lead to other local industries closing down for lack of demand,

creating more unemployment. Farmers producing for export would be ruined. There could be wholesale economic devastation in some developing countries. Indeed, many of the NGOs and political parties currently protesting against globalisation would be the first to emit howls of outrage if this were to happen as a result of developed countries acceding to their demands! So trade liberalisation as such cannot be the enemy of developing countries - provided it is equitable. But does the WTO ensure fair play?

Many observers have welcomed the WTO as being more fair than the former GATT regime. Such an opinion is reflected, for example, in this report, hailing the WTO decision to uphold a complaint made by Venezuela and Brazil that US petrol norms discriminated against imports:

"The World Trade Organisation (WTO) has teeth. And it is willing to use them, even against the mighty United States. That should be a source of substantial comfort to all developing countries..."

Under WTO rules a dispute, including all appeals, has to be settled within eighteen months. Under the GATT, disputes could and did last for years on end. Even if and when the GATT dispute settlement panel did come to a decision, the ruling was practically worthless. GATT worked on the basis of consensus, which meant that a powerful country like the US could hold up the implementation of a ruling for an indefinite period...

The WTO now has the power to insist that the US change trade regulations that are in violation of multilateral rules or face the consequences - an unimaginable scenario under GATT...¹²

The WTO corrects some of the power imbalance between the rich and the poor countries that existed under GATT..."

A more recent case confirmed this view. India, Malaysia, Pakistan and Thailand won a case against the US, which had attempted to restrict imports of shrimps from these countries on the grounds that the fishing equipment they used did not have Turtle Excluder Devices (TEDs).¹³ An editorial commented:

"Xenophobes and anti-traders would do well to note the victory that has been won by the Indian fishery sector in a dispute at the WTO with the EU and the US. The triumph in these markets, two of the world's biggest, clearly shows that any suggestion of an international conspiracy against Indian exports is baseless. What it shows, too, is the utility of bodies like the WTO... it has acted just as an impartial regulatory body should... Another, earlier triumph for freer trade with the EU was that of unbleached cotton fabric exports to some member countries. Indian exports were allowed taking the interest of major consumers of the item into consideration."¹⁴

The consensus among those who have studied the way in which the WTO functions appears to be that it is a great improvement on the earlier GATT regime in terms of its impartiality between nations, and in no way comparable to the World Bank and IMF, which are

quite openly dominated by rich countries. According to Professor T.N.Srinivasan, chairman of the Department of Economics, Yale University, "Institutions like the WTO are rule-based and they are meant to protect the weak against the strong. Developing countries would be at a disadvantage against the developed countries in the absence of an organisation like the WTO."¹⁵ According to another comment, "WTO is an international body that functions on a 'one country-one vote' principle. Indeed, there is a standard American complaint that GATT and WTO have been hijacked by the developing countries."¹⁶

If these assessments are correct, then WTO Director General Mike Moore's charge that "protesters demanding the body be destroyed were working against the poor people and countries they want to protect"¹⁷, an African delegate's complaint against the protesters that "You are behaving like racists,"¹⁸ and an Indian NGO's accusation that "the rioters were targeting developing nations" and "almost managed to subvert the legitimate concerns of the Third World"¹⁹ are not entirely baseless, at least so far as the purely anti-WTO protesters are concerned. If the WTO is destroyed without a better alternative being set up, it would mean going back to a regime where developed countries could freely discriminate against developing countries (for example, by demanding higher environmental standards from them than from domestic producers, as in the petrol and shrimp cases described above) without the latter being able to seek redress in any way.²⁰ The biggest irony is that these NGOs echo the demands of right-wing US politicians like Pat Buchanan, one-time presidential candidate for the Republican Party, who want the US to pull out of the WTO because it imposes too many restrictions on their freedom!²¹

This does not mean that the WTO is perfect. There were many complaints from developing countries about undemocratic procedures,²² and there is certainly room for improvement. But the developing countries - who, after all, constitute almost three-quarters of the WTO membership - can achieve this if they work together to press for greater democracy in decision-making and transparency in the functioning of the WTO.

Labour Standards and the WTO

We now look at the other section of protesters, who were demanding the inclusion of labour and environmental standards in WTO agreements. Diametrically opposed to them were some of the Third World delegates, especially the Indians, who reiterated again and again their opposition to any such link.²³ How valid are their respective arguments?

The basic argument of trade union bodies demanding a link between world trade and workers' rights is that without this link, trade liberalisation *undermines* workers' rights by removing all obstacles to companies shifting production to parts of the world or to sectors where workers' rights are weakest, or importing products from them. This in turn puts pressure on countries or sectors which have stronger labour legislation to weaken it, so as to attract investment and avoid a flight of capital, and make their products competitive. The result is a 'race to the bottom', with the average level of

workers' rights globally going further and further down. This thesis requires further investigation, but at first sight it is confirmed by our experience. In both Sri Lanka and India, globalisation has been accompanied by a relative decline in production in sectors where labour legislation is strong, and relative increase in sectors where it is much weaker (Free Trade Zones in Sri Lanka, the unorganised sector in India). Moreover, when the government proposed to introduce trade union rights in the FTZs in Sri Lanka, employers threatened to shift their capital to countries where this right does not exist, and some in fact did so. The existence of workers without rights becomes a means of blackmailing workers who do have rights. Hence some trade unions have seen it as crucially important to fix a 'floor' or minimum level, below which workers' rights will not be allowed to sink.

Opposing this, some developing country governments, with the Indian government in the forefront, have put forward several arguments. Let us look at them one by one.

They say that labour rights are not a trade-related issue, and therefore should not be included in trade agreements.

This is not true: labour is certainly a trade-related issue. Firstly, it is labour that makes the products which are traded, and transports them to their destination: no labour, no trade. And secondly, there is evidence that trade liberalisation can have a powerful and often negative impact on workers' rights.

They say that it will wipe out labour cost differences between developed and developing countries, and thereby destroy any comparative advantages that poor countries have today.

This is not true either. There is no proposal for equalising wages between different countries. Even the issue of a minimum wage is absent from the Core Conventions. The proposal is only that *certain minimum workers' rights should be respected in all countries*. This argument of governments and employers amounts to saying that their competitive edge depends on violating such rights, which is totally unacceptable to workers and their organisations. If trade unions were to accept this argument, they would have to dissolve themselves, since every successful trade union struggle undermines the 'comparative advantage' of their own country!

They say that the imposition of global labour standards interferes with the national sovereignty of their countries.

The national sovereignty argument is a double-edged weapon. If developing countries use it to justify the violation of workers' rights in their nations, developed countries can equally well use it to say that it gives them the right to exclude imports from developing countries, and that forcing them to import any product from any country is a violation of *their* national sovereignty. They could (as the US in particular has done repeatedly) use it as an excuse for the arbitrary imposition of trade sanctions, which is precisely what developing countries fear! In fact, the whole point of trade agreements is to negotiate mutually acceptable rules governing trade *between* countries, and there is no reason why minimum labour

rights should not be one of the rules, so long as it is applied equitably. *They say that this provision will be used in an unfair and biased manner, and as a protectionist measure - that is, an excuse to keep imports from developing countries out of developed countries.*

This is a legitimate concern, and those who argue for a link between labour rights and trade agreements should be able to respond to it. What we need to do is to separate the question of principle - i.e., *should WTO membership be conditional on agreeing to abide by the ILO Core Conventions?* - from the practical question: *should the WTO be responsible for enforcing compliance with these Conventions, and should it use trade sanctions to do so?*

No trade unionist or worker in his or her right mind would object to the principle that in all WTO member countries - indeed, in all countries of the world! - *at least* the ILO Core Conventions should be implemented. In fact, many worker activists would feel that these rights are too minimal! Activists genuinely struggling for workers' rights as well as children's rights in India feel that the social clause proposal, *even in its present form*, could help their struggles.²⁴

The problem arises only when we ask: how will this requirement be implemented? Some trade unions have pointed out that the WTO is not qualified nor competent to investigate or rule on matters of workers' rights, and that its mandate of promoting free trade may conflict with the protection of such rights. They point out that a competent body - the ILO - already exists, and could more appropriately handle this task.

There are also objections to the use of trade sanctions against countries where these rights are violated. This is a bit like fighting a malaria epidemic by indiscriminately spraying the whole area with a highly toxic pesticide! You might kill the patients along with the mosquitoes, and you won't be tackling the underlying causes of the epidemic like bad sanitation, etc. Perhaps trade sanctions could be effective in situations like apartheid South Africa, where the government itself was responsible for massive violations of ILO Core Conventions. But most situations are not so clear-cut, and the prime culprit may not always be the government. For example, there are countries where IMF and World Bank structural adjustment programmes, by cutting government spending on infrastructure, welfare benefits and education, have led to increases in unemployment, poverty and child labour. Would it be fair for the WTO to penalise these governments for carrying out measures imposed on them by the IMF and World Bank? Surely it would make more sense to ensure that all such programmes are cancelled! Or what about cases where, say, Third World suppliers of a US-based retailer are using child labour, or Third World subsidiaries of a European company are engaged in union-busting? It would hardly be fair to penalise the governments of the Third World countries alone. And in some circumstances, trade sanctions could make matters worse for the people they are supposed to be helping!

One possible solution is that the ILO should be the body responsible for investigating complaints as well as recommending action, and should be provided with WTO funding to do so. Thus, if a government alleges, for example, that child labour is being used in another

country, the ILO would investigate this complaint, or refer to its own records. If the complaint is found to be false, it will be thrown out. If it is true, but the complaining country also has a child labour problem, this will be pointed out, and remedies suggested for both countries.

Action against countries that are violating Core Conventions need not take the form of trade sanctions. It could, for example, take the form of an embargo on arms sales to states which are repressing trade unionists and workers or states and armed movements which are using child soldiers. Or it might mean cancelling all aid to such countries except humanitarian aid and assistance for eliminating that particular practice, as the ILO has decided in the case of Myanmar and forced labour.²⁵ It could make debt cancellation conditional on the benefits being used mainly to upgrade labour standards. If retailers or transnationals based in developed countries are involved in the violation of Core Conventions in developing countries, the governments of *all* the countries could be fined, perhaps in proportion to their GDP, and the proceeds used to fund the elimination of child labour and other violations of Core Conventions. It would be the task of the ILO to suggest action that puts pressure on governments to protect workers' rights *without* adversely affecting the workers. Additional funding from the WTO would help the ILO to assist in this process.

The advantages of this system would be that (a) it would give the ILO some 'teeth' - i.e. enable it to penalise persistent offenders as a last resort, which it cannot do at present - as well as the resources needed for it to help governments to implement the Core Conventions; and (b) it would give the ILO and - through the ILO - trade unions, workers and NGOs concerned with labour rights, some say in the running of the WTO, instead of leaving it all to governments and employer lobbies. They could use this to raise questions such as: since the WTO is concerned with globalising commodity and capital markets, why not also globalise the labour market? Immigration controls do not stop labour migration, but instead create a mass of 'illegal' and therefore unorganisable and super-exploited workers, thus lowering labour standards in general. Open borders would give these workers legal status, and enable them to unionise and fight for their rights.

No one could dispute that *all* workers in *all* countries would benefit from the worldwide implementation of the ILO Core Conventions. But what about governments and employers? Here the results would vary. It is likely that countries like Sri Lanka and South Africa, where governments have expressed a commitment to protecting workers' rights, would benefit, because they would neither be flooded by cheaper commodities from countries without workers' rights, nor threatened by a flight of capital to such countries. Likewise, employers who are sympathetic to a recognition of workers' rights would benefit, because they would not so easily be undercut by those who are not. It is only the inveterate anti-worker, anti-union governments and employers who would suffer. And it is certainly not the business of workers or trade unions to protect them!²⁶

In fact, proposals have already been made that the ILO and WTO should work together on labour rights.²⁷ These should be discussed by trade unions in developing countries, and we should put forward our own proposal for a system which *both* protects developing countries from domination by big powers, *and* protects workers from exploitative and oppressive employers and governments. We can then argue for this proposal with trade unions from developed countries as well as fight for our own governments to accept it, on the grounds that their role in the WTO is to represent *not* just the tiny corporate sector, but the population as a whole, the majority of which consists of working people.²⁸ ■

Rohini Hensman is a free-lance writer living in Bombay.

Notes

(“IN” refers to Indian newspapers, and “SL” to newspapers published in Sri Lanka)

1. “WTO: US wants working group on trade and labour,” *Economic Times*, (IN) 1/11/99
2. “Clinton’s labour view stuns ministers”, *Economic Times*, (IN) 4/12/99; “Clinton still optimistic about new WTO round”, *Daily News*, (SL) 8/12/99
3. “NGOs lay siege to Seattle, delay inauguration”, *Business Standard*, (IN) 2/12/99; “Clinton makes strong pitch for labour, environment”; “US, EU agree on major issues”, *Business Standard*, (IN) 3/12/99; “WTO talks in Seattle”, *The Island*, (SL) 5/12/99
4. “Industry inputs sought for WTO talks”, *Business Standard*, (IN) 4/6/99
5. *Business Standard*, (IN) 17/9/99
6. “When the world’s an oyster...”, *Economic Times*, (IN) 12/12/99
7. Narendar Pani, in “When the world’s an oyster...”
8. “Labor groups challenge WTO on trade round”, *Daily News*, (SL) 30/11/99
9. “Maran opposes labour issues”, *Business Standard*, (IN), 2/12/99; also, ‘The Confederation of Indian Industry (CII) is urging for the government to forge an alliance with other developing countries... to present a common stand on issues of mutual benefit at the Seattle ministerial conference in November... CII is of the opinion that India should attempt to arrive at an understanding with eight to 10 important developing countries including Russia, Brazil, Mexico, Indonesia, Nigeria, Egypt, South Africa and Malaysia... Specifically, Indian industry wants the government to negotiate for greater access for Indian products and to eliminate non-tariff barriers.’ [“Developing nations must unite at Seattle: CII”, *Economic Times*, (IN) 16/6/99]
10. “Labor groups challenge WTO on trade round”, *Daily News*, (SL) 30/11/99
11. “Sops to poor nations: US wants quad support”, *Economic Times*, (IN) 3/12/99
12. “WTO ruling against US gives a ray of hope to Third World”, *Economic Times*, (IN) 21/1/96
13. “Shrimp import law is not discriminatory: US”, *Economic Times*, (IN) 15/10/98. The ruling was not that it was not necessary to use TEDs, but that the requirement had been used in a discriminatory manner against the complainants.
14. “It works”, *Economic Times*, (IN) 15/10/98; see also, ‘Ms Esserman pointed out that India had used the dispute settlement mechanisms of the WTO to win three cases on textiles, two against the US and one against the EU.’ [“India used WTO to settle textile disputes”, *Economic Times*, (IN) 29/10/99]; “WTO rules against Turkey over QRs on Indian textiles”, *Economic Times*, (IN) 3/6/99; and “US export subsidies are unfair, says WTO”, *Economic Times*, (IN) 28/7/99
15. “Anti-dumping is not in India’s interests”, Q & A / T. N. Srinivasan, *Business Standard*, (IN) 1/1/99
16. “Turtle hawks”, *Business Standard*, (IN) 16/10/98
17. “Protesters are acting against interests of the poor, says WTO chief Moore”, *Economic Times*, (IN), 2/12/99; “WTO talks in Seattle”, *The Island*, (SL) 5/12/99
18. “WTO baiters harming poor, claims Moore”, *Business Standard*, (IN) 2/12/99
19. Center for Science and Environment, www.oneworld.org/cse/html/dte/dte991231/dte
20. Perhaps we can conclude from this that NGOs can influence the WTO in a positive direction only if they are well-informed and clear about the issues; otherwise they could (unintentionally, perhaps) be upholding big-power domination within an unequal global order. According to one description, ‘Demonstrators... in discussions with reporters displayed little or no idea of how the 135-member WTO works or what its role in administering globally-agreed trade rules is’ [“WTO-baiters harming poor, claims Moore”, *Business Standard*, (IN) 2/12/99]. Such ignorance is an inadequate basis for intervention. NGOs proclaiming ‘The WTO Kills. Kill the WTO’ [“WTO: opening up trade while under siege!” *Sunday Times*, (SL) 5/12/99] seemed unaware that it is *capitalism*, not globalisation or the WTO as such, that kills, and unfettered capitalism kills more than capitalism regulated by bodies like the WTO: another NGO which thought that a law protecting turtles was ruled by the WTO as a barrier to trade [“WTO talks in Seattle”, *The Island*, (SL) 5/12/99] did not realise that it was not the law itself but its discriminatory application against developing countries that was ruled against. It was thus protesting against the very decision that was hailed by Third World countries!
21. “US to appeal WTO ruling on gasoline import regulations”, *Economic Times*, (IN) 20/1/96
22. For example, ‘The Organisation of African Unity... said there was no transparency in the process and the African countries were being marginalised’ [“Members object to WTO’s mode of decision-making”, *Economic Times*, (IN) 4/12/99]; ‘The developing countries predictably focused on the lack of transparency in the negotiating process... Their objections took on an angry edge when on Thursday security personnel were used to keep delegates from developing countries out of the Green Room. The Dominican ambassador reflected this anger when he said the failure of the negotiations was “an important lesson in humility for a small group of countries that seem to think that the WTO is a club”’ [“Seattle round of WTO talks hit by lack of transparency”, *Economic Times*, (IN) 5/12/99]; ‘Developing country diplomats and their ministers at the five-year-old World Trade Organisation’s first major test were insulted at the way they were brushed aside by the big powers.’ They

have been treating us like animals, keeping us out in the cold and telling us nothing," said veteran Egyptian trade negotiator Munir Zahran' ["Bad planning hits WTO con", *Sunday Times*, (SL) 5/12/99].

23. For example, "Maran opposes labour issues" and "No secret deal with US, Atal assures Oppn" in *Business Standard*, (IN) 2/12/99; "Working group to study labour-trade link" and "India to sign pact to help China's entry into WTO", *Economic Times*, (IN) 4/12/99; "WTO - Unresolved Disputes at Seattle", *The Island*, (SL) 12/12/99; and many more.

24. For example, union activists pointed out that even though the protectionist interests of Lancashire millowners was behind much of the labour legislation in India, it has nonetheless been used to good effect by the trade unions, and that unless workers' rights are linked to trade, it will be impossible to enforce them. (Discussion on the social clause at the Blue Star Workers' Union office, Bombay, April 1995). And an activist from the Centre for Concern for Child Labour said that in the context of a rapid increase in child labour, "the social clause is the only silver lining in an otherwise dismal scenario". (In "Report of the Proceedings of the National Consultation on Social Clauses in Multilateral Trade Agreements", New Delhi, March 1995). However, the national trade union federations in India have rejected any linkage between labour rights and trade in almost the same terms as the various Chambers of Commerce and Industry!

25. "ILO bars Burma over forced labour", *Business Standard*, (IN) 19-20/6/99

26. Our focus here is on labour rights, so we have not taken up the environmental issue, but we might just comment that there is no sense in the mindless opposition of developing countries to an environmental clause, so long as it is genuinely egalitarian. For example, Indian environmentalists have pointed out that even the existing WTO rules can be used to keep polluting second-hand cars out of the Indian market - provided the same rules are applied to domestic manufacturers, since the WTO does not allow discrimination ("Taking Indians for a ride", *Business Standard*, (IN) 5/10/

99). This would come as a welcome reprieve for urban residents, especially children, whose lives and health are increasingly at risk from vehicular pollution. Developing countries could press for stronger controls on the emission of greenhouse gases by developed countries, which is causing global warming and imminent submer-sion of many islands and low-lying areas. The vast majority of Third World people have more to gain than to lose from environmental protection.

27. See, for example, Bill Brett, "The ILO and the WTO", *International Union Rights*, Volume 2, Issue 1

28. We should be warned, however, that it will be a tough fight to get some governments to accept a linkage between world trade and workers' rights in any form. According to one report from Seattle, 'India and other developing countries yesterday got a rude shock when the secretariat of the World Trade Organisation (WTO) without prior consent convened a ministerial group headed by Costa Rica on trade, globalisation and labour. To add insult to injury, the United States circulated a draft proposal conceived by Korea, Switzerland and Turkey to establish a joint ILO/WTO standing working forum on trade, globalisation and labour issues. Among other things, it will engage in dialogue to examine the relationship between trade policy, trade liberalisation, development and core labour standards, and *explicitly exclude any issue related to trade sanctions*. Enraged developing country representatives ranged themselves against the proposal and questioned the legitimacy of the committee... Briefing newsmen immediately after the incident, commerce and industry minister Murasoli Maran said, "We were taken by surprise. There is no question of us accepting it. But now, we have to be very careful and watchful." ("Ministerial group on labour, trade convened", *Business Standard*, (IN) 4-5/12/99; my emphasis.) The fact that Maran and others were so categorically opposed to *studying* the relationship between trade and labour standards, *even* when the issue of trade sanctions is explicitly excluded, exposes them not as the champions of Third World rights they claim to be, but as advocates of the fundamentally immoral position that the rich and powerful must have the freedom to violate the rights of the poor and vulnerable.

A Bibliography

on

Women in Conflict

Bhavani Loganathan & Mangalika de Silva

This Annotated Bibliography highlights writings on many aspects of gender in situations of conflict. The material is wide-ranging, from the voices of women who have suffered, to the analysis of the effects of war on women. An important data base for future research on themes of women and war. A useful tool, particularly relevant at this period in our critical history when the conflict rages on.

Published by the Social Scientists' Association

Available at : **Suriya Bookshop**

425/15, Thimbirigasyaya Road, Colombo 5.

Tel: 501339, Fax: 595563, e-mail: ssa@eureka.lk