

Look Before You Leap: "Core" Labour Rights

References to "core" labour standards or "core" labour rights, particularly in the context of developing countries' failure to abide by them, are becoming increasingly common in the press and public discourse. In particular, the United States and France, supported by human rights activists and organized labour, are pressing for the enforcement of "core" labour standards by the World Trade Organization (WTO). The term, and the issues it embraces, will be key in any future multilateral trade-labour standard discussions. But what does the term signify in a conceptual and legal sense, and do the various users of the term employ it in the same way? Moreover, inappropriate use of the term may distort public understanding and expectations of the linkages between trade and labour standards and interfere with progress on the issue. This Commentary attempts to examine the concept of "core" labour rights, while illustrating some of the difficulties arising from its overly casual use.

The Concept of "Core" Labour Rights

Labour standards are instruments for government intervention in labour markets. International labour standards, i.e., International Labour Organization (ILO) standards or what is called the International Labour Code, are international agreements on how governments intervene in their respective jurisdictions. Yet, "while national legislation directly applies to relations between the State and workers and employers, the ILO's international standards can have the same effect only with the assent of the member States, as signified through ratification of the instrument."¹ How governments at the national or sub-national level intervene, whether or not in accordance with the International Labour Code, constitutes their labour policy.

There is a wide range of potential government interventions, such as minimum wages, pensions, maternity leave, hours of work, and health and safety. The concept of "core" labour rights is an attempt to distinguish labour standards that reflect levels of economic development from labour "rights" that are fundamentally human rights. The term "core" labour rights captures government interventions that are most clearly

¹International Labour Office, Report of the Director-General (Part 1), Defending Values, Promoting Change, International Labour Conference, 81st Session 1994, p.43. Nevertheless, unlike the ILO Conventions, the Constitution of the ILO requires that all members accepted the principle that the "freedom of expression and of association are essential to sustained progress." Source; Declaration concerning the aims and purposes of the International Labour Organization, Art. I(b).