

Reflections about the strategy of the International Union Movement to defend the Basic Labor Rights in the World Trade Organization (OMC)

The following lines contain opinions of absolute personal character although absolutely open for debate. They come from who has been for quite a long time directly involved in efforts to strengthen the organization of workers at international level aiming the assurance at least of the respect to their most elementary rights facing new-liberal globalization.

Through texts and conversations we notice a big frustration from the part of some fellow union leaders due the failure of another WTO Ministerial Conference this time in Cancun. It comes particularly from the International Confederation of Free Trade Unions (ICFTU) claiming that without new negotiation rounds there wouldn't exist means to include the promotion of core labor standards in the negotiation mandate of the institution. Another consideration made is that after almost ten years continuous effort to keep unfurled the flag in respect to these basic rules little would have been attained in practice and in no moment we could engage the union centers of the poor countries to stick to the cause. After all the campaign has been carried out in order to defend the rights of these workers! And even worse, there were unions joining the "NGO's" in the streets demonstrating against the WTO and the start of a new Round!

I believe my friends are mistaking in regard of the two first evaluations and right about the third. Firstly a lot has been implemented internationally to promote international labor standards but the demand to simply include them in the WTO rules has been polemic and should not be the only strategy of the international union movement to face the increasing exploitation of workers triggered by globalization. And last but not least whether the people who are supposed to be the most interested are not supporting the cause, for sure there must be something wrong. At least the way the subject has been dealt with.

The promotion of core labor standards

There are references about the importance of the promotion of social justice and respect to workers rights in several international treaties definitely established along the 20th century. Starting from what founded the International Labor Organization (ILO) in 1919 until the preamble of the Havana Charter in 1946 when governments tried to create the International Trade Organization (ITO).

Although ICFTU has alluded itself in several occasions in these and other declarations the strategy of bounding basic labor rights to international trade rules got strengthened in the last conference of GATT's Uruguay Round in 1994 in Marrakesh when the decision to found the WTO was taken too. In this occasion the North American government supported by the French one proposed to introduce rules in the WTO to inhibit the so called "social dumping" which means the competition in international trade with low cost products due to extraordinary reductions in labor costs. This additional exploitation of workers takes place due to the lack of trade union freedom, absence of collective bargaining and utilization of child and forced labor, as well as racial, gender and other discriminations at the labor market by means to impose on these more vulnerable groups the worst conditions and lower salaries.

According to the ICFTU's proposal the fight against "social dumping" would take place through a "Social Clause" to be introduced in the WTO obliging the member countries to respect the core labor standards enforced by a series of ILO Conventions. These conventions are the 87 and 98 which ensure the right to freely organize and to bargain collectively, conventions 29 and 105 to forbid forced labor, the 138 establishes the minimum working age and conventions 100 and 111 forbid any kind of discrimination at the labor market.

This proposal was refused by the developing countries particularly Brazil and India who interpreted the proposal as a new form of protectionism in the world trade and argued that the appropriate forum to deal with those themes should be the ILO. They became suspicious due to the "godfathers" of the proposal and because of the possibility of trade restrictions which could affect the majority of the developing countries usually more competitive in sectors where labor is more intensive, like textiles, footwear, agriculture, etc.

Despite this resistance, the polemic generated from that moment on and the lobby applied on reticent governments as well as the debate raised around the theme in a number of further events like the ILO and WTO Conferences and other international events put the need for respect of international labor standards definitely on the agenda.

The initiatives to promote good labor and social practices became stronger in some multinational companies albeit always as voluntarily measures and without considerations to the firms which are parts of their productive chain. As another follow up we got the review of the Guidelines of Multinational Companies in the Organization for Economic Cooperation and Development (OECD), new certifications like the SAE 5000, the "Global Compact" of the United Nations (UN), corporate agreements, schemes of corporate social responsibility, among others.

There were also a number of initiatives to strengthen the role of the ILO in order to reinforce its core labor standards by means of a campaign to increase their number of ratifications by the country members and to amplify the focus on the violation of these conventions in the Committee of Application of Standards. The approval of Convention 182 in order to abolish the worst forms of child labor and the approval of the ILO's Declaration of Principles and Fundamental Rights were also very important.

Therefore I believe the theme is on the globalization's agenda but at least two things are missing. Firstly the trade union movement needs to learn how to get organized at international level in order to oblige the enterprises to accomplish the standards worldwide and secondly to constitute efficient supra-national legal instruments due to the weakening of the National States legislations.

International trade union action

The progress of transport and communication means turned possible the transformation of the world capitalist paradigm into the present neo-liberal globalization. The same tools can

also be used to make possible a better trade union articulation at international level in order to quickly react to the constant violation of rights produced by the present system.

Articulated actions at international level in one single company can lead to good results and there are a number of practical examples of victories reached by trade union organizations in different countries when they act together. A good example was the case of the cooperation between North American and Danish unions to force the ISS, a Danish company of the cleaning sector to recognize and settle with the local union of the Service Employees International Union (SEIU) in the USA. The ISS was opposing the creation of a Local taking advantages out of the North American legislation anti-union spaces. However the ISS backed off due to a lawsuit threat in the company seat country moved by the Danish unions. This took place in the beginning of the 90s.

Another example previous to the above and also in the USA took place during a miners strike in Pittstone - Pennsylvania still in the 80s. The miner's union invited a representative of their counterpart from Solidarnosc - Poland to visit the site in conflict and his declarations that the labor conditions in this sector in the USA seemed to be quite similar to those in Poland, were extremely constrained for the American government which was in the front line to knock down the communist regimes Eastern Europe.

During a long Australian longshoremen strike in the beginning of the 90's they could count on the concrete solidarity of their comrades of the harbor in Durban - South Africa who refused to load and unload Australian ships during the conflict.

The Brazilian metal and chemical workers could count on the involvement of the German unions to assure the creation of a shop steward system at Volkswagen and BASF plants in Brazil.

There are hundreds of other examples but it's worth at last to mention the experience of the Social Observatory Institute in Brazil (SOI). It's a research institute created by the CUT which is the main Brazilian workers confederation together with other institutions in the area like the Interunion Department for Social and Economic Studies and Statistics – DIEESE, the Center for Studies of Contemporary Culture – CEDEC and the University Network – UNITRABALHO. Its goal is to evaluate and whether possible even monitor the behavior of companies and/or productive chains regarding the ILO core labor standards as well as internal and external environment. Recently it also started to evaluate corporate social responsibility policies the companies claim to apply them.

The information contained in the SOI reports has served as basis for several supra-national actions of Brazilian unions and of other countries especially when specific problems are detected like for example, disrespect to union liberty, absence of collective regular negotiations, issues concerning labor health and safety, among others. This way there have been initiatives from the part of Brazilian and Danish pulp and paper workers from Hartmann company, Brazilian and Germans chemical workers from Bayer and BASF, Brazilian and German metal workers from Thyssen and food and commerce workers from Brazil and The Netherlands respectively employed at Unilever and Bom Preço Supermarkets. A newspaper report produced by the SOI about the effects of mining on the

environment in the local state Amapá has just won one of the most important media prizes in Brazil.

The supra-national union action is possible but depends still on much communication structure, learning of other languages, bigger involvement of the Global Union Federations (GUF), etc. The majority of those has given more importance to select negotiations with multinational enterprises in order to establish “Corporate Agreements” or codes of conduct which rarely are applied in practice due to the basic unions ignorance about them, lack of participation or even due disagreements in relation to the contents of these agreements and codes.

The supra national legal mark

No doubt that the ILO is the only organization of the United Nations system specialized in labor issues. Moreover it is also the only with a tripartite administration where its governing body is shared by representatives from governments, employers and workers. It possesses normative powers expressed by means of its constitution and its conventions, recommendations and rules in general. Conversely it is inefficacious since its coercive power is only moral and above all applied in a prudent and slowly way.

Therefore it's natural that workers seek for other mechanisms to enforce the respect for their rights more and more violated by the consequences of new-liberalism in particular the free trade agreements which have displaced industries from one side of the border to the other just looking for cheaper and obedient labor.

This explains why so many social and union initiatives have come up to try to assure the incorporation of defense mechanisms for labor and environmental standards in regional and continental free trade agreements. Without considering the efficacy of any of them we could mention the General System of Preference adopted by the USA and European Union with considerations for labor standards, the Mercosul Social and Labor Protocol and its Follow-up Committee, the Nafta Parallel Agreement, the European Social Charter and so forth. The achievement of these mechanisms in the cases of the European Union and the Mercosul only became possible as results of strong supranational pressure applied respectively by the European Trade Union Confederation – ETUC and the Cordinadora de Centrales Sindicales del Cono Sur – CCSCS. In the case of the Nafta Parallel Agreement it was an attempt of Bill Clinton the American presidential candidate at that time to please the AFL-CIO.

Most of the rights that these agreements pretend to defend are based on other international treaties particularly the ILO conventions, the United Nations Human Rights Universal Declaration, the Inter-American Declaration of Human Rights, the International Declaration of Childrens Rights among many others. Therefore there is no discussion about their legal validity. But once more the absence of an efficient coercive instruments is the barrier against their integral accomplishment. Therefore some union organizations proposed to use the WTO to enforce the respect for labor standards due its power to apply commercial sanctions although this reason has not yet been openly recognized.

Why don't the poor show enthusiasm?

I had the opportunity to attend many ICFTU meetings dealing with the matter where many expositions and testimonies showed the importance in doing something to defend workers rights at the present. The same impression was enforced by attending several ILO meetings as well. The figures are just bizarre. Millions of children at work. Millions of workers of different ages in bounded or forced labor and in certain countries as a result of state policies like those in Myanmar. We already know very well about trade union repression often applied in Brazil which is the most dangerous country in Latin America for union activists although far behind Colombia. I had the opportunity myself to visit "maquiladoras" on the Mexican border with the US, Honduras and Nicaragua to learn about labor conditions, absence of regular labor contracts, discriminations of all kind and so forth.

I don't have any doubt about the need of enforceable international rules to deal with the growing violation of workers rights in the world. But at the ICFTU meetings mentioned above it was visible that the bond between core labor standards and trade rules got a strong support from the unions of the industrialized countries. It also had some support from an important part of developing countries unions like the Brazilians and South Africans although with some observations. But the proposal faced open opposition from the ICFTU's Indian affiliates ITUC and HMS. From the part of the remaining members what we got was a big silence albeit we knew that many of them were opposing the clause. To make it clearer. The poor and the offended never demonstrated any enthusiasm for the cause at all!

At least we can conclude that the theme does not unify the international trade union movement and it doesn't do it because just the introduction of a Social Clause in the WTO won't solve the workers and unions problems in the south of the planet. What does the right to organize and the right for collective bargaining mean for an unemployed worker or for a worker left to informality? His or hers priority is to get a formal job and starting from it to look for his or her rights. The other way around doesn't exist.

This means that the priority regarding trade for the workers in the poor and/or developing countries is to make it to produce wealth, jobs and rights. This means to implement a different trade model from that existent today which is concentrating most of its benefits in the industrialized countries. These respond today for two thirds of world trade and half of this happens among themselves with a growing trend.

Therefore the discussion about exceptions in international rules of commerce for the developing and undeveloped countries is fundamental. The same regarding their access to the agricultural and textile market of developed countries as well as the withdrawal of the Singapore issues from the agenda. The international union movement can not deal with the WTO without adressing the issues mentioned above.

It's necessary to understand that the poor countries don't have the slightest condition to proceed with the liberalization process of their economies. They already have lost a lot with the sudden and deep tariff reductions triggered by the Tokyo and Uruguay GATT rounds.

After the creation of the WTO the developed countries also began to claim for negotiations to liberalize investments, services, governmental purchases and intellectual property. Each one of these new measures besides benefiting first their mentors impedes even more the poor countries to handle their economies with autonomy because these agreements will destroy or at least weaken the remaining instruments of macro economical policy management.

The State also has a vital role to assure the respect for fundamental labor rights. But the present new-liberal policies have eliminated its presence in the economy and reduced its funding through privatizations and deviation of resources for payment of high interest rates to financial speculation. Thus the State is prevented from exerting its function regarding the workers rights promotion and even to apply its coercive power in the case of their violation.

The ICFTU and its affiliates in the industrialized countries have criticized the neo-liberal policies and the globalization due to the growth of trade union and human rights violations and have vindicated a globalization with a human face. Nevertheless they have frequently been dubious regarding their positions about the State and its role. More State or less State? That's the question. The denouncements of violation of labor rights by national or multinational enterprises adressed to the ILO or other international forums usually are followed by requirements of measures to be taken by the State to cease them. These measures consist in elaboration of laws, promotion of rights, inspections, police interventions and so forth. If the State doesn't succeed to persuade the companies to act ethically nobody cares if it is because the lack of resources and political weakness due new-liberal policies. The next time it's the State itself that turns to be denounced as responsible for the violations and this is a tremendous contradiction if the trade union movement accepts "less state policies".

Therefore if we want national states to be empowered in order to force companies to respect workers rights we cannot allow them to be privatized or weakened by new-liberal policies. This also implies in blocking the approval of new themes under negotiation in the WTO like governmental procurement, liberalization of investments, intelectual property, and others which would eliminate more State capacity to handle macro economic policies. It is necessary to keep coherence. To defend the Social Clause in the WTO also implies in defending a powerful and democratic state. Otherwise we could even advance toward better rules without the appropriate tools to have them accomplished.

The same reflexion is also valid when we deal with certain regional processes like the Free Trade Agreement of the Americas (FTAA). Some unions claim that the problem of FTAA is the exclusion of labor standards in the negotiations as well as the workers from the negotiation table. Of course that's not the problem. The FTAA's problem comes from the fact that it is a "WTO Plus" or a Nafta extended to the hemisphere as a whole in order to deepen new-liberalism in the region even more. The present evaluation is that the Latin American countries have nothing to gain with this agreement. Particularly the more industrialized countries like Brazil and Argentina because they would have to expose what is left of their industry to international competition without earning anything in exchange. That's without mentioning the meaning of the Singapore issues also under discussion in the FTAA.

Would the FTAA bring a better economic outcome for the poorer countries even if its agreement embraces ILO's core labor standards? Of course not and in this case what is into play is not to assure a more democratic FTAA and with a more human face but prevent it to be approved. Core labor standards is not a medicine for all kind of disease.

There is also a concern about not to allow the struggle for workers rights to become a protectionist instrument. It arises because existing empowerment of the WTO to apply commercial sanctions for the countries who brake the rules and in case of the introduction of a Social Clause the same sanctions could theoretically be applied too. This discussion has never been really transparent. If the possibility of sanctions is desirable, who decides to apply them? Under which criteria? How? For instance a possibility could be the application of positive sanctions which means the offer of preferences in trade for those countries who accomplish with workers rights.

The mere vindication of a Social Clause or the promotion of the fundamental workers rights in the WTO are not sufficient. It should be followed by a proposal of a balanced and fair trade, strengthening the role of the State in the promotion of the workers rights and finally by measures that guarantee non-protectionist mechanisms of application. As I heard once a professor from the University of Witswaterrand of South Africa, Eddie Webster saying in a conference about "Trade and Labor Rights" given in Maddison – USA: "Give us access to your markets and we will return you the Social Clause".

Actually we need to construct an agreement among unions from the developed world and the unions from the non developed countries. To achieve this we should try to compose a package including:

- a) A vision of international trade rules towards development with exceptions for developing countries and access to markets of developed countries by textiles and agricultural goods.
- b) Suspension of the negotiation of the Singapore issues.
- c) Support of a strong and democratic state.
- d) Enforcement of core labor standards as a part of trade rules prevented from protectionism.
- e) Definition and clarity about labor rights and trade sanctions.
- f) Development of a program of the ICFTU and the GUF's in order to strenghten workers organization at multinational companies.

It's important for union leaders of the industrialized countries to understand that it is necessary to formulate a more complete proposal about the trade and workers rights issue and that transparency is also needed concerning the possibility of trade sanctions. The mistrust has to be overcome. If nothing is going to be done the vindication of a Social Clause in WTO will always be seen as a way for the First World workers to defend their rights threatened by the "social dumping" applied in the Third World. This argument is often used and many times in bad faith by governments from developing countries to avoid discussions about violations of workers rights in their own countries.

On the other hand, it is also necessary for the union leaders of the poorer countries to be more engaged in these discussions formulating proposals under the risk of not doing it and to have to face unilateral protectionist measures. Like those the US government already has been introducing in its legislation or by the possibility that they also already possess to suspend the access to GSP of the countries that do not fulfill the fundamental labor regulation. It's also convenient to remind that the complain to GSP can also be done unilaterally by the USA.

If we succeed in building this agreement, I believe that we'll be contributing to avoid that the existing economical gap between the north (developed) and the south (undeveloped) regions does not turn into a political gap which could be a another disaster for the working class of the world.