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BRAZIL INSTITUTE AND THE PROGRAM ON SCIENCE,
TECHNOLOGY, AMERICA, AND THE GLOBAL ECONOMY

Promoting Democracy and Rights at Work: Making a Difference

EXECUTIVE SUMMARY

The Declaration on Fundamental Principles and Rights at Work, adopted in 1998 by the International Labor Organization (ILO), represents the global consensus on labor standards and establishes rights in the workplace to provide equal opportunities for all workers. On September 18, 2007, the Brazil Institute and the Program on Science, Technology, America, and the Global Economy (STAGE) of the Woodrow Wilson International Center for Scholars hosted a two-panel conference sponsored by the ILO to present and analyze the main findings of the independent evaluation *Rights at Work: An Assessment of the Declaration's Technical Cooperation in Selected Countries*. Written by Colin Fenwick, director of the Centre for Employment and Labour Relations Law at the University of Melbourne Law School and by independent consultant Thomas Kring, *Rights at Work* assesses the results of the Declaration's programs in Brazil, Indonesia, Vietnam, and Morocco, and offers a general overview of the Declaration's accomplishments in the past 10 years.

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(2005-2007).

The first panel introduced the Declaration's approach and explained its programmatic rationale. It consisted of the Executive Director of the Standards and Fundamental Principles and Rights at Work Sector of the ILO, Kari Tapiola, Deputy Under-Secretary for International Affairs at the U.S. Department of Labor's (DOL), Charlotte Ponticelli, and the report's co-author, Colin Fenwick. The participants of the second panel, Helga Ying, director of Worldwide Government Affairs and Public Policy at Levi Strauss, Mércia Consolação Silva of the *Instituto Observatório Social* (Social Observatory Institute), and Global Program Manager for the ILO's Better Work Program, Ros Harvey, represented the Declaration's tripartite constituency of employers, workers, and government representatives. They offered insight into the lessons learned from the Declaration's work elsewhere in the world.

Director of the Brazil Institute *Paulo Sotero* and Director of STAGE *Kent Hughes* introduced the topic of workplace rights and stressed the



importance of the ILO in fostering dialogue and establishing international workplace standards. Sotero highlighted the Wilson Center's critical role as a non-partisan establishment in Washington for informed debate on public policy and, more specifically, the Brazil Institute's commitment to fostering an independent forum to examine contemporary developments in Brazil.

Setting the agenda for discussion on Fenwick's report, *Jessica Seacor*, the special assistant to the director of the ILO, explained that the Declaration has programs in more than 70 countries aimed at building and improving their capacities to ensure basic rights at work. She also noted that the United States has been the largest donor, with the DOL playing a crucial role in many of the ILO's programs. *Kari Tapiola* provided a comprehensive perspective on the Declaration and the four core areas of emphasis. The Declaration sets out four categories of rights in the workplace: freedom of association and the right to collective bargaining, the elimination of forced and compulsory labor, the abolition of child labor, and the elimination of discrimination in the workplace. Rights at work apply to all countries, regardless of whether or not they have ratified the relevant ILO conventions, emphasized Tapiola. Furthermore, all countries have to go beyond the legal obligation of ratification to implement such standards and report regularly to the ILO on their application.

THE DECLARATION IN ACTION

Since the adoption of the Declaration a decade ago, fair labor standards have been strengthened and increasingly accepted as ILO standards, explained Tapiola. These categories of rights have roots in the ILO Constitution's core principles, which all the ILO member states—both ratifying and non-ratifying nations—have pledged to

Basic rights at work help build democracy by strengthening labor market institutions, reforming legal frameworks, and increasing the capacity of labor ministries and other key institutions.

The Declaration on Fundamental Principles and Rights at Work sets out four categories of rights in the workplace:

- Freedom of association and the right to collective bargaining;
- The elimination of forced and compulsory labor;
- The abolition of child labor; and
- The elimination of discrimination in the workplace



Kari Tapiola

respect. The entire multilateral system, including not only international financial institutions but also regional cooperative bodies and, most notably, the United Nations Global Compact, have accepted and adopted the consensus interpretation of the standards. The four principles are also increasingly referred to in framework agreements signed between corporations and global union federations, effectively making adherence to these principles a crucial component in labor negotiations—even at the national level. However, more must be done to increase further the ratification rate: to date, 16 out of the ILO's 181 member states have yet to ratify the workplace conventions.

Since its adoption in 1998, continued Tapiola, the Declaration has expanded its effectiveness and activities. Inter- and intra-national technical cooperation is now commonplace. With the help of 30 donors, the International Program on the

Elimination of Child Labor (IPEC) has achieved tangible results in over 80 countries. Between 2002 and 2006, the work of the ILO, and others, has helped decrease the number of child laborers by 11 percent and the number of children ages 5 to 14 in hazardous work by 33 percent. Programs combating both traditional forms of forced labor, such as bondage and slavery, as well as human trafficking, have been enacted and now operate in over 30 countries.

Charlotte Ponticelli reported on the transformative experiences that have come about from the ILO-DOL partnership. An early advocate of workplace rights, the United States immediately promoted and implemented the rights at work upon passage of the Declaration. To date, the DOL has helped fund and implement programs in 31 countries. In his second inaugural address, President George W. Bush stated, “it is the policy of the United States to seek and support the growth of democratic movements and institutions in every nation and culture.” Furthermore, Ponticelli noted that all of the free trade agreements signed by Bush have recognized the importance of the Declaration's principles. Basic rights at work help build democracy by strengthening labor market institutions, reforming legal frameworks, and increasing the capacity of labor ministries and other key institutions.

TANGIBLE RESULTS

Ponticelli offered substantial evidence of how DOL-sponsored ILO Declaration programs have had a positive impact on the lives of workers. In Bangladesh, for example, a DOL-funded Declaration program trained 400 garment industry factory managers on labor relations and working conditions. Additionally, more than 72,000 factory workers were provided educational sessions on their rights in the workplace. This program now

boasts tangible results: more than 300 Bangladeshi factories have introduced workplace improvement plans. One program in Central America established electronic case management systems in national labor inspectorates that enable inspectors to work in a more efficient and transparent manner. In Nepal, a program assisted in the organization of more than 34,000 workers into three trade unions. DOL funds helped Tanzania and Uganda pass new labor laws in harmony with the Declaration's principles, upgrade their judicial and settlement machinery, and improve the overall quality of labor inspections. Finally, programs in Oman and Bahrain are formalizing the tripartite cooperation and dialogue needed to mitigate and mediate labor issues.

Such an emphasis on performance and results, as can also be seen in the *Rights at Work* report, reinforces the argument that program costs must be assessed alongside program outcomes. Ponticelli recognized that, while whole systems cannot be changed overnight and real change takes a lot of commitment, resources, and time, significant results can and have been accomplished with small—but well-targeted—programs. The Declaration's programs are noteworthy for their ability to point countries in the right direction of reform, setting them on a self-sustaining course of positive change. The programs show that, with good administration and knowledgeable and experienced professionals, institutional change is possible. In this way, she argued that all countries can and should stand up in defense of freedom, end discrimination, provide help and hope for the most vulnerable, and expand economic opportunities for all.

RIGHTS AT WORK

To illustrate the effectiveness of the programs, *Colin Fenwick* presented practical achievements and

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challenges from his findings of the Declaration's programs in Brazil, Indonesia, Morocco, and Vietnam. First, the Declaration serves as both a guide for national action and a catalyst for the political will needed to enact change. The principles embodied in the Declaration are capable of assisting in a wide variety of countries—each of the four countries are at different stages of socio-economic development and working toward some type of democracy—looking to transform themselves socially and economically. Second, while each of the projects had specific objectives and therefore had to be limited in scope, basic rights are promoted as inter-linked objectives and thus related to each of the other principles in the Declaration. Third, involving institutions right from the outset is

critical. Programs have focused on strengthening legal institutions and increasing the capacity of unions, employer organizations, as well as ministries and government agencies that oversee the operation of laws. Fourth, working with all partners involved is necessary to implement the Declaration. According to Fenwick, since the Declaration is highly compatible with helping to promote both democracy and good governance, programs must incorporate the concerns of all relevant stakeholders, namely employers, workers, and the government. Finally, by encouraging and fostering social dialogue and engagement between the state and civil society, Declaration programs create sustainable outcomes on finite projects with relatively small budgets. Results are self-perpetuating and progress thus continues long after individual projects are completed.

Fenwick's assessment of the four country's Declaration programs was structured around four themes: combating forced labor, discrimination in the labor market, association and bargaining or labor/industrial relations, and poverty and the informal economy. Brazil's Project on Combating Forced Labor, a five-year program that cost US\$ 1.7 million, succeeded in freeing over 17,000 workers from conditions of forced labor. The Project also trained over 1,000 judges, as well as thousands of prosecutors and lawyers, and helped resolve the conflict between federal and state jurisdiction over which level of government should deal with laws concerning practices of forced labor. Furthermore, the ILO worked closely with civil society to facilitate cooperation and help raise awareness through increased media coverage. With its help, a corporate social responsibility initiative was established, with more than 60 companies agreeing not to do business with firms that profit from forced labor. In order to address issues of

discrimination in the labor market, Declaration programs in Brazil assisted in the creation of two cabinet-level agencies to handle racial and gender discrimination. There has been less work, however, in the area of freedom of association and collective bargaining. While Brazil's Declaration projects have had significant results, the country is still plagued with high levels of poverty and more than 50 percent of labor market participants operate in the informal sector.

Until recently, Indonesia was the subject of the most stringent scrutiny by the ILO's system for supervising compliance with conventions. After the fall of Suharto's regime in 1998, however, Indonesia quickly recommitted itself to the ILO and the principles of the Declaration and subsequently became the first country in Asia to ratify all eight of the core conventions. The Declaration's program for Indonesia focused on revising the legal system and national labor laws.



Colin Fenwick

BRAZIL INSTITUTE AND THE PROGRAM ON SCIENCE

Within this realm of labor reform, the ILO was involved from the very beginning to the end of the tripartite process. The program assisted in the promulgation of a new manpower act dealing with basic working conditions, a new trade unions act, and a labor dispute settlement law. The ILO offered training for employers and workers in collective bargaining skills, mediation, and negotiation to ensure that disputes, when they arise, can be resolved at the enterprise level and not break out into costly industry-wide action. The latter has been of critical importance, as strikes are often met with hostile or even violent responses. Lingering problems include gender and ethnic discrimination, forced labor, and the country's role as both a source and a transit state for human trafficking.

Morocco's Declaration program focused on revising the national labor law, explained Fenwick. The ILO assisted in a tripartite revision process, resulting in the 2004 Labor Code, which resulted in greater recognition and legitimacy for independent unions and employer organizations. To help the country transition toward a more market-oriented economy and participate more effectively in free trade, much effort was dedicated to raising the Ministry of Labor's capacity to carry out its functions and objectives. Under the Project's auspices, over 80 percent of Morocco's labor inspectors received training on the new legislation. To ensure sustainability, the ILO built a network of trainers within the Ministry, the trade-union movement, and employer/trade associations. Gender discrimination within the labor market, however, remains a problem—particularly in the area of bonded labor in domestic servitude and the trafficking of women into prostitution. Even so, revisions to the family code have lifted many of the legal disabilities that had affected



Helga Ying

Moroccan women and labor improvements in the female-dominated textile and footwear industries have benefited women greatly.

An assessment of Vietnam's Declaration program is particularly revealing of the outcomes of ILO activities, considering the country's economy is transitioning from a centrally planned command system into more of a market-based economy, explained Fenwick. Vietnam's pilot program focused on assisting the establishment of market mechanisms in the labor market and fostering a flourishing private sector. According to his analysis, the outcomes were largely positive. Tripartite task forces were established, the labor code was translated into four local languages, and legal booklets were distributed throughout the country to raise awareness of workplace rights. As was the case for the other three countries,

While Brazil's Declaration projects have produced significant results, the country is still plagued with high levels of poverty and more than 50 percent of labor market participants operate in the informal sector.

gender discrimination within the labor market remains a grave concern. To address the issue, the ILO assisted the Vietnamese government in establishing the Research Center for Female Labor and Gender, and also helped it carry out a major study on gender discrimination in the workplace. Forced labor and trafficking remain concerns. Vietnam is both a source and transit country, especially for women going into prostitution and domestic servitude. With the ILO's assistance, the Vietnamese government amended laws compelling people to provide labor to the community for certain periods of time. Most notably, the Convention concerning Forced or Compulsory Labor (ILO No. 29) was ratified in March of 2006.

SUSTAINABLE ECONOMIC GROWTH

Rights at Work is more than an assessment of key individual projects, argued Fenwick; it is about the general context and broader situation of labor rights in each country. Several positive developments can be seen from the overall assessment of the Declaration's works. First, no matter the state of development, the Declaration is a useful guide to improve social principles. Both Brazil and Vietnam benefited in different ways from the same core principles, even though their gross domestic products (GDP) and rate of growth are quite dissimilar: Brazil's GDP is US\$ 943 billion and its 2006 rate of growth was 3.7 percent, while Vietnam's is US\$52.8 billion and has averaged a 7 to 8 percent rate of growth since 2002. Secondly, these indices dispel the misguided belief that revising a country's legal framework to implement fundamental labor principles and rights at work is inconsistent with economic development. To the contrary, applying core labor practices and rights at work is, at the very least, congruent with sustainable economic growth. Indeed, the human development indices (HDI) for each of the four countries in question all increased between 1999 and 2004. And while poverty remains an issue (affecting 32 percent of Brazilians, 17 percent of Indonesians, 19 percent of Moroccans, and 20 percent of Vietnamese), the positive growth indicators show that sound social and economic regulation can contribute to a country's growing insertion into the global economy.

Zafar Shaheed, the Director of the ILO Program on Promoting the Declaration, commented on the essential nature of collaboration with government officials and social partners when implementing change. For change to be successful and sustainable, he argued, ILO projects also must be complemented with political will.

BEYOND MONITORING

Representing the employer sector of the tripartite collaboration for the second panel, *Helga Ying* highlighted Levi Strauss & Co.'s ongoing collaboration with the ILO in working to enforce labor standards. She explained the ILO's importance not only in facilitating implementation of the Declaration's principles but also in addressing issues of governance and infrastructure that exacerbate poor working conditions. As the first multinational corporation to develop and implement a code of conduct of global sourcing and operating guidelines, Levi Strauss has a long history of addressing worker rights and issues, noted Ying. However, if companies truly seek to institute sustainable improvements for workers rights they must do more than simply monitor work conditions. To address this challenge, Levi Strauss

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Mércia Consolação Silva

created a three-pronged approach delineated in their responsible sourcing program: at the factory level, collaborating with brands working in the same facilities to coordinate training and monitoring processes; at the community level, supporting grants that help address some of the issues and concerns of workers and their families in factory communities; and at the public policy level, partnering with the ILO for a more sustainable approach to improving labor standards. It is at this level, stressed Ying, that the ILO is so crucial and fundamental to the implementation of the Declaration's principles.

The root cause of many problems afflicting workers and workplace conditions stem from issues far beyond the factory gates, such as governance, regulation, and infrastructure. Ying argued that, to see real improvement there has to be industry-led commitments and action at the

national level. This includes improving the labor regulatory environment and enforcement mechanisms, encouraging governments to devote sufficient resources to labor administration, addressing corruption, and improving infrastructure. It is here that employers such as Levi Strauss benefit the most from partnerships with the ILO. Corporations are powerless to create meaningful change at the individual supplier level. It is necessary to have employers, workers, and the government collaborate on a national level in order to build broader systems and institutions that enforce the rule of law and encourage governance that provides social change and economic growth.

As an example of the benefits that accrue from Levi Strauss's partnership with the ILO, Ying offered positive developments from Better Factories Cambodia, an ILO program that combines monitoring, remediation, and training to benefit workers, employers, and their organizations. Levi Strauss has benefited greatly from committing its 14 Cambodian supplier factories to the program. First, thanks to regular ILO monitoring, the company has been able to reduce the frequency of its monitoring, freeing more resources for remediation and training programs. Second, participation in Better Factories Cambodia has led to more open dialogue with local stakeholders, giving Levi Strauss enhanced opportunities to connect with trade unions and government officials on a range of issues unavailable for discussion at the unilateral level. Finally, partnership in the Better Factories Cambodia program has increased corporate collaboration, offering more systemic and sustainable ways to address workers rights.

ILO IN BRAZIL

Representing the workers component of the tripartite collaboration, *Mércia Consolação Silva*

Achievements of Combating Forced Labor in Brazil Project

- Freed over 17,000 workers from conditions of forced labor;
- Trained over 14,000 people on the conditions and effects of forced labor in 65 specialized trainings, seminars, and workshops;
- Trained Mobile Inspection Units which resulted in the release of over 3,000 people from different labor inspection operations in 206 different farms/businesses;
- Launched a major national awareness raising campaign on the dangers of falling victim to slave labor including visibility in 29 airports reaching an estimated 15 million people; and
- Established a social reinsertion program with the *Instituto Carvão Cidadão* providing new jobs within the steel industry to former slave laborers.

Source: Adapted from ILO Brochure Realizing Rights at Work

of the São Paulo-based *Instituto Observatório Social*—a Brazilian organization tested with monitoring corporations' behavior toward workers and workplace conditions—commented on ILO-sponsored efforts to combat forced labor and promote equality in Brazil. In the process of judging corporations' adherence to Declaration standards, Silva discovered that many managers were committed and willing to implement workplace standards. Their lack of knowledge on how to implement such standards, however, kept

them from doing so. The *Instituto* helps Brazilian employers implement the Declaration's principles and informs unions of workers' rights and ways to negotiate with companies effectively. She found substantial political will for the establishment of new partnerships, thanks in large part to the international credibility gained through ILO involvement, as well as to Brazil's vibrant civil society. Silva boasted that Brazil's unions and labor leaders earn much of the credit for laying the foundation for the country's civil society during the waning years of the military dictatorship in the early 1980s.

Workplace-related challenges in Brazil include racial and gender discrimination and forced or compulsory labor, explained Silva. One of the most tangible outcomes of the ILO's collaboration with tripartite constituents and organizations has been the establishment of two agencies of ministerial rank to promote equality (mentioned earlier by Fenwick). According to Silva, the creation of the *Secretaria Especial de Políticas de Promoção da Igualdade Racial* (Special Secretariat for Policies for the Promotion of Racial Equality - SEPPIR) has fomented open discussion on racism in a country where racial discrimination has been a taboo subject historically. Additionally, new programs, run by the *Secretaria Especial de Políticas para as Mulheres* (Special Secretariat for Policies for Women - SPM), which rate and reward companies based on how well they promote gender equality, have been met with great enthusiasm by employers. Regarding forced labor, ILO and other initiatives have worked to locate and liberate workers from inhumane conditions in the Brazilian hinterland; however, Silva noted that the country's vast territory complicates such efforts. Slave-like conditions of workers are not only an issue in Brazil's rural areas but also in textile factories in



Ros Harvey

the city of São Paulo, where foreign nationals from Colombia, Bolivia, and Chile have been liberated from working in such conditions.

BETTER FACTORIES CAMBODIA

Speaking on behalf of the government component of the tripartite constituency, *Ros Harvey* offered lessons learned from and tools devised in the innovative Better Factories Cambodia Program, discussed earlier by Ying, which informed much of the design of the broader Better Work Program. Better Work is the result of a joint partnership with the ILO and the International Finance Corporation (the private sector development arm of the World Bank). It devises ways to improve labor standards and competitiveness in global supply chains in its three pilot programs: Lesotho, Vietnam, and

Jordan. Better Factories Cambodia was the ILO's response to the joint U.S.-Cambodian request for technical assistance and capacity building to improve labor standards in Cambodia following its bilateral free trade agreement with the United States. The practical solutions of this initial program influenced the way the ILO approaches labor problems by working to leverage the powers of globalization to make changes in implementation at the enterprise and national levels.

The appropriate question is not whether labor conditions are perfect, but rather, whether the tripartite partners are working together with international buyers to make sustainable and genuine improvements in workers' rights.

Harvey detailed the specific makeup of Better Factories, dispelling myths about the methods involved in improving labor conditions. For instance, while monitoring receives significant media attention, in reality less than 30 percent of time and resources are allocated to the process. More significant in terms of outcomes, she argued, is focusing directly on how to fix existing problems. In 2007, less than one percent of Cambodian children were in the work force (and most of the children that worked had falsified their records out of economic desperation, not out of physical coercion). Cambodia's unionization rate has reached 45 percent while the economy has expanded and created tens of thousands of new jobs. Crucially, Cambodia has gained the reputation as a country known for labor rights compliance. Harvey explained that the appropriate question is not whether labor conditions are perfect, but rather, whether the tripartite partners are working together with international buyers to make sustainable and genuine improvements in workers' rights.

Better Factories Cambodia's main finding, which now informs all of Better Work's programs, is that international buyers must be interfaced into the tripartite partnership. However, multinational corporations are no longer expected to develop codes of conduct that get pushed down the supply chain. The ILO is thus trying to build with its tripartite partners industry-based schemes that make social dialogue and local stakeholders imperative to all future agreements. This is especially important if improvement is to be sustainable and when negotiated labor codes are extended to those working in the informal economy—the next big challenge.

BRAZIL INSTITUTE AND THE PROGRAM ON SCIENCE, TECHNOLOGY, AMERICA, AND THE GLOBAL ECONOMY

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