

KEY FEMINIST CONCERNS

REGARDING
CORE LABOR STANDARDS,
DECENT WORK AND
CORPORATE SOCIAL
RESPONSIBILITY

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Key Feminist Concerns Regarding Core Labor Standards, Decent Work and Corporate Social Responsibility

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INTRODUCTION

The discussion on international labor standards is sometimes confusing, as the term 'labour standards' is used actually referring to a number of different things that need to be distinguished from one another:

- *Labor standards and core labor standards:*¹ Labor standards are established by the International Labour Organization (ILO) conventions and implemented by national governments and are, therefore, part of government legislation. A limited number of labor standards have been established as the Core Labor Standards (CLS) that apply to all ILO members (regardless of ratification status). 'Decent work' represents a more comprehensive approach towards the world of work and encompasses the core labor standards as well as other measures such as social protection and social dialogue.
- *A 'social clause' in trade agreement:* This refers to the inclusion of labor issues (through core labor standards or other measures) in trade agreements.
- *Voluntary measures:* This refers to voluntary corporate social responsibility (CSR) measures established by and for private corporations. The most common form of CSR is the establishment of a so-called code of conduct, often based upon United Nations (UN) or Organisation for Economic Co-operation and Development (OECD) guidelines.

The above measures are not mutually exclusive but should be separated in the discussion, as they represent different approaches and mechanisms for enforcement (Luce, 2005).

The opposition to including compulsory labor standards within the multilateral framework has made it increasingly popular to include them in bilateral and regional free trade negotiations. The USA has a 'labor clause' in most of its agreements, and the European Union (EU) has set out to include it as part of the sustainable development section in its ongoing and future free trade agreements (FTAs).

This paper aims to discuss the gendered nature of these measures, to highlight the implications for women workers in developing countries. Part 1 deals mainly with the definitions and general discussions around these issues, while Part 2 focuses on its gender implications. The paper is mainly a study of the available literature within academia as well as relevant official documents and material from non-governmental organizations (NGOs).

¹ Throughout the publication both the American spelling 'labor' and the British spelling 'labour' is used. This is due to the fact that both spellings are used in the different publications and documents dealing with labor standards. This is also the case for the spelling of the word 'organization' and 'organisation'. The author apologizes for any inconvenience this might cause when reading the paper.

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PART 1

CORE LABOR STANDARDS

'Labor standards' refers to legal instruments, negotiated within the tripartite structure of the ILO, which set out basic principles and rights at work.² They can either be a legally binding international treaty that can be ratified by individual states, or recommendations that function as non-binding guidelines. In 1995 the World Summit for Social Development adopted the Copenhagen Declaration on Social Development and a Programme of Action which gives reference to so-called "basic workers' rights".³ When the ILO adopted the *Declaration on Fundamental Principles and Rights at Work* in 1998, the following basic workers' rights identified by the Copenhagen Summit were confirmed as the four core labor standards:⁴

- Freedom of association and the effective recognition of the right to collective bargaining;
- Elimination of all forms of forced and compulsory labor;
- Effective abolition of child labor; and
- Elimination of discrimination in respect of employment and occupation.

These four core labor standards cover eight ILO conventions:

- Freedom of Association and Protection of the Right to Organize Convention (No. 87)
- Right to Organize and Collective Bargaining (No. 98)
- Forced Labour Convention (No. 29)
- Abolition of Forced Labour Convention (No. 105)
- Minimum Age Convention (No. 138)
- Worst Forms of Child Labour Convention (No. 182)
- Equal Remuneration Convention (No.100)
- Discrimination (Employment and Occupation) Convention (No.111).

It is important to note that the Declaration on Fundamental Principles and Rights at Work applies to all ILO members – regardless of whether they have ratified the individual conventions or not (European Commission, 2001; Singh & Zammit, 2004). According to the ILO, these conventions represent *universal* core standards for work-

2 *At the International Labour Conference each delegation from member states is made up of two government representatives, one representative for workers and one representative for employers. The Governing Body of the ILO is made up of the same type of majority (Kaufmann, 2007:50).*

3 *Chapter 3 of the Programme of Action deals with employment issues, and reference to the basic workers' rights is found in § 54(b), see: <http://www.un.org/esa/socdev/wssd/agreements/poach3.htm>, 2008-01-15*

4 *A very interesting critique of naming some labour standards 'core' standards is provided by Alston (2004): "the concept 'core' standards constituted a very significant departure from the insistence with in the international human rights regime on the equal importance of all human rights." (p.459f)*

ing conditions in any country, regardless of development level or geographical context. So-called 'quantitative measures' (that may vary between countries), such as minimum wage, working hours, health and pension benefits, maternity leave and other benefits such as paid holidays, have been excluded from what is considered core labor standards due to political controversy (Luce, 2005).

It is important to note that the idea of core labor standards is not to conflict with trade liberalization. Instead, it is intended as a set of minimum standards: "and would stop governments from trying to gain a competitive advantage through repression, discrimination and exploitation of workers. A social clause seeks to ensure that the fundamental rights of workers are protected and is not intended to set international wage levels or benefits." (email interview, trade union official from Barbados, 2008)

DECENT WORK

The most recent and comprehensive approach towards protecting workers' rights is the 'decent work' approach, launched by the ILO Director-General Juan Somavia in 1999. Decent work is defined by the ILO as "work taking place under conditions of freedom, equity, security and dignity". It is based upon the following four strategic objectives:

- Fundamental principles and rights at work and international labor standards;
- Employment and income opportunities;
- Social protection and social security; and
- Social dialogue and tripartism.

A key feature of the decent work paradigm is the *link* between these different components. According to the ILO, the decent work agenda should apply to workers both in the formal and informal economy, and it promotes decent-work-oriented approaches in partnerships with institutions and actors of the multilateral system. The decent work agenda is implemented through various ILO conventions (notably several more than the *core* conventions apply), but it can also include other international agreements. The European Commission (EC) has defined the different international agreements that can be applied to the decent work agenda in the Annex to their 2006 communication, *Promoting decent work for all*. These include various UN conventions, the Millennium Development Goals, the Beijing Platform for Action and Corporate Social Responsibility. According to the communication, these other documents are reference documents that can be ratified or used as a basis for programmes of action independently of any ratification (European Community, 2006b). The ILO has developed decent work country programmes which define the priorities within national development frameworks and aims to tackle major decent work deficits.

The decent work agenda has been widely embraced by governments, trade unions

and NGOs as an opportunity for a more 'holistic approach' towards rights and social conditions for the world's working population. It provides, according to Ghai, an answer to the critical claims that ILO's traditional work has been based on industrial market economies which have, at best, only been applicable to the formal sector in most developing countries (Ghai, 2006:4).

A 'SOCIAL CLAUSE' IN TRADE AGREEMENTS

A social clause in the World Trade Organization

The relationship between trade and employment conditions has been discussed since the 1947 Havana Charter.⁵ Suggestions to introduce mandatory labor standards through a social clause in the World Trade Organization (WTO) have come from developed countries:

"WTO rules and disciplines, they argue, would provide a powerful incentive for member nations to improve workplace conditions. These proposals have been highly controversial. Many developing and some developed nations believe the issue has no place in the WTO framework. These nations argue that efforts to bring labour standards into the arena of multilateral trade negotiations are little more than a smoke-screen for protectionism. Many officials in developing countries believe the campaign to bring labour issues into the WTO is actually a bid by industrial nations to undermine the comparative advantage of lower wage trading partners." (WTO, 2003)

The USA and the EU have been the most prominent supporters of a social clause in the multilateral framework. However, it is worth noting that the USA, despite its position that labor standards should be included in trade agreements, has not yet ratified many of the ILO conventions – as it argues that they do not comply with US law (Dicken, 2007, ILO, 2005).

There are three main sets of arguments for bringing a social clause into the WTO framework: First, the ILO is considered to be too weak and has not been able to prevent violations of its conventions. US trade unions argue that: "since the ILO has no real enforcement power, many member countries' labor laws still violate their core labor standards" (AFL-CIO, 2002:1). Second, the WTO has a mechanism for enforcing trade sanctions on countries that are violating ILO conventions. Third, a social clause would force the WTO to be more socially responsible and, therefore, limit the negative effects of free trade under the WTO (Greenfield, 2001). Busser argues that: "without a social floor in the system, the increased competition has deteriorated lives of

⁵ Article 7 of the 1947 Havana Charter set out the role and functions of the then proposed International Trade Organization, and contains explicit reference to the obligation of members to ensure fair labor standards: http://www.wto.org/English/docs_e/legal_e/havana_e.pdf, 2007-08-29

workers” (Busser, 2006:99). Even if the proponents see a social clause as a ‘social floor’, they emphasize that this measure alone is not an effective enough measure to better working conditions. They may need to be accompanied by a broader set of policies to be effective (Berik & van der Meulen Rodgers, 2007). Equally, the issue of enforcement is emphasized - a social clause in an agreement may, on paper, be comprehensive, but if there is a lack of commitment from the parties signing the agreement the situation may, in reality, not be improved (interview, ITUC official, 2007).

Critics of a social clause claim that the unequal power relations within the WTO make it an inappropriate forum to deal with labor rights. In practice, rich countries in the North have more influence over decisions taken within the WTO framework. In the case of labor rights, the result might be that the countries most affected will have very little influence over the structure that is being set up (Luce, 2005). NGOs have also raised concerns regarding the handing over of workers’ rights issues to the WTO: “The WTO should be subordinate to other international institutions in instances where trade issues may have wider repercussions. The WTO should also undergo significant internal reform before it could become capable of supporting workers’ rights” (War on Want, document undated). According to Greenfield, union demands to include core labor standards into the framework of the WTO is ironic because: “the very logic of the WTO is that everything is a commodity”, while the very first principle adopted by the ILO in 1944 was that “labor is not a commodity” (Greenfield, 2001:18).

Greenfield lists four main objections to bringing a social clause into the WTO. First, only governments can make complaints to the WTO. This means that trade unions, NGOs and other social movements cannot pose claims of violations of labor rights to the WTO. Governments make decisions based upon a number of interests where political, economic, military and foreign policy interests may be superior to workers’ rights issues. In this way workers’ rights may become a bargaining tool in other foreign or trade policy issues. Second, violations of core labor standards would be treated as any other trade dispute. Hence, decisions would be based upon whether the violation will lead to *unfair trade*. The ban of trade unions in Export Processing Zones (EPZs) are a violation of core labor standards – the issue at hand is if such a ban makes the exports from that country cheaper, and are they, therefore, competing unfairly against other exporters of the same commodity. Thus the real meaning of universal workers’ rights will be lost. Third, trade disputes will involve states, not transnational corporations (TNCs). Sanctions will be imposed upon the country where the violation is taking place – not against the company violating the workers. The process of disputes can take many years, and before the decision is made TNCs can move to other countries where it is not necessary to follow core labor standards. Meanwhile the country where the violation was taking place may face sanctions. Fourth, sanctions are not limited to products under dispute. If a decision is made to place sanctions against a country for violation of core labor standards, such sanctions may be imposed for any export products. It is up to the government to decide which products to restrict or ban (Greenfield, 2001).

Claims of Northern protectionism

The Declaration on Fundamental Principles and Rights at Work explicitly states that: “the comparative advantage of any country should in no way be called into question by this Declaration and its follow-up”⁶ and that labor standards may not be used as a protectionist measure. Even so, developing countries argue that compulsory minimum standards within the WTO would be just another form of protectionist measures imposed by developed countries against low-cost competition from developing countries (Dicken, 2007; Kabeer, 2004; Singh & Zammit, 2004). Developing countries oppose the social clause with what has been called ‘a deep fault line of mistrust’. To them, linking labor standards to trade agreements simply represents a ‘new form of conditionality’ (Kabeer, 2004:7,8).

The US trade union movement lists the following three main arguments for why core labor standards are *not* a form of protectionism:

- Business interests are already an important part of our trade law and there is, therefore, no reason for why workers’ rights issues should be excluded from such law;
- most obligations that may result in sanctions do not – it is the credible threat of sanctions that will encourage countries to comply with labor standards; and
- a fair, transparent, equal and neutral multilateral dispute resolution system is probably the most effective way to avoid narrow domestic interests as the basis for trade sanctions (AFL-CIO, 2002).

However, within the trade union movement in developing countries concerns have also been voiced regarding the proposed social clause: “We should not be against any measures supposed to protect workers rights. However, as a worker from a developing country, I cannot support any protectionist measure and a social clause, as proposed by industrialized countries, to be applied against developing countries could become protectionist” (email interview, trade union official from Brazil, 2008).

A social clause in bilateral and regional free trade negotiations

As a result of the opposition to a social clause in the multilateral framework, it has become increasingly popular to pursue labor rights objectives through bilateral and regional trade policy. US trade agreements contain a standard ‘labor clause’ reaffirming the parties’ commitment to their membership in the ILO and the Declaration of Fundamental Principles and Rights at Work. Many of the US agreements with devel-

6 Paragraph 5, ILO Declaration on Fundamental Principles and Rights at Work, available at: http://www.ilo.org/dyn/declaris/DECLARATIONWEB.static_jump?var_language=EN&var_pagename=D ECLARATIONTEXT, 2008-01-15

oping countries go beyond core labor standards in the sense that they also include the issue of minimum wage (Singh & Zammit, 2004).⁷

Current EU bilateral and regional free trade negotiations

For the EU it is an explicit political project to promote its values regarding sustainable development through its external policies: "Trade has proved to be one of the most effective tools to foster development" (European Community, 2005). In 2006 the EC presented its communication, *Global Europe: Competing in the World*, which reaffirms its support for this agenda: "As we pursue social justice and cohesion at home, we should also seek to promote our values, including social and environmental standards and cultural diversity, around the world" (European Community, 2006:5). According to the EC homepage, contrary to the current situation in the WTO, its bilateral relations with third countries have allowed it: "to advance further on the promotion of social rights", and in future negotiations they intend: "to pursue its efforts to put sustainable development at the heart of these agreements".⁸ The Commission has presented a number of communications dealing with the different social aspects of trade and globalization, and it briefly summarizes the outcome of these communications as:

"The essential elements to ensure a better contribution of trade to economic growth and sustainable development, through the integration of trade and development strategies, as resulting from these communications are: (1) sound macro-economic policies, effective social governance, and human capital development, which include the promotion of core labour standards; (2) better market access and balanced trade rules to underpin domestic reform; (3) trade-related assistance and capacity building to help developing countries with these tasks." (EC Commission homepage, accessed 2008-04-18)⁹

Additionally, the application of core labor standards should be made through positive instruments, and the Commission states its firm opposition to sanctions-based approaches as well as the use of labor rights for protectionist purposes (Ibid.).

7 For example, Article 18.8 in the US–Chile agreement defines the labor rights as the four core labor standards of the ILO plus "(e) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health. For greater certainty, the setting of standards and levels in respect of minimum wages by each Party shall not be subject to obligations under this Chapter. Each Party's obligations under this Chapter pertain to enforcing the level of the general minimum wage established by that Party."

http://www.ustr.gov/assets/Trade_Agreements/Bilateral/Chile_FTA/Final_Texts/asset_upload_file853_4012.pdf, 2008-02-06. An additional difference between EU and US free trade agreements is that the US agreements mostly do not contain references to human rights, while drafts for negotiations made by the EU and a third country, since the 1990s, must contain a so-called 'human-rights clause' established in the communication from the Commission COM(95)216.

8 The position that a social clause should be included in EU bilateral and regional trade agreements also has strong support from many actors in the European Parliament. See, for example, PSE Group (2008) and European Parliament (2008).

9 Trade and social conditions: http://ec.europa.eu/trade/issues/global/social/index_en.htm, 2008-02-06.

In the Generalized System of Preferences (GSP+) the EU uses the incentives-based approach to promote ratification and implementation of key international agreements – including the core labor standards. The basic feature of the scheme is to grant developing countries preferential access to the European market, with ‘vulnerable’ countries granted preferential access in exchange for the effective compliance of core labor standards (European Community, 2001:2005b).¹⁰ Even though there are critics of the GSP+ system, it has strong support from many actors within the EU.¹¹

As the EU pursues labor issues through a social clause in its bilateral and regional free trade negotiations,¹² it becomes increasingly important to analyse *how* labor issues are being dealt with in the negotiations as well as the outcome of a social clause in different geographical contexts. However, the lack of public information available around the negotiations makes such analysis difficult. Even though the EC reaffirms that sustainable development remains an important objective in *all* FTA negotiations,¹³ the experience from the USA shows that labor concerns can be negotiable depending on the political interest of the actors involved. One example is the USA–Jordan FTA where the outcome of the negotiations was the removal from the labor clause of the agreement of the core labor standard dealing with elimination of discrimination in respect of employment and occupation.¹⁴ When labor standards are included in negotiations between parties with considerably different interests, levels of development and capacity, there is a growing fear that labor issues will be used as a bargaining tool between countries. This may result in differing standards between agreements “and thus unequal levels of upholding social and environmental standards overall” (Vander Stichele, 2008:4).

EU–India

In the case of the EU–India FTA, the Indian Government (known for its resistance to a social clause in the multilateral process) declared, prior to the negotiations, its opposition to the inclusion of labor issues in the FTA. The EC mandate, however, includes the commitments by both sides to sustainable development issues – including the promotion of decent work and core labour standards (Wichterich, 2007). EC officials

10 *The countries currently covered by GSP+ are: the five Andean countries (Bolivia, Columbia, Ecuador, Peru and Venezuela), six Central America countries (Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama), Moldova, Georgia, Mongolia and Sri Lanka (European Community, 2005b).*

11 *Berik & van der Meulen Rodgers (2007) argue that an incentive-based approach, like the one used between the US and Cambodia, has been fruitful. They propose that the GSP+, or a similar system, together with a credible monitoring programme, could prove an effective way to promote better working conditions and wages.*

12 *An NGO perspective on the EU FTAs and a social chapter is presented in a paper by Vander Stichele (2008).*

13 *See, for example, the statement by Ditte Juul-Joergensen in the WIDE report EU bilateral and regional free trade agreements: Bringing women to the centre of the debate, available at: <http://www.wide-network.org/index.jsp?id=316>, 2008-04-17.*

14 *Article 6 US–Jordan FTA, available at: http://www.jordanusfta.com/free_trade_agreement_text_en.asp, 2008-02-06*

publicly reaffirm their commitment to sustainable development issues and assure that these issues are still 'on the agenda' in all FTA negotiations, including those with India. However, others claim that there is information indicating that the Commission has given in to resistance to a labor clause from its Indian counterpart.¹⁵ A non-published internal document from the Commission reports that these issues are still highly sensitive in the EU–India negotiations and that the discussions will continue “without prejudice as to the outcome”.¹⁶ What this means is hard to know, and it is always difficult to evaluate this type of unofficial information. However, it raises questions regarding the difficulty in obtaining information on how far the EC is willing to go to pursue its sustainable development objectives in the FTAs. If negotiations are made without prejudice to the outcome, does that mean that the Commission would be willing to accept an agreement with India which does not contain reference to core labor standards? Or, as phrased by Vander Stichele: “Will the EU be willing not to sign a free trade agreement with India, an important export market, if India refuses to include environmental and social chapters?” (Vander Stichele, 2008:5).

EU–ASEAN

The same type of questions can be raised around the early negotiations with the Association of South East Asian Nations (ASEAN). It is important to bear in mind that this is a negotiation between two regions. Membership of the FTA is still a controversial issue. The EU has opposed negotiating with all ten ASEAN countries (mainly due to the issue of Myanmar/Burma), while ASEAN's approach has been that all ASEAN countries should be on board.¹⁷ The EC negotiation mandate includes commitment to core labor standards,¹⁸ while ASEAN countries would prefer that issues relating to sustainable development be covered by other types of co-operation outside the FTA (Lindberg, 2007). Regional co-operation within these two regions is hardly comparable. ASEAN co-operation on labor issues is only in its early days, and it has only had a co-operation agreement with the ILO since 2007.¹⁹ In relation to the FTA negotiations, ASEAN officials have raised concerns that they are “not ready” to include labor issues (interview, ASEAN Secretariat, 2008). As previously discussed, the Declaration on Fundamental Principles and Rights at Work applies to all ILO member countries, regardless of ratification status. However, it is interesting to note that only three out

15 For example, statements by Ditte Juul-Joergensen (DG Trade) and Christa Wichterich (WIDE) at the WIDE consultation, 'EU bilateral and regional free trade agreements: Bringing women to the centre of the debate', Brussels, 22 November 2007.

16 Unpublished document from the EC entitled *Report on 3rd round of EU–India FTA negotiations* (Brussels, 6–11 December 2007).

17 The controversy over Burma is also highlighted in the *European Parliament Draft Report (2008)*: “the current situation in Burma makes it impossible for that country to be included in the agreement.” (p.6)

18 As neither the mandate for negotiations nor the negotiations as such are made public, it is not possible to find the negotiation mandate through the EC official website. However, the mandate has been published through www.bilaterals.org.

19 More information on ASEAN co-operation on labor can be found at: <http://www.aseansec.org/8627.htm>

of the ten ASEAN nations have ratified all the conventions covered by the core labor standards.²⁰ Considering ASEAN's recent engagement with labor issues, this raises a number of questions relating to how the process of improving labor standards should be dealt with globally. Labor standards have previously been a competence handled by the ILO. How does making ratification of ILO conventions a condition for an FTA impact this work? What are the implications of linking the EU (and the US) trade agenda to the promotion of workers' rights?

The Caribbean EPA

The Economic Partnership Agreement (EPA) with the CARIFORUM states is the most recent example of how sustainable development issues are being framed in EU bilateral and bi-regional relations. An interesting part of this EPA is that (under the section dealing with investment, trade in service and e-commerce) it contains: "a more or less binding obligation on the signing countries related to environmental and social standards [through] a so-called 'no lowering of standards clause' when attracting investment ... [and] this Article is fully subject to the dispute settlement mechanism" of the Agreement (Vander Stichele, 2008:7). The agreement also contains a social chapter which includes a similar article, as well as commitment to the ILO core labor standards, the 1998 Declaration on Fundamental Principles and Rights at Work, and the 2006 Ministerial Declaration by the UN Economic and Social Council on Full Employment and Decent Work. The parties also:

*"recognise the beneficial role that core labor standards and decent work can have on economic efficiency, innovation and productivity, and they highlight the value of greater policy coherence between trade policies, on the one hand, and employment and social policies on the other ... agree that labor standards should not be used for protectionist trade purposes ... recognise the benefits of commerce in fair and ethical trade products and the importance of facilitating such commerce between them."*²¹

The social chapters are, however, subject to another type of dispute settlement, as its interpretation and application "shall first be subject to consultations before being brought to the dispute settlement" (Vander Stichele, 2008:7).²²

Decent work

The EC also makes reference to the concept of decent work in the current bilateral

²⁰ Ratification status of the core labor standards conventions can be found through ILOLEX: <http://www.ilo.org/ilolex/english/docs/declworld.htm>, accessed 2008-04-21

²¹ Article 191 of the EPA between the CARIFORUM states and the EU, available at: http://trade.ec.europa.eu/doclib/docs/2008/february/tradoc_137971.pdf, 2008-04-17

²² See Article 195 of the Agreement.

trade negotiations. In its communication on the promotion of decent work it states that the decent work agenda, through its integrated approach:

“... seeks not only to guarantee a minimum basis of rights but also to tailor development values and principles of action and governance which combine economic competitiveness with social justice. Combining economic competitiveness and social justice in this way is at the heart of the European model of development.” (European Community, 2006:2)

This illustrates one of the main critical concerns relating to the decent work agenda, namely that the central dimensions of the decent work concept have been left vague. The interpretation made by the EC (above) also highlights a point often made by its critics, namely that the decent work agenda does not include any market controlling mechanisms and should, therefore, not be seen as an attempt to enable states to challenge, for example, corporate power. Instead, as argued by Vosko, the decent work agenda represents an attempt to mediate the demands of global capital with the critical voices striving to reform the ILO:

“There is no question that states remain powerful actors in the international system but, to be effective and endow states with more control, any supranational measure designed to improve labor standards and labor rights must initiate market-controlling measures targeting global capital.” (Vosko, 2002:30)

Whether decent work standards will have a real impact on workers' daily lives will be determined by how effective its implementation will be – something which involves more than legislation (Servais, 2004). According to Barrientos, current global production systems pose a major challenge for the implementation of decent work:

“The employment decisions of domestic suppliers are increasingly controlled by meeting the requirements of large overseas corporate buyers. Yet these corporate buyers are not themselves employers and operate beyond the control of national governments in their sourcing countries. This provides an important challenge for attaining decent work in global production systems. National channels for achieving quality employment, ensuring workers' rights providing social protection and facilitating social dialogue are undermined.” (Barrientos, 2007b:2)

The EU argues that decent work can be a useful instrument when negotiating trade agreements. Although this approach should include more issues than the core labor standards, it is still difficult to see *how* the decent work agenda can be effectively implemented in the ongoing bilateral and regional negotiations. In the draft mandate authorizing the Commission to negotiate an FTA with ASEAN the decent work approach is included – but the promotion of decent work is limited to: “effective domestic implementation of ILO core labour standards, as defined in the 1998 ILO Declaration of Fundamental Principles and Rights at Work as well as enhancing co-operation on trade-related aspects of sustainable development” (European

Community, 2007). And (even though the power of the European Parliament on these issues is limited) it can be noted that the Parliament, often more focused on social issues than the Commission, in a Draft Report on the EU–ASEAN negotiations, underlined the desire for commitment to core labor standards, while leaving out decent work (European Parliament, 2008). Hence, it is hard to see what the decent work approach brings in these negotiations – apart from the core labor standards.

3. VOLUNTARY MEASURES - CORPORATE SOCIAL RESPONSIBILITY

‘Corporate Social Responsibility’ (CSR) refers to the ethical behavior of businesses towards its constituencies or stakeholders (Hopkins, 2004:1).²³ Some definitions of CSR also include reference to improving the lives of employees’ families, local communities and the society at large (Pearson, 2007).

The globalized nature of consumption has put corporations under increasing pressure from consumer and NGO activism campaigning for ethical labor practices. Anticipated economic losses due to damages to the corporate image can, in part, explain why large companies are producing codes of conduct and joining networks for ethical trade. According to an OECD survey, the major motivation for adopting codes is to protect company reputation. (Hale & Shaw, 2001; Jenkins, 2002; Pearson & Seyfang, 2001). The corporate codes of conduct contain ethical standards for the corporation (and sometimes also their suppliers) and are often based upon OECD or UN guidelines for corporate responsibility codes (Jenkins, Pearson & Seyfang, 2002).²⁴ The World Bank estimates that there are approximately 1,000 buyer codes globally. The large number of codes and the variety of the standards they contain is: “a source of inefficiencies and confusion that may limit their effectiveness” (World Bank, 2003:17). There have been several initiatives to develop ‘universal’ codes, but it has been difficult to find agreement as to the content of such a code. A key issue of disagreement has been the issue of living wages (Maquila Solidarity Network, 2008).

²³ Hopkins uses the following definition: “CSR is concerned with treating the stakeholders of the firm ethically or in a responsible manner. ‘Ethically or responsible’ means treating stakeholders in a manner deemed acceptable in civilized societies. Social includes economic responsibility. Stakeholders exist both within a firm and outside. The natural environment is a stakeholder. The wider aim of social responsibility is to create higher and higher standards of living, while preserving the profitability of the corporation, for peoples both within and outside the corporation.” (Hopkins, 2004:1)

²⁴ The most commonly referred to are: The OECD Guidelines for Multinational Enterprises: <http://www.oecd.org/dataoecd/56/36/1922428.pdf>; Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy: <http://www.ilo.org/public/english/employment/multi/download/english.pdf>; and The UN Global Compact: <http://www.unglobalcompact.org/>

The impact and frequency of the codes varie between industries and sectors. They are most common within the garment sector, which was one of the first to develop an agenda for corporate responsibility that also included labor standards (Hale & Shaw, 2001, Wick, 2005). According to Pearson (2007), within manufacturing there are some positive achievements regarding labor standards as a result of codes – in particular where representatives of workers have been directly involved in the process of drafting the code. However, other sectors, such as electronics, characterized by a production chain, more complex codes are not as evident. Although this sector, for example computer production, is characterized by a low-wage, low-skilled, predominantly female labor force: “unlike their counterparts in the clothing and footwear sector, computer companies have thus far escaped scrutiny on labor issues” (Pearson, 2007:734).²⁵ This illustrates a major weakness of these voluntary and self-regulatory measures, namely that they only apply to specific firms or groups of firms and, therefore, to certain workers at a certain point in time. Government regulations, such as core labor standards, apply to all workers or citizens in a particular country (Pearson & Seyfang, 2001, Pearson, 2007). Therefore, it is important, critics argue, that the codes should be regarded as a *supplement* to government policy regulating TNC activities instead of *replacing* such policy (Wick, 2005:30f). Another major criticism of CSR is that the codes can be a way of privatizing international labor standards (Hale & Shaw, 2001).

In 2001 the EU launched its Green Paper *Promoting a European Framework for Corporate Social Responsibility*, which promotes the view that in the context of globalization companies are becoming increasingly aware that CSR can be of direct economic value:

“Although the prime responsibility of a company is generating profits, companies can at the same time contribute to social and environmental objectives, through integrating corporate social responsibility as a strategic investment into their core business strategy, their management instruments and their operations.” (European Community, 2001b:5)

The ‘win-win’ scenario painted by the Commission is a common perspective in literature on CSR. Through CSR, corporations can increase profits at the same time as supporting sustainable development objectives. It is significant that most writings on CSR have their background in business studies and are mostly ‘business friendly’ (Coleman, 2002, Prieto-Carrón, 2006). Discussions of *power* are uncommon in the discussion on CSR and corporate citizenship. Therefore, conflicting interests between actors or inequalities of power are rarely addressed. In this way the political nature of corporate citizenship is moved aside to give room only to a practical, strategic or maybe ethical discussion: “To step beyond this procedural, legal-rational discussion is to leave the ‘business’ terrain and enter forbidden and frightening territory, in which humans struggle to make sense of the world” (Coleman, 2002:22).

²⁵ Quoted from a CAFOD report (2004) entitled *Clean up your computer: working conditions in the electronics sector*, available through www.cafod.org/uk.

The EC Green Paper received more than 250 responses, and it is interesting to note that the Commission (2002) acknowledges that there are “significant differences between the positions” expressed – maybe somewhat contradictory to the win-win approach to CSR painted above. Key differences in the responses were that corporate actors stressed the voluntary nature of CSR and that there would not be a ‘one-size-fits-all’ solution. Regulating CSR at the EU level could, they argued, hamper creativity and innovation and “could lead to conflicting priorities for enterprises operating in different areas”. On the other hand, trade unions and NGOs stressed that voluntary initiatives are not enough to protect workers’ and citizens’ rights. They also argued for minimum standards and that implementation and evaluation cannot be left entirely up to business actors (European Community, 2002).

Finally, the Commission argues, in line with corporate actors, that for CSR it is difficult to identify a global framework “due to the diversity in domestic policy frameworks, protection of workers and environmental regulation” (European Community, 2002:7). Considering the Commission’s strong dedication towards the promotion of *universal* labor standards, it is somewhat difficult to understand why it would not be possible to also establish universal minimum demands for the behaviour of business.

The EU underlines that the implementation of CSR practices should go over and above the legal requirements for business. Equally the approaches should involve local stakeholder consultations. Even if this sounds good in theory, it may be worth noting that one of the most common criticisms of codes of conduct is that they are drafted *without* the participation of workers – especially not women workers (Pearson & Seyfang, 2002).

PART 2 :

GENDER, CORE LABOR STANDARDS, DECENT WORK AND CORPORATE SOCIAL RESPONSIBILITY

Historically, women workers hold a marginal position in discussions on workers' rights. Instead, such rights have been developed with male, full-time and regular employment as the model. For a feminist analysis a central question is how these measures impact the conditions for women workers also performing informal, home and casual work (Singh & Sammit, 2004). Also, are women being represented in the forums articulating workers' rights – in trade unions, governments, international organizations and corporations?

When attempting to approach workers' rights issues from a feminist perspective there are both methodological and theoretical problems. The prevailing definition of 'work' is waged labor in a formally structured employment relation – a definition based upon a masculine ideal of 'work'. Equally important is that what is regarded as 'work' is a result of both social and statistical definitions which have a variety of meanings. Data can therefore be difficult to compare (McDowell, 1999).

The exclusion of the informal sphere

In the current global economy, a majority of the world's workers are working in the *informal* sector. Additionally, formal-sector employment is increasingly characterized by 'informalization' and 'flexibilization' (Kaufmann, 2007). For women workers this development is especially contradictory as "the increasing informalisation of employment, even within export sectors, has left the majority of the female workforce outside regimes of welfare and social protection at the very historical moment when they have taken a vanguard role in the construction of the export labour force" (Pearson, 2007:736).

The informal-sector work force includes a variety of workers, for example, owners and workers of micro-enterprises, self-employed, dependent workers, unpaid family workers, apprentices, contract workers, home workers and paid domestic workers. According to Kaufmann, the way in which the formal and informal economies interact has evolved, and: "The informal economy can no longer be defined as everything that is not included in the formal economy, because such a narrow concept fails to include the increasing mobility of workers between the two." (Kaufmann, 2007:5)

Core labor standards, no matter how effective, are limited to work in the formal sphere. They do not apply to vast numbers of people working in the informal sector (Luce, 2005). The EC also acknowledges this issue: "In many developing countries, a large part of the local economy is informal and unregulated. Poorer people are heav-

ily reliant on the informal sector, both as workers and consumers, and they consequently tend to be less well protected by core labor standard agreements.” (European Community, 2001:12)

Understanding the nature of the labor force – where workers are found in *both* formal and informal production – is a key to understanding the gender impacts of measures to protect workers’ rights. As argued by Pearson: “Even if the state were able and willing to enforce compliance with labour protection within the formal economy, this would apply to a minority of the labour force; given the over-representation of women in the informal economy, such compliance would not protect the female labour force working in the informal sector” (Pearson, 2007:737). Both men and women work in the informal sector, but women face multiple challenges of discrimination based upon both their employment status and gender ideologies. In this way the rights of women workers are inextricably linked to the subordination of women in production through their concentration in less secure forms of employment (Barrientos, 2007a,b).

Trade union organization, collective bargaining and employment strategies require a strong employer attachment. A large share of the female labor force does not fit this employment ‘norm’ – because they lack regular employment. ‘Feminized’ employment in the informal, domestic and home-work sector is, therefore, overlooked within core labor standards. This may have further implications, as in the case of the social protection pillar of decent work. The lack of access to contracts and legal employment benefits for many flexible and informal workers may also mean that they have denied other forms of social assistance and protection from the state (Barrientos, 2007a,b; Elias, 2007). The result is that women are often excluded, not only from the issues traditionally covered by ‘workers’ rights’, but also from meaningful access to welfare and social protection (Pearson, 2007).

In the discussion around core labor standards feminist critics have been successful in the sense that, for example, the decent work agenda, activities of trade unions and the ILO now recognize work taking place outside the public sphere. It is, however, difficult to evaluate what implications this will have. One example is that even though many acknowledge that core labor standards do not apply to a majority of women’s work, it is still argued that they can be regarded as ‘universal’ in character. This is usually justified by the fact that these rights have been accepted by all ILO members and can, therefore, be expected to apply to all workers worldwide (Interview, ITUC official, 2007). This argument, however, fails to consider the traditionally marginalized position of women in institutions working with labor rights, such as the ILO and trade unions (Hale & Turner, 2005; Pearson & Seyfang, 2002) (see below for further discussion). Singh & Zammit (2000; 2004) have suggested that the ILO conventions on free collective bargaining and freedom of association need to be redrafted to also include core issues for workers in developing countries.

Challenging the underlying causes of gender discrimination

To some groups of developing countries the exploitation of cheap female labor has been closely linked with export orientation and an important part of attracting foreign corporations. As argued by Joekes: "...industrialization in the post-war period has been as much female led as export led" (Joekes, 1987:81). As women form the majority of the workers in low-skilled, labor-intensive sectors and are concentrated in the lower segments of the occupational hierarchies, they are particularly vulnerable to both individual and structural discrimination and abuse (Pearson, 2007). Feminist critics argue that the debate around core labor standards has failed to consider that gender discrimination forms the basis for women's employment conditions in the global economy. By failing to address these issues, core labor standards are inadequate in addressing the pressing needs of many groups of women workers (Barrientos, 2007a; Elias, 2007).

It is interesting to note that an integral part of the argument in favour of a social clause is that it should *not* in any way question the comparative advantage of developing countries. None of the approaches (core labor standards, decent work or CSR) challenge the subordination of women in the working sphere. Through the decent work agenda the ILO has attempted to address the rights at work for all – including workers in the informal sector, self-employed and casual workers (ILO, 2000). Although this provides the possibility for a more 'holistic' approach to enhancing workers' rights, there are still challenges when "addressing embedded gender discrimination in the context of global production systems" (Barrientos, 2007a:251). Feminist critics argue that we need to acknowledge that *gender inequality is an integral feature of market economy*. As expressed by Elias:

"By failing to consider the way in which gender-inequality is a fundamental feature of global systems of production and employment, approaches to labour standards, such as the CLS, that simply contain commitments to non-discrimination and 'equality of opportunity' are partial and inadequate in their capacity to address the needs of many groups of women workers." (Elias, 2007:47)

This point is supported by Pearson (2007). She points to the contradictions of the business approaches which, on the one hand recognize that gender needs to be taken into account while persistently ignoring the reasons for why female workers are a central part of their competitive strategy: "Indeed, there is a fundamental contradiction between aspirations for such gender sensitive policies, and the nature of global competition in which these corporations are involved" (Pearson, 2007:739). Feminist scholars have often pointed out that it is not possible to separate the individual story of discrimination from structures of oppression. For example, studying banana workers at Chiquita in Latin America, Prieto-Carrón argues that a major factor preventing CSR practice from benefiting women workers is "the existence of 'hidden' structural problems in the political economy of the banana industry and its gendered nature" (Prieto-Carrón, 2006:85). Some women's organizations and other NGOs have called for instruments such as core labor standards to be reformed, with the aim of also including mechanisms to address the cause of biases (Vosko, 2002).

Core labor standards and decent work as 'universal' principles

Universality and particularity

Core labor standards are promoted as a minimum level of workers' rights. As such, they are described as 'universal' in character and apply to all workers worldwide. In the ILO publication, *Decent Work: Objectives and Strategies*, Ghai describes the decent work paradigm, not only as universal, but its principles also represent the "desires" and "wishes" of "all working people in all societies":

"Working people in all societies desire freedom of association and oppose discrimination, forced labour and child employment in hazardous situations. They wish to participate through social dialogue in decision-making affecting their work and lives, both at the level of the enterprise and the national and at regional and global levels. Likewise, all people and all societies desire work in conditions of dignity and safety and with adequate remuneration. Finally, a modicum of social and economic security in work and life is a universal aspiration." (Ghai, 2006:4)

Through this, the decent work paradigm highlights questions around "universality" and "particularity" (Ghai, 2006). From a feminist perspective this raises a number of questions. Elias (2007) argues that as the international labor standards increasingly draw upon the universalist discourse there is a need for critical feminist engagement with these issues. There is vast scholarship dealing with gender and human rights discourse. These have shown that a 'universal' – as in non-gender differentiated – 'human' is in fact implicitly a reference to men, to the male body, experience and stereotypical attributes. Women are often excluded from the universal category and represent the "particular" or "partial" (Peterson & Parisi, 1998). Early discussions on 'human rights as men's rights' have common ground with contemporary feminist critique of core labour standards. Kouvo (2004) describes the historic relationship between feminists and international human rights as ambivalent. Feminist perspectives range from a defence of liberal rights regimes to radical conceptualizations of rights:

"Where on this trajectory, different scholars situate themselves, is largely dependent on how the idea of rights is viewed. That is, if rights are viewed as intrinsically and inescapably and immutably male or if rights are viewed as having the potential of transcending the initial exclusion in symbolic, politico-legal and institutional terms." (Kouvo, 2004:61)

It has been more difficult, within feminist scholarship and activism, to find a consensus around issues relating to economic rights – compared to issues such as violence against women. One explanation could be the limitations of the human rights approach in addressing the complex nature of socio-economic inequalities. Many feminists have deliberately avoided using a 'human rights' language in the discussion on labor standards. One reason, according to Elias (2007), could be that the way the

human rights discourse has been captured by the development mainstream in a manner that could curtail the possibilities for feminist human rights activism. However, some have pointed to the recent re-engagement within the feminist movement with economic rights:

“with activists using the language of human rights in a strategic manner in order to ‘challenge the operation of contemporary capitalism’.²⁶ This strategic usage of economic rights is a potentially fruitful one because it has the potential to force a re-evaluation of the link between economic liberalism and economic rights.” (Elias, 2007:49)

‘Core’ standards or political compromise?

Although proponents of core labor standards claim that these standards represent a universal minimum standard, there are critical voices. To Elias (2007), they do *not* represent universal human standards. Instead she agrees with Alston’s point that:

“the choice of standards to be included in the CLS was not based on the consistent application of any coherent or compelling economic, philosophical, or legal criteria, but rather reflects a pragmatic political selection of what would be acceptable at the time to the United States and those seeking to salvage something from what was seen as an unsustainably broad set of labour rights.” (Alston, 2004:485)

This is an important argument. Especially considering that many issues central to women workers have been left out of the discussion on core labor standards (Luce, 2005). Issues such as minimum wage, working hours, health and pension benefits and maternity leave are left outside the scope of core labor standards. Although the emphasis upon different rights may vary, Alston argues that most critics of the core labor standards regime agree that the list of ‘core’ rights should also include the right to a safe and healthy workplace, some limits on working hours, reasonable rest periods, and protection against abusive treatment in the workplace.

The discussion above illustrates the difficulties in making claims of what are the ‘universal’ wants and needs of (women) workers. However, research from different parts of the world can help illustrate that the priorities of women workers may vary from those rights established through the core labor standards. Pearson and Seyfang (2002) refer to consultations made with women workers in Central America. The workers were asked to draw up a ‘wish-list’ for what they wanted to be included in a code of conduct. Apart from reflecting the desire to continue to work in export factories, they wanted a code that assured working conditions that defended their dignity and proper remuneration, avoided arbitrary and inhumane treatment, guaranteed freedom of association and collective bargaining, and protected them from harm – both in terms of harassment and unhealthy working conditions. This was accompanied by the understanding that all production does not take place in the formal sphere

26 Elson and Gideon (2004) quoted in Elias (2007)

and, therefore, workers' entitlements should also include home-workers – including protection and respect for pregnant women, the banning of enforced overtime and the restriction of the working day to eight hours. In a workshop in Bangladesh hosted by Women Working Worldwide, women workers named management harassment, lack of secure contracts, sub-survival wages, absence of contracts, prohibition of union activities, forced overtime and absence of maternity rights as aspects of their working conditions. When they drafted a code of conduct it included minimum wage for a minimum labor standard, maximum working hours (including overtime), statutory leave for holidays, maternity and social benefits, rights to collective bargaining, health and safety, social security, no discrimination, and sanctions against violations of these aspects (Pearson & Seyfang, 2002:44f).

An important point is to *acknowledge that the priorities of women workers may differ from those of male workers*. One reason is the gendered organization of domestic and household commitments – where women have to balance between their domestic work and employment-related responsibilities (Pearson, 2007). It is, therefore, crucial to investigate what women workers, in different places and positions, want. And how are their voices being heard? Kabeer poses the critical claim that NGOs and trade unions have tried to speak for 'poor working women' in the South:

"That many of the export industries in the South produce consumer goods ... has worked to the advantage of this form of advocacy because consumer purchasing power can be a powerful weapon. Moreover, that a significant proportion of workers in these factories is women allows such advocacy to both feed on and feed into, widespread perceptions about poor, Third World women as helpless victims of the global free-trade economy: 'undifferentiated, homogenous, faceless and voiceless' (Diane Wolf, 1992). Such portrayals help to both provoke and to justify action by the northern public on behalf of these workers who are unable to act on their own behalf." (Kabeer, 2004:10)

Kabeer also reminds us that women workers in different places may not necessarily share the same priorities or have the same needs. She argues that a "perspectives from below" would reveal that workers in the South may make different choices from those in the North:

"When those who support the social clause express fears about the 'race to the welfare bottom', they serve to remind us that workers in different parts of the world are inserted into this race on very different terms. In the poorer countries of the world, socially protected full-time employment only ever applied to a very small proportion of the total labor force ... It applied to an even smaller proportion of working women in these countries, the vast majority of whom were to be found in the informal economy, which provided little or no protection of any kind. These latter are likely to have different livelihood priorities from those who have enjoyed, and are now seeking to defend, relatively high levels of social protection." (Kabeer, 2004:26)

Gendered perspectives on possible job losses and employment

As investments have become more sensitive to increasing labor costs, the actual bargaining power of workers to increase their wages has decreased. This development is especially important for workers in 'mobile' industries – where production is typically labor-intensive (and female-dominated) and moving production to other locations with cheap labor is 'easier'. Even though the demand for female labor rises faster than the demand for male labor, the gender wage gap is persistent.²⁷ According to Seguino (2003), one explanation for this is the gender-segregated labor market – where men are found in more capital-intensive 'immobile' production, while women are found in labor-intensive 'mobile' production which is easier to relocate. Because of this, the threat of a company relocating because it can pay lower wages elsewhere limits women's bargaining power relative to capital. In addition to other social and economic constraints, gender segregation in the labor market has left women more vulnerable in terms of their position to bargain for better wages. The threat of job losses as a result of higher wages is of special significance to women workers in developing countries. Seguino concludes that for the labor standards and living wages strategies to work they need to be accompanied by policies aimed at reducing the risk of job losses.²⁸ Women are often more cautious of losing their jobs also because of the limited economic opportunities offered to them in society.

Even though conditions of work may be difficult, the employment offered in labor-intensive production is, for many women in developing countries, their first opportunity for paid work in the formal sector. According to Kabeer, labor rights campaigns have focused on the low wages of women workers in the garment sector compared with the wages in their own countries. It is, however, important to remember that this is not what influences women's employment decisions in, for example, Bangladesh: "Instead, it is wages and conditions that prevail in the alternative forms of employment available to them, together with the prospect of having no job at all, that exercise the greatest influence" (Kabeer, 2004:25). Because of this, she is skeptical of claims that women's working conditions in export-oriented production will improve through linking global labor standards to trade agreements. However, Dominguez et al. (forthcoming) contest Kabeer's views and argue that we do not need to "accept the supply-side model of development based upon the industrialization for exports as the only alternative for women's development and greater dignity" (Dominguez et al., forthcoming:4). They argue that their findings from studies in Central America paint a different picture compared to Kabeer's. They do not agree on the supposed positive

27 Seguino has conducted interesting research on gender wage inequalities and has shown that these also play an important part in gender inequalities in other areas. Closing the gender wage gap can alter power positions and increase women's bargaining position in the home and in society. It can also lead to a shift in the unequal distribution of unpaid work between women and men.

28 For further reading on the suggested policies, see Seguino 2003:24–26.

impacts of this type of employment for women compared to informal-sector work or on the impact it has had on women's autonomy. Observations from Central America seem to contradict the view that labor conditions are better in export industries.

Busse & Spielmann (2005) discuss the fact that labor standards, through a social clause, will only target working conditions for women working within export production. It will not tackle gender biases in other parts of the labor market. If sanctions are imposed, through a social clause, this may in fact drive women into other sectors – with potentially lower labor standards. They use the experience from the banning of child labor in the garment industry in Bangladesh as an example. UNICEF reported that as children were banned from the factories, as a result of boycott pressure from the USA, most of them ended up in more dangerous type of work. However, Berik and van der Meulen Rodgers argue that improved enforcement of labor standards together with full employment policies can, in fact: “help provide women with more job security, assist women in gaining access to a wide range of better paying jobs in occupations that have traditionally been male-dominated” (Berik & van der Meulen Rodgers, 2007:6).

The discussion illustrates the complexities and place-based differences that need to be taken into account when discussing the impact of these instruments. There is no conclusive economic evidence that labor standards reduce employment. According to Luce (2005), the outcome is context-specific, depending on a variety of economic and political variables. It is, therefore, not possible to predict the specific outcome for employment when labor standards are established. Luce proposes that we should not focus on the labor standards in themselves or regard them as a solution to poor working conditions, rather “as a tool to aid in further organising” (Luce, 2005:27). Dominguez, et al., (forthcoming) equally argue that contextualization is of crucial importance when making comparisons that may have policy-related outcomes and for the choice of strategy.

Lack of women's voices

The issue of women's marginal position in trade unions and the institutions dealing with labor policies has been extensively discussed within public and academic debate (Razavi, 1999). The ILO has addressed this issue within the decent work agenda as an attempt to promote a more gender-sensitive approach (ILO, 2000). The trade union movement is also working to promote gender equality within trade unions and highlighting the importance of women's participation in trade union work (ITUC, 2007). In discussions of CSR and corporate citizenship the voices of women are still largely absent (Coleman, 2002).

However, the changes in global production systems pose a challenge to core labor standards and, especially, the *rights* pillar in the decent work agenda which is defined through the ILO core conventions. Representing or organizing workers within more

flexible, insecure and informal work provides a real challenge for the trade union movement – even if there are several recent examples of this being done. Informal workers, highly mobile workers, i.e. migrant or contract workers, have very limited possibility for collective action or power to negotiate with employers (Barrientos, 2007b). Also in formal work places trade unions have failed to sufficiently address the needs of women. Despite extensive empirical evidence, it has rarely been recognized that the priorities of women workers may actually differ from those of male workers (Razavi, 1999, Pearson, 2007). Trade unions are often represented by a male-dominated leadership which has often failed to integrate women’s voices and experiences. When trade unions fail to address gender issues, women regard them sceptically (Barrientos, 2007a). There are also geographical differences in how trade unions organize and in female participation. Kabeer (2004) discuss the situation in South Asia, and poses the critical claim that “not only are most male trade unionists largely indifferent to their [women’s] needs and priorities as workers, but they also tend to reproduce the norms and behaviour that treat women as a subordinate category and marginalize their needs and priorities as women” (Kabeer, 2004:22f). Dominguez, et al. (forthcoming) argue that there are similar findings in Central America, where unions have failed to acknowledge or actively promote women workers’ rights.

Women working in the formal sector also keep their responsibilities in the informal sector. Time restraints are, therefore, an important factor in women’s ability to organize or join unions (Barrientos, 2007a). The lack of women’s voices in the forums that address the needs and wants of workers is also pointed out by trade unions in other developing countries:

“... a critical examination of core labour standards in context specific situations should bring out more gender dimensions than has been happening. For example the right to association raises gender concerns when we begin to ask who are the people involved, how many men and women, why so few women, what rights of women are at stake when there are so few women, etc.” (email interview, trade union official from Ghana, 2008)

The lack of participation of women workers within the forums that define and articulate what is gender discrimination has important implications for what is considered the needs and priorities of workers. Poster, therefore, argues that “We need to consolidate and integrate our definitions in a way that recognizes the multiplicity of what workers actually articulate and experience as discrimination” (Poster, 2001:102).

Voluntary schemes

The critics of a social clause have sometimes voiced the advantage offered by voluntary schemes such as through codes of conduct. For example, Kabeer argues that codes can play a role in holding corporations accountable for working conditions. However, there are many critical concerns relating to the CSR schemes. Even if codes of conduct are based upon ILO standards and, on paper, have comprehensive

schemes to protect worker's rights and health, the question of effective monitoring and implementation of the codes is crucial. It will not be sufficient to rely on corporations to self-regulate compliance (Berik & van der Meulen Rodgers, 2007; Hale & Shaw, 2001). A critical question is also whether the corporate codes indicate a real, long-term commitment, or if they are merely a public relations exercise. Voluntary codes seem to be sensitive to issues covered in the media. It is illustrative that one of the first codes of conduct came from Levi Strauss in 1992 and was a direct result of an article in the *Washington Post* about how Chinese prisoners were producing Levi jeans. It is also worth noting that the codes are most common in companies that deal directly with consumer products (Hale & Shaw, 2001, Pearson, 2007). Issues that upset consumers are more likely to appear explicitly articulated in the codes. For example, child labor is mentioned in a majority of the codes, while issues relating to the rights of women or migrant workers do not receive the same attention. According to Pearson and Seyfang, this reflects the fact that "the codes [are] being adopted as a response to NGO campaigns, and being aimed primarily at developed country consumers, rather than tackling problems faced by a diverse set of vulnerable worker groups" (Pearson & Seyfang, 2001:56).

From a feminist perspective there are additional issues relating to CSR practices. Labor markets are gendered institutions "which reflect socially constructed divisions of labour embedded in economies which are themselves gendered structures" (Pearson, 2007:736). Codes only address formal, regulated employment, while informal and reproductive work go beyond their scope. They are, therefore, only applicable to workers who have formal employment contracts (Ibid.).

Angela Hale and Jane Turner have studied codes of conduct within the garment industry from a gender perspective and, like Barrientos, they argue that the codes have not been developed in light of the specific problems or interest faced by women workers – rather they reflect existing regulation based on the experience of, predominantly, a male full-time workforce. A key issue is, therefore, the impact of the codes for the many women employed on a casual basis in smaller unregulated workplaces (Hale & Turner, 2005). For the codes of conduct to be effectively implemented, they must be developed in co-operation with local workers as well as local organizations (such as trade unions or NGOs). For them to also protect the rights and needs of women, ensuring representation of female workers in this process is crucial. Research has also shown that local representatives, be they workers or trade union officials, are often men with little or no knowledge of the conditions for or special needs of female workers. Therefore, topics of special relevance to women workers are not mentioned in discussions around the codes. To understand the gendered impact of corporate codes of conduct, we need to look at the *process* through which the codes have been developed. *How* is the code formulated, and *who* has taken part? Have women workers, their organizations or representatives been a part of the process (Pearson & Sefang, 2002)? As stated by Pearson & Seyfang "what is on the agenda and who is being invited to the negotiating table?" (Pearson & Seyfang, 2001:50).

CONCLUDING REMARKS

The review of the literature and discussion has shown that there is no unified feminist position on the inclusion of labor standards in trade policy. However, it is possible to extract some core feminist concerns relating to core labor standards, decent work and CSR:

- Core labor standards, as well as CSR schemes, only relate to work in the formal sector and, therefore, do not cover a majority of women's work – which is taking place outside the formal sector
- What has been named 'core labor standards' excludes many central concerns articulated by women workers
- In relation to formal sector work, there are still many constraints for women in getting involved in the forums that define workers' rights (including government bodies, trade unions and corporations)
- Gender discrimination forms an integral part of the market economy. Measures which do not challenge the underlying causes of gender discrimination risk upholding gender divisions and oppression as well as spreading the perception among policymakers that gender issues are being adequately addressed
- Gender hierarchies and divisions of labor impact the needs of workers. The priorities of women workers often differ from those of male workers. Equally, workers in the South may make different choices to those in the North.

There are many questions regarding the effectiveness of self-regulatory voluntary schemes, such as CSR through codes of conduct:

- Codes of Conduct only address formal regulated employment. Hence, work in the informal sector is outside their scope;
- The Codes only apply to workers in a specific corporation at a specific point in time;
- Issues relating to implementation, enforcement and effective monitoring of the Codes are of crucial importance when evaluating their impact for women workers. It is not enough to rely on corporations to self-regulate compliance of the Codes;
- The Codes are sensitive to issues covered by the media in developed countries, and there is a substantial risk that what is covered in the codes reflects the desires of consumers in developed countries rather than the needs of women workers in developing countries;
- Women workers need to be involved in the *process* of drafting the codes in order for them to also cover issues prioritized by women workers.

Finally, a pressing issue for further discussion are questions around *conditionality*. The EU has clearly stated that it sees trade policy as a useful way to promote what it calls 'our values'. It argues that trade incentives have proven useful to strengthen

social and human rights. It is crucial to continue the discussion around the possible risks involved when subordinating workers rights to the free trade agenda. What implications will this have in different parts of the world? What implications will this have in the struggle for women's rights and social justice?

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