Workers' Rights, Human Rights, and Solidarity Across Borders

Gay Seidman
University of Wisconsin-Madison

Over the past few decades, as restless capital has moved about the world looking for cheaper production sites, labor campaigns have looked across borders for support. In a world where threats of capital mobility and outsourcing strategies are used to push wages and working conditions ever lower, local activists have called on international allies to insist that multinationals improve the treatment of workers—especially in the developing world, where local governments often seem unwilling or unable to protect their citizens at work and where workers on their own have little leverage.

In these cross-border appeals, as Joseph McCartin notes, labor activists often use the language and tactics of the international human rights movement to describe employer violations, hoping to strengthen worker bargaining power in circumstances where employers hold all the local cards. The choice of human rights language is not coincidental: The lines between labor rights and human rights are often blurred. Labor activists are often the first targets of repressive regimes, and even moderate governments have been known to turn a blind eye to employer transgressions or paramilitary attacks on labor activists. Indeed, the failure of local governments to protect their citizens' rights at work may be the reality that prompts most global campaigns: In a world where economic development has been defined by success in attracting foreign investors—where governments from El Salvador to Macedonia literally advertise the pitiful wages paid in local export-processing zones, where labor laws are explicitly waived for foreign investors, where attacks on labor activists are left uninvestigated and unsolved—many activists know all too well how vulnerable they are.

In these conditions, labor activists have learned to turn outward, hoping for international pressure to support workers' efforts to organize. Especially when activists hope to reach beyond traditional labor organizations—when they try to engage consumers, friendly governments, or international organizations in the effort to intensify global pressure on employers—transnational campaigns tend to emphasize issues that they hope will prove compelling to audiences who are not necessarily familiar with labor issues and who may know little about the immediate local context.

Transnational appeals that draw on the human rights discourse generally reflect a philosophic tradition markedly distinct from the kind of individual "rights" constructed and protected by American political culture and law, drawing instead on notions of a set of universal rights stemming from the

International Labor and Working-Class History
No. 80, Fall 2011, pp. 169–175
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doi:10.1017/S0147547911000172

https://doi.org/10.1017/S0147547911000172 Published online by Cambridge University Press

simple fact of being human. Widely accepted since the Second World War, the idea that we can identify a universal set of human rights draws on a broad philosophical tradition that suggests we can agree on what it means to be human, with basic needs and rights transcending local political cultures or traditions. Generally reflecting the values of the European Enlightenment, embodied in broad documents like the UN's Universal Declaration of Human Rights, international human rights agreements have created an aspirational set of norms and expectations, broadly agreed upon, although generally enforced only through public pressure and international debate. This is primarily a normative discourse, an attempt to create a sense of a global moral community, with norms that reflect a common sense of humanity—and that are generally vague and broad enough to travel well across widely different contexts and institutions.

Perhaps as a result, transnational labor activists have found that deploying a human rights discourse allows them to attract international attention where a more traditional rhetoric of union solidarity might have gone unnoticed. The discourse of human rights appeals to a wider audience, catching attention and garnering support from a wider circle than the audience that responds to more traditional appeals for labor solidarity. Using the language of human rights, activists can make visible the brutal reality of production in countries and workplaces that lack regulation for health and safety conditions, that have no protections for children, pregnant women or other vulnerable groups, that refuse to set a floor under wages or prevent abuse and brutality from employers—appealing to audiences that have shown far less sympathy for appeals to worker self-organization and solidarity.

As McCartin notes, these transnational appeals operate along a very different dynamic than the kind of "rights-based" claims he describes within the US context. North American political discourse tends to reduce "rights" to individual political and civil rights, generally linked to conceptions of national citizenship, referring to individual liberties defined through specific political institutions in a long-established electoral democracy; here, individual liberties stand in contradistinction to the collective language of worker solidarity. In the United States, anti-union forces frequently attack workers' organizing drives as dangerous to individual freedom and raise concerns about how union contracts or "compulsory" membership might eliminate individual free choice—an anti-union rhetoric, as McCartin shows, that draws on a vision of American citizenship entirely rooted in a conception of individual rights as central to political liberty.

Outside the North American context, however, the language of international human rights has proved far more flexible, providing activists with a normative language that is almost purposefully vague and broad, describing goals in a language that stretches across different cultures and contexts, asserting a universal moral standard against which employers and governments can be measured. Moreover, in contrast to the liberal individualism running through American political rhetoric, human rights advocates have long been willing to incorporate notions of social and economic rights in their vision. The 1948

https://doi.org/10.1017/S0147547911000172 Published online by Cambridge University Press

Universal Declaration of Human Rights included several core labor rights—from freedom from slavery and discrimination, to freedom of association, to social welfare and "just and favorable conditions at work,"[1] and most human rights advocates today include labor concerns in their vision.

Given this background, McCartin's question, "Is the human rights framework an effective vehicle for advancing workers' collective interests?" seems a uniquely North American perspective, overlooking the history of global efforts to include social and economic rights as fundamental to understandings of human rights—an effort that North American policy-makers have generally rejected but that remains an active discussion beyond America's borders. Within the US, appeals to international norms tend to hit a brick wall: Conservative North American political culture rejects the suggestion that international norms or pressure should have a role in American affairs, and international norms rarely feature in US political discussions. American rights claims stem from an individualist understanding of rights and democracy, directly linked to the liberal democratic practices of American politics and institutions; fanned and fortified by decades of anti-union rhetoric from politicians and corporations, this is a very different tradition than the broader human rights traditions invoked in labor campaigns around the world.

For labor activists outside the US, I would argue, the strategic attraction of a human rights frame is obvious. When labor concerns are presented in terms of human rights violations—when Cambodian human rights activists draw global attention to the murders of labor organizers, or when activists point to forced labor in Myanmar/Burma—they attract attention from a much broader audience than if they described the same violations in terms of the widely accepted but far less visible conventions of the International Labor Organization. Importantly, the human rights framework provides a rationale for increased pressure from outside.

Uniquely in international relations, claims of human rights violations can be used to justify outside intervention in domestic affairs. As international human rights advocates have demonstrated since the early 1960s, broadly defined human rights claims can attract enormous attention, exerting moral pressure on both states and employers.

As many union activists acknowledge, the strict labor conventions of the International Labor Organization have been far less effective for marshalling global support. Since the First World War, the International Labor Organization has called on states to ratify "model" conventions to protect labor rights for citizens, and for the past half-century at least, most independent governments have adopted many model codes. All too often, these model laws remain unenforced; in too much of the world, labor laws are not worth much more than the paper on which they are written. Designed to be applied by governments trying to protect their citizens, these conventions may offer "model" laws, but they don't work when the local government has no intention of enforcing them, or when employers know that no one will hold them to account.

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When local governments offer no protection against employer abuse, international pressure often offers the only realistic strategy for workers seeking to improve basic conditions and to strengthen their organizations.

Guatemala stands out as a country where labor activists have long linked labor struggles to a human rights agenda, arguing that they are essentially indistinguishable when neither the government nor employers respect the rights of either citizens or workers. Through the 1980s, Guatemala's human rights activists could do little more than catalogue abuses, alerting the world to abuses and massacres in a brutal civil war. In this period, human rights and labor rights were virtually indistinguishable. Security forces and less-official paramilitary groups attacked labor activists so frequently that any distinction between labor-rights and human-rights frameworks seemed irrelevant.

In the early 1990s, the country began a slow transition toward democracy—largely because of international pressure, including threats of strict economic sanctions. Human rights activists played a central role in negotiations and the subsequent transition, monitoring the behavior of both government and guerrilla forces and threatening to publicize violations of the pact. As human rights activists saw it, "naming and shaming" served as a crucial strategy for building a democratic culture: By publicizing abuses and attracting international pressure, they hoped to push the country's powerful elite and military as well as former guerrillas to abide by the laws that are written on the country's books.

But as Guatemala moved toward a rocky peace, human rights activists began to incorporate labor issues into their efforts. Many activists began to argue that the government's failure to enforce labor laws constituted a form of human rights violation, following a straightforward logic. Although Guatemala had ratified many ILO conventions and had reasonable labor laws on the books, the government made little effort to enforce its own rules. Even if the underfunded Labor Ministry responded to workers' complaints, its processes were slow and inefficient, and employers' lawyers were powerful; worse, other government ministries sometimes impeded Labor Ministry efforts. In one notorious incident, employees of the Ministry of Production physically blocked Labor Department investigators at the gate of a plantation, preventing the reinstatement of illegally fired union members.

As they monitored the peace process in the early 1990s, human rights activists turned their attention to the new apparel factories springing up around Guatemala City, arguing that the country's "culture of impunity" extended to workplaces where employers faced no consequences for failing to follow the rules. These new sweatshops generally produced apparel under contract for American retailers, and their products were destined for American markets; the new industry arose in direct response to American trade policy, when the US reduced tariffs on goods imported from Central America, hoping to attract new investment to Central America while slashing prices for American retailers. Repeated conflicts between foreign employers and the young women who worked for them dramatically illustrated the problem: Wages

https://doi.org/10.1017/S0147547911000172 Published online by Cambridge University Press

went unpaid, workers were slapped and abused, union activists and their families were assaulted and threatened.

In a context where local human rights activists had already developed strong international networks, the next step was obvious. Human rights activists appealed for global pressure, hoping that the corporate giants who subcontracted production would bring abusive subcontractors into line. By the turn of the twenty-first century, transnational interventions had become a standard component of labor campaigns in Guatemala, including global consumer campaigns, visits by international union leaders, and even direct intervention by the US Trade Representative on behalf of labor law reform.

In several key conflicts, these interventions have borne fruit: Not only have multinational corporations signed and monitored subcontractor compliance with voluntary codes of conduct, but under pressure, the government has sometimes stepped in, warning employers that they might lose their export licenses if they failed to comply with local labor laws.

In places like Guatemala, activists often express concern about their dependence on outside intervention and support for labor campaigns, but the issues they mention are generally quite different from those McCartin highlights in relation to the United States. International audiences who respond to gross violations of human rights are rarely interested in less dramatic accounts: Only the most dramatic incidents capture attention. It is much harder to mobilize international attention for labor struggles involving the mundane details of exploitation and workplace drudgery that mark global production sites—prompting activists to focus on examples of extraordinary heartrending abuse.

As many observers have noted, transnational campaigns work best when they stress vulnerability and innocence, pulling on audiences' heartstrings and demanding protection for the victim.[2] Images of child workers or enslaved victims are apparently far more likely to garner sympathy than pictures of ordinary adult workers (much less the images of strikers in heroic poses that inspired labor campaigns in an earlier era).

This pattern can create a new dilemma for organizers. In presenting workers as vulnerable victims, "bearing witness" to the abuse they suffer, transnational campaigns may gain global sympathy, but they sometimes find themselves redefining workers' priorities to match the assumptions and predispositions of global audiences. Thus, for example, unionists may welcome the international assistance that flows in for campaigns to eliminate child labor, but they often grumble that the same international campaign has done little to improve working conditions for the child's older sister—even though that sister may only be sixteen, and even though the child will eventually grow up and come back to work in the same factory, still lacking any collective voice for workers.[3]

Perhaps even more problematic, activists find themselves making strategic decisions aimed at garnering international attention—and in the process neglecting local workers' concerns. Especially when workers face an immediate

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crisis, activists in developing countries often look overseas for allies—a move that almost inevitably involves appeals framed in the broad language of human rights. Too often, the need to find attention-grabbing incidents to boost publicity outweighs even well-intentioned activists' efforts to strengthen shop-floor organization: Efforts and resources go into mobilizing public support, relying on nongovernmental organizations rather than building trade union strength, or even ensuring that workers' voices are included in decisions shaping transnational strategies.

Further, attracting international attention can hurt the very workers the campaign aims to help. If an international consumer boycott prompts a corporation to cut off a subcontractor, and the subcontractor's factory closes, the victory can be a pyrrhic one for the factory's former employees.

Even well-designed transnational campaigns find it difficult to sustain international pressure once the most visible abuses are ameliorated. Many activists now suggest that transnational pressure should be aimed at strengthening local institutions, so that workers can defend themselves in the future. Efforts to hold companies accountable through voluntary codes of conduct, even when backed up by well-intentioned consumers and monitored by independent transnational groups, have proved unreliable: Few NGOs have the resources to monitor more than a handful of worksites, and even ardent advocates admit that international consumer pressure has had surprisingly little impact on most worksites around the world. "Naming and shaming" violators may be a first step to attracting international attention, but activists are now trying to find strategies for continuing to regulate workplaces on a more permanent basis.

Increasingly, many "fair trade" activists are trying to build direct relationships with suppliers, hoping to strengthen links with producers who respect workers' rights. Thus, for example, the Workers' Rights Consortium has called on universities to source logoed material from designated supplier factories, hoping to reward employers who have demonstrated respect for their workers' rights.[4] Other activists and scholars have focused on strengthening local institutions to protect workers—especially, of course, in countries where democratic governments have been elected, and where policy-makers have a serious commitment to strengthening labor rights and helping working-class communities.

Over the past twenty years in countries as different as the Dominican Republic, Brazil, and South Africa, stronger institutions of democratic governance have been constructed to help protect citizens at work: Better-trained, better resourced labor inspectorates, more rigorous enforcement of labor law, and more effective support for union organizers, as well as more insistent enforcement of environmental and health and safety protections, can make a real difference in workers' lives.

Labor activists in many parts of the world would probably agree with McCartin's call for "industrial democracy"; the dilemma they face is how to use international pressure to strengthen local institutions and workers' voices rather than bypassing them. While international attention has certainly

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brought help in extreme situations, international alliances are too often fleeting, and too often unreliable. For the long term, building support for workers' rights would have to entail strengthening local democratic rights—including creating local political support for labor rights and protecting workers' rights to organize on their own behalf.[5]

As long as capital writes the rules of globalization, that language seems to be the most accessible language for putting pressure on governments and employers. The long-term challenges for labor lie in what comes next. Can international pressure be brought to bear in support of building organizations that will let workers speak on their own behalf? Can international resources be mobilized to strengthen workers' voices? Will outside pressure or international donors support stronger labor law enforcement or more regulation of employers? Could international pressure be deployed to prevent employers from fleeing, to give workers some confidence that going on strike won't mean losing their jobs?

NOTES

1. Philip Alston, "Labour Rights As Human Rights: The Not So Happy State of the Art," in *Labour Rights As Human Rights*, ed. Alston (Oxford, 2005).

2. Margaret Kleck and Kathryn Sikkink, *Activists Without Borders: Advocacy Networks in International Politics* (Ithaca, NY, 1998).

3. For an extended discussion of how this pattern played out in Bangladesh, see Ethel Brooks, "Transnational Campaigns Against Child Labour: The Garment Industry in Bangladesh," in Joe Bandy and Jackie Smith, eds., *Coalitions Across Borders: Transnational Protest and the Neoliberal Order* (Lanham, MD, 2005), 95–117.

4. http://www.workersrights.org/dsp/Designated%20Suppliers%20Program%20-%20Revised.pdf.

5. See, for example, Shireen Ally, *From Servants to Workers: Domestic Workers and the South African State* (Ithaca, NY, 2009); Mark Anner, *Solidarity Transformed* (Ithaca, NY, 2011); Michael Piore and Andrew Schrank, "Toward Managed Flexibility: The Revival of Labor Inspection in the Latin World," *International Labour Review*147 (2008); Roberto Pires, "State Capacity and Bureaucratic Accountability in the New Development State: Lessons From Labor Inspection in Brazil," presented to the Latin American Studies Association Meeting, Toronto, October 2010.

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