*Very Preliminary Draft:*
*Comments Welcome, But Not For Citation*

# Rethinking International Labor Standards

Michael J. Piore
*David W. Skinner Professor of Political Economy*
*Department of Economics, MIT*

For Presentation at:

Conference on Labor and the Globalization of Production

*Center for Economic Policy Analysis*
*New School University*

March 8, 2002

Labor standards are moving to center stage in international trade policy, but the debate has been conducted largely within the framework of competitive economic theory. In that framework, working conditions are viewed as the outgrowth of an informed choice by workers and by firms. To make the labor standards of the advanced, industrial countries a condition for trade is at best the naïve imposition of the values of rich nations upon the poor in the developing world who can ill afford them. At worst, it is simply covert protectionism (Bhagwati, 2002). There is a certain abstract logic to this view, but it is not grounded in field experience. I have been looking at firms in Mexico over the last six years as they have tried to adjust, first to the opening of that economy to trade and then to NAFTA, and in Mexico at least these views seem completely out of touch with reality (Piore, Dussel-Peters and Ruiz-Duran, 1997; and Kuznetsov et al, 2001).

Particularly telling are the firms in Ciudad Hidalgo, a small city in the mountains of the Mexican state of Michoacan. The major industry is woodworking, and I went there to visit furniture-making shops as part of a study we were conducting on the impact of the opening of the Mexican economy to trade upon traditional industries. The city had been hard hit by this process: there had once been over 3,000 furniture shops, but their numbers had declined rapidly in the early 1990's,y and by the time I was there in 1996 there were less than 1,000 left.

The shops were in many ways typical of production in traditional industries such as clothing, shoes, ceramics and woodworking in Mexico and elsewhere in the developing world. They were attached to the living quarters of the proprietor, overflowing into what in other houses in the neighborhood was the living room or the dinning room or into outbuildings which would otherwise have served as a garage or to house farm animals. The work was laid out in a helter-skelter fashion, seemingly without order. And, of particular relevance to the debate about labor standards, there were children everywhere and of all ages. The older children helped with the work, fetching wood pieces on command for their parents, painting and varnishing, occasionally even cutting wood on electric saws, or at least learning how to do so. The younger children chased each other around the shops, jumping over open vats of glue and varnish; it was often hard to tell whether they were actually working or just playing games. In one shop,

there were two babies sleeping on a pile of rags on the floor next to the table where their mothers worked sanding wood pieces.

Heath and safety was also a problem in these shops, certainly for the kids and often for the adults as well. The electrical saws were unguarded. The glue and varnish emitted toxic fumes; the material was probably poisonous if ingested and prolonged exposure carcinogenic – or at least I knew that this was the case in similar shops I had visited in Italy in the 1980's.

But while the shops in Ciudad Hidalgo violated the rudimentary child labor norms and health and safety standards of advanced industrial economies right and left, they were not without a set of norms and standards of their own. Much of what was going on, in fact, was not child labor at all, but child care. The women who were working were also watching; they would stop work to nurse a baby when it awoke or mind the children if the games got out of hand. The line between play and work was fluid. As the children grew up, they were drawn progressively into the work process – the line between work and play shifted gradually in a way that one could imagine more or less protected the health and safety of the kids and respected the limits of their physical and mental capacities. For the older kids whom we saw being taught to use the electrical equipment, the work was still something of a game. Imposing international standards upon these shops would have been in this sense a kind of cultural imperialism.

The shops of Ciudad Hidalgo were not, however, efficient; they were having real trouble competing in the international marketplace; and the blatant violation of international standards was not helping matters, indeed quite the contrary. In fact, we were following in the footsteps of a consultant who had been hired to help upgrade their operations and part of our mission was to evaluate his impact. The owners explained to us what was pretty evident to anyone familiar with modern production techniques, that the layout needed to be altered to smooth the flow of work, and the aisles cleared. They showed us, as the consultant had showed them, that the open vats of glue and varnish collected sawdust, which spoiled the finish on the wood. The children were a distraction which continually threatened the quality and the consistency of the work. Most of the changes the consultant had recommended to improve efficiency would clearly have improved health and safety as well. One had to conclude that if the changes had been

imposed by international labor standards, however imperialistic, they would have contributed to efficiency. Certainly, covering the barrels to protect them from the sawdust would have also protected the workers from the noxious fumes and reduced the chances that the kids would ingest the poisonous material. Clearing passageways through the shop and isolating the equipment in well-defined work stations would have made it easy to install guard rails. But an efficient layout would also have repositioned the mothers into places where they could no longer see their babies or watch the older children. No amount of reorganization could completely eliminate the distraction of small children running around the shop. Ultimately, an efficient shop by western standards would have sent the children home.

None of these reforms were actually introduced in Ciudad Hidalgo. This was partly because the shops could not afford the continuing help of outside consultants that was required to upgrade their operations. But, more fundamentally, because the children were already home; they had nowhere else to go. Indeed, the child labor is basically one symptom of a more fundamental problem of these shops: the way in which productive activity is interwoven with, and inseparable from, the household. Thus, business and household finances were intermingled; the shop which, by common consensus, had the best designs and the most refined craftsmanship had been driven to the edge of bankruptcy when the head of the household fell sick and the working capital of the business was diverted to pay for his surgery. Others families lost their homes or their transportation when the business went broke. Infrastructure – transport, water, sewage – was inadequate because most of the shops were located in residential neighborhoods and interspersed with private dwellings. The shops were, in fact, a perfect illustration of one of Max Weber's basic points about industrial capitalism: that its emergence requires the introduction – indeed in early capitalism it required the *invention* – of a distinction between the business and the household realms (Weber, 1958).

In late capitalism, at least in a country like the United States, it actually involves the creation of a third realm, a realm of education, which frees women from the responsibilities of childcare to enter the labor market. The conventional wisdom in development policy is that prohibitions on child labor are only effective when accompanied by the expansion of the school system (Weiner,1991).

Unable to restructure their production process, the furniture shops in Ciudad Hidalgo were responding the pressures of the international marketplace unleashed by the opening to trade by cutting costs, reducing employment levels, intensifying the pace of work, and cutting wages. The result was to compromise prevailing standards and weaken protective structures. As the pace of work increased, people were distracted from watching the children; even when they remained committed to coming to their aid in a crisis, they were less likely to anticipate problems. Children who normally never would have been allowed to touch dangerous equipment unsupervised began to do so. As the amount of adult labor in the shop was reduced, children were drawn into production prematurely or prematurely assigned tasks inappropriate for their age. Thus, if the production system prior to trade could be said to respect its own set of standards, however much they might have deviated from those of the industrial world, the impact of trade was to force them to violate not only international standards but also their own standards. They may have been better off materially than if they had failed to respond to the pressures of globalization at all – indeed, if that had happened they would have gone out of business. But they would have been much more competitive internationally, and better off materially as well, had they adopted a production system consistent with <u>our</u> labor standards.

This is no accident: it follows directly from the nature of the global forces to which the opening to trade is subjecting the Mexican economy. Those forces are coming from the industrialized world. The problem the traditional industries are having in Mexico – and in the developing world more broadly – is that they cannot meet industrial standards of quality and reliability. They are forced therefore to compensate for their defects by reducing prices. They have to find some way of meeting those standards. Since the standards are coming from the industrialized world, it is clear that one way of meeting them is to adopt the production practices of the industrialized world as well. The labor standards of the industrialized world are consistent with those production practices because they were developed in combination with them. Indeed, where the production practices could not be modified to meet those labor standards, the standards were probably adjusted to the production practices. The "cultural" imperialism – if that is the right way to think about what is happening – is thus coming from international

competition, and the developing countries opened themselves up to its dynamics when they opened their economies to trade.

The real question is not whether the practices the industrial economies are pursuing are more effective than those which Ciudad Hidalgo is adopting, but rather whether there is actually a third way, a set of practices that would enable Ciudad Hidalgo to compete in the international marketplace without simply becoming a carbon copy of, to put it in the crudest terms, a small town American city.

One such alternative, more compatible with traditional household production and the labor standards which grew up around it in Ciudad Hidalgo, is to move up-market into the production of customized items for specialty niche markets. This strategy had been developed extensively by the industrial districts of central Italy in the 1970's and almost a century earlier by the English districts described by Alfred Marshall (Pyke, Becattini and Sengenberger, 1990; Schmitz and Nadvi, 1999). Marshall maintained that in the English districts people absorbed the craft skills and sense of the materials from the very air they breathed, which is surely the experience of children growing up playing in the shops of Ciudad Hidalgo. This kind of production, of course, has exacting standards of quality as well, but they are very different from the quality standards of industrial production. The latter involve an emphasis on reliability and consistency: production to precise specifications, within a well-defined and limited margin of error. The standards of niche markets are much closer to the aesthetic of craftsmanship: novelty and an absolute standard of perfection. These standards are consistent with the leisurely pace of work and the informal organization of the Ciudad Hidalgo shops. Production for particular market niches would also require a considerable adjustment on the part of the producers of Ciudad Hidalgo but one which would in many ways be easier for the true craftsmen among them to understand and appreciate than the industrial standards, which focus on consistent production of medium quality goods and are often quite alien to the craft aesthetic. We actually encountered one furniture-maker in Michoacan (although not in Ciudad Hidalgo) who had quite successfully adopted a niche strategy of this kind. Also, the traditional industries of Jalisco have recently begun to systematically pursue an approach modeled on central Italy.

The New Garment Industry in Mexico

Most of the "traditional" industries of Mexico today, however, are really *new*. While traditional firms are sweating to survive in the face of international competition, and many are going out of business, a whole new productive structure composed of new firms and new plants is taking their place, especially in the garment industry. Mexico has become the largest foreign producer for the U.S. clothing market. The new plants are tied closely to foreign firms, either owned directly or operating as subcontractors. The plants are laid out and organized in accordance with the most up-to-date engineering and management principles. Indeed, they are typically designed by engineers from the parent company, or in the case of subcontractors the principle client. These engineers also train the first generation labor force and managerial staff; and a small staff of engineers from the parent company or client is usually permanently out-stationed in these plants to make sure that standards are maintained over time. The plants thus look and feel very much like their counterparts abroad. They have the look and feel of modernity which contrasts sharply with traditional producers in Mexico and even with smaller garment shops in urban centers such as those in New York and Los Angeles. There are no small children in the shop; they are more spacious and have better ventilation; rudimentary health and safety is better too. But the plants are typically more labor intensive than the U.S. plants upon which they are modeled; they use less capital equipment and work the equipment that they do have more intensively, so the pace of work is faster as well. Because of the pace and because there is less machinery to move bundles around, the work is a good deal more strenuous than it would be in a typical American shop. The workforce is composed largely of young women most of whom start working in the industry before they have children, and children are not tolerated in the plant. The real danger is the impact of the strenuous and repetitive labor. It would be hard to say that the workers are rationally choosing to pay for their material well-being in this way, since the cost in terms of health is only apparent over time, and the factories have not been in place long enough for the effects to become apparent.

Fairly typical of these new traditional industries are the garment plants in Tehuacan, which Natasha Iskander studied last summer (Iskander, 2000; Iskander, 2002). The workforce there is composed largely of migrants:

> "The vast majority … are young campesinos, in their mid-teens or early twenties, from surrounding rural hamlets in the mountains. Their departure represents a death-knell for the dying rural economies that they abandon, making it much more likely that their move to Tehuacan will be permanent. The social setting that they confront in Tehuacan has challenges they were unlikely to face in their home communities. Drug use among maquilla workers is relatively widespread, with speed being the drug of choice as it makes it easier to withstand the intense pace of production lines. High levels of sexual activity among workers are commonplace, and community health workers are already expressing concern that maquillas are strong centers of HIV transmission. A more visible expression of the sexual activity among maquilla workers is the rate of single motherhood: according to the public health department (regidor de salud), approximately 80% of all women who work in maquillas are single mothers, a source of real concern for the municipality that may ultimately have to provide childcare as mothers have moved far away from the family structure that would otherwise have provided that kind of support (Ayudamieto de Tehuacan, 2000)." (Iskander, 2000)

Work standards is too narrow a focus to capture the full impact of the emergent garment industry which Iskander points out:

> "…. misses the impact that maquillas have on workers' lives outside factory doors. In Tehuacan, these impacts were at least as damaging and more enduring that the hardships workers experienced on production lines.
>
> Tehuacan was once famous for its plentiful and pure mineral waters, said to have curative properties. Now, the water table drops by a meter and a half annually as factories that stone- and acid-wash the assembled jeans supplement their extravagant use of water with illegal wells that tap into rapidly diminishing underground reserves, threatening this arid and isolated region with permanent drought (OOSAPAT, 2000). These industrial launderers dump the used water, largely untreated, into the local rudimentary drainage system and the opaque bright blue waters, heavy in lead and other chemical content, run through the town in shallow unlined canals. Children play in and around these waters, and the contaminants seep through the soil to nearby household wells that are the only source of supposedly potable water available to many families. Gastrointestinal problems are already a significant problem in many neighborhoods, and the longer term health impacts of this pollution are already beginning to manifest, with the municipality of Tehuacan displaying an alarming rate of birth defects (Centro de Salud, 2000). Several branches of the drainage system flow directly into the waters that local farmers use to irrigate their fields, and in many areas the soil is stained blue. To address the threat of immediate contamination to crops posed by the industrial discharge, the municipality has ordered farmers to

> cultivate only "tall" crops such as maize and has banned altogether the harvest of "short" crops like tomatoes, cilantro and cabbage from many fields. Unfortunately, these measures do nothing to deal with the long-term impact that the contaminants will have on soil fertility, most likely turning them into inarable and dusty stretches of arid land (Secretaria de Ecologia 2000).
>
> In addition to ecological damage, the maquillas in Tehuacan are responsible for significant social dislocation in the town itself and in the surrounding areas. With production that has doubled every year for the last five years, the maquillas have set off a landslide of new immigration that has literally overwhelmed the city. The municipality's Department of Urban Planning estimates that about 14,000 new migrants move to Tehuacan every 6 months. The new arrivals settle in makeshift informal settlements at the town's outskirts, quickly erecting houses of sheet metal and woodscraps. These new shantytowns lack even the most basic infrastructure, with their absence of potable water significantly complicating Tehuacan's perpetual struggle against cholera outbreaks. (Secreatria de Desarrollo Urbano, 2000)." (Iskander, 2000)

The way in which the new productive structure is wearing away at the human and physical infrastructure of Tehuacan is particularly troubling because the garment industry is notoriously fickle. It is easy for virgin industrial territories like Tehuacan to attract the industry because its location decisions are motivated almost entirely by low wages and abundant labor. The raw materials and finished product are light and easily transported in and out, and the capital equipment is minimal. But for these same reasons its roots in these new areas are shallow. And the growth which the industry creates when it first moves in has repeatedly proven short-lived. When wages rise and labor becomes scarce, the industry moves on to other parts. Examples of places that have been used and then abandoned include Puerto Rico, which grew miraculously in the 1950's and 1960's only to stagnate in the 1970's and 1980's when the industry moved out to other Caribbean islands, Asia, and El Paso, Texas, from whence many of the plants now in Mexico came. A strategy of garment-led industrial development makes sense if the prosperity is used to build a base which will attract a second generation of more sophisticated industry, but the uneducated, illegitimate children, overburdened urban infrastructure, and polluted natural resource base which the industry is producing in Tehuacan are not a legacy that is likely to have this effect.

China

Tehuacan, however, is not the only pattern of garment industry development. A very different model is found in China, one which offers a solution to much of what is problematic in the way the industry has developed in Mexico. In China, new garment plants are also staffed by migrants from rural villages, but the women live in dormitories built by the company adjacent to the plant, in special compounds surrounded by chain link fences. The women are sheltered from the corrupting influence of drugs and sex, the company bears the cost of new urban infrastructure required to support the expanding population and the development of shantytowns is forestalled. The physical damage to the territory occurs within a contained space. The earnings of the workers are transmitted directly to their families who remain behind in the villages from which the women came, and the women themselves return there to reenter village life when their tour of duty in the factories is complete. But the virtues of China's approach to garment production is also its defect. The women are virtual prisoners in these factories; they do not have access to the outside world; nobody really knows what the pace of work is within, nor to what materials they might be exposed; and the workers are barred access to outsiders who might encourage them to question the conditions under which they work and to organize to seek redress. They are under enormous pressures from their families at home to earn as much as they possibly can. They have no effective voice in their work lives and no effective opportunity to exit either (Berger and Lester, 1997).

New Industry: Electronics and Software

The dormitory/factory communities in China are not, of course, a new invention. They are a revival of a pattern of labor recruitment and deployment that was characteristic of the New England textile industry in the early 19th century, before the great waves of foreign immigration, when American industry was dependent on drawing workers out of domestic agriculture. But there are actually patterns of work organization in developing economies that do not have longstanding historical roots. Virtually every major company in the global computer industry has located a facility in Guadalajara, Mexico, and all of them rely almost entirely on a system of contract labor that completely undermines conventional notions of industrial employment. Over 7,000 people work in

IBM's El Salto computer facility for example, but only 612 are permanent IBM employees. All of the rest, from computer programmers at the top of the occupation hierarchy to mother board assemblers at the bottom, work either as independent contractors or as subcontractors who operate production lines inside IBM's premises. Twelve thousand others work at adjacent manufacturing facilities (Kuznetsov et al, 2001). The pattern in Guadalajara is extreme, but the tendency toward employment arrangements of this kind is characteristic of the electronics industry throughout the world, in the U.S., no less than in Asia and Latin America. It is very hard to know what to make of these arrangements. They abrogate the tradition notion of the employer and confuse legal responsibility. They have been used in other industries to evade conventional labor standards, and in the U.S. at least studies have shown that they lead to significant increases in industrial accidents (Kochan, Smith, Wells, and Rebitzer, 1994) . But it has been argued with some cogency that the computer industry is organized around the concept of a project, which requires a continual shifting of the mix of skills in a manner comparable to the construction industry, and that the notion of permanent employment under these circumstances is obsolete.

What can one conclude?

What conclusions can one draw from these several examples for the question about international labor standards. The examples, it is seems to me, make very dubious the claim of neoclassical economists that prevailing standards represent the informed choice of rational agents in the face of the constraints imposed by inherently limited resources in an underdeveloped economy. There is no particular reason to believe that the prevailing conditions are the best that these people can do even in the short run, and certainly no reason to believe that they contribute to long run economic development. The workers and the communities in which they live may just as well be the victims of the process of globalization as its beneficiaries.

On the other hand, the specific problems presented in each of the four cases are very different. The first (Ciudad Hidalgo) presents the question of enforcing a set of indigenous standards under pressure from international competition. The second (Tehuacan) involves the enforcement of standards in a system of production imported

from abroad, where the source country has a great deal of experience in dealing with the problems this strategy of production poses for working conditions. In all three cases, but particularly the contrast between Tehuacan and China, the question is the relationship between labor standards narrowly conceived and the broader choices which the country (or the locality) has to confront in the face of the challenge of economic development. The problems of evaluating labor standards in the electronics industry in Guadalajara are almost precisely the same as those of evaluating standards in the electronics industry in the United States, and in both cases regulations have to negotiate territory for which there is relatively little relevant historical experience. These problems are so different that it is difficult to imagine a single set of standards that would cover all of them or a single set of institutions that would address the problems they present, even on a national level, let alone a set of international institutions.

The contrasting cases do, however, begin to suggest a set of principles which might guide the search for an institutional structure that would address the problems of labor standards. Four basic principles seem to arise directly:

- First, one would want a system which respected the existing standards of production systems that were embedded in an established social order, such as that of the furniture industry in Ciudad Hidalgo before it came under the pressure of global competition.
- Second, one would like a system which was flexible enough so that established systems could adjust to changes in the competitive environment in a reasoned and informed way. In Ciudad Hidalgo, specifically, one would like the producers there to be able to choose a different productive system, even if one were willing to accept a debased version of the system already in place.
- Third, one would like to be able to draw upon the experience of industrialized countries in coping with the systems which had grown up there and were being exported to other parts of the world. It is one thing to say that the people of Tehuacan, or China, are deciding that they cannot afford to respect the health and safety standards of the United States and quite another for them not to know about the dangers to health and safety to which those standards are a response.

- Finally, one would like to encourage informed debate and discussion, particularly discussion and debate which linked labor standards to the broader issue of economic development. This last goal is in some ways implicit in the conventional economic argument that the developing countries whose labor standards we view as debased are making a calculated choice. But they seem to reinforce the value of informed choice itself.

A Regulatory Structure

While it is hard to imagine a single set of regulations and institutions that would handle all of these cases, it is possible to envisage pieces of a regulatory structure that would address many of them. Seemingly the easiest and most relevant are those governing traditional industries in the industrialized countries. Here the experience is extensive and the regulations were put in place at a much earlier moment of history when their income was low and the workers often lived on the margin of subsistence. The concern that rich countries are imposing their preferences on the developing world, which cannot afford the luxury of such labor standards, is minimal.

These regulations could be imposed simply by extending the legal obligations of companies from the United States, for example, to their foreign direct investments. We do that already with legislation on bribery and on intellectual property; it is hard to distinguish these precedents from labor rights. The obligations of companies in the industrial world could be extended further to their subcontractors. U.S. companies have been particularly resistant to this obligation, claiming that the monitoring of labor conditions in subcontracts imposes an intolerable burden upon them. But when one actually sees the relationship between the contract and subcontractor in Mexico, that claim is patently absurd. They exercise the most stringent control over anything that affects the quality and reliability of the product. And, in fact, one of the conditions which they impose on their suppliers is that the supplier cut off the whole chain of secondary and tertiary contractors, which is typical of the garment industry in most of the world, precisely because it is so difficult to control quality and reliability along an extensive contracting chain (Gereffi, Spener and Bair, 2002). While these regulations have been slow to develop through law, they are in fact growing out of consumer movements, and

non-governmental regulatory processes have developed through negotiations with major brand name producers of clothing and shoes (O'Rourke, 2001; Fung, O'Rourke and Sabel, 2001).

Sweatshops

The longest-standing labor standards are those controlling the sweatshops in the garment industry. Sweatshops have their economic roots in a particular type of cost structure, a cost structure in which labor is the major cost of production and workers are paid by the piece. Where this is the case, the major cost which is independent of output is rent for the space in which the work takes place. For this reason, the employer tries to minimize rent by cramming as many workers and material into the production space as possible. The crowded conditions and the health hazards associated with them often have a detrimental effect on worker productivity, but the impact on the employers is minimized by piece rates, which effectively shift the cost of the sweatshop to the worker and eliminate any incentive which the employer might have to control working conditions as all. The ultimate logic of this system of production is industrial homework, where the worker even pays the rent and all costs are variable. The system also encourages child labor since the piece rate system compensates for a child's low productivity.

The system was finally brought under control by a complex set of regulations, ranging from health and safety standards which limited the impact of crowded conditions in the shop, to child labor laws, and a minimum hourly wage which controlled the piece rate system. In the United States, we actually outlawed industrial homework as well. The regulations were administered by a variety of different agencies but since they were all attacking the same basic system of production, the efforts of these agencies reinforced each other (Piore, 1990).

The laws governing the sweatshop in the garment industry date from the early twentieth century and were the culmination of efforts which began at least twenty years before. These efforts were spearheaded by immigrant workers, at a time when their income was comparable to those in Mexico or China today. It is difficult to argue that

the regulations constitute a luxury which only the high income workforce of modern industrial nations would rationally chose.

But the extension of sweatshop regulations would do little to reach the problems suggested by the cases described above, and in some respects they would foreclose important alternatives. Their greatest impact would be on the production system that has developed in Ciudad Hidalgo under the impact of trade. That system is a sweatshop system, and an extension of the sweatshop regulations to Mexico would foreclose it. The problem is that the regulations might well foreclose the production system that had prevailed in Ciudad Hidalgo before the opening to trade and the kinds of adjustment patterns modeled on the shops of the industrial districts of central Italy. The regulatory structure might limit the abuses in the large garment factories of Tehuacan and China, but these production systems are not sweatshops. The fixed capital investment is large enough to foreclose a true sweatshop. Basic health and safety compares favorably – quite favorably in fact – to unionized shops in New York City. The major problem in these shops appears to be the pace of work and the length of the work day; and these characteristics of the production system are not really reached by the sweatshop regulations. Clearly a different regulatory system is required here, and to reach the issues involved in Ciudad Hidalgo, a much more subtle one, one which respects local variation and accommodates to it.

## Respecting Local Differences

### Collective Bargaining in the United States

It is possible to design a system of social regulation that respects local differences. Decentralized collective bargaining in the United States, although it has come under attack in recent decades for its bureaucratic rigidity, actually functioned in this way. The underlying theory upon which the system was built is that each shop was in fact a social system with its own code of behavior, and that the code represented a compromise which had evolved over time between the technical and the economic exigencies of production and the social standards of the work place. Pressures from one side or the other operated to push practice outside the bounds the code permitted. Collective bargaining was a

means of amending and updating that code, through negotiations to accommodate these pressures. But it was also a framework for enforcing the code through the systematic adjudication of disputes. Adjudication, however, required experts skilled in uncovering and interpreting these local laws (or more precisely customs). A group of specialized labor arbitrators grew up who cultivated and practiced precisely these skills of local adjudication. At the apogee of the postwar system of collective bargaining in the United States, the U.S. courts deferred completely to the judgment of these skilled arbitrators. As the Supreme Court held up in its 1960 decision:

> "The collective bargaining agreement covers the whole employment relationship. It calls into being a new common law—the common law of a particular industry or a particular plant . . . [It] is an effort to erect a system of industrial self-government . . . [T]he grievance procedure is at the very heart of the system of industrial self-government. Arbitration is the means of solving of unforeseeable by molding a system of private law. [It is the end point in the process] by which meaning and content is given to the collective bargaining agreement." (United Steelworkers of America v. Warrior and Gulf Navigation Co, 1960)

Bureaucratic Regulation in France

The U.S. system of labor law is among the most extreme in its decentralization and its deference to local practice. But the French labor code, while in theory at the very other end of the spectrum with a nominally uniform code and administered by a corps of bureaucrats in the Ministry of Labor, operates very much to the same effect. The code is so complex that the bureaucrats who enforce it, the *inspecteurs du travail*, cannot possibly apply it literally. They use it instead as an instrument for maintaining a social order, the terms of which vary from one region to another, and the industry, the shop, and each inspector attempts to balance the custom of the workplace against the pressures of the economic environment (Berger and Piore, 1980; Duprilot, 1975).

Such a system, especially on an international scale, is not without its problems. First of all, it is difficult to imagine the American system at least without worker representation. It is, after all, the workers' participation in collective bargaining which makes it possible to change the rules to adjust to variation in the business environment. But employers are at least as resistant to procedural protections for workers rights as they are to substantive standards. These rights have in fact been severely compromised by the

decline in union membership in much of the industrial world over the last twenty years, most especially in the United States where legal protections have diminished as well. The French system substitutes a corps of highly trained government officials for union representation (Duprilot, 1975). But this kind of elite bureaucracy has proven very difficult for developing countries to create and sustain. The framework of rules which such a bureaucracy administers, moreover, gathers its legitimacy and much of its flexibility from the potential for amendment through the political process; and developing countries, most notably China, have been unwilling to guarantee the most basic rights of free speech and free press which would make such a process meaningful. These, however, are political obstacles which have nothing to do with the economists' case against labor standards as a luxury of the rich or covert protectionism.

The Inflexibility of Flexible Systems

The more telling problem, however, is economic, albeit not of the kind which has generally been raised as an objection to standards as a condition for trade: In recent years, both the French and American systems have proven to be much less flexible in practice than in earlier periods. This, it appears, is because of the radical changes in the business environment and productive technology which these countries, no less than Mexico, have sought to accommodate. The systems governing the workplace evidently are quite capable of compromise within the framework of a given production system by amending one rule or discarding another. But what has been at stake since the first oil crisis in the developed world is the ability to shift from one production system to another. Indeed, what existed in France and the United States is not perhaps all that different from what prevailed in Ciudad Hidalgo before the opening to trade. Evidently, it would seem to be a tendency for all social systems to generate work codes, sometimes embodied in national law, sometimes left to more local and less formally instituted processes, which govern work relations. The codes grow out of the interaction between market pressures and social norms and evolve over time. But the process of gradual evolution can be overwhelmed by the sudden surge of market pressure, such as those coming out of great depressions and world wars, or the sudden opening of previously closed economies like Mexico to trade, or the combined forces of trade, deregulation, and new technology with

which American industries tried to cope in 1970's and 1980's. The economy cannot always adjust to these kinds of surges within an existing production system. When the changes in the environment are permanent, in fact, firms probably need to adopt or invent totally new systems of production to survive. For such radical adjustments, the moral code of the old system acts as a major inhibition. People resist new practices as immoral when, in fact, those practices lie totally outside the range which the moral system was designed to judge. What is required is not the application of the norms of the old system to the new, but the development of a moral code appropriate to the new work context. International experience could presumably facilitate such transition by providing a menu of alternative systems and moral codes which go with them and hence helping to distinguish between a shift in "moral compass" so to speak and a kind of moral anarchy.

Ultimately, to accomplish a shift of this kind in a way that is perceived as moral requires that people recognize that morality exists on at least two levels. One of those levels is concrete, embodied in the specific code associated with a prevailing production system. But those concrete codes are embedded in a second, more fundamental set of abstract moral principles; the concrete codes are basically an interpretation of the abstract principles in a particular context; and those principles get reinterpreted as one moves from one such context to another (Piaget, 1965; Bloch, 1961). It is not clear that such shifts in the level of moral judgment and across different concrete moral systems could be managed by a system of international jurisprudence. But the international community might nonetheless play a role. It might be able articulate, and gain adherence to, a common set of abstract moral principles. The application of those principles to formulate concrete codes for particular production systems and the decision to move from one such code to another must grow out of very local discussion and debate. But the international experience could probably inform these local discussions as well.

Viewed in these terms, one of the problems with the international regulations that have been discussed historically, particularly those promulgated by the ILO, is that they are linked to the particular production systems, essentially those associated with large-scale mass production. As such they are too specific. This is one of the reasons underlying the split between the formal economy, which in the past at least has been guided by the organizational principles of mass production and the informal economy,

where a variety of other production systems prevail. This was less of a problem when we had a clear view of what industrial society was all about and where it was headed. The informal economy then seemed like the vestiges of a system which would eventually disappear. But in recent years, our vision of what a modern economy looks like and how it will evolve over time has become much more confused. Many of the production systems associated with the informal economy seem to be reappearing in the high tech start-ups.

The Conventional Framework

A framework for thinking about this problem is suggested by the French school of economic sociology known as the conventionalist school. Their work grows out of studies by Luc Boltanski of what he calls denunciation: attacks conceived within one system of moral judgement upon practices conceived in another (Boltanski, Darre Schiltz, 1984). Boltanski then went on with Laurent Thévenot to develop a typology of moral systems and a research program which explores the relationship between these moral types and a parallel typology of production systems (Boltanski and Thévenot, 1987).

This work begs the question of where the alternative moral systems come from in the first place and how they become linked to particular systems of production. The conjecture implicit in their work – and indeed in the argument I have been developing here – is that differences in moral standards governing the workplace reflect differences in production systems, not in national cultures. Their initial typology was abstracted from a reading of philosophical texts, guided by Boltanski's early work on denunciation. But recently, Boltanski has been studying the emergence of a totally new moral system associated with the production paradigm growing up around information technology (Boltanski and Chiapello, 1999). This study suggests the rudiments of a theory of how new types of morality emerge from the production system itself.

This research does not resolve the labor standards debate. It does, however, help us to identify a domain of common international standards for situations like those in the garment industry where there is considerable commonality across nations in the menu of production system from which they can chose. It also helps us to understand what the

limits of commonality are. And it provides a framework for gathering international experience and for organizing it in a way in which people from different cultures can make informed, moral choices in situations which lie beyond the range of their own experience. It can be viewed not so much as an alternative to the conceptual framework of economics, which has dominated the standards debate, but as a complement, a framework which explicitly recognizes moral judgment and makes it a central focus. It might enable us, by comparison among the moral standards of many different production systems, to identity a set of abstract principles which underlie moral choice more broadly. If one were to develop the list of abstract principles which underlie the specific moral codes associated with particular production systems, the debate about labor standards suggests that one item on the list would be the principle of informed choice, implicit in the economists' critique of international standards. Perhaps paradoxically, the research agenda of the conventionalist school may make it possible to approach the economists' ideal in a way that the framework in which their critique of labor standards was conceived does not.

References

Berger, Suzanne and Richard K. Lester (eds.). Made by Hong Kong. Hong Kong: Oxford University Press, 1997.

Berger, Suzanne and Michael Piore. Dualism and Discontinuity in Industrial Society. New York: Cambridge University Press, 1980.

Bhagwati, Jagdish (2002), "Free Trade and Labour," Financial Times, August 29th.

Bloch, Marc. Feudal Society, Volume 2. Chicago: University of Chicago Press, 1961, pp. 113-116.

Boltanski, Luc and Eve Chiapello. Le Nouvel Esprit du Capitalisme. Paris: Gallimard, 1999.

Boltanski, Luc and Y. Darre and M-A Schiltz (1984), "La Dénonciation," *Actes de la recherche en sciences socials*, Vol. 51, pp. 3-41.

Boltanski, Luc and Laurent Thévenot. Les Economies de la Grandeur. Paris: Presses Universitaires de France, 1987.

Duprilot, Jean Pierre (1975), "Le controle adminstitratif des licenciements," *Droit Social*, June, No. 6, pp. 53-75.

Fung, Archon, Dara O'Rourke, and Chuck Sabel (2001), "Realizing Labor Standards," *The Boston Review*, New Democracy Forum: February/March.

Gereffi, Gary, David Spener and Jennifer Bair, eds. Free Trade and Uneven Development: The North American Apparel Industry After NAFTA. Philadelphia: Temple University Press, 2002.

Iskander, Natasha (2000), "Beyond factory walls: Labor standards and the case of Tehuacan, Mexico," MIT Center for International Studies Newsletter, Fall 2000.

Iskander, Natasha (2002), "International Labor Standards in Local Struggles: Tehuacan, Mexico," mimeo, Sloan School of Management, MIT.

Thomas A. Kochan, Michal Smith, John C. Wells, and James B. Rebitzer (1994), "Human Resource Strategies and Contingent Workers: The Case of Safety and Health in the Petrochemical Industry," *Human Resource Management*, Vol. 33, No. 1 Spring, pp. 55-78.

Kuznetsov, Yevgeni, Michael Piore, Clemente Ruiz Duran, and Charles Sabel (2001), "Think Globally, Act Locally: Decentralized Incentive Framework for Mexico's Private Sector Development," World Bank Informal Research Report #22643.

O'Rourke, Dara (2001), "Sweatshops 101: Lessons in Monitoring Apparel Production Around the World," *Dollars and Sense*, September/October.

Piaget, Jean. The Moral Judgment of the Child. Translated by Marjorie Gabain. New York: The Free Press, 1965.

Piore, Michael J., Enrique Dussel Peters and Clemente Ruiz Duran (eds.). Pensar Globalmente Pensar Globalmente y Actuar Regionalmente: Hacia un Nuevo Paradigma Industrial Para el Siglo XXI. Universidad Nacional Autónoma de México: Fundación Friedrich Ebert: Editoral Jus, Mexico 1997.

Piore, Michael J. (1990), "Labor Standards and Business Strategies," in Stephen Herzenberg and Jorge Perez Lopez (eds.) Labor Standards and Development in the Global Economy. Washington, D.C.: U.S. Department of Labor, Bureau of International Labor Affairs, pp. 35-50.

Piore, Michael J. (2001), "Thirty Years Later: Internal Labor Markets, Flexibility and the New Economy," *Journal of Management and Governance*, forthcoming.

Pyke, Frank, Giacomo Becattini, and Werner Sengenberger, eds. Industrial Districts and Interfirm Cooperation in Italy. Geneva: International Institute for Labour Studies, 1990.

Sengenberger, Werner, and Duncan C. Campbell. Creating Economic Opportunities: The Role of Labour Standards in Industrial Restructuring. Geneva: International Institute for Labour Studies, 1994.

Schmitz, Hubert and Khalid Nadvi (1999), "Clustering and Industrialization: Introduction," *World Development*, Vol. 27 (9): pp. 1503-14.

Thevenot, Laurent (1985), "Introduction" in Laurent Thevenot et al., Conventions economiqus Cahier du center d'etudes de l'emploi, Presses Universitaires de France, pp. v-xviii.

United Steelworkers of America v. Warrior & Gulf Navigation Co., No. 443, Supreme Court of the United States, 363 U.S. 574; 80 S. Ct. 1347; 4 L. Ed. 2d 1409; 1960 U.S.

Weber, Max. The Protestant Ethic and the Spirit of Capitalism. New York: Scribner, 1958.

Weiner, Myron. The child and the state in India: Child labor and education policy in comparative perspective. Princeton, N.J.: Princeton University Press, 1991.