

Notes on Sweatshop Labor

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The workers who were hired about the eleventh hour came and each received a dinar. So when those came who were hired first, they expected to receive more. But each one of them also received a dinar. When they received it, they began to grumble against the landowner. "These men who were hired last worked only one hour," they said, "and you have made them equal to us who have borne the burden of the work and the heat of the day." But he answered one of them, "Friend, I am not being unfair to you. Didn't you agree to work for a dinar? Take your pay and go. Don't I have the right to do what I want with my own money? Or are you envious because I am generous?" So the last will be first, and the first will be last.

Parable of the Vineyard, The Bible, Matthew 20

Introduction

The parable Jesus relates in Matthew 20 neatly encapsulates the opposition between freedom of contract and labor standards that is at the heart of debates over globalization and sweatshop labor. The parable also neatly demonstrates why the issue remains unresolved and so controversial: An accepted authority on rights and fairness was himself very cryptic when it came to labor relations. The parable of the vineyard is sometime interpreted, by activist preachers, as a moral call to pay everyone equally. Sometimes those hired late in the day are interpreted as third-world workers, coming to the global economy only in the late stages of globalization. The parable can have other readings, including a 'freedom of contract' interpretation.

People throughout the wealthy, industrialized world are using stories and parables like this one to wrestle with the ethical problem of sweatshop labor in the

globalized economy, especially in the context of public debates over labor practices in overseas apparel factories of Nike, Kathie Lee Gifford, The Gap, and other brands. Labor activists have argued that conditions and pay are not fair. Pundits have responded that it was the companies' right to offer whatever wages they liked, if workers accepted them voluntarily. Nike spokespersons have argued that wages are in any case higher than local wages and that workers, rather than wanting to leave, may be found lining up at factory gates to be hired.

From the perspective of citizens of wealthy countries, the new sweatshop problem is different from the old sweatshop problem that these countries confronted in the process of industrialization. The sweatshops now are in other countries, rather than in 'our own backyard'. While trade with poor countries has always existed, the organization of production in poor countries is now being managed more directly by the institutions of the wealthy world. These institutions include multinational corporations, global financial institutions such as the IMF and World Bank, and global fora for negotiating trade rules such as the WTO. The rapid industrialization of poor countries makes this organization of production all the more visible. Put another way, the current phase of globalization makes the relations between the wealthy of the developed countries and the poor of the developing countries relations of proximity rather than distance. Those poor become our poor.

The problem is how to be ethical oneself when directly interacting with poor persons, and what to do about people who are not ethical in their interactions with others. Consider a hypothetical scenario. An owner of an American factory that makes baseballs pays his employees \$15 per hour. He learns that in certain regions of Haiti men and women can be trained, for a modest initial outlay, to sew baseballs, and that they will be motivated to work hard making baseballs at a wage of \$2 per day, which is twice the local going wage. The factory owner operates a medium-sized business, so there will be little short-term effect on the price of baseballs. But he is sure that once other factory owners get wind of his off-shore factory, they will follow, to Haiti or other, similar locations. The price of baseballs will fall, as the businesses pass on their lower production costs as they compete for customers by reducing prices. If the business owner does not go to Haiti, he will eventually see his profits decline. If he is first to go to Haiti, he will earn some temporary above-normal profits. Eventually, though, he will earn little more than he did before. Other entrepreneurs will compete for customers. Perhaps his experience in Haiti will enable him to locate and move to a country with even lower wages.

The ethical problems raised are the following: (1) Should the factory owner think he is doing something morally wrong? (2) Should a consumer boycott the factory owner unless he changes the conditions or wages in his Haitian factory? (3) Should a consumer *qua* citizen support some mandatory action imposed by the

American government, regarding the conditions and wages in the factory, but not required by the Haitian government?

There is no shortage of pundits, economists, and philosophers scoffing at the ethical problems and public policy issues posed in the public debate over sweatshop labor. No moral quandary, no cause for public action, they say. As Krugman (2000) put it, unless someone can come up with a better alternative to voluntary transactions leading to sweatshop labor, objections amount to an unreflective fastidiousness that is itself morally problematic. This position holds that polities have no cause to regulate the conditions and terms under which labor is voluntarily transacted in other countries (and perhaps not even in their own countries).

On the other hand, the sweatshop labor movement acts as if there is little need for public debate. The factory owner is doing something morally wrong. Consumers should boycott the factory products. The wrongness of the factory owner's actions justifies the use of force by the polity to stop him, prevent him, or dissuade him from moving his factory to Haiti, unless he commits certain other actions to remedy the wrongness of his actions. There is, in this view, a recognizable, universal standard for work and remuneration.

These two extreme positions are wrong. To see that, the next section triangulates the Haiti scenario with three other possible scenarios, one where there is little question of doing something morally wrong, the other where there is clear judgement that the action is morally wrong, and the third where something is amiss but we might not be sure what.

The argument of this paper is that the problems have no easy or clear answers. However, under a reasonable formulation of the problem, voluntary rather than private action seems to be the appropriate policy regarding sweatshop labor conditions. Public action, however, is absolutely required in terms of preventing violations of rights that foster the conditions in which sweatshops thrive. It may be that in certain countries, the only way to begin to prevent violations of rights is to regulate the production processes on the factory floors of multinational corporations and their suppliers who export products to developed, democratic, and rights-promoting nations.

Three considerations

Three variations on the Haiti scenario help us to see that the sweatshop labor problem's ethical interest hinges on our understanding of the following concepts: responsibility for the penury of others, taking advantage of a situation, and the desirability of equality in the treatment of others.

In what follows I offer the following positions. Responsibility for the penury of others invalidates any pretense to "doing good" through subsequent actions. Forgiveness and reparations are essential restoratives to regain a state of

ethical tranquility. Even in the absence of direct responsibility, people do have obligations to limit how much advantage they derive from a situation arising from the penury of others. This obligation makes some voluntary contracts unenforceable and indeed reprehensible. Finally, there is no strong imperative to treat people with equality, and so paying different people different wages is unproblematic.

First scenario: Voluntary exchanges that are not equal are fine

Suppose that, instead of moving to Haiti and hiring workers at \$2 an hour, the factory owner kept his American plant open and also opened a plant in Haiti and paid the workers there a wage of that was lower than the \$15 per hour he was paying his American workers, but only lower by an amount that enabled him to recoup his initial outlays in training and setting up the factory and the added transport costs of shipping the baseballs from Haiti to the United States, and also purchase some country-risk insurance, in the event that some natural or political disaster affected his Haitian operations.

Surely this factory owner would be applauded, rather than condemned, for his actions. Labor in Haiti is paid less—no global standard is adhered to—but the action is commendable. Condemning the factory owner ignores the enormous variety of individual and social experiences across the globe. Moreover, advocating a universal standard for work and remuneration suffers from a serious defect: it is not ‘credible’ in its utopianism, and thus risks doing more harm, by alienating potential sympathizers, than good. Few people advocate this kind of global equality, rightly recognizing that attaining universal acceptance and enforcement of a narrow set of process standards is probably a better, and more achievable, goal. Process standards include civic rights to associate freely, air grievances, and organize collectively, and basic rights to be free from indentured servitude and coercion.

Second scenario: Responsibility for penury and taking advantage.

This time, the factory owner visits Haiti, and while having a rum and coke with the corrupt local mayor, learns that the people of a small town in a remote part of the island derive all of their income from working in a forest that is held as common property. The mayor suggests that he can get the army to close off the forest (so he can exploit the natural resources in collusion with the army), and that people would then be only too happy to work in a new factory at a wage of \$2 a day. The factory owner says nothing, but advances several hundred thousand dollars to the mayor, who owns the plot of land where the factory will be located. Perhaps the mayor will bribe the army officers to come and close off the forest.

Surely, we might roundly condemn this factory owner for his actions, even without knowing whether he was the cause of the closing of the forest. The strong

appearance of impropriety puts a burden of proof on the factory owner, rather than on the public. More importantly, as will be argued below, work conditions are linked to political regimes. Repressive regimes encourage and benefit from oppressive work places. Ignoring work conditions, and benefitting from oppressive work conditions, implies complicity with those who violate basic human rights of speech and free association.

A digression on responsibility

Since responsibility for the penury of others, and subsequent advantage derived from that penury, is so central to discussions of the ethics of sweatshop labor, it is worth an extended digression. Perhaps every ordinary capitalist in the West is *responsible* for the penury of people living in the Third World, potential employees at low wages. We might put the question more starkly with another contrived example. A stranger comes into town, looking for a man you know, named Jose. It is pretty clear to you that this man intends to steal Jose's oxen, preventing him from farming that season. You do not help the man, but he finds Jose nevertheless, steals the oxen, and then Jose needs to work to build up some capital to eventually buy some more oxen. Your village has no real labor market; everyone works on their own farms. But out of pity for Jose, you give him a job that enables him to earn a living and a little savings. You also derive a decent return from his labor, and you tell him you would like to hire him again next year.

So whereas with the corrupt mayor you actively participated in creating the penury of the people you wanted to hire, with Jose you benefitted in a completely unintentional way, although you were perhaps a bit passive in terms of protecting him from the theft that rendered him poor. Would it make a difference if Jose was well-known for not listening to your repeated warnings that he should lock up his oxen at night? Would it make a difference if you had not seen this specific stranger, but knew that there were thieves in the area in general, and you did warn Jose to be careful? Would it make a difference if you were a member of the town council, and refused to vote a budget for basic preventative police work that would have minimized the chances of criminals entering the area?

As these examples and discussions suggest, holding someone *responsible* for the outcomes of life borne by another person is not an easy declaration to make. We might phrase the issue of holding someone responsible for the outcomes of life borne by another as an issue of the obligation one has to improve the outcomes of life borne by another, less fortunate, individual.

A well-known philosopher's moral conundrum illuminates this question. While much of the force of the argument is in the telling and contextualization, in essence it boils down to asking what the morally right action is in the following situation: prevent your house and life savings from burning to the ground, or save the life of a child. Many would suggest that few persons would choose to the save

their house if it meant the death of a child. But, the moral reasoning goes, is that not what people in the wealthy countries do when they do not send money to programs that prevent deaths at low costs (such as immunization programs and basic health care programs)? Wealthy people choose their houses over the lives of children who die. Since there are a very large number of children who die from preventable deaths, there seems to be little excuse not to devote nearly all of one's income and wealth to preventing these deaths. Everyone is morally culpable. One might imagine that if the situation were worse, forcing people to give up their wealth would be easily justifiable.

The power of the argument rests on an artificial framing of the problem as a zero-one choice. The child dies immediately or the child lives. The problem does not tell us how long the child would live for. Suppose the child you saved by not letting the house burn down would only live for five minutes. Should you still let the house burn down? Suppose there was only a 10% chance that the child would actually live to be an adult. Suppose the child was severely handicapped or terminally ill and in great pain, and unbeknownst to you, was trying to commit suicide. When we rephrase the problem to make room for all the vagaries and uncertainties of real life, we see that the conundrum is merely artificially leading us to be rather severe utilitarians: we should act so as to maximize the utility of people in general, even at the expense of our own welfare. Utilitarianism is a bad moral principle to live by, for reasons that are easily anticipated.

So the question of general responsibility for the outcomes of other's lives, and obligations to improve the lives of others, is far muddier than one might think. Perhaps the moral principle that we adopt in this regard is one of reasonableness and proximity. Reasonableness takes into account the inherent propensity we have, as humans, to be selfish and enjoy our lives, and proximity takes into account the possibility that as we move farther from people and social situations that we know, we may commit mistakes if we tried to maximize the utility of others. More importantly, the reasonableness and proximity criteria suggest that when people do take deliberate actions to improve their own welfare at the expense of others, and they do this in proximity to others (so there is a presumption that 'due diligence' could be carried out), then their responsibility for the penury of others is strong, and the advantage they gain from their dealings with others is morally wrong.

Third scenario: Taking advantage of a situation with no responsibility for the situation

The scenario is the same as the second, except that a powerful hurricane destroys the forest, reducing the population to abject poverty. The baseball factory owner take advantage of the situation, and offers a wage of 50 cents per day, and finds no shortage of takers. The factory is labeled a 'sweatshop' but labor activists.

Should everyone agree that the factory is a sweatshop? My answer is that there is much room for disagreement.

First, the idea that a voluntary contract among persons where the employer side bears no responsibility for the penury of others is not always clear-cut. A well-established doctrine in the common law of contracts, and more recently embodied in statutory law, holds that voluntary contracts need not be enforceable if they are grossly unfair. An important principle is whether one of the contracting parties has taken advantage of a situation that he himself may not have caused. For example, a salvage ship encountering a sinking vessel cannot use the duress of the sinking captain's situation to extract an exorbitant fee for rescuing the ship.

Second, the actual arrangements on the factory floor are likely to result in the employer and management treating people as instrumentalities, as tools, under dehumanizing conditions. After the hurricane, it is unlikely that the Haitian workers will not be full of resentment that the factory owner is taking unfair advantage, in their view, of their predicament. The factory floor is likely to resemble a miniature police state in its regimentation. The factory environment may have the effect of dehumanizing or alienating individuals in unanticipated ways. That is, under these conditions people are changed, psychologically and physically, in ways that prevent them from realizing their potential, and these changes are by and large unanticipated.

Generally, a sweatshop is more than a factory where workers are paid low wages. There are two dimensions to a sweatshop. First is whether people are being treated by others as tools, as 'means to an end'. To have a sweatshop, there has to be a boss and an owner who is profiting. This part of the definition helps understand why some work places are not sweatshops. People may work under dehumanizing conditions without anyone treating them as means to an end. The situation of a peasant farmer working under extreme hardship may be unjust, but it is not sweatshop labor. Likewise, the collective workplace, no matter how hard the work, is not a sweatshop. If the Haitian villagers banded together to form a baseball-making coop, in the wake of the hurricane, and paid themselves 50 cents per day, there would be no ethical problem. This part of the definition also helps us understand why there may be objections to sweatshop conditions from a broader, constitution-making perspective. Low wages and high profits of sweatshops exacerbate differences in power between members of society, and may thus generate or worsen violations of human rights.

But perhaps more central to the issue of sweatshops is the nature of authority and hierarchical relations, on the one hand, and management of time of the workers, on the other. Labor activists most often object to these aspects of factories rather than low wages. Indicators of treating workers as instrumentalities rather than as persons will be found in, among others, the speed and repetitiveness

of tasks, the frequency and liberty to take bathroom and refreshment breaks, and the permissibility of talk on the factory floor.

This part of the definition offers space to discuss a crucial moral objection to sweatshops: the sweatshop cultivates bad ‘habits of the heart’ like obedience to authority, subservience, and low self-esteem. The work environment of a sweatshop makes people feel worse about themselves; they do not feel they are working for the future, or that their work is meaningful.

The ‘freedom of contract’ perspective on employment ignores the central role of work in human existence and self-definition, and also ignores the large dispersion in human capacities to be ‘rational’, informed, and self-preserving. Since most persons are concerned to some degree with the health, functioning and development of others, they cannot ignore possible de-humanising effects of certain kinds of work conditions. This is most evident with slavery and child labor. Both deny slaves and children the right to make their own choices and realize their own capabilities, the right to live their own lives.

This perspective offered here implicates sweatshops in particular historical conjunctures. Three come to mind: rapid movements of population from rural to urban areas; patriarchal societies where daughters are ‘forced’ to work in factories for their families; economies where repressive governments use terror and disinformation to sustain power. The definition highlights the primary objection to sweatshops: the factory as an institution discourages, rather than promotes, the enhancement of basic rights and freedoms. The factory operates as a cog in the machinery of coercion. We might turn Hayek on his head, and argue that the ‘voluntary’ contracts touted by the managers of sweatshops are, instead, merely attractive billboards distracting workers and activists from seeing that the factory, rather than the regulations promoting worker rights, is the real road to serfdom.

Let me restate the thesis embodied in this definition of sweatshops. Some people might argue that a sweatshop is just a place where poor people work; since poor people have no assets, they must work in places that exact a toll, physically and mentally. The problem of sweatshops is no different, ethically speaking, from the problem of poverty amidst plenty. Another group argues that sweatshops are just an egregious example of exploitation, which characterizes any labor transaction between people who own capital and those who do not. Poverty and exploitation are two concepts everyone is familiar with from daily life; moreover they are hard, perhaps even intractable, philosophical and ethical problems. I want to suggest that these two aspects to sweatshops are not the central ethical issue, at least not in the contemporary debate. Instead, I think that the reinforcing of behaviors of submission and group acquiescence to violations of rights, and the inequalities of wealth, that are created in sweatshops make them particularly important to political processes. That is, sweatshops are important particularly when they are linked to repressive political processes. Repressive political processes thrive when there are

wealth inequalities and when people are daily subjected to dehumanizing regimes. The degrading conditions of a sweatshop can form a core element in an oppressive political system that uses force and terror to sustain power, and thus perpetrates continuing violations of rights.

What should public policy be regarding sweatshops?

Public policy and collective action against sweatshops located in foreign lands is not well-charted territory. The first arena to consider is international negotiations. The principle of non-intervention in sovereign affairs has guided much foreign policy, including trade policy. In the past this principle perhaps served as an *ex post* justification for the exclusion of issues such as international labor and environmental standards (as well as domestic subsidies and domestic macroeconomic policies) from multilateral trade negotiations. But recent practice makes clear that negotiators have not taken the principle literally, and it would be quite wrong to assert that the principle remains authoritative, if indeed it ever commanded much authority (e.g., international agitation against slavery, and the strong labor conventions of the International Trade Organization negotiated before the GATT but never implemented). International treaties and regulation of domestic economic practices are now a commonplace, and the International Labor Organization has hundreds of labor conventions ratified by countries around the world.

The relevant issues in international labor standards are thus their scope and strength. Should labor standards be very tight? Standards biased too heavily towards labor standards of developed countries may hurt workers in developing countries. People in Africa and Asia and Latin America, and poor people in the industrial world, will have to work longer and harder than the wealthier residents of developed countries. Indeed, many want to work longer and harder. It is hardly the right or obligation of the rich to forbid poor people to work hard. Tough international standards may be quite detrimental to growing economies with low wages and poor working conditions. Standards that are too stringent encourage avoidance, and generate illegality and informality, and thus undermine generally the effectiveness of public policy. (There is a counter-argument that applies to big countries like Mexico, Brazil, India and China, that stricter labor standards amount to forced income redistributions that might speed up growth rather than slow growth.) Demands for international labor standards need to be understood in the context of the political economy of protectionism. Because of these considerations, labor standards should have enough flexibility to differ across countries.

If open societies might legitimately choose different standards-- and poorer countries surely would choose fewer standards than wealthier countries-- is there any rationale for international conventions? One usual argument is that with free trade and rapidly falling costs of transportation and communication lax standards

in one country will undermine countries with high standards. Very clearly international trade leads to large redistributions of income among trading economies, and these redistributions in the wealthier countries with strong standards may lead to the emergence of new coalitions in favor of relaxing standards. Recognizing this, potential losers of increasing openness might lobby for international standards as a disguised form of protectionism.

If the political process remains legitimate, however, then the relaxation of standards need not be viewed as a step backwards. Societies decide all the time to tighten or relax social regulations, and there is no real difference when it comes to labor standards. (Regulation of prescription drugs may make development of certain drugs prohibitively expensive in the United States, for instance, and this gives European companies an advantage.) Moreover, it is quite likely that increases in income coming from specialization and trade generate pressures for stronger standards rather than weaker standards. There is no incompatibility between increasing openness and tighter standards; Europe is plainly the case in point, with very high levels of openness to trade and extraordinary labor standards (even now, after twenty years of globalization, Europeans are debating the merits and demerits of the 35 hour work week). The strong pressures for uniformity in European labor standards (the Social Charter) are also interesting; presumably the extremely rapid dismantling of barriers to trade is behind the desire to avoid very costly reallocation of resources by imposing uniform standards. Where the process of trade liberalization is more gradual, the costs of labor reallocation are lower, and the need for internationalization of standards lower.

The most difficult and interesting question in the discussion of sweatshop factories is what to do when they are located in foreign dictatorships. In many societies, labor standards are a sham, written up with no regard to implementation or enforcement. In other places, like Korea until the 1990s, continuous harassment, arrest, death and even torture of union organizers prevented any semblance of open discussion over labor laws and standards. Since dictators are unlikely to enforce labor standards, even those negotiated through international treaties, the behavior of companies operating in the dictatorship must be monitored by others. There are two options, private monitoring and enforcement through boycotts or government monitoring and enforcement through sanctions. On both fronts recent years have seen much activity.

Much as with private market labeling of work conditions, international monitoring of private and industry 'codes of conduct' has become a growth industry. Numerous organizations have created systems for certification of 'sweatshop free' labels. One of the first was an agreement among U.S. companies to follow a standard called Social Accountability 8000, that includes not using child or forced labor, providing a safe workplace, respecting rights to unionize, not requiring more than 48 hours of work in a week and paying wages sufficient to meet 'basic needs.'

Accounting firms, paid by the corporation, would audit and certify that a factory meets the code. The codes have come under intense criticism from activist organizations such as Global Exchange and Vietnam Labor Watch. There is increased recognition that outside non-profit agencies conduct the audits and certify that factories meet the code. That independent monitoring is an important part of the process was highlighted by Andrew Young's report on conditions in Nike factories. According to many accounts, Young spent only a few hours in each plant, did not talk with workers outside of plants, and had factory representatives with him on the tours. One could hardly call the report an independent verification of a code of conduct.

Monitoring of factories located in dictatorships and regimes that do not enforce the rule of law may not be enough. The discussion above, of the links between sweatshops and repressive political regimes, point to another important but neglected sphere of public action. If we think of the sweatshop labor issue in terms of the process by which a society arrives at a valid standard regulating labor, then a necessary (but perhaps not sufficient), reasonable, long-term, high payoff policy for government, individuals and corporations is vigorous enforcement of laws against corrupt practices. As *The Economist* (1988:22) pointed out some time ago, "Indeed, it may often be developing countries' standards that are brought down by multinational firms, rather than the other way around." The United States, though a particular conjuncture of history, may be the leader in this regard. The Foreign Corrupt Practices Act, passed in 1977, prohibited bribery by U.S. corporations and their agents, which enforcement and investigation duties shared by the Securities and Exchange Commission (S.E.C.) and the Justice Department. The unilateral decision to make bribery illegal, while other nations like Germany allowed bribery to be tax-deductible as a cost of business- made the U.S. the leader in lobbying a global treaty against bribery. In March 1996 the states of the O.A.S. signed an anti-bribery treaty. Another was signed by the 34 O.E.C.D. countries in December 1997. Enforcement of the FCPA, however, remains quite lax, and this does not bode well for the international treaties. In the first ten years of the FCPA only sixteen cases were filed. There is much room for anti-sweatshop activists to use existing anti-corruption remedies to bring about desirable change.

Conclusion

In my view the argument that no one should care about a worker entering a factory job at low wages and harsh conditions, because he/she does so voluntarily, is not right. There are good reasons to be ethically engaged. Sweatshops are places where basic elements of human beings are altered in ways that may be undesirable in themselves, but more importantly in ways that affect the political arenas they operate in. Oppressive work places are an important component to repressive political regimes.

