

WORLD TRADE AGREEMENTS: ADVANCING THE INTERESTS OF THE POOREST OF POOR

JOHN O. MCGINNIS*

My concern in this brief essay is with the poorest of the poor, those who now sell charcoal in Madagascar or sell textiles in the Andes. To walk among these people is to witness real poverty and inequality—not the relatively small quantum of poverty and inequality existing within Western society. Whatever the formal measures of poverty, there has been a large convergence in modes of living of people living within developed nations. Even relatively poor citizens have access to what the extremely wealthy had only a hundred years ago. However, when traveling to the developing countries of the world, one sees the kind of raw poverty that blights all opportunity, makes the relatively young seem aged, and the previously healthy appear prematurely infirm.

Free trade is a way to help the world's poor, including those whose poverty is life threatening. Theoretically, free trade opens new markets in areas where developing nations produce efficiently and thus allows the poor to raise their income by selling more exports. It also brings them into the web of exchange, encouraging the skills of entrepreneurship and habits of industry that will lift them from poverty. In turn, the additional skills and income help give the poor an independence from their governments and consequently leverage to push for changes in their own nations that will better their lot.

Empirically, evidence overwhelmingly supports the proposition that trade helps poor countries become more wealthy.¹ One major difference between developing countries that have prospered and those that have not is their participation in world trade.² Moreover, empirical evidence shows that international trade helps those lowest on the income scale of developing nations as much as those higher on the income scale.³

Free trade also helps makes developed nations wealthier even as it provides benefits to the least fortunate. For instance, it provides cheaper goods for United States consumers and new markets for the goods we produce most efficiently. While the evidence is conflicting on whether free trade increases inequality within wealthier countries, government mechanisms, such as progressive taxes and targeted retraining grants, can compensate for losses of the less well-off. This option is far more efficient than simply blocking trade.⁴

* Professor of Law, Benjamin N. Cardozo School of Law, Yeshiva University. B.A., 1978, Harvard College; M.A., 1980, Balliol College, Oxford, J.D., 1983, Harvard Law School.

1. See, e.g., L. Alan Winters, *Trade and Poverty, Is There a Connection?*, available at http://www.wto.org/english/news_e/presoo_e/pov3_e.pdf; see also David Dollar & Aart Kraay, *Growth Is Good for the Poor* (Mar. 2000) (unpublished manuscript), available at <http://www.worldbank.org/research/growth/pdfiles/growthgoodforpoor.pdf> (citing a World Bank study that, using data from eighty countries over four decades, confirms that openness to trade boosts economic growth and that the incomes of the poor rise proportionately with overall growth).

2. See Dollar & Kraay, *supra* note 1.

3. See *id.*

4. See Winters, *supra* note 1, at 43 (arguing that nations should seek to alleviate the

Moreover, the advantages of free trade to groups in developed countries are crucial to obtaining open trade for developing countries and thus to helping the poorest of the poor. Protectionist interest groups have substantial leverage in developed democracies and use that leverage to block imports of goods from other countries.⁵ The World Trade Organization, however, provides a framework for reciprocal tariff reductions. Reciprocity gives exporters in developed countries an incentive to lower their tariffs so that they can obtain lower tariffs abroad.⁶ This political structure makes rich exporters the guarantors of the interests of the world's poor in the global economy.

I do not mean to suggest that poor are helped by bread alone. Civil rights are also helpful to the poor. But trade agreements can also facilitate the expansion of civil rights in developing countries not through fiat but through encouraging a process which will generate pressure for such rights internally. Civil rights are highly correlated with wealth of society.⁷ This accords with historical evidence that because of prosperity, a rising middle class demands civil and political rights to help secure its swelling wealth against the dangers of tyrannical government and political instability.⁸

The ability of multilateral trading agreements to cascade into civil rights has one important advantage over the direct international pursuit of human rights: It is more likely to be honored by the despotic countries.⁹ Many countries, particularly developing nations that have signed the Universal Declaration on human rights as well as the most important human rights conventions, nevertheless continue systematically to abuse the civil and political rights of their people and resist basic democracy.¹⁰ In contrast, authoritarian regimes are more likely to honor trade multilateralism because expanding trade increases the nation's wealth and thereby enlarges the tax revenues and other exactions of its leaders. Therefore, by offering attractive bait to hook the leaders of despotic regimes, multilateral trade agreements may provide an effective route to securing civil and political rights. In this way trade agreements are also in the long run advantageous to the poor.¹¹

Unfortunately, groups in developed nations are seeking to limit trade with

hardships caused by trade rather than abandon all attempts at reform). *See also* Jim Chen, *Globalization and Its Losers*, 9 MINN. J. GLOBAL TRADE 157, 212 (2000).

5. *See* DENNIS C. MUELLER, *PUBLIC CHOICE II* 238-42 (1989).

6. *See* John O. McGinnis & Mark L. Movsesian, *The World Trade Constitution*, 114 HARV. L. REV. 511, 545-46 (describing reciprocity regime).

7. *See* JAMES GWARTNEY ET AL., *ECONOMIC FREEDOM OF THE WORLD, 1975-1995* at xxii (1996) (showing that citizens in wealthier countries enjoy greater protection for civil rights than those in poorer countries).

8. *See* John O. McGinnis, *A New Agenda for International Human Rights: Economic Freedom*, 48 CATH. L. REV. 1029, 1032 (1999).

9. *See* John O. McGinnis, *The Political Economy of Global Multilateralism*, 1 CHI. J. INT. L. 381, 392 (2000).

10. *Id.*

11. *See id.*

poorer nations unless the World Trade Organization (WTO), the international agency that now administers global trade agreements, moves toward imposing international imposing labor and environmental standards on the production of exported goods. This stance, taken at the behest of labor unions and other wealthy interest groups in the developed world, represents a dramatic break from the policies pursued by every post-war President from Harry S. Truman to George W. Bush that favored greater free trade without regulatory strings. As leaders of developing nations understand, this new trade regime would retard, perhaps even end, their economic progress. Developing nations cannot afford our labor and environmental standards, just as they cannot afford many other goods that the West takes for granted. Moreover, industries and workers in the developing world lack the resources or lobbyists to defend their interests in the distant international forums in which regulations would be forged.¹² As a result, international rules on labor and the environment would tend to block exports from developing nations, dealing a blow to the prospects of the poor in the developing world.

The WTO's help for the poor has some general implications for ways of using government to aid the poor. Note that a key step in the WTO example is to link the poor's interests to the tangible interests of a wealthier, more influential group, in this case the exporters within developed countries. This linkage solves a pervasive political problem for the poor, particularly in modern democracies. The same characteristics that make them poor, such as lack of education, also deprive them of political influence.

Moreover, the poor are even less likely than other groups defined by a particular characteristic to wield influence in modern democracies.¹³ The poor are a diffuse group and have few resources to spend in becoming organized as an effective lobby.¹⁴ Moreover, even if the poor somehow united, they would be relatively ineffective because they have few resources other than their votes to contribute. The consequences of this fact seem apparent in the federal budget of the United States: the largest and most well supported programs are not programs for the poor, but rather are middle class entitlements.¹⁵

Thus, the question is how to link the interests of the poor to a more influential group. The difficulty is to find a surrogate group whose interests are aligned with poor. Unfortunately, the efforts to help the poor in the United States suggest that those who purport to speak for them often have different objectives. For instance, although the war on poverty created benefits for middle-class bureaucrats, there is substantial evidence that it actually hurt the poor.¹⁶

12. See McGinnis & Movsesian, *supra* note 6, at 557-58.

13. See John O. McGinnis & Michael B. Rappaport, *Supermajority Rules as a Constitutional Solution*, 40 WM. & MARY L. REV. 365 (1999).

14. *Id.* at 462.

15. See *id.* (citing Ben W. Heineman, Jr., *The Law Schools' Failing Grade on Federalism*, 92 YALE L.J. 1349, 1353 (1983) (pointing out that middle-class entitlements crowd out programs for the poor)).

16. See NICHOLAS LEMANN, *THE PROMISED LAND: THE GREAT BLACK MIGRATION AND HOW*

Similarly, legislation that benefits teachers' unions seems to increase the drop-out rate in public high schools, which disproportionately hurts the poor.¹⁷ These results should not be surprising, because there is no reason to believe that legislation intended to help majoritarian interests or special interest groups will systematically help other diffuse groups.

Even the share of general resources shaken loose and shifted incidentally to the poor by the kind of redistributionist legislation pursued by interest groups may be outweighed by the disincentives or other bad effects that the legislation has on the poor.¹⁸ Welfare programs are a prime example. Powerful public service unions support welfare because it requires a structure that provides jobs to their members.¹⁹ The disincentives to work caused by welfare are at best irrelevant to the interests of union members. Thus, the members may oppose programs to alleviate such disincentives whenever such programs would threaten their interests even mildly, as when welfare recipients are given jobs that conceivably could be given to union members.²⁰

In creating structures that will help the poor, it is thus useful to facilitate some group effective at lobbying that benefits from the same policies that will benefit the poor. Concentrated interest groups that benefit from the lifting of market restrictions are a prime example of such a group. Lifting restrictions benefits entrepreneurs as well as the poor by permitting new entry in markets, thereby lowering the price of goods or services. Government monopolies over primary and secondary schools are a case in point. Concentrated interest groups, like educational entrepreneurs and religious institutions want to eliminate the public monopoly over education, and the dissolution of the monopoly may serve the interests of the poor by delivering better educational services.

CONCLUSION

The key to advancing the interests of the poor is to structure society to empower those politically organized groups who have interests in common with the poor. Frequently, those who say they have common interests actually have quite divergent interests. Fortunately, the WTO's empowerment of export interest groups have given a greater voice to the poor of the developing world in the politics of the developed world. We should applaud this aspect of the WTO and search for similar mechanisms elsewhere in the law to accomplish the same objective.

IT CHANGED AMERICA 148-53 (1991); CHARLES MURRAY, *LOSING GROUND: AMERICAN SOCIAL POLICY, 1950-1980* at 24-40 (1984).

17. See Caroline Minter Hoxby, *How Teachers' Unions Affect Education Production*, 111 Q.J. ECON 671, 700-09 (1996).

18. See DWIGHT R. LEE & RICHARD B. MCKENZIE, *FAILURE AND PROGRESS: THE BRIGHT SIDE OF THE DISMAL SCIENCE* 109 (1993).

19. See LEO TROY, *THE NEW UNIONISM IN THE NEW SOCIETY: PUBLIC SECTOR UNIONS IN THE REDISTRIBUTIVE STATE* 136 (1994).

20. See Ron Suskind, *Labor Is Pushing Clinton to Make Sure Message of Workfare Is That It's Just a Job, Not a Career*, WALL ST. J., Feb. 9, 1994, at A16.