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Neo-Colonialism, Labor Rights, and the "Growth Triangle" of Indonesia, Malaysia, and Singapore: Who Will Protect the "Hinterland" and Indonesia's Workers?

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Neo-Colonialism, Labor Rights, and the "Growth Triangle" of Indonesia, Malaysia, and Singapore: Who Will Protect the "Hinterland" and Indonesia's Workers?

I. Introduction

Throughout the summer and fall of 1996, the world's economic leaders and human rights activists kept a close eye on Indonesian politics. Serious signs of unrest began in April of 1994 when a massive labor protest turned violent as 20,000 workers walked out of factories and began to riot.¹ Indonesian military forces quickly engaged in a sweeping crackdown on striking workers and labor activists.² For many, however, the results gained from this massive protest were positive; forced overtime was largely ended and many factories began to pay the minimum wage.³

The Indonesian government's hope for worker complacency ended in July of 1995 when more than six thousand workers went

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1. Margot Cohen, Still Hard Labor: Workers Have It Better, But Not By Much, FAR E. ECON. REV., Oct. 27, 1994 at 20. Taking place in the industrial city of Medan, these riots led to mass arrests. Id. "[W]orker discontent appears to have become a permanent feature in the political landscape in this rapidly industrializing nation with a huge labour surplus." Id.
2. Id. Soldiers in civilian clothes are often present on the grounds of factories. Id.
3. Id.
on strike near the Indonesian capital city of Jakarta to protest dismal employment conditions. Walking four kilometers to the regional House of Representatives building, these predominately female workers from the Great River Company were confronted by dozens of police in riot gear. Approximately thirteen protesters, including students and workers, were detained by police for several days and denied any outside contact.

The workers were demanding a basic wage increase of 4,600 rupiahs a day, bringing the total salary up to 7,000 rupiahs (just more than three dollars) a day. They also demanded housing allowances, health insurance, and the right to form an independent trade union, which is illegal in Indonesia.

Such protests against political and economic repression culminated in large scale riots throughout Indonesia in the summer of 1996. On July 27, 1996, reacting against popular support for independent political groups, supporters of Indonesian President Suharto stormed pro-democracy demonstrators igniting the worst riots in twenty years. Government authorities estimated that nearly one hundred people were wounded and four people were killed in the July riots. An Indonesian government-sponsored human rights group, the National Commission on Human Rights,
however, claimed that five people were killed, 149 were injured, and that at least 74 people were reported missing.\footnote{11}

Among those arrested for fomenting the demonstrations was Budiman Sudjamiko, the leader of the pro-labor Democratic People’s Party.\footnote{12} This illegal political party was organized in 1995 in response to the Suharto government’s strong anti-labor policies.\footnote{13} In addition to Budiman’s party, the Indonesian Democratic Party, headed by the prominent opposition leader Megawati Sukarnoputri, played host to the demonstrators in the July 1996 riots.\footnote{14} Impressed by the “eye-opening” numbers of workers and students demanding change, foreign observers wonder how the existing political structure will cope with demands raised by Indonesia’s rapid economic development.\footnote{15}

Indonesia, Singapore, and Malaysia make up what is known as the “Growth Triangle” of South East Asia.\footnote{16} A growth triangle is a strategic economic relationship which enables each member country to capitalize on the complementary resources of the other member countries, so that each may develop at a faster rate than its local economy could normally sustain.\footnote{17}

This economic alliance takes advantage of the fact that the three member countries’ economies are at different stages of development, with Singapore being the most highly developed and

\begin{itemize}
\item \footnote{11}{Rights Group: Twenty-Three Still Missing, CHI. TRIB., Oct. 13, 1996, at 13. See also, Indonesian Crackdown Widens: Suharto Challenges Rights Group, AGENCE FRANCE-PRESSE, Sept. 6, 1996.}
\item \footnote{12}{Mydans, supra note 10.}
\item \footnote{13}{Id. This party was organized to formulate factory strikes.}
\item \footnote{14}{Id. The leaders of both parties, in addition to other government opposition activists, were detained, questioned, and arrested by government authorities throughout the summer. Id. See also, Human Rights Panel Blames Government For Deadly Riots, CHI. TRIB. Oct. 13, 1996, at 13. Sukarnoputri, daughter of the late President Suharto, was ousted as leader of the largest opposition party by government-backed militants. Id.}
\item \footnote{15}{John McBeth, Digging In For A Long Struggle, FAR E. ECON. REV., July 4, 1996, reprinted in WORLD PRESS REV., Sept. 1996, at 8-9.}
\item \footnote{16}{Although there are currently several growth triangles in South East Asia, this Comment focuses exclusively on the Growth Triangle of Indonesia, Singapore, and Malaysia. The Growth Triangle largely involves the Riau Islands, which make up one of Indonesia’s twenty-seven provinces, the Malaysian state of Johor, which is one of the thirteen states in the “Federation of Malaysia,” and Singapore. Both Indonesia and Malaysia have excellent air and water transportation to Singapore. See generally, Howard Shapiro, Asian Economic Integration and The Growth Triangle: Legal Aspects of Doing Business in Asia, 4 INT’L LEGAL PERSP. 1 (Summer 1992) (page numbers not available for this publication). This article offers an in-depth analysis of the economic histories and futures of Indonesia, Malaysia, and Singapore.}
\end{itemize}
Indonesia just beginning to gain "developing" status.\textsuperscript{18} With each country's economy at a different stage of development, the Growth Triangle offers foreign investors a complete operating area: Singapore contributes expert management skills, advanced communications and financial clout; Malaysia provides intermediate level research technology; and Indonesia offers an abundance of natural resources, land, and cheap labor.\textsuperscript{19}

While the economic relationship created by the Growth Triangle has catapulted the economies of Singapore, Malaysia, and Indonesia into a formidable global economic power, it has come at the expense of labor and human rights in the region.\textsuperscript{20} International human rights and labor groups are calling attention to the arbitrary arrest and torture of political dissidents, the unfair trial and imprisonment of labor activists, and the cursory execution of alleged criminals.\textsuperscript{21} Amnesty International has documented "human rights violations on a staggering scale" in Indonesia,\textsuperscript{22} including violence against members of independent trade unions.

This Comment examines the history and economic structures of Singapore, Malaysia, and Indonesia and discusses the oppression of workers and pro-labor movements that have emerged as a result of the Growth Triangle alliance. In order to lure foreign investors and continue their rapid economic development, Malaysia and Indonesia are dependent upon Singapore's advanced technologies and banking expertise. In turn, Singapore needs the vast amount of cheap labor forces available in Malaysia and Indonesia.

\textsuperscript{18} Id. 
\textsuperscript{19} Id. See also, Richard Borsuk, Indonesian Island Gets Industrial Boom: Bantam's Popularity Grows Among Domestic and Foreign Investors, \textsc{WALL ST. J.}, Dec. 10, 1990, at B7E. This article highlights the original plans that sparked the birth of the Growth Triangle and the weak state of Indonesia's economy and labor force before the agreement with Singapore. \textit{Id.} The article states that Singapore saw Indonesia in the early 1990s as a good way to "neutralize" Singapore's dependence on Malaysia's raw materials and labor force. \textit{Id.} 
\textsuperscript{20} Asia Watch Update, reprinted in Patricia Grossman et. al, 11 UCLA PAC. BASIN L.J. 285, 287. (Spring 1993). This update states that basic labor rights in Indonesia must include "freedom of association and the ability of unions to function freely without military or police harassment or intimidation." \textit{Id.} 
\textsuperscript{21} William Branigin, Indonesia Faces Accusations of Widespread Rights Abuses, \textsc{PORTLAND OREGONIAN}, Nov. 7, 1994, at A4. This article suggests that the patterns of human and labor rights abuses in Indonesia are systematic and often escalate prior to economic summits which Indonesia, as well as Singapore and Malaysia, attends. \textit{Id.} 
\textsuperscript{22} Id. Indonesian union activist, Muchtar Pakpahan, was on trial for encouraging workers to demand higher pay; he has been labeled a "prisoner of conscience" by Amnesty International. \textit{Id.}
Ultimately, this development alliance breeds a form of neo-colonialism, with the most powerful economic actor-states and the economic elite of all three countries gaining at the expense of the poorer-state's labor forces.

Part II of this Comment will examine the history of the Growth Triangle, the distribution of economic power between these three countries, and the evidence of neo-colonialism resulting from the Growth Triangle's economic structure.

Part III documents how the Growth Triangle employs a modern-day form of economic colonialism and how this neo-colonialism impacts labor and human rights in the region. This section further sets forth the reaction of labor activists to this neo-colonialism and the relationship between the Growth Triangle states and regional labor groups.

Part IV examines what labor rights and human rights mean in this type of economic environment. The different definitions of sovereign nations' rights and responsibilities within the international community are outlined. The reasons why countries like those in the Growth Triangle reject a "western" definition of "rights" are discussed. Also illustrated are certain reform measures which have been rejected by the Growth Triangle countries.

Lastly, Part V of this Comment analyzes the legal implications of "sovereignty," and examines the issue of responsibility for the labor rights abuses that have occurred in the Growth Triangle. United States' statutes for enforcing fair labor standards are examined. Moreover, this Comment proposes that only by redefining "labor rights" as a basic human right will there be the legal ammunition needed to enforce an international fair labor standard.

II. The History and Agendas Behind the Growth Triangle

The Growth Triangle concept was first proposed in 1989 by Singapore. In August 1990, Singapore and Indonesia signed a series of agreements known as the "Riau Accords," which represented the first formalization of the Growth Triangle. This

23. Terence P. Stewart and Margaret L.H. Png, The Growth Triangle of Singapore, Malaysia and Indonesia, 23 GA. J. INT'L L. 1, 2 (1993). This article states an overall view that is uncritical of the development methodology of the Growth Triangle, and offers only an economic overview of the relationship, without focusing on the civil and labor rights impact of the policies. See generally, McBeth and Tiglao, infra note 28 at 30.

bilateral agreement formalized plans to jointly develop Indonesia’s Riau Island — principally duty-free Bantam and Bintan — into an export-oriented manufacturing zone.25

Under the terms of this accord, Singapore and Indonesia agreed to work together to build facilities for electricity, communications, water supply, solid waste disposal, sewers, and roads in Indonesia.26 This advanced infrastructure would allow for the building of manufacturing industries.27 These “base” industries were to be built in Indonesia to take advantage of Indonesia’s large, cheap labor force. The accord also pledged “Singapore and Indonesia” or “these countries” to work together to promote foreign investment and encourage capital flows in both countries.28

This agreement led to the completion of an industrial park in Bantam, Indonesia in 1992 which allows manufacturers to profit from cheap Indonesian labor by locating their labor-intensive manufacturing centers at the park.29 Wages for Indonesian workers in this area average $120 per month, compared to wages in Singapore which range from $380 to $700 per month for similar labor.30 In turn, these manufacturers can house their management and communications operations in Singapore’s more technologically developed infrastructure.31

There are no formal agreements, such as the Riau Accords, between Singapore and Malaysia or Indonesia and Malaysia.32 The lack of an official accord, however, does not deter cooperation between the three countries as a growth triangle.33 Because of Malaysia’s cheap labor, available land and convenient proximity to Singapore, Malaysia benefits from the surplus of investment in Singapore.34 While Indonesia receives aid and expertise from Singapore for development, Malaysia is developing without official

27. Id.
30. Id.
31. Id.
32. Vatikiotis, supra note 25.
assistance from Singapore.\textsuperscript{35} Malaysia hopes that these joint efforts will enhance its previously formed free trade zones (FTZs).\textsuperscript{36} These FTZs are not subject to customs duties and thus permit export-oriented manufacturers “to enjoy minimum customs control and formalities” in their operations.\textsuperscript{37}

\textbf{A. The Balance of Economic Influence in the Region}

It has been noted that although the Growth Triangle suggests a trilateral relationship, it is in reality comprised of two separate bilateral relationships between Singapore and Indonesia and Singapore and Malaysia.\textsuperscript{38} This is evidenced by the advantages in Indonesia and Malaysia’s bilateral relationships with Singapore, coupled with the ambiguity over what Indonesia and Malaysia have to offer each other, beyond labor and resource competition.\textsuperscript{39} Malaysia’s economy is now developing rapidly and may turn towards Indonesia to fulfill the need for labor-intensive manufacturing sites and cheap labor to work in FTZs. The faster Malaysia develops, the higher its wages become, and the greater its need will be for a cheaper labor force.\textsuperscript{40}

\textbf{B. The Evidence of Colonialism: the Hinterland}

The concept of turning to an economically less developed, more vulnerable country for exploitation is known as the search for a “hinterland.”\textsuperscript{41} The hinterland theory is a form of colonialism

\begin{footnotesize}
\begin{enumerate}
\item[36.] Malaysia: Investment in the Manufacturing Sector, Malaysian Industrial Development Authority, Jan. 1995, at 63. This brochure, distributed by the Malaysian government, outlines the manufacturing-intensive industrial parks open to foreign investment. It is interesting to note that there is no mention of Singapore or its currently high capital investment in these industrial parks.
\item[37.] Id.
\item[38.] Shapiro, supra note 17. The author reports that Indonesia and Malaysia have agreed to set up a joint committee “to boost development of a Singapore-proposed economic tie-up between the three nations” and to establish tourism and a ferry service between Malaysia and Indonesia. Id.
\item[39.] Id.
\item[40.] Id. Shapiro predicts that as wealth increasingly comes to Malaysian industrialists, Riau (Indonesia) will become a favorite location for Malaysian manufacturing facilities. Id.
\item[41.] This phrase has been used for centuries to describe unexploited land and resources. A search for a hinterland is historically an indicator of colonialism. See John McBeth, \textit{Yours, Mine, Ours: RTZ Lock Drills on Irian Jaya}, FAR E. ECON. REV., Mar. 23, 1995, at 1995. See also, Shapiro, supra note 17. Singaporean officials are pleased that Indonesia is turning a “blind eye” to the colonizing of its
\end{enumerate}
\end{footnotesize}
realized through economic expansionism. This form of colonialism can be visualized as a “food-chain” form of economic development, where an economically predatory state feeds off the resources of an economically weaker or less developed state.

Faced with a scarcity of labor and natural resources, Singapore nonetheless desires to surpass its present level of successful development. Economic expansionism via the Growth Triangle, indicates that Singapore’s economic initiatives do not stem from goodwill, rather, the impetus for this desired growth is Singapore’s self-interest, even at the expense of the workers of its closest neighbors. Singapore has no desire to use its own unskilled laborers or imported labor forces because to do so would slow down industrial restructuring in Singapore over the long-term.

Instead, Singapore encourages high capital and technologically-driven investments within its borders and then funnels the labor-intensive manufacturing derived from these investments into Malaysia or Indonesia.

It would seem, then, that each side of the Triangle benefits. The Growth Triangle serves Singapore’s economic goals by harnessing Indonesia and Malaysia’s large and poor labor forces at the expense of labor rights.

people for the sake of fast development schemes.

42. See generally Shapiro, supra note 17. Shapiro points to the fact that Malaysia has already set up textile plants on the island of Mauritius, palm oil manufacturing plants in Egypt, and rubber production cites in China which is a sign of Malaysia’s search for a new hinterland, i.e. colonialism. Id.

43. Id. This article states that the spin-off benefits to Singapore from the Growth Triangle arrangement are potentially enormous. Id. While Singapore has graduated from the United State’s tariff program for developing countries, Malaysia and Indonesia have not. Shapiro, supra note 17. This means that the products of Singaporean companies that are manufactured in Malaysia or Indonesia will not only cost less to produce, but also will receive beneficial trade treatment for developing countries. Id. Also, Singapore anticipates that with the success of the Growth Triangle, the consumer buying power of Malaysians and Indonesians will return capital to Singapore. Id.

44. Vatikiotis, supra note 25; see also, Shapiro supra note 17. The author suggests that Singapore’s model Growth Triangle “customer/investor” would establish a manufacturing plant in either Malaysia or Indonesia and manage the operation from Singapore while utilizing its advanced financial and technological services.

45. Vatikiotis, supra note 25.

46. Id. For purposes of this Comment, this type of neo-colonialism is defined as a method of investing heavily in another state’s territory solely to derive the benefits of the other state’s deregulated labor and industrial environment.
Surprisingly, the Indonesian government does not appear threatened by Singapore’s acts of colonialism. Instead, Indonesia views the Growth Triangle as “a necessary evil” to achieve rapid economic development. Indonesia states that its greatest assets are its abundance of natural resources and its vast pool of cheap, young labor which continues to increase by 2.4 million people each year. The fact that over sixty percent of the population is younger than 25 years of age provides both foreign investors and Singapore with a continuously expanding labor force. Indonesia, it appears, views the colonialization of its work force by neighbor states as a small price to pay for the benefits of economic development.

Malaysia, on the other hand, is at an intermediate stage of development, somewhere between Singapore and Indonesia. Malaysia’s economic base is moving away from labor-intensive industries and is now centering on intermediate level technological and research industries. Although not to the same extent as Indonesia, Malaysia’s labor force suffers from Singapore’s colonialism. It appears that as Malaysia continues its transformation, its need for cheap labor will increase and it too will turn to Indonesia to satisfy the need to tap into a larger labor pool.

III. The Effects of Neo-Colonialism on Labor and Human Rights

The Growth Triangle offers management, finance, and expert technology from Singapore, moderately sophisticated manufacturing set-ups in Malaysia, and large amounts of raw materials and cheap labor in Indonesia. On one hand, the Growth Triangle arrangement holds great promise for the three countries when measured against the international financial “yardstick” for development.

47. See Shapiro, supra note 17. Singaporean officials have expressed surprise that Indonesia has not labeled Singapore’s economic invasion as “colonialism.”


50. Id.

51. See generally, Stewart and Png, supra note 23, at 20-23. The authors note that there are ten “Free Trade Zones” in Malaysia. In addition, Malaysia has created an international financial center on the island of Labuan, hoping to become the “Switzerland” of Asia.

52. Id.

On the other hand, the degree of labor and political unrest in Indonesia from 1994 through the summer and fall of 1996 clearly indicates the negative colonialist effects of the Growth Triangle's economic expansionism on Indonesian workers.

It has been suggested that in a "growth triangle" arrangement, competition among economic states for the same resources can sometimes result in a rivalry in which the cooperating states try to outbid one another with offers of concessions for a deregulated labor environment. Faced with both the enormous success of Singapore and the rapid advances of Malaysia, Indonesia may be making too many "concessions" in the area of labor rights in order to speed up its own development.

A. The Impact of Colonialism on Workers

In the past several years, there has been much labor unrest in Indonesia. As of 1996, Indonesia has allowed only one organized labor union. This sole union, however, is government-sponsored. Those who have protested Indonesia's prohibition of labor unions and demanded better employment conditions and higher wages have been sentenced to prison, killed, or have disappeared. Much of the massive, unskilled labor force in Indonesia is made up of young, single women. A director of one of the jointly-owned Indonesian-Singaporean industrial parks in Indonesia, where thousands of these workers are housed, says the average salary there is about $125 per month, or about one-quarter of the Singaporean average wage. It appears that in order to compete in the international race for economic advancement, the members

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55. Goozner, supra note 8. The author posits that when tens of thousands of workers protest a country's labor policies, there is a substantial argument that the government is allowing sub-standard labor practices. Id.
56. Id. The single government sponsored union is known as the All Indonesian Worker's Union. Id. It is made up of retired government officials. Id.
57. Id.
58. Borsuk, supra note 19. This Comment does not address the relationship between economic development and gender discrimination. The implications of a labor force comprised mostly of young, single women in an economy often marked by exploitation merit a completely separate focus. For more information on the ties between gender and development, contact the Center of Concern in Washington, D.C.
59. Borsuk, supra note 19. The author states that Japan is also increasingly interested in what the Growth Triangle, especially Singapore, has to offer. Id.
of the Growth Triangle must operate at the expense of most labor and human rights in Indonesia.

In the spring of 1994, massive labor protests swept through Indonesia after a labor union leader was found murdered, floating in a river.60 Tens of thousands of previously unorganized workers walked off their jobs, protested the alleged government violence, and demanded a doubling of Indonesia’s $1.75 per day minimum wage.61 The Indonesian government — which caters to foreign manufacturers such as Reebok, Nike, and The Gap — reacted strongly to the workers’ protest and imprisoned dozens of the supposed leaders of “underground” or independent labor unions.62

As recently as September of 1996, leading labor rights activists Budiman Sujatmiko and Mukhtar Pakpahan were imprisoned and charged with “subversion” of the Indonesian government for demanding labor rights and democracy.63 The Indonesian government sharply challenged the reports of human rights groups which charged that as many as 74 dissidents were still missing after the July 1996 riots.64 President Suharto’s own authorities claim that more than 90 people were injured (but have said that none were missing).65

In a surprising act of accountability, the Indonesian government-sponsored National Commission on Human Rights released a report in September 1996 concluding that the government “had involved itself excessively and in a biased way out of proportion to its function” in deterring equal political participation.66 The Commission’s secretary-general, Baharuddin Lopa, said that the missing could be either dead or afraid to return home.67 Recently, Lt. Gen. Syarwan Hamid, the Indonesian military’s chief for sociopolitical affairs, stated that the government had no intention

60. Goozner, supra note 8. The author reports the suspected murder of a 22 year old labor activist, Rusli, by government or military thugs.
61. Id. The article states that many young girls and boys were among those who walked out in the massive protest strikes. Id.
62. Id. The article states that hundreds of protesting workers were detained by the military.
63. Indonesian Crackdown Widens, supra note 11. See also, Goozner, supra note 8 and Mydans, supra note 10 for accounts of earlier arrests of these two labor activists.
64. Indonesian Crackdown Widens, supra note 11.
of looking for anyone who is missing and instead would concentrate on bringing subversion charges against dissidents and activists.\(^6\)

Indonesia's response to international criticism of its labor and human rights violations has been that "certain 'excesses' might occur as part of the development process and must be remedied, but that Indonesia cannot blindly follow Western human rights precepts that [do] not conform to 'our national ideology.'"\(^6\) The International Confederation of Free Trade Unions (ICFTU), has accused Indonesia of crushing the labor movement through extra-judicial trials of labor activists.\(^7\) The ICFTU is the largest trade union in the world, boasting of a membership roster of over 28 million members in the Asian and Pacific region.\(^7\)

B. The Response of Labor Activists

As recently as October 1995, labor leaders in South East Asia urged Japanese Prime Minister Tomiichi Murayama to let unions be observers at the Asia-Pacific Economic Cooperation Conference, held on November 19, 1995.\(^7\) The labor leaders, members of the Asia-Pacific arm of the ICFTU, requested that they be allowed to participate on labor and social issues such as discrimination and poverty.\(^7\) As expected, however, these labor leaders were permitted only to "observe" the summit.\(^7\)

The effects of economic colonialism are a primary concern for labor activists in their struggle for better employment conditions in Indonesia. For the past several years, labor activists from the Asia-Pacific regions have widely criticized foreign investors and transnational corporations for exploiting already poor living and

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68. Id.
69. Branigin, supra note 21. The author quotes from an interview with Indonesian President Suharto who, ironically, was interviewed while the much-criticized President was attending a workshop on human rights. Id.
70. Id.
71. Asian Trade Leaders Call for Protection of Rights, ASIAN ECON. NEWS, Dec. 7, 1992. Indonesia's actual and political response to any form of independently organized labor clearly suggests that their "national ideology" is focused on economic advancement to the exclusion of basic labor and human rights.
72. Asian Unions Ask to Observe APEC Working Panels, JAPAN ECON. NEWswire, Oct. 7, 1995, 05:24:00. See generally, Japan Vows to Make International Summit Succeed, CHRIST. SCI. MONIT., Nov. 2, 1995, at 5. All members of the Growth Triangle, as well as the members of European Economic Community and the United States attended. Id.
73. Id.
74. Id.
working conditions in host countries. Indonesia has received protests from human rights groups for censoring newspapers critical of the government's suppression of labor rights.

The ICFTU, the world's sole international trade union, has denounced the belief that rapid economic development in regions like the Growth Triangle guarantees civil rights. Indeed, evidence suggests that rapid development spurred-on by colonialism often curtails basic human and labor rights. The ICFTU asserts that fast economic development may actually decrease civil liberties, living standards, and trade union rights. Enzo Friso, general secretary of the ICFTU, cites Malaysia as an example of a country which often seeks economic prosperity to the exclusion of labor rights.

C. The Labor System in the Growth Triangle Countries

Singapore, Malaysia, and Indonesia have a relationship with labor which is known as a "corporatist system." Based on a Japanese model developed in the 1930s, it is a system which outlines a government's legal relationship with its labor forces. Under this model, the legal rights legislated to laborers by the state are extensive, at least in theory, precisely to warrant constant

75. Multinationals Worsening Life in Asia-Pacific: Unions, ASIAN ECON. NEWS, July 4, 1994. South East Asian union and trade members have accused multinationals of promoting the "deindustrialization" of their home states, thus perpetuating a form of colonialism. Id.

76. Id. The author notes that the Indonesian government banned the news magazines TEMPO, EDITOR and the tabloid DETIK. Id. See also, Joe Leahy, Move To Silence Critical Magazine, S. CHINA MORN. POST, Oct. 19, 1996, at 16. The government-sponsored Indonesian Journalist Association has tried to undermine newspapers through bullying tactics. Id.


78. Id. Simply put, when citizens complain, the government cracks down, especially on labor activists. Id.

79. Id.

80. James West, Men at Work, FAR E. ECON. REV., Feb. 24, 1994 (reviewing STEPHEN FRANKEL, ORGANIZED LABOR IN THE ASIA-PACIFIC REGION: A COMPARATIVE STUDY OF TRADE UNIONISM IN NINE COUNTRIES (1994) and STEPHEN J. DERRY & RICHARD J. MITCHELL, LABOR LAW AND INDUSTRIAL RELATIONS IN ASIA: EIGHT COUNTRY STUDIES (1994)). West discusses the corporatist model as it applies in labor intensive economies like the Growth Triangle's. Id.

81. Id.
government intervention and to negate the necessity of adversarial interest intermediation by unions.\textsuperscript{82}

The Growth Triangle countries do not subscribe to the free market methodology of a \textit{laissez faire} relationship between labor and capital that is employed in western development schemes.\textsuperscript{83} Instead, under the corporatist system, the state should not be neutral in the relationship between labor and capital nor should it refrain from intervening in any collective bargaining process by unions that may destabilize or slow economic growth.\textsuperscript{84} Indeed, Singapore, Malaysia, and Indonesia “aim to preempt conflict in the name of intergenerational advancement and in order to achieve an abstract ‘social harmony’ that the state maintains by legal coercion, when necessary.”\textsuperscript{85}

\textbf{D. The Fall-out of the Corporatist Labor-State Relationship}

That Indonesia keeps a tight lid on union activity by legal coercion is an understatement.\textsuperscript{86} In an interview in 1994, Muchtar Pakpahan, the leader of Indonesia’s independent and illegal Indonesia Welfare Labor Union, spoke of the legal and physically violent methods of coercion the Indonesian government employs to suppress labor and political opposition.\textsuperscript{87} Pakpahan formerly worked for the government-sponsored All Indonesia Workers Union, whose leadership rests within Indonesian President Suharto’s ruling circle.\textsuperscript{88} Pakpahan cited an instance when the military intervened on behalf of employers and dumped the bloodied body of a labor activist in Pakpahan’s office.\textsuperscript{89} “By 1990, I had reached a new awareness,” he said. “[T]here must be a new trade union led by workers, financed by workers, sovereign and self-reliant.”\textsuperscript{90} “In every conflict the government union never helped [workers] . . . they helped the government.”\textsuperscript{91} And now, in the fall of 1996, Pakpahan still faces government opposition. Confronted with imprisonment and fears of physical harm,

\begin{itemize}
\item \textsuperscript{82} Id. West notes the “melange” of German National Socialist influence on this model’s emergence in the post-World War II Japanese economy. \textit{Id.}
\item \textsuperscript{83} Id.
\item \textsuperscript{84} Id.
\item \textsuperscript{85} Id.
\item \textsuperscript{86} Goozner, \textit{supra} note 8.
\item \textsuperscript{87} Id.
\item \textsuperscript{88} Id.
\item \textsuperscript{89} Id.
\item \textsuperscript{90} Id.
\item \textsuperscript{91} Goozner, \textit{supra} note 8.
\end{itemize}
Pakpahan is on trial again for encouraging fair labor standards and political participation.\textsuperscript{92} As previously stated, there is little incentive for the Indonesian government to review its human rights and labor rights record. The Indonesian government's actions suggest that the effects of colonialism on Indonesian labor rights are a small price to pay for achieving economic parity with Singapore and Malaysia.

IV. The Role of Labor Rights and Human Rights

Human rights are often viewed by Asian governments and cultures as exotic, liberal western concepts.\textsuperscript{93} Countries like Singapore, Malaysia, and Indonesia are grappling with the incongruous relationship between fast-paced economic development and labor rights.\textsuperscript{94} Efforts by countries of the Growth Triangle to encourage foreign investment, originally intended to alleviate mass poverty, have resulted in serious human rights problems such as hazardous working conditions and mass exploitation of the labor force in Indonesia.\textsuperscript{95}

Asia is the only region in the world which has not embraced an official human rights platform.\textsuperscript{96} Asian nations are desperately striving to overcome the horrors of poverty that afflict millions of their citizens.\textsuperscript{97} Their solution is to form economic region-actors and exploit the labor resources of the most economically desperate member of that region. Thus, it should come as no surprise that Indonesia and Malaysia welcome Singapore's colonialist advances

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\textsuperscript{92} \textit{Indonesian Crackdown Widens, supra} note 11.
\textsuperscript{94} \textit{Id.}
\textsuperscript{95} \textit{Id.} The author notes that the poverty of citizens in the Growth Triangle countries is probably the very reason that those countries sought their development agendas in the first place. \textit{Id.}
\textsuperscript{96} Vagts and Panjabi, \textit{supra} note 93; \textit{see generally} Bruce Pruitt-Ham, \textit{Humanitarian Intervention in South East Asia in the Post Cold War}, 3 PAC. RIM. L. & POL’Y J. 183 (publication page references are not available for this journal) (1994) (noting that with the strong presence of China in the United Nations Security Council, it will be hard for the West to impose any stringent human rights pressures on Asian countries via trade agreements, economic sanctions, or negative world opinion).
\textsuperscript{97} Vagts and Panjabi, \textit{supra} note 93.
\end{flushleft}
and give economic concerns higher priority than civil liberties or labor rights.98

A. What is Being Done to Combat Neo-Colonialism? Social Charters and Social Clauses

As a response to this form of neo-colonialism, Asian and Pacific trade union leaders have been drafting a “social charter” for the protection of labor rights in the region.99 The need for a social charter is based on a perception that newly developing countries in the region have infringed on human and trade union rights in order to advance economically.100 Labor activists feel that governments in the region have used economic development as an excuse to weaken trade union rights and democracy.101 The proposed social charter suggests reform in such areas as social security, the equal political participation of labor unions, industrial relations (between employers and employees), occupational safety and health, and environmental safeguards.102 Singapore, Malaysia, and Indonesia, however, have remained firmly against any western mandates concerning human rights.103 At the 1995 “Europe-East Asia Economic Summit” held in Singapore, western leaders and members of the Growth Triangle strongly disagreed on labor and human rights issues.104 Singaporean Senior Minister Lee Kwan Yew stated that it will take time for issues like the environment and human rights “to climb up on the economic agenda of East Asian nations.”105 European leaders replied, however, that human rights abuses will influence trade policy.

98. Id. The need to enter the industrialized world economy appears to justify the means to an end. Id.
99. Asian Trade Union Leaders Call For Protection Of Rights, ASIAN ECON. NEWS, Dec. 7, 1992. For some time, union leaders throughout South East Asia have been calling for guaranteed collective bargaining and strike actions as well as the establishment of trade unions.
100. Id.
101. Id.
102. Id.
104. Id. The Growth Triangle states have been leaders in the protest against any form of human rights definition for their region. Id.
105. Id. The author quotes the senior minister as believing that despite differences on labor rights, no western country will want to be left out of the economic growth that is occurring in places like the Growth Triangle. Id.
debates as well as general political relations between countries like those in the Growth Triangle and countries in the West.106

B. The Definitional Differences Between the Growth Triangle and Industrialized Nations

"Industrialized" nations and the Growth Triangle countries perceive "human rights" and "labor rights" differently.107 Indonesia has been a leader of the "Third World" or "Non-Aligned Community" for the protest against a western definition of human rights.108 Indonesia, Singapore, and Malaysia are proponents of the notion that:

1) human rights are a universal concept, but every country, every culture, has its own definition of human rights, and its own idea of how to apply human rights;
2) there is a Western-led attempt, primarily at the instigation of the United States, to impose human rights standards that may be foreign to these cultures; and,
3) criticism of human rights abuses is an "illegitimate interference in the internal affairs" of other sovereign nations.109

What Indonesia, Singapore, and Malaysia fear most is the insertion of "social clauses" into trade agreements. These clauses would limit their trade preferences and access to Western markets.110 At the 1994 annual meeting of the International Labor Organization (ILO), the ILO and world labor leaders were pushed by Western countries to create an official "social clause" (much like the Asian labor activists' idea of a social charter) to be written into

106. Leaders Disagree, supra note 103. The European Economic Community has pushed for a labor standard in its trade relationships with South East Asian nations. Id.
107. See also Labor: ILO Governing Body to Establish Working Party on Trade and Labor, 11 I.T.R. 26, d13, June 29, 1994 (stating that developing countries have "blocked more than a mere passing mention of the subject . . . [and] claiming that [it] disguises Western protectionism."); see infra notes 133-135 for the United States' definition of "fair labor" which trading partners must honor.
108. Asia Watch Update, supra note 20. This update notes the push by the United States and human rights groups for South East Asia to adopt an official regional human rights platform. Id.
109. Id. Indonesia, as Chair of the Non-Aligned Movement, declared this oppositional outline at the 1992 NAM Summit Meeting in Jakarta. Id. This is also the theme that the Growth Triangle states endorsed at the 1994 U.N. Human Rights Conference in Vienna. Id.
110. Labor: ILO Governing Body to Establish, supra note 107 and accompanying text.
the World Trade Organization's (WTO) official guidelines.\textsuperscript{111} The United States Secretary of Labor Robert Reich asserted that a social clause must be included in future world trade legislation.\textsuperscript{112} The United States has insisted that such a clause outlining the rights of workers be adopted by the WTO. The WTO will be taking over from the General Agreement on Tariffs and Trade (GATT) as the arbiter of world trade in 1995 and 1996.\textsuperscript{113}

C. Why the Growth Triangle Fears Western Intervention

Indonesia, Malaysia, and Singapore, however, told the ILO conference that any linkage between the social clause and world trade could cause distortions in the balance of trade by removing the Growth Triangle’s most valuable asset — cheap labor that is not allowed free association or collective bargaining rights.\textsuperscript{114} The Growth Triangle members, individually, and as members of the Association of South East Asian Nations (ASEAN), have stated that Western efforts to introduce social clauses, such as worker’s rights, into international trade agreements are intended only to keep the Growth Triangle from catching up to the West economically.\textsuperscript{115}

A joint statement signed by Indonesia, Malaysia, and Singapore, contains strong opposition to a WTO-imposed definition of labor and human rights. It states that Growth Triangle countries “should not be pressured to comply with standards which are primarily based on those of more advanced and developed countries.”\textsuperscript{116} The Growth Triangle countries fear that such attempts would undermine the competitiveness of developing countries and erode the comparative advantage provided by their cheap labor.\textsuperscript{117} Further, these countries stated that imposition of labor

\begin{itemize}
\item \textsuperscript{111} \textit{id.} The WTO oversees international trade policies, development policies, and the disagreements that arise from them. \textit{id.}
\item \textsuperscript{112} \textit{id.} The article points out that Reich has said that the ILO must play a role in establishing these labor guidelines. \textit{id.}
\item \textsuperscript{113} \textit{Labor: ILO Governing Body to Establish, supra note 107 and accompanying text.}
\item \textsuperscript{114} \textit{id.}
\item \textsuperscript{115} \textit{ASEAN Ministers Rap Linking of Trade with Labor Rights,"} ASIAN ECON. NEWS, May 23, 1994. ASEAN officials, including the heads of state of the Growth Triangle members claim that the “rigid imposition of labor standards” would only hinder ASEAN members’ abilities to compete fairly with the West. \textit{id.}
\item \textsuperscript{116} \textit{id.} The WTO has not yet been able to reach any international consensus on what constitutes “labor rights.” \textit{id.}
\item \textsuperscript{117} \textit{id.}
\end{itemize}
standards would stifle free trade and economic development and would ultimately constitute a new form of protectionism imposed by the West.\textsuperscript{118} Such statements suggest that the Growth Triangle is aware that once labor abuses are discredited internationally, Western countries and the WTO may implement trade barriers against Growth Triangle-manufactured products.

Singapore’s Deputy Premier Lee Hsien Loong has blasted Western nations, especially the United States, for pushing trade agreements which contain social clauses addressing labor rights.\textsuperscript{119} Singapore claims that developed countries act not out of goodwill toward labor unions, but from a fear of competition from countries that make up the Growth Triangle, which are developing economically at an astonishing rate.\textsuperscript{120} The Premier has denounced the West’s efforts at imposing labor rights, stating that “[i]t is therefore not surprising that among the developed countries pushing for worker’s rights are some which have shown the least enthusiasm for free trade.”\textsuperscript{121}

Ultimately, members of the Growth Triangle and ASEAN realize that linking labor rights to trade agreements will prevent them from taking full advantage of their lower labor costs.\textsuperscript{122} Certainly, having to abide by social clauses would thwart the colonization of Indonesian workers by Singapore and Malaysia and would raise labor costs in Indonesia.

V. The West’s Conflict of Interest

This form of colonialism is not new, nor is it limited to the Growth Triangle. Indeed, those transnational corporations that take advantage of the Growth Triangle’s “sales-pitch” about the benefits of investing there are also guilty of perpetuating colonialism at the expense of Indonesia’s labor force.\textsuperscript{123}

\begin{itemize}
\item \textsuperscript{118} ASEAN Ministers Rap Linking, supra note 115.
\item \textsuperscript{119} Singapore Raps Linkage of Trade with Labor Rights, ASIAN ECON. NEWS, May 23, 1994. The article notes the two day conference of state labor ministers from ASEAN who meet bi-annually. \textit{Id}.
\item \textsuperscript{120} Id., paraphrasing a speech by the Premier of Singapore.
\item \textsuperscript{121} Id. Note the relationship between the United States and Japan over the past ten years, with the United States constantly being accused of being overly protectionist.
\item \textsuperscript{123} Embassy of the United States, supra note 29. It is estimated that the United States and Europe have invested $360 billion in the Growth Triangle as of 1992. That figure has no doubt doubled since 1992.
\end{itemize}
One of the most highly criticized and visible American corporations in Indonesia is Nike. As the world’s largest athletic footwear company, more than one third of Nike’s products are made in Indonesia. Workers in Nike’s sweatshops are “grudgingly” paid $2.20 per day, a wage rate that took Indonesian labor activists four years to achieve. And yet, the United States and Europe have consistently maintained that labor unions must have a growing voice in the labor process.

The Growth Triangle countries have refused to accept social charters or social clauses. The question remains what can be done for workers’ rights in the region. The current legal tactic of threatening to cut trade benefits will not work as long as countries like the United States stand to gain by having American businesses invest in the Growth Triangle.

A. International Opinion and a Conflict of Interest

Industrialized countries have not accepted the idea that only by suppressing labor rights will there be a level economic playing field for countries like Singapore, Indonesia, and Malaysia. The international community has declared that higher labor standards should become international objectives regardless of the degree of a country’s degree of development.

Dismissing any protectionist motives on their part, Western countries have stated that “there is a general consensus that we should not be seeking to undermine comparative advantage based on labor costs as long as these costs are not artificially depressed in the country in question.” This implies that the West will not tolerate sub-standard wages or the denial of free association of labor unions. However, Western businesses that locate their factories in the Growth Triangle benefit from these “sub-standard”

126. Id. Now, Phillip H. Knight, Founder and C.E.O. of Nike, says the company is planning to move operations to Vietnam because labor activists have pushed wages too high in Indonesia. Id. Wages in Vietnam total $30.00 per month. Id.
127. Divisions Remain, supra note 122. The author points out, however, that there is no international consensus on which labor standards to use and how to enforce compliance. Id.
128. Id. The author is quoting from a speech by Anthony Freeman, U.S. Deputy Assistant Secretary of State for International Labor Affairs. Id.
129. Id.
employment conditions by taking advantage of reduced manufacturing costs.

B. Unilateral v. Multilateral Approaches

Before examining the responsibility of Western countries for contributing to and ultimately, eliminating, this form of colonialism, it is important to recognize the two basic approaches used to advocate international labor standards. First, there is the "unilateral approach," which provides through national legislation the imposition of trade-related sanctions in response to another state's or (in the case of the Growth Triangle) region's violations of workers' rights.\(^{130}\)

Second is the "multilateral" approach, which seeks to institute trade-related responses through agreements with several nations, international agencies, treaties, and machinery.\(^{131}\) Examples of the multilateral approach would be the addition of social clauses to trade agreements by the ILO or the adoption of social charters by international unions.\(^{132}\)

C. The United States and the Unilateral Approach: The Conflict of Interest Problem

The United States has been a leader in advocating the unilateral approach.\(^{133}\) Through the Generalized System of Preferences (GSP) and the Overseas Private Investment Corporation (OPIC), the United States has legislated a "worker's rights review" process which examines and analyzes whether countries that benefit from trade with the United States are providing basic

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130. See generally Harlan Mandel, In Pursuit of the Missing Link: Worker Rights and International Trade?, 27 COLUM. J. TRANSNAT’L L. 443, 444 (1989). This article outlines the various responses available to the United States in the determination of an international fair labor standard, namely the unilateral and multilateral approaches.

131. Id. at 448.

132. See, Parts IV and V of this Comment, regarding ASEAN's, as well as the Growth Triangle countries', categorical rejection of any inclusion of a uniform fair labor standard into their domestic policies, regional policies, or trade agreements.

human and labor rights. This review process can be initiated by petition from human rights groups or unions in the state undergoing review. United States trade laws provide that if a country is not taking steps to protect basic labor rights, it cannot receive GSP benefits, such as duty-free tariffs. Therefore, the United States, as a leader in world trade, sets the tone for international trade responses to a country’s suspected labor abuses.

However, when faced with other countries’ labor rights violations the United States often sides with the “profit margin.” Since 1992, the Clinton administration has claimed to have been investigating labor abuses in Indonesia. The human rights group Asia Watch filed a petition with OPIC to have Indonesia’s GSP benefits removed because of their continued labor rights violations. The United States, however, suspended its investigations into Indonesia’s labor abuses, stating that Indonesia is being afforded more time to make progress in the labor rights area.

The United States’ suspension of investigations relieves Indonesia of the possibility of losing its duty-free treatment under the GSP in 1995-96; it also assures United States’ companies that they can continue to do business in the region. Indonesia annually exports about $400 million worth of products to the

134. Id. at 19 U.S.C. § 2462(a)(4). The United States has defined “internationally recognized worker rights” as:
(A) the right of association;
(B) the right to organize and bargain collectively;
(C) a prohibition on the use of any form of forced or compulsory labor;
(D) a minimum age for the employment of children; and
(E) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.

135. See GSP, supra note 133; see also text accompanying note 133.

136. GSP, supra note 133; see also text accompanying note 133.


138. Id. See generally supra note 20. Asia Watch has strongly advocated that the United States turn towards a multilateral approach. This group sees the United States as unwilling to stand up to trade pressures for the sake of labor rights. Id.

139. Jakarta Given Respite, supra note 137.

140. Id.

141. Id.
United States under the GSP program; in exchange, the Growth Triangle successfully courts the low-cost, high-yield investments of American businesses in their region.\textsuperscript{142}

The United States Trade Representative to Indonesia stated that Indonesia is making progress in the area of labor rights. For example, it raised the minimum wage to approximately $1.79 per day.\textsuperscript{143} Indonesia, however, still does not recognize any independent labor unions.\textsuperscript{144} The first cessation of investigations into Indonesia's labor violations came on the eve of President Clinton's visit to Indonesia for an economic summit in 1994.\textsuperscript{145}

Many international human rights activists claim that the United States continues to backtrack on its labor rights record with Indonesia.\textsuperscript{146} In 1993, when then head United States Trade Representative Mickey Kantor announced that a review of Indonesian labor policies was necessary before full GSP status could be conferred, Indonesia began lobbying American businesses and politicians.\textsuperscript{147} This lobbying was arguably responsible for the 1994 suspension of the review of Indonesian human rights abuses by the United States.\textsuperscript{148} After Secretary of State Warren Christopher's early July 1996 visit to Indonesia, the Clinton Administration continues to assert that the United States-Indonesian relationship cannot be judged solely on the issue of human rights: "it's multifaceted . . . we will continue to have a trade relationship, a political relationship."\textsuperscript{149}

While acknowledging that it is concerned about Indonesia's labor rights record, the United States currently maintains that there has been much improvement. For example, Indonesia has raised the minimum wage and has permitted more union activity.\textsuperscript{150} Indonesian labor activists, however, state that any so-called improvements have been meaningless.\textsuperscript{151} Since the cessation of the United States' GSP investigations in 1994, there are still no

\begin{enumerate}
\item[142.] Asia Watch Update, supra note 20.
\item[143.] Jakarta Given Respite, supra note 137. The increase, in Indonesian currency, is a total of 3,800 rupiahs per day, up from 3,000 rupiahs per day. \textit{Id.}
\item[144.] \textit{Id.}
\item[145.] \textit{Id.}
\item[146.] See Helene Cooper, Campaign '96: Clinton is Criticized for Backtracking on Labor-Rights Issues in Other Nations, WALL ST. J., Oct. 18, 1996.
\item[147.] \textit{Id.}
\item[148.] Jakarta Given Respite, supra note 137.
\item[149.] U.S.I.A. Foreign Press Center Briefing, FED. NEWS SERV.- WASH., Oct. 17, 1996 at 3:30 p.m.
\item[150.] Cooper, supra note 146.
\item[151.] \textit{Id.}
\end{enumerate}
non-government sponsored labor unions permitted to function and "intervention by the military in [labor] disputes remains routine."\footnote{152}

Some charge that the "soft stance" taken by the United States is the result of campaign contributions that the Democratic Campaign fund accepted from wealthy businessmen associated with the Lippo Group, an Indonesian industrial and commercial conglomerate.\footnote{153} Others argue, however, that lobbying forces unrelated to the campaign contributions have pressured Clinton Administration officials to back down on human rights in Indonesia.\footnote{154} Influential American firms such as Exxon, Boeing Aircraft, and General Electric are anxious to profit from Indonesia's cheap labor pool and rapid economic development.\footnote{155} These companies actively lobbied the Clinton Administration to soften demands for labor rights; "they were worried that if sanctions were imposed on Indonesia . . . Indonesia would get angry and grant contracts to European and American firms."\footnote{156} Indeed, one commentator notes that trade sanctions were also imposed, and then withdrawn, against Malaysia and Singapore, soon after the Clinton Administration took office.\footnote{157}

Clearly, the United States is presently not willing to push labor rights issues to the detriment of trade relations with the Growth Triangle members. To do so would disadvantage American companies that manufacture in Indonesia and Malaysia and house their management facilities in Singapore.

\textit{D. The United States and the Unilateral Approach: The International Legal Problem}

One argument against the United States' use of the unilateral approach would be that it is ineffective because of the complicitous economic relationships between world economies. The United States does not seem willing to enforce trade sanctions against Indonesia due to a conflict of interest.
Moreover, the unilateral approach of enforcing labor rights conflicts with the international law of state sovereignty. A sovereign state wields absolute authority over its subjects and may act as it pleases within its borders. The debate over whether the United States has the right to apply trade sanctions against the Growth Triangle countries in response to violations of human rights by Indonesia raises sovereignty questions.

"The prohibition against coercion is derived from the concept of state sovereignty." Coercion is defined as the "use of economic, political or any other type of measures to coerce another state in order to obtain ... from it advantages of any kind." Therefore, the Growth Triangle has strong international legal precedent — "coercion" — to use in fending off American attempts to dictate Indonesia’s labor agenda through trade sanctions.

Under the international legal principle of "retorsion," however, the United States can withdraw benefits or bilateral trade advantages from Indonesia. Retorsion, unlike coercion, is a counter-measure by a state, which has been "injured" by another offending state, either militarily, economically, or morally. An example of social or moral retorsion is the Comprehensive Anti-Apartheid Act of 1986. Indeed, the United States views its threat to withdraw GSP benefits from Indonesia as a form of legitimate retorsion, despite the Growth Triangle’s arguments that such measures are coercive.

A problem with the unilateral-retorsion approach is that the United States has standing to condemn Indonesia based only on the argument that Indonesia’s labor violations cause actual economic injury to the United States. The United States claims that Indonesia’s sub-standard labor market ultimately depresses the wages of workers globally, and thus American workers suffer economically and socially. This is called the "fair trade"

160. Id.
161. OPPENHEIMER, supra note 158, at 345.
162. Id.
164. See generally Mandel, supra note 130.
165. Id. at 453. Mandel points out that many United States’ companies have suffered in the face of competing industries whose products are made under wage
justification, whereby the artificial depression of labor costs and labor rights in the Growth Triangle will lead to declining labor and wage conditions throughout the world.\textsuperscript{166}

The Growth Triangle countries assert, however, that this theory of standing fails to support the unilateral-retorsion argument because it is really a front for protectionist motives.\textsuperscript{167} That point is valid. The United States would not be claiming the “fair trade” justification were it not for its need to protect its export economy.

Moreover, while the United States has the legislative tools to use retorsion, via trade barriers, against the Growth Triangle, it has not done so. The GSP sets out a clear standard of what the United States considers “internationally recognized workers’ rights.”\textsuperscript{168} The Growth Triangle countries, especially Indonesia, have clearly violated this standard.\textsuperscript{169} So far, OPIC and GSP have merely paid lip service to the United States’ social conscience and have been useless in any meaningful way in efforts to reform Indonesian labor rights. The United States and the world community must seek a more effective multilateral legal tool for enforcing a global fair labor standard.

E. The Human Rights Justification: Three Ways Toward an International Labor Standard

Legal tools for reforming other countries’ labor rights, other than the unilateral-retorsion approach, are available to the United States and the international community. These tools are based upon a multilateral, international community approach. As demonstrated above, individual states do not condemn foreign violations of labor rights unless they might suffer economically or when their standing is questionable in the face of the law of “sovereignty.”

For violations of “the basic human rights of a person,” however, any state has the justification and jurisdiction to insist on

\begin{footnotesize}
\begin{enumerate}
\item[166.] See generally ASEAN Ministers Rap Linking, supra note 115. The Growth Triangle sees Western countries, especially the United States, as having unclean hands in the call for social clauses. \textit{Id}. The fear is that initiatives to introduce a fair labor standard will erode the comparative advantages that the Growth Triangle has in Indonesia’s cheap labor force. \textit{Id}.
\item[167.] \textit{Singapore Raps Linkage of Trade}, supra note 119.
\item[168.] GSP, \textit{supra} note 133 and accompanying text.
\item[169.] See \textit{supra} notes 8 and 12; see also text accompanying notes 8 and 20.
\end{enumerate}
\end{footnotesize}
international action regardless of the standing required under the legal theory of retorsion. The basic human rights of any person include protection from genocide, systematic racial discrimination, slavery, murder, torture or any other cruel, long or arbitrary detention. The International Court of Justice has held that nations are obligated to protect all persons' basic human rights, regardless of sovereignty. That Court has called this an international obligation \textit{erga omnes}, meaning an obligation to protect human rights as a whole. Labor rights, however, are not considered "basic human rights" and therefore carry no obligation for protection \textit{erga omnes}.

The first step necessary for developing and enforcing an international fair labor standard is the inclusion of labor rights as a basic human right. If labor rights violations were included as human rights violations, the United States and other western nations could treat the gross labor rights violations in Indonesia in much the same way they addressed apartheid in South Africa — through economic sanctions, global censure, and exclusion from participation in international bodies and events — under the obligation \textit{erga omnes}. The Growth Triangle nations, and other countries which violate labor rights for the sake of rapid economic development, would have to answer to international tribunals instead of bargaining-away fair labor standards in trade agreements. Further, separate nations could act individually without being labeled merely protectionist.

Secondly, the United States must be a leader in implementing the multilateral social clause it has encouraged in the WTO. The United States, standing alone, has bowed to the economic pressures of an increasingly shrinking global economy in its discussions and


171. \textit{Id. at} § 34. \textit{See also} The Universal Declaration of Human Rights, G.A.R. 217 (III)(A) (Dec. 10, 1948); Filartiga v. Pena-Irala, 630 F.2d 876, 880 (2d Cir. 1980). This case states that torture is a violation of a basic human right and that all countries are responsible for insuring these rights for all peoples.

172. Barcelona Traction, supra, note 170, at § 34.

173. \textit{Id. at} § 33.

174. \textit{Id.} This case outlines all the accepted human rights. \textit{Id.}

175. \textit{See} GSP and OPIC, supra note 133. Note that the Comprehensive Anti-Apartheid Act was repealed in 1993 when the United States felt that free elections marked an acceptable change in South African policies.
negotiations with Indonesia.\textsuperscript{176} International multilateral enforcement of labor standards, however, carries the moral weight of international opinion necessary to invoke change in the Growth Triangle’s labor rights record.\textsuperscript{177}

Moreover, an international stance against labor abuses in the Growth Triangle will have a consciousness-raising impact on western consumers. In the past, American consumers have boycotted and protested products made by companies doing business in countries which abuse human rights. For example, consumers’ reaction to Coca-Cola’s prolonged investment in South Africa and Shell Oil’s continued investment in Nigeria was negative.\textsuperscript{178}

Lastly, for this universal definition of labor rights to become effective, international bodies such as the ILO must put some “bite in their bark.” Currently, the ILO’s Constitutional Preamble states that “differences in climate, habits and customs of economic opportunity and industrial tradition make strict uniformity in the conditions of labor difficult of immediate attainment.”\textsuperscript{179} While still respecting differences between cultures, the ILO must declare that there is no cultural excuse for the widespread labor rights abuses witnessed in Indonesia. If labor rights were included as a basic human right, it would necessarily follow that the ILO would demand that member nations legislate an international fair labor standard to be used by the ILO, the WTO, and the International Court of Justice.

The ILO must recognize that there is a specific form of economic colonialism breeding the labor rights violations suffered by Indonesian workers. Further, the ILO must condemn those economic regimes that exist only by suppressing their workers. Recognizing and condemning the mechanisms of oppressive development regimes are vital steps toward formulating an international fair labor standard.

\begin{footnotes}
\item[176] See supra notes 133 through 157. The United States has let Indonesia off the hook for the sake of a better trade bargaining position.
\item[177] Countries who are signatories to a multilateral treaty have greater combined resources, namely the International Court of Justice.
\item[178] Students nationwide protested the purchasing of Coca-Cola products.
\end{footnotes}
V. Conclusion

While the Growth Triangle is growing into a formidable economic power, the economic strategy it employs results in a form of neo-colonialism, which has created human and labor rights abuses in Indonesia. Regional labor activists and Western nations are struggling to create a regional definition of labor and human rights. The Growth Triangle countries, however, reject culturally and economically, any uniform standard of rights.

The United States’ efforts to legislate labor standards into its trade agreements have failed because the United States fears damaging its economic relationship with the Growth Triangle countries. Thus, only through a multilateral reexamination of human rights can the question of labor rights be adequately addressed and solutions be found. When labor rights are considered a basic human right, the foundation for an international fair labor standard will be laid.

Ultimately, the ILO and WTO must not allow flexibility when and if an international labor standard is adopted. The ILO and WTO must formally declare that trade and rapid economic development are not ends unto themselves. The function of trade and development is to improve the living standards of laborers, as well as manufacturers and the governing elite. Further, if labor rights are included as a basic human right, the ILO and WTO must hold accountable those countries that advance economic colonialism. Although cultural differences abound between the Growth Triangle and the West, the international community must no longer permit development “shortcuts,” such as colonialism and labor rights suppression, for the sake of international economic competition.

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