



C.D. Howe Institute
Commentary

www.cdhowe.org

No. 209, February 2005

ISSN 0824-8001

Are Canada's Labour Standards Set In The Third World?

*Historical Trends And
Future Prospects*

Michael Huberman

In this issue...

In Canada, while trade affects labour standards at both the provincial and international levels, it has encouraged more diversity in standards, and not less, as is commonly held.

The Study in Brief

Forces of globalization, some observers claim, challenge the ability of national governments to set social and economic policy. This Commentary examines the extent to which Canadian labour standards at the provincial and national levels have changed because of increased international economic integration. The paper's overall conclusion is that globalization does not appear to have ratcheted labour standards down. In fact, the opposite has held across provinces and countries. Trade specialization has encouraged greater diversity in labour standards, while that diversity has itself promoted even higher degrees of specialization. For a broad range of measures, higher labour standards have had few negative effects on economic performance. Provinces and national authorities have organized themselves differently and they will continue to do so. These findings have implications for the direction of labour policy at the provincial level, as well as for policy that aims to fix minimum labour standards in multilateral trade agreements.

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\$12.00; ISBN 0-88806-651-1
ISSN 0824-8001 (print); ISSN 1703-0765 (online)

In a celebrated article, Richard Freeman (1995) asked whether workers' wages around the world are now set in Beijing. Wages, however, are only one dimension, albeit an important one, of workers' compensation, and even a partial answer to Freeman's question must take account of the extent to which forces of globalization affect a broad range of workplace characteristics. Those include who can work, when, for how long, and under what conditions. For both unionized and non-unionized employees, in the public and private sectors, these work conditions are often regulated by labour and employment standards. Although research on the sensitivity of Canadian labour standards — and social policy in general — to economic integration is still in its early stages, two schools of argument have emerged.¹

One strong view is that, increasingly, the direction of labour and social policy will be set outside of Canada, leading to a potential race to the bottom in conditions of work. Like the prices of traded goods that are set in global markets, labour standards will tend to be set internationally to ensure a level and competitive playing field. But there is another view. The historical record across the leading industrialized countries in Old and New Worlds reveals that past pressures to ratchet down labour standards have not materialized. As incomes and levels of openness rose during the twentieth century, national authorities steadily improved labour laws, ranging from more holiday time to greater protection against workplace hazards. These conflicting interpretations of whether labour standards in the future will follow a race to the bottom or to the top leave the issue an open question.

This Commentary will analyze how Canadian labour standards, broadly defined to include laws concerning the benefits, conditions and restrictions on work of unionized and non-unionized employees, will fare in the new global economy. I will address two basic questions: What in fact is the relationship between trade and labour standards? And if labour standards are sensitive to trade is a race to the bottom inevitable?

My answer to these questions will draw on the historical evolution of labour standards at the provincial level in Canada. This approach can be justified. Many of Canada's labour standards have long historical roots; indeed, some of these regulations have become embedded and have proven difficult to scrap or to modify. Often they have been left in place even when they have been proven to be unenforceable or simply outdated. These standards have been historically set at the provincial level, despite the fact that the federal government is responsible for negotiating trade agreements and honoring standards set by the International Labour Organization (ILO). The question of jurisdiction would itself not be problematic if there was a degree of standardization across provinces, but even a cursory glance at labour laws suggests that there are clear differences, such as those that exist between Alberta and Quebec, concerning replacement workers during strikes.

As a result, to make sense of the effects of globalization pressures on Canadian workers' welfare, it is essential to examine its impact at the provincial level. That

¹ Block et al. (2001), Gomez and Gunderson (2004), and Gunderson (1998, 1999) summarize the debate on national labour standards and international economic integration.

said, there is an upside to provincial control — at least from the researcher’s perspective.² In analytical terms, the provinces can be seen as 10 separate states that have developed unique labour codes since joining the federation; in this perspective, inter-provincial trade can be used as a proxy for international trade. Based on the historical relation between standards and trade at the provincial level, we can envisage how Canadian standards will fare in the future.

Overview

This paper begins with a brief account of the evolution of provincial and national labour standards.

For the first 100 years after Confederation, if not longer, there was a strong tendency toward harmonization across provinces, a result of common legal origins and the forces of emulation, and also of the long-established and stable trade environment. Into the 1980s, with industry protected by a tariff wall and with an uncontested control of the market, Canada’s leading provinces had considerable leverage in raising labour standards — without compromising inter-provincial trade — because any increase in labour costs associated with rising standards was passed on to domestic consumers. Since all provinces had this incentive, harmonization was the result. This was a type of race to the top.

The tendency toward convergence broke down in the mid-1980s, a development that I trace to the change in the trade environment measured by the increase in the degree of international economic integration. In an open economy, the rules of trade are different. Companies can no longer set prices and pass on increases to consumers. As a result, each province sets labour standards in accordance with its own preferences and perception of costs. As long as workers and companies were protected by tariffs, standards did not impede inter-provincial trade flows and there was a tendency to ratchet up standards; in the absence of protection, the costs of regulation are borne directly by the local population and labour standards are more sensitive to trade. Where initial conditions, incomes and tastes are comparable, regions may choose similar labour standards; however, if regions are different, greater diversity in standards among provinces is the result.

The historical record of provincial labour standards mimics the relation between trade and labour among countries and anticipates the likelihood of international convergence in these standards. In an open-economy setting, each country must set its own criteria in line with its own needs. Globalization has forced national and sub-national authorities to become more attuned, as they should be, to the costs and benefits of labour standards. Still, because costs and benefits differ among units as economies become more integrated, gaps in standards may actually widen. There are good theoretical reasons for this diversity, even in the face of strong international pressure.

2 Observing Canada’s distinct labour, capital, and natural-resource-rich regions, Helliwell (2002) wrote that inter-provincial trade conforms to standard trade models as well as, if not better than, trade across countries.

Like the provinces, a national authority might choose a package of superior labour standards to encourage high value-added production and exports, and to attract high-quality workers. However, in the low-priced-goods sector, it would be difficult for Canada to preserve comparable types of labour standards. (This begs the question why Canada should be devoting resources to this type of production in the first place.) Altogether, the empirical findings of this paper and others, at both the provincial and national levels, support the view that Canada has opted to preserve, if not improve in some cases, its labour standards and that this strategy has not proven to be inimical to trade and other measures of economic performance. Trade specialization has produced divergent labour standards, while increasing diversity has promoted further specialization.

The distinction between absolute and comparative advantage gives another perspective on these findings. While absolute advantage provides a measure of the cost advantages of one economy compared to another, it is the latter that determines trade flows. Undoubtedly, increased regulation damps market share at the company level, when costs cannot be shifted to consumers or workers, and reduces absolute advantage. That said, the impact of increased regulation on comparative advantage is not as evident. If national and provincial authorities set standards that best fit domestic considerations, then because all authorities invest in these types of public goods, there is no evident reason to expect that labour standards impinge on economic and trade performance. I conclude that Canadian labour standards are not set in the Third World.³

Labour Standards in Canada: Types, Origins and Causes

Labour standards can be organized into those that protect basic, civic, and security rights, and those that concern the quality of life or security rights (Table 1). The first two can be conceived as core rights, deriving from some shared universal moral imperative, such as the prohibition of slavery and child labour. These standards, like the right to organize, govern processes. Survival and security rights dictate results, such as fixing the number of workdays. They are more complex in origin, and they are discretionary. Neither core nor discretionary rights are static, however.

On the demand side, changes in the composition of the labour force and changes in income and tastes have led to new forms of regulation. On the supply side, organizational and technical changes, and the related changes in worker and company behavior, have altered the costs incurred by authorities in monitoring and enforcing labour standards. It is precisely their uneven evolution across space and time that has provoked the debate over whether divergent labour standards

³ It is important to distinguish at the outset between levels and changes in labour standards. The argument that firms adjust production in response to the regulatory and institutional environment concerns the level of labour standards. The arguments for and against a race to the bottom speak to changes in these standards.

Table 1: *Types of Labour Standards*

1. Basic Rights	Right against involuntary servitude Right against physical coercion Right to compete without discrimination Right against exploitative use of child labour
2. Civic Rights	Right to free association Right to collective representation Right to free expression
3. Survival Rights	Right to a living wage Right to full information about hazards of job conditions Right to accident compensation Right to limited hours and work week
4. Security Rights	Right against arbitrary dismissal Right to retirement compensation Right to survivors' compensation

Source: Portes (1990), Maskus (nd).

are unfair because they are a source of advantage for one company or country over another.

Modern labour standards in Canada have their origins in Western Europe, a consequence of the social and economic effects of industrialization. Periods of rapid economic change created costs and unanticipated consequences that were not always borne directly or incurred by those involved. To correct for externalities that would have gone unchecked by individual employers and workers, national authorities, seeking to maximize the welfare of their constituents, whose political voice was growing louder with the extension of the franchise, were compelled to introduce labour standards.⁴ As is the case today, early labour standards were mandatory — a type of public good — though they were often restricted to certain branches of employment and types of workers, rendering any aggregate or comparative assessment hazardous.

From the outset there was concern about the potentially adverse impact of labour standards on trade. Foreshadowing twenty-first century concerns, Otto Bismarck, the father of German social insurance, as well as the first cohesive German state, defended his protectionist policies on the grounds that “a normal workday could be established for Germany alone, if Germany were surrounded by a Chinese wall and were economically self-sufficient” (Huberman 2004).

Many European countries emulated the policy leaders of the period, Britain and Germany. And, partly because of the rise of incomes throughout the continent, as well as common social and religious terms of reference, core standards, such as those prohibiting slave and child labour, were universally adopted.⁵ The period also featured much experimentation in the delivery of social policy, while

4 No doubt there are political economy considerations in explaining the type and timing of legislation, but the earliest labour standards were put in place before the advent of strong unions and employers' associations. Throughout this paper I assume that public officials seek in their decisions to maximize the welfare of their constituencies and that these officials, unless otherwise stated, have access to the required fiscal and regulatory policy instruments (such as factory inspectors) to carry out their programs efficiently.

5 Engerman (2001) and Huberman and Lewchuk (2003) review the early history of international labour standards.

openness and economic integration actually rose with the introduction of factory and employment regulations (Huberman and Lewchuk 2003).

National authorities set standards in accordance with their own needs and perceptions of costs. Labour standards attached themselves to industrial or product specialization and, as the growing diversity of international trade before 1914 attests, comparative advantage was not threatened. Companies in highly regulated countries moved to higher value-added products. Reflecting on the relation between trade and the level of labour standards in the early period, the celebrated trade theorist, Bertil Ohlin (1965, p. 83), observed that “trade will adapt itself to differences in the social milieu in the same way it does to differences in *climate* [my emphasis]...there is no prima facie case for harmonization [of standards].” Across Old and New Worlds, countries worked by different rules from even this early date. Because of this diversity, early attempts to fix international labour standards had little success, each country wishing to go its own way.⁶

Labour Standards From Confederation to the Depression

Labour laws evolved over time because of changing demands and costs. In the Canadian context, two types of labour codes and standards have emerged: those that deal directly with unions and their rights as set out in collective bargaining legislation, and those work standards set out in employment legislation that are intended to cover all workers, non-unionized as well as unionized.⁷ The latter deals with subjects as diverse as pay equity, mass layoff notice, and the quality of air in the workplace. As with collective bargaining legislation, sections 91 and 92 of the *Constitution Act* of 1981 divide responsibility for employment legislation between the federal and provincial governments. Federal legislation applies to employees in the transportation sector and the federal public service, but the vast bulk of workers, around 88 percent, are covered by provincial legislation.

In the 50 years after Confederation, the demarcation between provincial and federal jurisdiction was ambiguous because of the common origins of labour legislation, the imperial tradition, and the marked tendency of provinces to follow Ottawa’s lead in any event. Ontario modeled its first factory law of 1886 after Ottawa’s initiative, which Prime Minister John A. MacDonalD withdrew after he recognized provincial powers in the area. Quebec followed suit in many of these reforms, where much of the political pressure for change came from international unions, which preferred to have Ottawa take control of labour legislation because

6 To take one example, the efficient level of protection against overheated factories was surely much different in Stockholm than in Barcelona. The point here is that all countries had some sort of labour rules, but owing to historical and political factors they chose to regulate different aspects of the working environment, making any type of international harmonization difficult to negotiate.

7 On the history of employment law, see Fudge and Tucker (2000).

it was easier to petition one authority than many (Rouillard 1974).⁸ The Depression brought a new wave of federally sponsored legislation. In an attempt to redress unemployment by cutting work hours and to meet its obligations to the ILO, Ottawa established nation-wide standards that fixed the maximum hours of weekly work, a series of proposals referred to as Prime Minister R.B. Bennett's New Deal.⁹ The federal laws were subsequently struck down. Still, there was a high degree of conformity in labour rules and entitlements across the country.¹⁰

Canadian labour codes before World War II had evolved slowly, perhaps owing to the inevitable time lags required for each province to introduce its own legislation. Irrespective of the peculiarities of its political system, Canadian protection was clearly inferior to that found in Europe, Australia, and some industrialized states in the U.S., such as Wisconsin and Massachusetts. In any event, no one seemed to be turning to Canada for solutions on how to deal with work-related problems.

Labour Standards After 1945: The Case of Minimum Wages

The war years accentuated the tendency to coordinate labour legislation. Privy Council Order 1003 in 1944 served as Canada's Wagner Act — a 1935 U.S. federal statute that set up the National Labour Relations Board (NLRB). PC1003 created an administrative framework for regulating the formation of unions and the process and content of collective bargaining in the private sector. Time and again, Ottawa's initiative was echoed at the provincial level. As elsewhere, Ontario's Labour Relations Act carried the federal government's approach into the provincial domain with only minor changes (Rea 1985, p. 36).¹¹

In all provinces, beginning in the 1960s, labour codes were rewritten to include both private- and public-sector employees, many of whom were now unionized, and employment laws were updated to meet changes in industrial structure. These years are critical to understanding the impact of current labour standards on economic performance. Labour standards — because they have institutional

8 This pattern of keeping-up-with-the-Joneses was repeated in the spread of collective bargaining legislation. When the Judicial Committee of the Privy Council declared the federal government's *Industrial Disputes Investigation Act* of 1907 ultra vires, Ontario, followed by other jurisdictions, replaced it with very comparable legislation.

9 These acts were eventually held by the Privy Council to affect "property and civil rights in the Provinces," and, in the words of the Rowell-Sirois report were, "beyond the powers of the Dominion Parliament to act" (Smiley 1978, p. 194).

10 For most provinces, women and those under 18 years of age were restricted to 60 hours of work or less per week. Night work for these two groups was not permitted after 6:00 p.m. (Rapport sur l'industrie du textile 1938, p. 159). An example of the tendency toward convergence in industrial relations regimes across provinces was the conformity of strike dimensions before 1939. International borders did matter, however. There was a difference between Canadian and U.S. strike patterns, even though international unions dominated the landscape (Huberman and Young 1999, 2002).

11 Quebec may have been the exception, because its industrial relations climate differed markedly from other provinces. The first Wagner-like act was passed in 1943, but the Maurice Duplessis government rarely honoured it.

support — exhibit a lot of inertia. They are difficult to get off the books, even if the problems that they initially addressed have become less acute (Gunderson 1999).

The evolution of minimum-wage legislation typifies the main characteristics and trends of the period. In 1917, a federal committee recommended a minimum wage for women and girls and the coordination of pay scales (Derry and Douglas 1922). On the same basis, minimum wages were extended to men in the 1930s. The provinces took up the proposal (Drummond 1987, p. 236); by World War II, the setting of minimum wages became formalized.

Provincial wage boards fixed levels and rules of admissibility, giving due recognition to the degree of national and international competition. “In every case ... the prevailing employment conditions in the area are taken into account” (Ostry and Zaidi 1972, p. 258). In principle, therefore, minimum wages would have been variable across the country, as well as over time. In practice, however, there was much pressure to conform. The top panel of Figure 1 traces actual minimum wages of adult male workers for five provinces. Two distinct periods are evident. The early period, from 1960 to the mid-1980s, was marked by great conformity; from 1985 until today, the opposite was the case. For all 10 provinces there was a substantial increase in dispersion from 1980 to 2000.¹² The bottom panel of the figure uses Ontario as the base case because most authorities seem to have gravitated around the pay levels fixed in that province. For example, Ontario set a base wage of \$1.30 in January 1969; in September and October of the same year, P.E.I. and Saskatchewan fixed a level of \$1.25; Manitoba set a rate of \$1.35 in December. The following year, Alberta set a base of \$1.40 and British Columbia set \$1.50, a level that Ontario matched in October 1970.

There were signs of provincial independence and experimentation in social policy. After the Quebec labour code was overhauled in the early 1960s, companies and municipalities that outsourced had to ensure that affected workers conserved their union rights and guarantees (article 45); later, other provinces, such as Ontario, introduced somewhat comparable, if not stronger legislation in the area.¹³ Summarizing the state of labour laws, leading labour specialist George W. Adams said:

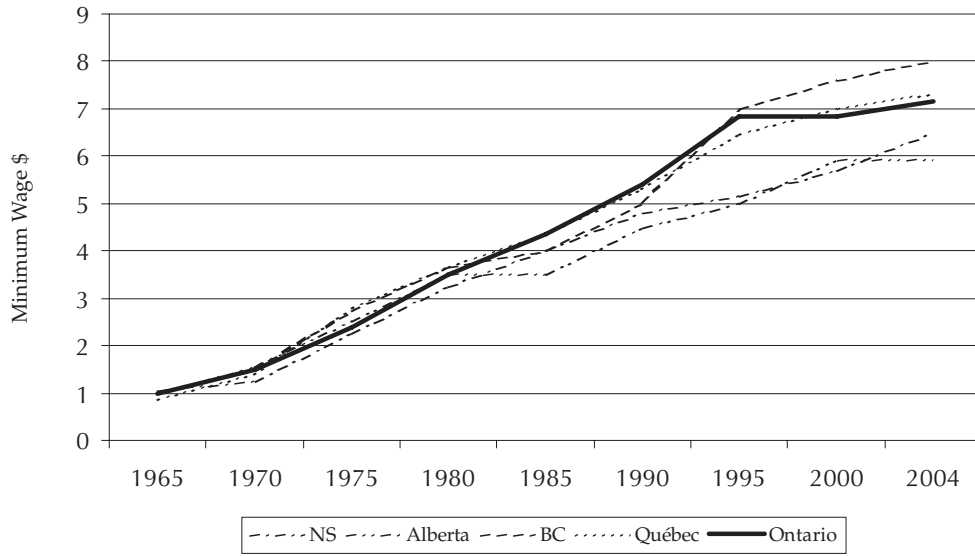
[C]ommon origin, therefore has left Canada with a universal core of procedural and substantive labour laws Differences in Canadian labour law across jurisdictions have to date largely been that of structure and procedure rather than at the level of basic policy or principle” (Adams 1985).

The increase in degrees of regulation was an international phenomenon after 1945. The ILO took the initiative to promote universal employment and work standards. While Canada has not always ratified these conventions, in many instances it exceeded the recommended standards. This seems to have been the pattern for

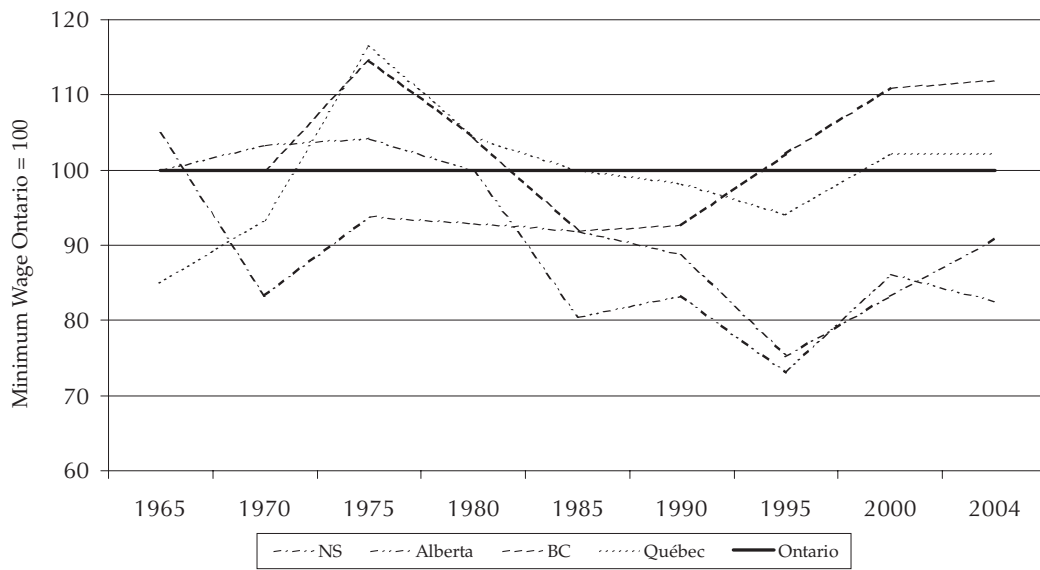
12 The (unweighted) coefficient of variation was 0.10 in 1970 and 0.12 in 2000. On the minimum wage, see Battle (2003).

13 An early example of Quebec’s experimentation with social policy was its introduction of the decree system that sets threshold wages in small-scale industries, and the *Corporation Act*, which regulates the activities of all professional associations. These pieces of legislation, distinctive in Canada, are often referred to as key building blocks of Quebec’s corporatist tradition.

Figure 1: *Minimum Wage (Adult Worker), 1965-2004*



Minimum Wage (Adult Worker), 1965-2004 Ontario = 100



Sources: Wages per hour of work. Human Resources Development Canada. Database on Minimum Wages.

many Western European countries and the U.S. until the mid-1970s. Because all national authorities had raised standards simultaneously, Canada's international position — its absolute advantage — was not altered, and there was not much concern about the impact of regulation on trade.

A Model of Provincial Standards Before the 1980s

The trend toward conformity in the 30 years after World War II is in some respects puzzling. Before the war, some standardization would have been expected because provincial ministries of labour were in their infancy. They did not have the machinery to collect information and make appropriate decisions. Emulation was an obvious way to economize on policy formation.¹⁴ But was the package of labour standards adopted appropriate to local conditions? If the policy selected was inappropriate, historical choices would have had a long-term impact on performance.

By the 1960s, with the increase in revenues and the growth in the civil service, provincial ministries were better equipped to handle local and regional issues. As populations grew, critical masses formed and clear differences among provinces had emerged. Why, then, the delay in diversification? The explanation I pursue is based on the observation that convergence in labour standards was associated with the stable trade environment, defined as the degree of openness, and that divergence coincided with a change in this environment — the 50-percent increase in trade flows between the 1970s and 1990s.¹⁵

My argument turns on the political economy models of Bagwell and Staiger (2000) and Brown, Deardorff and Stern (1996). In the standard competitive model, the introduction of labour standards imposes costs on companies that they cannot shift. To survive they must cut back at some margin, employment or wages, or some other working condition not fixed by regulation. But this is only part of the story. In models of labour standards that allow for trade among jurisdictions, but in which regions determine trading prices, more extensive regulation can, in fact, generate benefits to workers and companies. That is, regions can insulate themselves from the costs of labour standards. They could band together, effectively removing labour standards from the forces of competition.

Consider two trading partners that exchange exclusively with each other, one a high- and the other a low-income region. Both areas produce capital- and labour-intensive goods, but the poorer region has a comparative advantage in labour-intensive items. In the richer region, the first mover, the government's decision to introduce a standard in the labour-intensive sector is based on an evaluation of its true social benefits and costs. The decision to raise the minimum wage, for example, balances the increase in the wage bills of companies, as young and unskilled workers are forced out of the labour market, against the perceived

14 On emulation and experimentation in social policy, see Mukand and Rodrik (2002).

15 Openness (value of exports and imports divided by GDP in constant prices) levels for Canada are: 1950 - 27.09%; 1970 - 37.14%; 1980 - 42.37%; 1990 - 55.18%; 2000 - 84.68%. See Heston, Summers and Aten (2002).

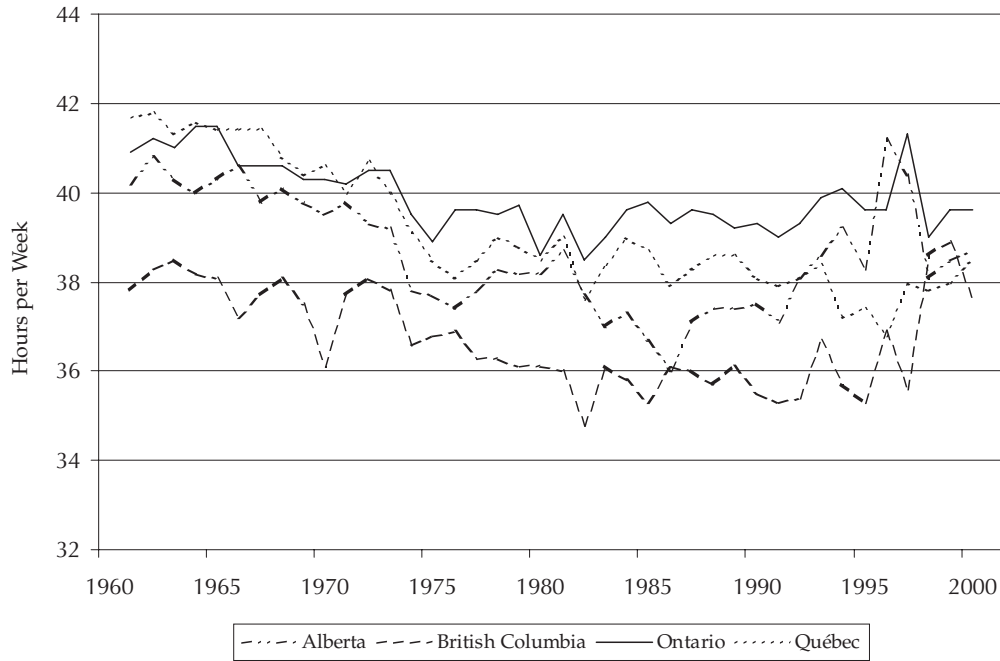
benefits to society of higher levels of education for these workers. The high-income region would then tend to import more labour-intensive goods and low-skilled workers would be replaced by low-priced imports. Thus, the opportunity cost of implementing labour standards has actually fallen in the richer economy, providing an incentive to tighten and not loosen standards further.

The poorer area has good reason to adopt these rules in a type of race to the top. Since this region is abundant in labour, higher standards will tend to contract the supply of it, raising its price. If this region has a sizeable market share, the wage increase will raise the price of the labour-intensive goods, as well as the price of its exports. The rise in export prices serves the interests of the labour-abundant region and, as a result, poorer regions have an incentive to overprotect labour. In a variant of this model, the area that specializes in capital-intensive goods also has an incentive to raise standards because this strategy improves its terms of trade. The upshot is that where companies and regions set prices, there is an incentive for them to fix standards at a higher and perhaps more inappropriate level than they would have in a world where prices are set in international markets.

This framework seems to mesh with the economic history of Canada's two central provinces, Ontario and Quebec, around the mid-twentieth century. Quebec was clearly the labour-abundant province, Ontario the capital-abundant region. Many labour reforms were first introduced in Ontario because it was the wealthier region. Since the two regions remained relatively large trading partners — as they were as long as tariffs protected Canadian industry — Quebec had an incentive to match Ontario's labour standards.¹⁶ Thus, as long as Canada had effective tariff protection, producers and workers in the export industries in both regions benefited from rising labour standards, while consumers all across the country suffered, a result that was clearly not in the general interest. Since there was an incentive to overprotect, Ottawa's intervention in this area did not come up against provincial antagonism. In fact, sub-national authorities would have welcomed a central authority to coordinate standards.

The situation persisted into the early 1980s when the decline in inter-provincial trade was met by an increase in international exchanges (Coulombe 2003). In the free-trade environment after 1988, provinces forsook the ability to raise their prices, while gaining more international exposure. In the new environment, many of the labour standards adopted in the 1960s and 1970s were inappropriate in that they did not meet local or regional interests. Labour standards had now become a potential source of competitive advantage. This put pressure on the provinces to diversify their labour codes.

16 The complementarity of Canadian regions, especially Ontario and Quebec, is a well rehearsed theme in Canadian economic history. The impact on population flows is ambiguous because of the ability of the poorer and richer regions to raise labour standards simultaneously. In this respect, the incentive for workers to shop around for better working conditions is unaltered. Of course, migration will still continue from poor to rich regions because of better monetary awards.

Figure 2: Average Hours of Work per Week: Selected Provinces, 1960-2000

Source and notes: Manufacturing sector, including overtime. Various CANSIM records. This is a splice of two series: one for the period until 1983; the other from 1983 until the present.

Provincial Labour Standards in 2000

The 1980s witnessed increasing diversity in labour standards among provinces. Much of this reflected nascent or fundamental differences that were not realized or manifested because of the strong forces of harmonization in the early years. Consider the case of working hours. Labour time supplied is a reflection of the wage, the institutional framework fixing the length of the work week, and fundamental preferences toward substituting work and leisure.¹⁷ Figure 2, which traces the evolution of the standard work week in manufacturing (including overtime) for the four major provinces from 1960 until the present, captures the influence of these factors.

When wages improved with the business cycle, the supply of labour increased; short-term in nature, these movements varied among provinces. Statutory changes, such as overtime restrictions, may have had some impact, thus explaining the uniform downward trend until the 1980s. Still, with the exception of the last decade or so in Alberta, there has been a remarkably long period of stability in work-time differences across provinces, Ontarians generally preferred working longer than British Columbians, with Québec somewhere in the middle. The upshot is that at some fundamental level Ontarians have revealed a different

¹⁷ For minimum age requirements, see the Department of Human Resources and Skills Development at www.hrsdc.gc.ca.

work culture that had been nurtured over the decades by its particular history of population movements and economic, social and political forces.

There was a feedback mechanism among these factors. In my example, changes in legislated work hours are themselves the outcome of actual work hours, a process that further deepened diversity among regions.¹⁸ Indeed, it is my contention that beginning in the mid-1980s provincial employment laws began to better reflect underlying preferences, thereby contributing to the proliferation of different work-time regimes, as well as other areas affected by labour codes.

Today, core standards in developed countries like Canada are quite uniform. With some trivial nuances, all Canadian provinces prohibit children under 16 from working full time. But the bulk of standards are discretionary. Table 2 summarizes standards as they were in 2003 regarding work-time for the four main provinces. From this patchwork it is difficult to detect any pattern. Ontario and Alberta have considerably longer legislated normal work hours than Quebec and B.C., a pattern clearly reflected in Figure 2. Alberta offers slightly better civic holiday provisions than British Columbia, but with regard to annual vacations all provinces are about equal. Finally, Quebec is the most generous, and Alberta the least, in granting days off for maternity and paternity leaves.

Richard Block and Karen Roberts (2000) provide the most exhaustive study of labour standards as they were in the late 1990s. Their results show a more consistent pattern. They divide provincial, territorial and federal labour standards for 1998 into nine categories reproduced in Table 3.¹⁹ Each category is itself a composite of several indicators. Thus the category "paid time off" comprises, but is not restricted to, the variables found in Table 2. The calculation of the index value for each category followed a two-step procedure. First, individual provisions or labour standards in each category were given an index value that was greater the higher the level of employee protection; secondly, each provision was given a weight to represent its importance in its category.²⁰ There is some degree of arbitrariness in all this but, given the large number of standards included in the exercise, it would be expected that errors of commission would cancel out. The first two columns of Table 4 report the sum of the index values (nine labour standards and employment insurance) and the sum of the index values after each provision was deflated by an estimate of coverage. The higher the value, the greater the degree of labour protection. The last column of Table 4 gives the ranking of labour protection of each province and territory in North America in descending order.²¹

18 Flanagan (2003), using his international database that I will discuss further, found a positive relation across countries between the number of ILO conventions ratified and the level of actual work conditions. Regression analysis indicated that countries have a predisposition to ratify conventions that they have already met.

19 Since their ultimate goal was to compare Canadian provinces and U.S. states, Block and Roberts (2002) also included the availability of unemployment insurance, which is determined at the state level, in their estimates of global levels of protection. The unemployment insurance category had the value of 7.51 for each province. I have excluded this category in Table 3.

20 An ordinal scale was constructed for each provision. A value of 0 was given for the absence of the provision; a score of 10 to the strongest provision.

21 There is a difference between rankings and the sums of the index values owing to the fact that Block and Roberts (2002) ranked each category before constructing an overall ranking.

Table 2: Provincial Labour Standards, 2002

	Worktime and Overtime			Calculation	Time bank
	Worktime (normal hours)	Right of Refusal	Payment		
Alberta	44	No	150% of normal wage	Each hour of overtime replaced by one hour of vacation	
British Columbia	40	No	From 40 to 48 hours = 150% of normal wage More than 48 hours = 200% of normal wage	Each hour of overtime replaced by one hour of vacation	
Ontario	44	Yes, after the normal workday or after 48 hours	150% of normal wage	Each hour of overtime replaced by 1.5 hour of vacation	
Quebec	40	No	150% of normal wage, excluding bonuses	Each hour of overtime replaced by 1.5 hour of vacation	
			<i>Holidays</i>		
Alberta		Admissibility		Number	Wage when not at work
British Columbia		30 days worked in the last 12 months		9 days	Mean wage of normal workdays
Ontario		15 days worked in the last 30 days and 30 days of continuous service		9 days	Mean wage of normal workdays
Quebec		No condition		8 days	Mean wage of normal workdays
		60 days of continuous service		8 days	Mean wage of normal workdays
			<i>Sick Days</i>		
		Admissibility			Back to Work
Alberta					Same job
British Columbia					Similar job
Ontario		Employed by a company with more than 50 employees		10 days without wage by civil year	Yes
Quebec		Three months		17 weeks without wage in the last 12 months	Yes
			<i>Annual vacation</i>		
Alberta		Admissibility (continuous service)		Length	Payment
British Columbia		1 to 5 years		Two days for month of service	4 %
		More than 5 years		Three days for month of service	6 %
		Less than a year			4 %
		1 to 5 years		Two days for month of service	4 %
		More than 5 years		Three days for month of service	6 %
Ontario		1 year		Two days for month of service	4 %
Quebec		Less than a year		One day for month of service	4 %
		1 to 5 years		Two days for month of service	4 %
		More than 5 years		Three days for month of service	6 %
			<i>Vacation for Birth, Care and Education of a Child</i>		
			Parental Leave		Leave for family obligations (days)
Alberta	Admissibility (continuous service, weeks)	Maternity Leave (weeks)	Length (weeks)	Comments	
British Columbia	52	15	37		5
Ontario	None	17	37	The leave can be prolonged for five weeks if child's condition warrants it	10
Quebec	13	17	37		5
	None	18	52	The leave can be fractioned; over 70 weeks after birth	

Source: Québec, Travail du Québec (2003). <http://www.travail.gouv.qc.ca>.

Table 3: Employment Standards In Canadian Jurisdictions, 1998: Subcomponents (Rankings)

Jurisdiction	Minimum wage	Over-time	Paid time off	Worker's compensation	Collective bargaining	Employment equity	Unjust discharge	Occupational safety and health	Advance notice of plant closings/largescale layoffs
Federal	4.28	10.00	6.27	6.77	6.00	9.00	7.00	4.33	5.53
Alberta	1.52 (12)	7.28 (7)	7.61 (2)	6.69 (10)	6.00 (9)	8.10 (11)	7.00	3.07 (5)	0.00 (11)
British Columbia	7.04 (1)	10.00 (1)	6.27 (4)	8.58 (3)	10.00 (1)	8.60 (5)	7.00	3.20 (2)	7.89 (1)
Manitoba	2.44 (6)	10.00 (1)	5.89 (8)	6.54 (11)	9.00 (3)	9.10 (1)	7.00	3.13 (4)	6.03 (5)
New Brunswick	2.44 (6)	3.21 (12)	5.38 (11)	5.99 (12)	8.00 (8)	8.10 (11)	7.00	2.11 (10)	5.71 (6)
Newfoundland	2.44 (6)	4.57 (11)	5.53 (10)	7.25 (9)	9.00 (3)	8.60 (5)	7.00	2.08 (11)	5.03 (8)
North West Territories	6.12 (3)	10.00 (1)	6.27 (4)	8.82 (1)	6.00 (9)	9.00 (3)	7.00	2.18 (8)	3.21 (10)
Nova Scotia	2.44 (6)	1.85 (1)	5.71 (9)	7.32 (8)	6.00 (9)	9.10 (1)	7.00	2.18 (8)	6.37 (4)
Ontario	6.12 (3)	7.28 (7)	6.07 (7)	7.64 (7)	9.00 (3)	8.50 (9)	7.00	3.24 (1)	7.03 (2)
Prince Edward Island	2.44 (6)	5.92 (10)	5.20 (12)	7.72 (6)	9.00 (3)	8.60 (5)	7.00	1.87 (12)	0.00 (11)
Quebec	6.12 (3)	7.28 (7)	7.23 (3)	8.35 (5)	10.00 (1)	9.00 (3)	7.00	2.63 (7)	4.50 (9)
Saskatchewan	2.44 (6)	10.00 (1)	9.11 (1)	8.66 (2)	9.00 (3)	8.60 (5)	7.00	3.00 (6)	6.87 (3)
Yukon	7.04 (1)	10.00 (1)	6.27 (4)	8.43 (4)	6.00 (9)	8.50 (9)	7.00	3.17 (3)	5.21 (7)

Source and notes: Block and Roberts (2002) also included the availability of employment insurance as a separate category in their estimations of global levels of protection. This category which has the value of 7.51 for each province is excluded in Table 3, but included in the calculations of the summary statistics in Table 4.

Table 4: Employment Standards In Canadian Jurisdictions. 1998: Summary Indexes

Jurisdiction	Sum: basic index	Sum: coverage deflated index	Jurisdiction rank
Federal	66.69		
Alberta	54.79	51.56	51
British Columbia	76.10	72.38	1
Manitoba	66.64	62.05	4
New Brunswick	55.44	53.11	36
Newfoundland	59.00	55.98	23
North West Territories	66.11	63.18	8
Nova Scotia	55.49	52.94	11
Ontario	69.39	65.48	3
Prince Edward Island	55.25	52.12	39
Quebec	69.62	66.38	14
Saskatchewan	72.19	68.04	5
Yukon	69.13	66.18	2

Source and notes: Black and Roberts (2002). The basic index is the sum of the values in Table 3 plus a value for employment insurance. The deflated sum includes measures of coverage for each category. Rankings refer to a comparison of Canadian provinces and U. S. states. There is a difference between final rankings and the sums of the index values owing to the fact that Block and Roberts ranked each category before constructing an overall ranking.

From the patchwork of employment laws, several common features emerge. Canadian provinces have in general relatively high standards. British Columbia offers the most labour protection on the continent and six provinces are in the top 10 of all North American jurisdictions. These rankings, however, should not obscure the variability among provinces. The difference between the total value of labour protection offered by Alberta and Saskatchewan is about equal to the gap between Massachusetts and Louisiana. As well, provincial variability among provinces holds across categories. Alberta generally provides very low standards, although it does obtain a high score in paid time off and occupational safety. B.C. offers the highest standards practically across the board, while Ontario provides a mixed picture.

Quebec is above average in five categories.²² Thus, while there is some degree of specialization, key jurisdictions seem to offer consistently more or less protection across many components. As a result, changing any one aspect of the labour code is not likely to have much effect on the overall situation. Governments wishing to overhaul labour codes by attacking one clause or provision should take heed because the social upset may far exceed any subsequent benefit in overall levels of regulation. There is a related lesson to be drawn. If legislation is intended to meet local conditions and demands — a point I will return to — transferring labour rules from one jurisdiction to another would be ineffective, if not destabilizing.²³

22 Rank correlation tests rejected the null hypothesis that there was no relation across categories.

23 Boychuk and Banting (2003) and Boychuk and Van Nijnatten (2004) examine convergence in income maintenance policies and environmental policies among provinces and between provinces and U.S. border states. Their results, which are derived without controls, are mixed. Unemployment insurance has tended to converge at the sub-national and national levels, but social assistance has shown little convergence across these units.

Table 5: *International Labour Standards*

	Employment laws				Industrial (collective) relations laws			
	Subindex: Alternative employment contracts (1)	Subindex: Conditions of employment (2)	Subindex: Job security (3)	Employment laws index (4)	Worker Collective bargaining (5)	Subindex: participation in management (6)	Subindex: Collective disputes (7)	Industrial relations laws index (8)
Australia	0.22	0.55	0.14	0.92	0.22	0.00	0.52	0.74
Austria	0.22	0.40	0.18	0.80	0.11	0.50	0.23	0.84
Belgium	0.72	0.82	0.22	1.77	0.44	0.25	0.33	1.03
Canada	0.56	0.49	0.17	1.22	0.11	0.00	0.22	0.33
Denmark	0.56	0.27	0.12	0.95	0.33	0.50	0.20	1.03
Finland	0.78	0.38	0.57	1.73	0.44	0.25	0.25	0.94
France	0.74	0.54	0.31	1.59	0.78	0.75	0.60	2.13
Germany	0.72	0.35	0.50	1.57	0.78	0.50	0.48	1.76
Hong Kong	0.56	0.19	0.01	0.76	0.44	0.00	0.60	1.04
Italy	0.76	0.51	0.24	1.51	0.78	0.50	0.75	2.03
Japan	0.59	0.64	0.19	1.42	1.00	0.00	0.53	1.53
Netherlands	0.56	0.76	0.37	1.68	0.22	0.58	0.47	1.27
Norway	0.61	0.37	0.30	1.29	0.56	1.00	0.58	2.14
United Kingdom	0.56	0.26	0.20	1.02	0.00	0.00	0.25	0.25
United States	0.56	0.29	0.08	0.92	0.11	0.00	0.25	0.36
Singapore	0.56	0.19	0.11	0.85	0.11	0.00	0.53	0.64
Sweden	0.37	0.30	0.39	1.05	0.67	0.25	0.52	1.43
Switzerland	0.56	0.46	0.26	1.28	0.33	0.00	0.43	0.77
Mean	0.57	0.43	0.24	1.24	0.41	0.28	0.43	1.13
Median	0.56	0.39	0.21	1.25	0.39	0.25	0.48	1.03

Source: Botero et al (2003).

Canadian Regulation in International Perspective

How do Canada's labour standards stack up against those of other major industrial economies? Table 5 condenses Botero et al.'s (2003) exhaustive study of employment and labour legislation in 1997 among countries that comprise the top quartile of gross domestic product (GDP) per capita. Columns 1-to-3 and 5-to-7 are index values for a broad range of sub-components summarized in the employment laws index in column 4 and the industrial relations index in column 8. A higher index value signifies more protection. The sub-component indexes are themselves summary values. The job security sub-index is the sum of 16 components, including measures of the legally mandated notice period and employers' obligation to notify a third party prior to a collective dismissal.

Since Canada in these indexes generally refers to federal legislation, its values are at the high end of provincial legislation (Table 4). That said, Canada scores very low in industrial relations legislation and slightly below average in employment laws. In this regard, changes that tighten Canadian industrial relations law will have less effect on its international absolute position than changes in employment law.

The international evidence mirrors the provincial rankings in many respects. There is considerable variation in legislation across the sample; but there is a strong correlation between types of standards.²⁴ Countries are highly regulated or less so across a range of categories. However, at the international level there is more variability in industrial relations rules, a result of differences in political regimes and union density rates.²⁵ In Denmark, most workers are covered by collective agreements that protect employment conditions, and both unions and employers have insisted on minimal levels of government intervention. In all, divergences in the nature of employment rules are long-standing and global economic integration has not led to a convergence in labour standards — even in Europe (Bertola, Boeri and Nicoletti 2001).

Can Differences in Income Explain Differences in Labour Standards?

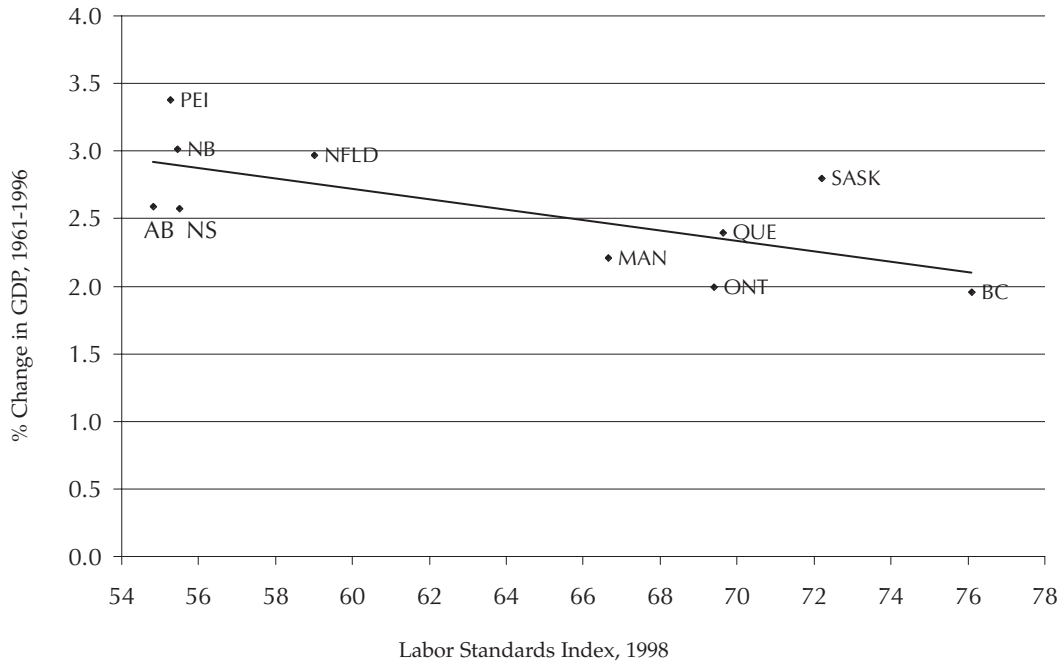
Differences among provinces and countries persist even after controlling for levels of income per person. I make no claims about the causal relation between growth in GDP per capita and the level of labour standards; I simply want to illustrate the different ways that national and provincial authorities have organized themselves. Consider first the provincial evidence. Figure 3 shows the relation between average annual GDP per capita growth between 1961 and 1996 and Block's and Roberts's labour standards in 1998. Since the historical record reveals that current rankings are probably similar to those found a decade or so earlier, the figure can be interpreted to show the correlation between levels of standards and change in income per person over a long period.

Although the correlation between provincial GDP performance and labour standards is in fact positive and significant, two clusters of provinces are

24 The correlation coefficient between the employment and industrial relations index is 0.49.

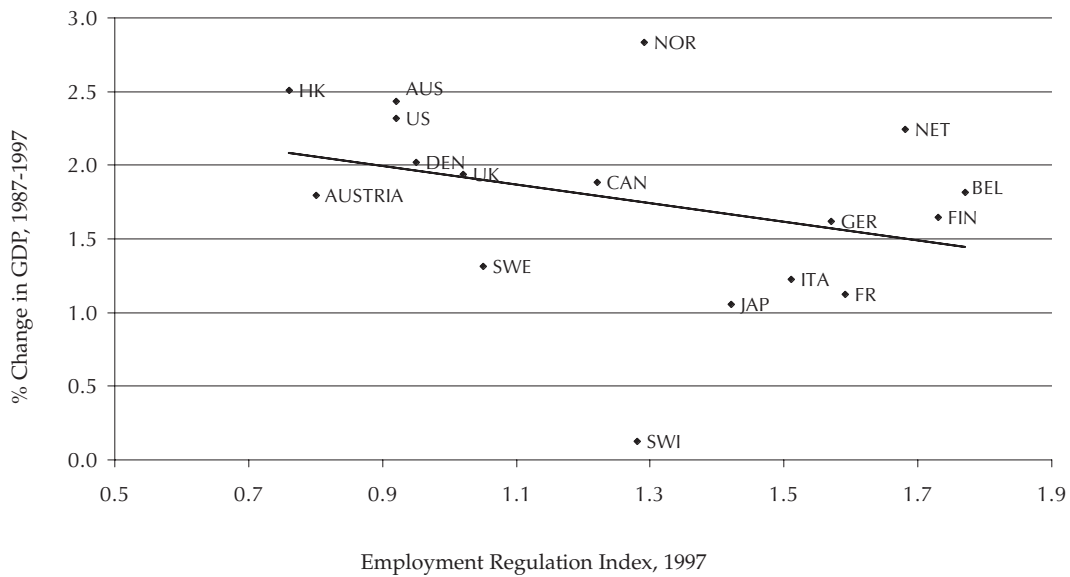
25 The standard deviation of employment laws is 0.32; industrial relations, 0.57.

Figure 3: *GDP per capita and Labour Standards: Canada*



Sources: GDP per capita - Coulombe (1999); labour standards - Block and Roberts (2002).

Figure 4: *GDP per capita and Employment Regulation*



Sources: GDP per capita - Heston, Summers, and Aten (2002); Employment Regulation Index - Botero et al (2003).

evident.²⁶ One group of provinces seems to trade off some of the increased levels of income for higher labour standards; another group prefers monetary gains to non-monetary benefits. These reflect choices each authority has made.

The international evidence leads to the same result. Figure 4 traces the correlation between employment regulation and GDP per capita growth for the top quartile of richest countries. Again, the relation is negative, but in this case it is not significant. Canada seems to fall in the middle, between those countries that distribute income gains in the form of more extensive labour standards, and those preferring to make a different trade-off and take the monetary benefits of growth. These tradeoffs are multifaceted. Certain European countries with extensive labour-market regulations also have higher levels of unemployment.

Figures 3 and 4 confirm the distinction economists make between the distribution of income as opposed to its level. A rule that alters the property rights at the workplace between companies and employers may redistribute income without affecting its level.²⁷ In fact, there is a multiplicity of ways that national authorities can organize themselves.

Explaining Diversity at Sub-National and National Levels

In the 1990s, there were substantial modifications to provincial and federal employment legislation, which was clearly in a state of flux. The direction of these changes varied, as did the types of rules affected. In 1994, Nova Scotia permitted construction employers to engage non-unionized employees and subcontract; in 1995, the Ontario government weakened union privileges when a business unit was sold or broken up. The downsizing of the government sector was critical in these examples, because public-sector workers were in the forefront a decade or two earlier in demanding more stringent standards for all workers.

Other provinces moved in a different direction, improving coverage to adjust for the evolution of the labour market. Saskatchewan extended many of its labour standard provisions to part-time workers in 1993.²⁸ Typical of the multiplicity of strategies to deal with new political and social concerns was the adoption of pay-equity legislation. Legislation in Quebec was first passed in 1976 as a follow-up to human rights legislation (Weiner 2002). In 1985, a pro-active approach to redress discrimination was initiated by Manitoba and Ontario. Today, all jurisdictions except Alberta have some type of pay-equity guidelines, but pro-active legislation concerns private sector establishments only in Ontario and Quebec. Still, even between these two provinces there are substantial differences in the size of company covered.

26 The coefficient of correlation between labour standards and GDP per capita in Figure 3 is -0.68 ($p = 0.03$). Because of the small sample, there are no control variables in the underlying regression. I recognize the problem of endogeneity and the analysis here is meant to be illustrative only. That said, using the values for the components in Table 3, I have regressed income on all measures of labour standards ($N = 90$), with controls for provinces. The coefficient for labour standards was positive and significant.

27 This is a variant of Coase's Theorem. See Richard Freeman's comments on Ehrenberg (1994).

28 For the year 1991 alone, the HRDC summary of employment law changes is more than 30 pages long.

The reduction of labour standards in certain regions and sectors has been attributed to increased economic integration (Fudge and Vosko 2001; Fudge, Tucker and Vosko 2002). Companies in this environment cannot shift the costs of regulation on to consumers and workers and because capital is more mobile than it was earlier in the twentieth century, regions need to remain competitive to attract investment. The result is a race to the bottom. These pressures are felt acutely in labour-intensive sectors and regions. But there are alternative strategies. Increased economic integration has certainly made sub-national and national authorities more concerned about the relation between labour standards and trade, but competitive forces do not necessarily drive down standards to the lowest common denominator.

Some rules, like better health and safety standards, may cut down shirking and malfeasance, reduce legal costs and enhance productivity. These rules crowd in investment. Public officials provide not only policy to meet the demands of local residents, but public goods can operate as compliments and enhance the productivity of locally employed capital and labour. Labour standards can be seen as a policy instrument that attracts higher quality workers, reduces union demands, and pressures companies to move up the product chain.

The diversity of standards across Canada reflects the variety of strategies in place to meet international competition. Provincial changes in labour law went hand-in-hand with the maturation of “confirmed industrial relations systems” (Thompson, Rose and Smith 2003). In the 1990s clear distinctions materialized in industrial relations regimes between, on the one hand, the tougher stand of Alberta and Ontario and, on the other, the more conciliatory approaches of B.C. and Quebec.²⁹

Short-run political factors may have been at the root of some of the amendments to labour laws, but some of the changes may have also embodied fundamental preferences of constituents. Since smaller regions, or sub-national units, tend to exhibit more homogenous preferences than larger ones, provincial governments can better match the tastes of constituents with the types of public goods they can provide (Alesina 2002). Greater degrees of openness — the extension of the market — has had the effect of drawing out differences between regions. Strong inter-provincial migration flows throughout this period may have acted as a type of sorting mechanism: migrants making choices about employment and their conditions of employment, with the result that both receiving and sending provinces became more homogeneous over the period.³⁰ Even if this type of sorting was not realized to any great extent, there may have been a sense that when-in-Quebec-do-as-the-Québécois-do, and this entailed preserving and improving labour law.

Increasing diversity in a period of globalization is in some respects counterintuitive, but the models of Bagwell and Staiger (2000) and Brown, Deardorff and Stern (1996) suggest otherwise. When governments implement labour standards, they balance the social benefits and costs of their decisions. In an

29 A illustration of these divergences is the Bernier Committee in Québec which was mandated by the Parti Québécois to extend employment law to self-employed workers.

30 Even if there is no mobility, there would still exist gains from decentralization.

open economy, no authority can shift costs outside its borders.³¹ In this environment, authorities will presumably choose those standards and set them at levels that best fit their perceptions of domestic costs and benefits. The outcome is ambiguous. Neighboring provinces may choose similar labour standards if they have common factor endowments, incomes and tastes. But if these conditions vary, labour standards may vary as well. The evidence marshaled in the previous section suggests that both strategies were at play — with the end result that provincial labour standards, at least in historical perspective, have tended to diverge from where they were in the early 1980s.

This approach can be extended to the international context. Undoubtedly, pressures of emulation have led many countries to adopt similar policies. This could become a race to the top in standards, or at least to greater homogenization, if the dominant strategy is to protect high value-added production. But among countries with fundamental differences in factor endowments, income levels and histories this would be unlikely. Canada needs different labour standards than Vietnam and it is precisely the international context that enables Canadians to manifest this diversity.

Labour Standards and Economic Performance

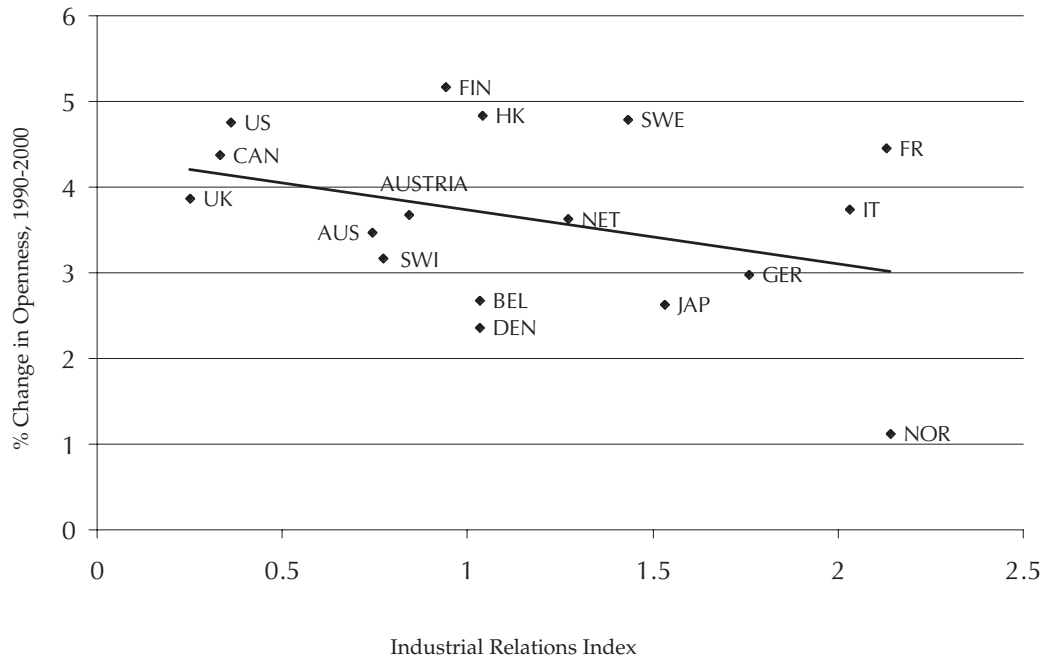
So far, I have argued that the forces of globalization have made provinces and national authorities more aware of the relation between labour standards and trade, but this has not led necessarily to a race to the bottom because increased specialization in trade also means greater diversity in labour rules. I will now examine some of the empirical evidence in support of this view.

Robert Flanagan (2003), exploiting a database of nearly 100 countries at different levels of development in the 1980s, has produced the most detailed study of the effects of both core and discretionary labour standards on economic performance in manufacturing.³² As elsewhere in the literature, Flanagan measured performance by export shares and foreign direct investment, because debates on labour standards are about international competitiveness. After controlling for general economic influences on these variables, Flanagan found that labour rules had no significant influence on economic performance. Instead, over 90 percent of the variation in international competitiveness was attributed to productivity gaps or differences in technology. Since these results were robust over different specifications, Flanagan concluded that there is very little evidence of a race to the bottom.

Figure 5 extends Flanagan's results, examining the relation between the average annual increase in levels of openness (measured as exports and imports

31 Evidently where labour standards are fixed at a national level, countries can adjust exchange rates to shift the burden of the costs of improved labour standards, but this option is not available to provinces. Sub-national units, therefore, make their decisions based on domestic factors only and, as a result, they are more in tune with local demands and costs.

32 Previous studies by the OECD (1996) and Rodrik (1996) arrived at similar results using exclusively cross-country databases. These studies, like those of Flanagan, can be criticized for their static nature. The expansion over the last decade of exports from China, where standards are relatively weak, is a case in point.

Figure 5: Openness and Industrial Relations Regulation

Sources: Openness (value of exports plus imports divided by GDP in constant prices) - Heston, Summers and Aten (2002); Industrial Regulation Index - Botero et al (2003).

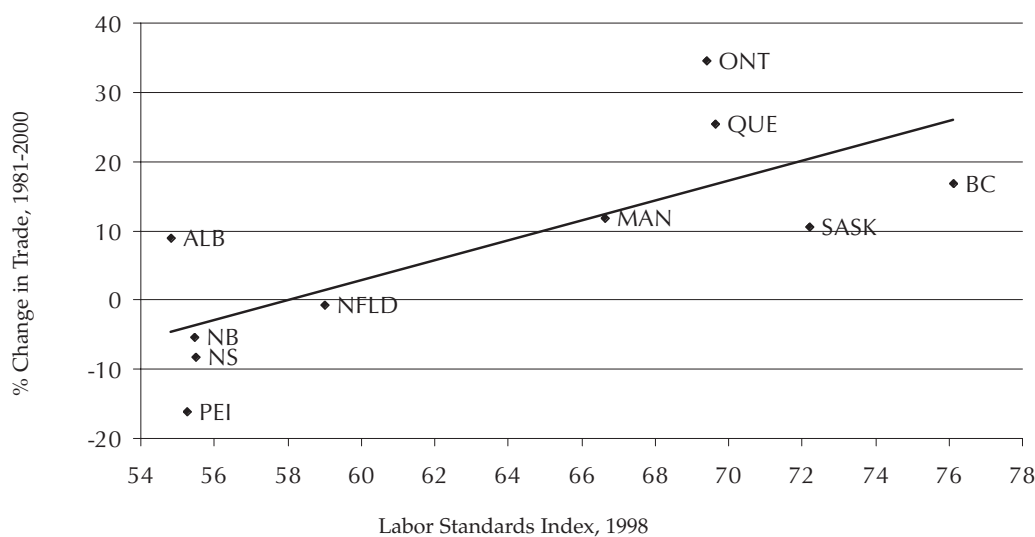
divided by GDP) for 1990-to-2000 and the new industrial relations law index assembled by Botero et al (2003) for 1997. The relationship is flat.³³ Again there are some countries with low levels of standards, such as Canada, and increased levels of openness; other countries have the same changes in trade volumes, but with high standards, such as France, and there is a middle group of countries, represented by Belgium.

The size of my sample for Canada does not enable me to replicate Flanagan's results in their entirety, but I can show at a very general level that labour rules have not been a brake on trade performance among provinces. My estimate of trade performance includes both inter-provincial and international trade since 1980, measured as a share of provincial GDP (Coulombe 2003). An increase in trade shares represents greater economic integration. The relation between changes in trade and labour standards in Figure 6 is positive and significant, and it does not seem to be affected by outliers.³⁴

I interpret this result to mean that labour standards do not constrain trade performance; on the contrary, more trade encourages experimentation and diversification in the provision of public goods along the lines of Alesina (2002). It may be, as suggested earlier, that in high labour-standard regions, companies

³³ The same result holds if the employment index is used. The correlation coefficient of the relation in Figure 5 is -0.36, ($p = 0.158$).

³⁴ The coefficient (t-statistic) of the dependent variable, labour standards, is 1.430 (3.26), with $p = 0.01$. $R^2 = 0.57$. As a check on this result, I regressed trade values on all the provincial labour standards from Table 3 ($N = 90$), with controls for the provinces. The positive and significant relation holds.

Figure 6: *Trade and Labor Standards: Canada*

Sources: Trade is the sum of inter-provincial and international exports and imports as a percentage of provincial GDP. Calculated from Coulombe (2003); labour standards - Block and Roberts (2002).

adopted new technologies, or that workers were motivated to give more effort; for whatever reason, Figure 6 gives little support to the view that labour standards distort in any meaningful way the case for mutual gains from trade. These results sit well with the both theory and other case studies (Srinivasan 1996). My conclusions are at one with Jagdish Bhagwati (1995, 1996). Diversity in labour standards seems to be the norm. One would be hard pressed to deem differences in labour standards among national and sub-national authorities as unfair, because different labour rules are consistent with efficient resource use and have very little bearing on trade performance.

International Labour Standards and Trade

Canada's record of ratification of ILO employment standards has been lacklustre. Of the 182 conventions recommended by the ILO since its inception in 1919, Canada has ratified 30. By comparison, Thailand ratified 13, China 23, Cameroon 49, and Sweden 92.³⁵ In some instances, Canada maintains that certain conventions are not consistent with the Charter of Rights, even when all jurisdictions have in fact met or surpassed the ILO standard. Canada objects, for example, to several clauses contained in Convention 138 which sets 15 years as the minimum age for entry to employment or the end of compulsory education, whichever is later, even though federal and provincial laws set superior standards.

The history and direction of provincial employment law affords another perspective on Canada's reluctance to push for stronger international standards. Referring back to the economy models of trade, an international standard, say on a

³⁵ These figures are from the ILO database available at: <http://www.ilo.org/ilolex/english/index.htm>.

labour-intensive imported good, would restrict world supply and raise its price. This may offer some temporary relief for domestic producers. It may also provide an incentive for developing, labour-abundant countries to introduce core standards.

The negative price effect for Canadians may be tempered as long as consumers are willing to pay more, owing to a strong moral distaste for goods produced under unacceptable conditions, or to correct a flagrantly unequal distribution of income (Freeman 1994). But the point is that most standards are discretionary, and that internationally imposed standards are not the most effective way to counter market failures, which are essentially a domestic issue.

Such failures are not uniform across countries and they should not be countered with similar measures. The efficient level of air quality protection at the workplace may be as different between Ontario and Nova Scotia as it is between southern California and northern Mexico. Each country has a strong incentive to correct the failures that exist within its own borders and there is not a strong case for international pressure to do so. That is, it makes little sense to punish workers elsewhere for, say, inadequate employment insurance or inadequate funds set aside for retraining. These are Canadian political issues and concerns and they should not be exported.

A related issue is the benefits accruing to Canada by fixing minimum labour standards in trade agreements. It seems inappropriate to penalize countries for exports that are consistent with efficient use of their indigenous resources. Still, domestic interests in Canada might persist in making minimum or core labour standards a condition for trade. Recall that in Canada before the advent of free trade there were strong built-in pressures toward harmonization that went hand-in-hand with inter-provincial trade flows. But the context has evolved.

Forced to adopt tighter standards, our trading partners would certainly respond, as they have the right to under the WTO. They will demand greater access to the Canadian market since their newly-imposed-higher standards would act as a protective tariff on their goods destined for Canada. Clearly this outcome would go against the intent of Canadians pushing for higher labour standards abroad to protect workers at home. There would be little benefit, therefore, from the twinning of standards and trade. Canada would be best served if negotiations of international core labour standards were left in the hands of multilateral organizations such as at the ILO.

The Future of Canadian Labour Standards

J.R. Hicks (1963) gave the classic reason for government intervention to correct externalities caused by long and irregular working hours. He observed that the forces of competition were such that no individual company has the incentive to reduce its hours. Moreover, there are individual workers who may, in fact, want to work excessive hours over short periods. In order to protect workers against hazardous conditions, some collective decision-making rule is therefore needed and on that fact rests the origins and persistence of labour standards. Because demands for these types of public goods reflect social and political forces and because the costs of implementing them vary with resources available, it would be

expected that the nature and coverage of labour standards would vary considerably across time and space.

The Canadian experience is no exception to these forces. The first labour standards were implemented to counter the externalities caused by industrialization. From the outset there was tension between forces of convergence and divergence. However, into the mid-1980s there was an incentive for provinces to offer comparable labour standards. As long as Canada was protected by tariffs, provinces would improve employment conditions and essentially pass the cost on to consumers throughout the country. In this early period, labour standards were not sensitive to trade and through a process of emulation there was a race to the top in standards.

The new trade environment of the mid-1980s changed the rules of the game. Without the possibility of altering prices to their own benefit and shifting the burden of labour standards on to consumers across the country, each province began setting its own rules in a way that was appropriate to meet its own needs. Labour standards are now sensitive to trade flows; it does not follow, however, that a race to the bottom is inevitable.

Provinces began to exhibit wider differences, with British Columbia offering high labour standards in many areas, Alberta providing inferior coverage, and Quebec and Ontario somewhere in the middle. With the increase in international trade flows, provinces were better able to meet the demands of their local, more homogeneous populations and, as a result, it has become more difficult to transfer labour laws among jurisdictions.

To be sure, there are forces of convergence at play. Two regions with similar factor endowments, incomes and tastes would probably share the same employment rules. But the new trade environment allows room for experimentation. These differences in employment laws did not seem to hamper trade flows; in fact, they may have encouraged further specialization and more trade. Thus, while some regions have reduced employment standards, others have raised certain standards, forcing companies to move up the product chain and to specialize in higher value-added goods. There is no exclusive way to protect labour.

We should expect to see more diversity in the future, both within Canada and among countries, and essentially for the same reasons. Faced with increased international exposure, there will be more specialization in employment laws, not less, because globalization constrains national and regional authorities to better reflect the preferences of their populations and to have clearer perceptions of costs. Trade flows themselves will not be disturbed by the unevenness or unfairness of labour standards. In any event, the debate over a race to the bottom or a race to the top seems to miss the point. Borders in the future will still matter because national and sub-national authorities will continue to exploit the right to organize themselves as they see fit. *Vive la différence!*

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