Social Clause in Trade Liberalization: 
An Agenda for the Philippines in APEC

by

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Abstract

The institutionalization of a social clause in an agreement which is binding among the signatories is difficult to support as it always entails having to touch issues like protectionism, and political, economic and cultural hegemony. The barrier of distrust between the "pro" and the "anti" social clause groups has become too deeply entrenched in the Asia Pacific to elicit a consensus that can be embodied in a ratified agreement. It is in this light that the Asia Pacific Economic Cooperation (APEC) forum seems to be a more practicable approach.

This thesis begins on the recognition that APEC exists and the Philippines is actively participating in it — the critical issue now is to make it an institution that will safeguard labor rights, not contribute further to their violation. Vital to the understanding of APEC is that it is more of a process rather than a solid institution. The APEC process is consensus-based and therefore functions well as a vessel for the harmonious and beneficial navigation by member economies of the treacherous waters of global trade. Because of the apparent voluntary character of member countries' commitments, some cause-oriented groups consider this process as an opportunity for interjecting social issues in APEC trade discussions by influencing civil society and thereby ultimately putting pressure on their respective governments to include these issues in the countries' individual commitments.

This thesis is divided into four main chapters. The first chapter gives a historical analysis of the Philippines' journey toward trade liberalization in an increasingly globalizing world economy. The early stages of the country's trade liberalization program were plagued by a fundamental problem: the policies at the macro-economic level conflicted with the goal of liberalization, for they were hinged on an unsustainable level of foreign borrowing and on domestic politics of corruption and exploitation of human resource.

The second chapter analyses the APEC objectives of free trade and the Philippines' trade liberalization commitments within that forum. It is argued that the country's bold and unilateral initiatives toward the fulfillment of the Bogor Declaration are unsustainable because of the government's misplaced fundamentals of competitiveness and lack of social support measures.

The third chapter is a theoretical review of the linkage between the social clause and the liberal trading order with references to the North-South divide. It is argued that given a basically similar rationale — rejection of protectionism and of exploitation of labor — there could be an alternative path between the two opposing camps through which labor rights can be discussed and considered in a regional trade forum.

The concluding chapter explores the different ways with which the labor movement can tap the human development and sustainable development aspects of the APEC forum. There is a need to develop and utilize a counter-consciousness in policy making which will inject a critical approach to the Philippines' ardent drive to attain global competitiveness. It is concluded that there is a possibility of creating a political space for non-government organizations (NGOs), private organizations (POs) and social movements to meaningfully participate in the APEC process and help in safeguarding social concerns, particularly labor rights.
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1 Term borrowed from Chapter Four of Robert Dohner and Stephen Haggard's book, cited at note 46.  
2 Term borrowed from Walden Bello's book bearing the same title, cited at note 146. The term was coined by former Australian Foreign Minister Gareth Evans.
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Introduction

The issue of the inclusion of a social clause in international trade agreements is not new. Within the General Agreement on Tariff and Trade (GATT), the topic has been discussed at length by the opposing poles, with minimal success. The institutionalization of a social clause in an agreement which is binding among the signatories is difficult to support as it always entails having to touch issues like protectionism, and political, economic and cultural hegemony. The barrier of distrust between the "pro" and the "anti" social clause groups has become too deeply entrenched to elicit a consensus to be embodied in a ratified agreement. It is in this light that the Asia Pacific Economic Cooperation (APEC) forum seems to be more practicable. The underlying rationale for this thesis is that APEC exists and the Philippines is actively participating in it — the critical issue now is to make it an institution that will safeguard labor rights, not contribute further to their violation.

Vital to the understanding of APEC is that it is more of a process rather than a solid institution. The APEC process is consensus-based and cooperation is based on mutual benefit. There is a unity of purpose, not approach. As such, some advocates of a social clause deem it more workable to champion their cause within this set up. There are no ratified laws or contractual obligations in APEC. There are no prospects of trade sanctions for deviant or errant member nations. APEC members submit their individual commitments toward the realization of APEC's common vision of a free trade region. Members at different stages of economic development
are each given specific time frames within which they can liberalize trade in their own economies. Because of this apparent voluntary character of member countries' commitments, some cause-oriented groups consider this process as an opportunity for interjecting social issues in APEC trade discussions by influencing civil society and thereby ultimately putting pressure on their respective governments to include these issues in the countries' individual commitments.

A. Objective of the study

The aim of this thesis is to present through a case study approach of the Philippines, how social support measures, particularly those affecting labor, can be interjected in a regional trade alliance such as APEC which operates on a flexible consensus. Does the APEC process matter at all in the Philippines' advancement of labor rights as embodied in a social clause in a regional trade arrangement? The answer to this, the thesis will argue, lies in how the labor movement will position itself and the cause they are advocating in the trade forum. This thesis explores the social repercussions arising from trade and liberalization of the global market on a developing country like the Philippines. The country presents an interesting study of how a nation struggles to embrace the global economic system while maintaining a firm grip on its own values and identity. This thesis also aims to draw some policy shifts the Philippines can undertake in its quest to participate in international trade.
I will argue that the advocacy of a social clause and the interjection of social support measures should be pursued in APEC trade discussions, and more importantly in the Philippines' individual and voluntary declaration of commitments towards the realization of APEC's goal of a trade barrier-free Asia Pacific. These steps are essential for the Philippines in ensuring a meaningful participation in the APEC process and in vigilantly carving for itself a role within this regional economic forum.

Furthermore, I will discuss the role of Philippine non-government organizations (NGOs), private organizations (POs) and peaceful and unarmed social movements in promoting a social clause within the APEC arena. The Philippine government has unequivocally presented itself as pro-free trade. The country has identified itself with the pro-free trade Northern bloc of APEC which includes the U.S., Canada, New Zealand and Australia. But as far as social clause and human rights issues are concerned, it is in harmony with its ASEAN neighbors like Indonesia, Malaysia, and Thailand, categorized as the less developed Southern bloc, which are opposed to including such issues in trade forums. It is because of this diametrically opposed loyalty that there is a need to tap whatever persuasive strength can be derived from Philippine NGOs, POs and social movements. These groups have played a significant role in Philippine society for they have shown considerable ability to influence government policies and effect political changes at various stages of the country's history. Another important goal of this study is to encourage a meaningful and beneficial participation of the Philippine labor sector in the process of trade liberalization and trade discussions within APEC.
B. Scope and limitation of the study

The topics of globalization, trade liberalization, APEC and the social clause are very complex and distinct. However, for purposes of this thesis I will not discuss the validity of globalization, whether it is inevitable or preventable, or whether or not nations should participate in it. This thesis works on the premise that globalization is happening: as a consequence of which, nations engage in trade liberalization. I will also work on the premise that APEC exists and is fast gaining momentum. I will not justify its existence nor reject it entirely. Now that the Philippines finds itself in this APEC/trade liberalization nexus, the focus should be on what the country can do to make the most out of its participation in this regional alliance — with the best possible benefit to Filipinos and without sacrificing the interest of its labor sector.

The discussion is limited to the Philippine experience in liberalizing trade. There will be a historical analysis of the Philippine trade liberalization measures from the 1950s until the present. Focus will be on the country's declared commitments to the APEC process, excluding other regional trade alliances the Philippines is engaged in, such as the World Trade Organization (WTO), the Association of Southeast Asian Nations (ASEAN), and the ASEAN Free Trade Agreement (AFTA). However, there will be some historical references to these other regional alliances in the discussion on the linkage between trade and labor rights.
This thesis is divided into four main chapters. The first chapter gives a historical analysis of the Philippines' journey toward trade liberalization in an increasingly globalizing world economy. It will be learned that the early stages of the country's trade liberalization program were plagued by a fundamental problem: the policies at the macro-economic level conflicted with the goal of liberalization, for they were hinged on an unsustainable level of foreign borrowing and on domestic politics of corruption and exploitation of human resource. The chapter also examines the obstacles to the increased participation of the Philippines in the international trading system and what measures and steps the country has undertaken in the process of opening up its market for international trade. The effects of these initial efforts and steps on the Philippine economy and labor will also be analyzed.

The second chapter reviews and analyses the APEC vision and objectives of free trade and the Philippines' trade liberalization commitments within that forum. This chapter explores and analyzes the following issues: the Philippines' commitment to the APEC goal of a free trade area by the year 2020; the legislative actions directed towards the achievement of this goal; APEC's commitment to the social clause; labor's role in APEC; and the emergent effects on Philippine society, particularly on the labor sector, of these trade liberalization measures committed to the APEC process. It is concluded that the country's bold and unilateral initiatives toward the fulfillment of the Bogor Declaration are unsustainable because of the government's misplaced fundamentals of competitiveness and lack of social support measures.
The third chapter is a theoretical review of the linkage between the social clause and the liberal trading order with references to the North-South divide. It is argued that given a basically similar rationale — rejection of protectionism and of exploitation of labor — there could be an alternative path between the two opposing camps through which labor rights can be discussed and considered in a regional trade forum. This chapter starts with an examination of the North-South divide in the context of world trade particularly regarding the social clause. This backdrop is used as a convenient terminology as the Philippines is unmistakably representative of the South. It then discusses the debate on the relationship between trade liberalization on one hand, and international standards and the social clause on the other. The linking of trade with human rights and labor standards will also be historically outlined while analyzing the rationale behind the introduction and failure of the initial effort at the linkage.

The fourth and concluding chapter is aimed at how the issue of labor rights or the social clause can be advanced in the APEC arena. This chapter explores the different possible ways with which the labor movement can tap the human development and sustainable development aspects of the APEC forum. It will be stressed that there is a need to develop and utilize a counter-consciousness in policy making which will create a critical approach to the Philippines' ardent drive to attain global competitiveness. There will be a discussion of the alternative forms of bringing about free trade through policy-making rooted in local tradition, democratic decentralization and accountability and maximum participation from the people's movements.
It will be concluded that there is a possibility of creating a political space for NGOs, POs and social movements to meaningfully participate in the APEC process and help in safeguarding social concerns, particularly labor rights.

C. Background of the study

The phrase "social clause in trade liberalization" has been touted as an oxymoron. For some, the mere mention of the global economy invokes a specter of multinational corporate monsters devouring the poor of developing countries. Globalization's three elements — trade and investment liberalization, deregulation and privatization — are widely seen by its critics as the nefarious tools of structural adjustment which are forced on developing countries by the developed countries as "modern-day imperialists". This thesis, however, does not seek to validate these claims nor to defend the whole concept of a free market economy. These negative impressions of a new global marketplace stem from the fact that economists and strategists have alienated the process of globalization from the workforce. Thus, pro-market reform is seen as an indiscriminate and radical "corporate agenda" in blatant disregard of the working class' rights and welfare. It is also viewed as a concerted effort of a sinister club composed of approximately 40,000 transnational corporations operating the world over, the top 200 of which control over
a quarter of the world's economic activity. These corporations which operate internationally are reported to have a revenue of $7.1 trillion which is bigger than the combined economies of 182 countries. Indeed, this massive wealth, which is almost twice the combined income of the bottom four-fifths of humanity, suggests a system where corporate greed rules. As such, whatever changes that may occur and programs which are initiated are always seen as an imposed strategy of development totally removed from the experiences of the human machinery which runs the trade.

In the Third World experience, this notion of development is considered by some grassroots people's movements as an ethnocentric imposition of the First World's precept of progress. There is a growing resistance to the imposition of development which is seemingly oblivious of workers' interests. Critics of this Western precept of progress believe that it only serves the needs of the prosperous industrialized countries. The developed world's tenacious preoccupation with opening up the markets of developing world for the purpose of improving its own economies represents the hegemonic nature of the current process of global change.

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2 Ibid.
3 Ibid.
At this juncture, it is clear that there is a need to reconstruct a vision of development which will champion the diversity, complexity and needs of participating economies in the process of globalization. Only then would people’s movements in the developing economies truly participate in creating their own destiny and in moving towards the alleviation of poverty. Only then can there be economic growth and market competitiveness with equity.

As the Philippines continues to convalesce from the Asian economic contagion, it nevertheless stands firm on its commitment to further liberalize its trade policies to remain competitive in the global market. It is now difficult to find a foreign analyst who is negative on the Philippines despite the fact that it was once touted as the laggard among its Southeast Asian neighbors. Optimism is based on the spate of good news against the backdrop of a region-wide crisis: a stabilizing peso, a declining current-account deficit, 23 per cent growth export, $10.8 billion in foreign revenues equal to a comfortable 2.3 months of imports. The country recently elected its thirteenth president, Joseph Estrada, in a generally clean and honest election. Analysts also credit former president Fidel Ramos for getting the lights back on in the Philippines: he dismantled a number of monopolies and cartels, made peace with Muslim rebels of the Moro National Liberation Front (MNLF) and has started a dialogue with the communist National Democratic Front (NDF). Ramos, a former Armed Forces of the Philippines Chief of Staff, also

6 Ibid.
ended threats of military coups by reconciling right-wingers to the government. He launched "Philippines 2000", a program which aims to make the Philippines a tiger economy by the turn of the century.

Although by no means immune to the economic storm ravaging the Asian region, the Philippines is weathering it better than other nations. President Estrada, barely a month in office, promises to continue his predecessor's economic reforms, particularly those which strengthen the country's drive to be more competitive in the global market. He vows to go along with free trade because he believes this is the only way to keep abreast with the country's Asian neighbors. He plans to calibrate the country's tariff reduction program, simplify rules for business and investments, and give assistance to local industrialists.

One of the most positive achievements of the country that gives it stellar points among economic analysts is the fact that the Philippines has just ended 35 years of tutelage under the International Monetary Fund (IMF) last March 1998. The country's "graduation" from the IMF came at a time when its Asian neighbors like South Korea, Indonesia and Thailand were just starting with their restructuring program with the IMF. As a caveat, however, the Philippines also signed up for a two-year IMF precautionary agreement that will give it access to $1.37 billion in case of

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8 Ibid.
emergencies.\textsuperscript{10} But market analysts still view this with optimism as it will ensure that the country "is not going to get knocked by broad-based shifts in market sentiment."\textsuperscript{11}

This optimistic scenario, however, is of little significance to the common folk in the Philippines. The National Statistics Office of the Philippines (NSO) recently reported that unemployment in the country rose to a seven-year high of 13.3 per cent.\textsuperscript{12} The NSO gave no reason for the alarming increase, up from 10.4 per cent a year ago, but the unemployment rate came in the wake of the economic slowdown which economists attributed to the peso devaluation, the Asian crisis, high interest rates and the ravaging of the agricultural sector by the El Niño weather phenomenon.\textsuperscript{13} Philippine society is characterized by social fragmentation.\textsuperscript{14} The main division in Philippine society is socio-economic: the richest twenty per cent of Filipinos owns 50 per cent of the wealth while the bottom 40 per cent have only 17 per cent.\textsuperscript{15}

Some Filipino economic analysts also question the assertion of the Ramos administration that the reason why the Philippines was less hurt by the Asian economic crisis is because the country's economic fundamentals were right.\textsuperscript{16} This claim supports the Philippines' unwavering commitment to be globally competitive by further liberalizing trade. In debunking the past

\textsuperscript{11}Ibid.
\textsuperscript{12}Canuday, Jowel. 1998. "Seven-year high: 4.3M Pinoyos have no jobs due to crisis." \textit{Philippine Daily Inquirer} (17 June).
\textsuperscript{13}Ibid.
\textsuperscript{14}Ibid.
\textsuperscript{15}Laquian, supra.
\textsuperscript{16}Ibid.
administration's claim of having sound economic policies that kept the Philippines somewhat buoyant amidst the crisis, these analysts likened the situation in Asia to two vehicles. The Philippines, with a GDP growth rate of 5 per cent is like a car travelling at 50 kph while another country, say Thailand with a double-digit GDP growth rate, is like a car travelling at 100 kph. Thus, if both cars meet an accident, the slower car sustains less damage. It does not necessarily mean however that the slower car is better that the faster one. Another explanation is that unlike it's Asian neighbors, the Philippines did not have the credit rating nor the economic vigor to sign up billions in private foreign debt to venture into speculative assets which triggered the Asian economic flu.

Furthermore, Ramos has managed to conceal his administration's shortcomings under the guise of seeming economic stability because of several other factors. One is the El Nino phenomenon which can be blamed for massive environmental destruction and low agricultural yields. Another is the Asian currency which is a plausible and an easy excuse for the rising unemployment rates and inflation. With these external forces at hand, it is easy to make false claims and assert that the country has been pursuing the correct road towards progress and economic recovery. One of the biggest hurdles in pushing the country forward is not the lack of political will to resolve the country's problems; rather, it is the inability to accept the magnitude of the country's

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17 Ibid.
18 Ibid.
19 Ibid.
20 Ibid.
problems and the fact that the past administrations have failed in addressing them. There is no true assessment of where and why Ramos' as well as the past presidents' administrations failed. This prevents Philippine governments from achieving a better prescription for saving an ailing economy and pursuing alternative paths to development.

In his first ever State of the Nation Address delivered on 27 July 1998, Estrada gave a grim but realistic account of how and where the nation he had just began to lead stood. It was the first time in history of Philippine politics that a president admitted and accepted the magnitude of the country's problems. He said that the previous administration left a monstrous budget deficit and an even bigger foreign debt. The economy was in shambles and is in fact bankrupt in the midst of a region-wide financial storm. Unemployment is on the rise. The gap between the rich and the poor continues to grow in a system that allows the rich their privileges while the poor are driven to deeper impoverishment. The speech was a much needed wake-up call in the midst of the favorable economic forecasts foreign analysts had been giving to the Philippines. Estrada's acknowledgement of the country's predicament was the first step in the right direction — something that past administrations refused to do. But Estrada's candor started and ended there. His address lacked any consideration of long term solutions or a careful assessment of past administrations' failure in salvaging the country from the economic rut. Instead, like his predecessors, he punctuated his speech with the usual prescription for expediting globalization through bolder liberalization measures. Estrada's "wake-up call" accomplished nothing more but
to evoke an air of panic which now makes it easy for anyone to believe in any of his offered prescriptions.

The different forecasts on and assessments of the Philippine economy are due to the glaring economic disparity in the Philippine society. The discussion of a country's struggle for economic recovery is never complete without taking into consideration the effects it has on the marginalized sectors of the society — the poor, the workers and the farmers. The gap can be bridged only by political commitment\textsuperscript{22} to position social justice at the same level as fiscal and trade reforms. President Ramos had always emphasized the necessity of maintaining an open economy while cushioning its impact on the poor.\textsuperscript{23} President Estrada now stresses that the thrust of his new government is to share the country's wealth with the greatest number of Filipinos, to give equal opportunities to everyone and to be unwavering in its dedication to the poor.\textsuperscript{24} He also hopes to reduce poverty by 50 per cent during his term of office\textsuperscript{25} which lasts for six years.

Are all these simply empty rhetoric? Where and how does the common Filipino place in the quest for the fruits of global trade? Is the Philippines compromising too much too soon at the expense of the common folk, particularly the millions of Filipino workers that make goods for

\textsuperscript{22} Lopez, \textit{supra}, note 5.
\textsuperscript{23} Asiaweek Editorial, \textit{supra}.
\textsuperscript{24} Asiaweek, \textit{supra}.
\textsuperscript{25} \textit{Ibid}.
export? What is the government doing to cushion the effects of trade liberalization on the workers? Does social justice really play a major role in the country's trade liberalization policies? These are some of the vital issues this thesis aims to address.

Indeed, globalization rewards as well as punishes. The Philippines has, to some extent, benefited from trade liberalization. It is slowly de-robing itself from its "sick man of Asia" tag. However, it cannot be said that all Filipinos can lay claim to the fruits liberalization has to offer. Some sectors of the society, particularly labor, have suffered from the process. Thus, a social protection scheme is an imperative.
Chapter I

Trade liberalization in the Philippines

This chapter presents a historical perspective on how past Philippine administrations have constructed their trade liberalization policies with outside influences. It is shown that the articulation of trade policies is a product of the combined exogenous forces of colonialism, post-colonial geopolitics, global capital, socio-economic integration and transnational and multinational institutions.

A. The setting

The Philippines celebrated its 100 years of independence from Spanish colonial rule last 12th of June 1998. Home to 72 million Filipinos,26 this archipelago comprising of over 7,100 islands, weathered over three centuries of Spanish colonization, 42 years under American rule and four years of Japanese occupation. The United States formally acquired the Philippines at the turn of the century after crushing a national liberation struggle by Filipino revolutionaries that freed the islands from Spanish colonial control.27 From 1899 to 1941, the Philippines was transformed into a colonial dependency of the United States.28 Thus, the recent centennial celebration of the

26 Laquian, supra (NSO reports a 2.3 percent increase in Philippine population per year), note 4.
28 Ibid.
Philippines may seem anachronistic in the light of American control. However, Filipino historians and past governments have widely accepted that romanticized moment in history when Filipinos rose up against the first colonizers as the actual moment in history when the Philippines gained independence.

The American period saw the expansion of the landlord-tenant system at the expense of the freeholding sectors of the peasantry. This form of oppression sparked peasant resistance which was, however, interrupted in 1941 by World War II and the Japanese occupation. At war's end, formal independence from the United States was declared and a constitutional democratic form of government was formed. It can be argued that for some time, the United States secured a semi-colonial grip on the Philippines through its right to maintain, by virtue of a treaty, over 20 military bases and installations in the country. US citizens enjoyed equal rights to Filipinos to exploit the country's natural resources. In 1991, however, the Philippine Congress, in a milestone decision, voted not to renew the United States - Republic of the Philippines Military Bases Treaty. The former US bases have since been converted into a bustling freeport zone. The Philippine Congress, particularly its nationalist members who voted against the renewal of the treaty, was commended for this decision. However, much of the credit was attributed to the strong mass based movement of various NGOs and POs which vigorously took the streets and

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29 Ibid.
30 Ibid.
31 Ibid.
32 Ibid.
rallied against it. To appease an angry citizenry, the Congress felt it had the moral duty to heed the call of the people.

It was in this century-long struggle that the Philippine nationhood was formed. Filipino nationalism is a powerful force, deeply rooted in the country's history, in the Filipinos' struggle against oppression and foreign intervention, and in the struggle for freedom, democracy and independence.

The past five years saw a new Philippines emerging from the ruins of political turmoil and missed economic opportunities which plagued the country for the past three decades. Freed from the isolation from the international financial community and in the new climate of political stability, the Philippines is now starting to gain strength from the renewal of investor confidence. Behind this optimism is a new sense of rejuvenation sparked by a restructuring of the economy from an inward-looking, protectionist orientation of the past to a more open trade environment.

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34 Ibid.
36 Ibid.
37 Ibid.
B. The complex road to trade liberalization

1. Import substitution and industrialization

The 1950s saw a burst of industrialization which was started by government import controls. These controls were aimed to protect domestic manufacturers of consumer goods from foreign competition. It was the start of the Philippines' long and complex travail to economic modernization through "import-substitution industrialization." The short period of dynamic growth in industrial production misled the country's leaders into prolonging the import-substitution stage while trying to attain substantial economic progress. They failed to move on to the next step—an export-oriented strategy that could have led to substantial growth and channeled more locally manufactured goods into the global market. Tighter import control continued for the protection of domestic industries. This regime, however, made the economy less open. While the country tried to perpetuate this economic strategy, its Asian neighbors started opening its doors and servicing the foreign market.

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39 Ibid.
40 Galang, *supra*: 14, note 30.
41 Ibid.
42 Ibid.
The industrial growth based on "import substitution" stagnated by the 1960s.43 This scheme of import and foreign exchange restrictions disfavored non-essential manufactured imports.44 Since the controls only targeted imports and not foreign investment, a number of US companies dominated the Philippine manufacturing sector. True industrialization was far from being achieved as industrial facilities set up in the country were merely assembly plants for goods manufactured by foreign companies. An overvalued exchange rate and tariff protection were employed for some time to protect domestic industries while the country's Asian neighbors were already gaining headway in the export market.45 The share of imports and exports in GNP decreased from 15 per cent at the start of the 1950s to a mere 10 per cent by 1960.46 The import substitution scheme virtually collapsed. The predominant bulk of studies of the country's economic policies during the post-war period is unanimous that the inability of the economy to grow rapidly is due to this scheme.

This period sparked the creation of a small Filipino entrepreneurial elite which controlled a sizeable chunk of the national income. This fragile group however was dwarfed by big US firms like Proctor and Gamble and Mead Johnson which had set up shop in the company.47 The strong presence of US firms was due to the still semi-colonial relationship between the Philippines and the US and the lack of nationalist controls on investment despite protectionist measures on

44 Ibid.
45 Ibid.
46 Ibid.
imports. The dominant US presence in manufacturing pumped out capital rather than bring it in the country. The Philippines' participation in manufacturing and industrial sectors was limited to producing foreign brands and local products designed for domestic consumption. The production of Philippine firms was limited to light manufactures like shoes, textiles and processed foods and finished consumer goods while the intermediate and capital goods sectors were slight if not non-existent. Such reality made the country more dependent on foreign currency, imported intermediate and capital goods as well as industrial raw materials. It was a vicious cycle which further pulled the country into the rut from which it wanted desperately to escape. What should have complemented this import substitution scheme were stricter measures to support and protect Filipino-owned industries and the encouragement of the creation of a truly Filipino industrial and manufacturing sector.

2. The introduction of export-oriented industrialization

The lifting of import and foreign exchange control and currency devaluation in the early 1960s marked the country's first episode of trade liberalization. However, these policy reforms did not alter very much the strong support scheme enjoyed by consumer goods industries producing import substitutes. The reforms were effectuated by pressures from the World Bank and the IMF as part of the structural adjustment program accompanying a loan agreement with the said

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48 Ibid.
institutions. They were to be the initiation of the Philippines into the road to liberalization in a neocolonial international order. These reforms also started to expose the country to external procedures and institutions that were to make significant impact on the socio-economic and political scene.

The effect of the reforms on labor and the rising Filipino entrepreneurial class was harsh and oppressive.\(^50\) Wages declined by 10 per cent.\(^51\) There was a relatively low share of manufacturing sector in employment.\(^52\) "The large share of workers in agriculture and services, coupled with a high population growth rate, reduced pressure on real wages and had the effect of weakening labor's market and political power."\(^53\) Some 1,500 Filipino entrepreneurs were forced into bankruptcy brought about by the doubling in the peso cost of imported raw materials and repayments on foreign loans.\(^54\)

Before the implementation of such reforms, the country rode on the crest and troughs of competing policy prescriptions in a distinct way. The nationalists and leftists groups called for stricter regulation of foreign investments massive income redistribution to create a market big enough for a sustainable industrial growth.\(^55\) The opposing group, on the other hand, prescribed

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\(^{50}\) Bello. Development debacle... supra: 131, note 27.

\(^{51}\) Ibid.


\(^{53}\) Ibid.

\(^{54}\) Bello. Development debacle... supra: 132, note 27.

\(^{55}\) Ibid.: 130
liberalization that would dismantle protectionist barriers to imports and attract foreign investment and capital.\textsuperscript{56} Then President Diosdado Macapagal did a balancing act of giving in to IMF pressure: he lifted import controls, freed exchange rates, but at the same time retained many elements of the import substitution program. This convoluted and aimless compromise of policies left the country burdened with a high inflation rate and a stagnant economy. It also started strong social unrest.

Still determined to free the Philippine economy from protectionist policies, the IMF once again pushed for liberalization with the promotion of an alternative to inner-directed nationalist industrialization called "export-oriented industrialization."\textsuperscript{57} During the late 1960s, under the Marcos regime, three important pieces of legislation paving the way for an export-oriented industrial development program were passed: The Investment Incentive Act of 1967 (Republic Act 5186), which established the Board of Investments and gave preference to investors in export-oriented production; the Export Incentives Act of 1970 (Republic Act 6135), which gave additional incentives to exporters; and the Foreign Business Relations Act of 1970 (Republic Act 5455), which removed restrictions on the repatriation of profits.\textsuperscript{58} In 1969, legislation was passed creating the "Export Processing Zone" which promised investors a package of cheap labor, duty-free raw materials and intermediate goods imports, corporate tax holidays,
permanently subsidized infrastructure, ready-made buildings for rent or purchase and accelerated depreciation rates on fixed assets.\textsuperscript{59}

The political landscape changed drastically when Marcos declared Martial Law in 1972. Martial rule was enforced so that Marcos could maintain power and implement his policies swiftly and without chance of opposition. It was also utilized to stem the tide of discontent and social unrest unleashed by growing mass poverty. This was achieved by his government by debasing basic human rights. The World Bank and the IMF supported Martial Law as it was thought to expedite the country's liberalization measures. Through Martial Law, Marcos and the IMF were each able to pursue their own political and economic agenda at the expense of the public interest. This era spawned dramatic economic, social and political policy aberrations that were to have lingering adverse effects on Philippine society.

Through incontestable presidential decrees, Marcos created a political culture of "crony capitalism" by dispensing monopoly privileges and behest loans to his coterie of friends and relatives. The flow of money from the IMF supported this regime and bred a system of corruption, greed, exploitation and inefficiency. The concerted internationalist role of the Marcos government and the institutionalized external forces like the IMF and the World Bank spawned a dialectic relationship of agency and dependency. The two financial institutions needed a leader like Marcos who doggedly followed and believed their economic prescriptions.

\textsuperscript{59} Ibid: 135.
Marcos in turn acted as agent of and was dependent on the IMF and the World Bank to support the perpetuation of his dictatorial rule and to further enrich himself and his coterie of cronies by siphoning the loaned funds to his benefit. Marcos crony firms dominated the import-substituting manufacturing sector as well as the export sector, specifically in auto assembly, peroxide, cigarette filters and coconut-related chemicals.\textsuperscript{60} These crony firms were also heavily represented in agriculture, construction, shipping and finance.\textsuperscript{61} Big industrial enterprises owned by non-crony entities were nationalized and formed into state-owned corporations like Manila Electric Company and National Steel Company.\textsuperscript{62}

Marcos' dictatorial tactics in enriching himself further incensed an already indignant non-crony private sector, the middle-class consumers and the oppressed labor sector. The sentiments of these groups were galvanized by massive protests and civil disobedience directed at government corruption and mismanagement. The iron rule of Martial Law was not enough to temper and stop the various street protests, rallies and demonstrations. These groups which had the Marcos dictatorship as their common enemy gained more strength following the assassination of popular Marcos critic and arch rival Benigno Aquino. Their unified strength also played a big role in the lifting of Martial Law and the historic People Power Revolution which brought down the dictatorship.

\textsuperscript{60} Dohner, supra: 21, note 52.
\textsuperscript{61} Ibid.
\textsuperscript{62} Ibid.
Once again, the impact of the reforms on the labor sector was oppressive. Cheap, repressed labor was one of the most important factors of the export regime. The World Bank admitted in a confidential report that "the basic objective of the government's wage-price policy (of export-oriented industrialization) has been to promote the growth of employment and investment through...wage restraint." Moreover, relative factor pricing was biased against labour use and, as such, the fiscal incentives given to enterprises tended to have a "capital-cheapening" effect.

The system relied heavily on the country's strong resource base and its comparative advantage owing to skilled and low-wage labor. The oppressive labor reforms were made possible through Presidential Decree No. 823 which enforced a strike ban in "vital industries" - a term which encompassed virtually all types of industries. The ban was also reinforced by tight restrictions on the organization of labor unions. To control the labor force and purge militant elements in the workforce, the government established one giant labor federation per industry in the guise of "nationalizing labor-capital relations." A Labor Code extremely biased in favor of employers was also instituted. The labor specific oppressive laws and administrative acts made possible the following: arbitrary suspension and lay-off of workers; hiring of workers with

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63 Bello. Development debacle... supra: 132, note 27.
64 Bautista, supra: 15, note 42.
65 Bello. Development debacle... supra: 142, note 27.
66 Ibid.
67 Ibid. ("As part of this effort, the government sponsored the formation of the Trade Union Congress of the Philippines [TUCP] to assist the Ministry of Labor in efforts to control the labor force and purge militant unions. The TUCP-Ministry of Labor combine [sic] refused recognition to 5,640 out of 7,000 registered unions and labor federations, resulting in the dissolution of many and the harassment of others by the government.")
68 Ibid: 143. (To illustrate how the Labor Code was invoked extremely in favor of the interest of the management and the government at that time, Bello further explains: "Among the most controversial provisions of this code was the 'preventive suspension' of any worker who 'poses a serious danger to the life or property of his employer.' Not surprisingly, the clause has been extensively invoked; in 1977 alone, for instance, 6,000 trade unionists were placed on the 'preventive' blacklist. Management could afford to be arbitrary in employing this weapon, for out of every 1,000 cases of preventive suspension, The Ministry of Labor decided only 13 in favor of workers.")
only 75 per cent of the basic minimum wage: creation of aberrant employee status such as "permanent casuals;"\(^69\) changing of the system of industrial relations in ways unfavorable to labour,\(^70\) and the institution of a tripartite collective bargaining pattern that strengthened the government's power and discretion in wage settlements.\(^71\) The export industry also brought about the feminization of labor. Most manufacturing companies preferred to employ women because they posed no threat to management as they were less inclined to join and form labor organizations and other union activities.\(^72\)

By the end of the 1970s, the Philippines gained insurmountable competitive edge in labor costs for having the "cheapest [wage] in the world."\(^73\) Non-traditional manufacturing exports continued to grow at 33 per cent per year and by the 1980s they were responsible for more than 32 per cent of total export earnings.\(^74\) But someone had to pay the price of industrial development. The brutal reduction in the real income of Filipino workers, the World bank Poverty Mission itself ironically reported, was "startling."\(^75\)

\(^{69}\) *Ibid.* ("[The] Labor Code [which has since been amended] allowed employers to pay new employees only 75 per cent of the basic minimum wage during a six-month probation period. After this probation period, workers were supposed to graduate to full pay. It was common practice, however, for employers to fire workers just prior to the close of the 6-month probation, then rehire them on a probationary basis to get around paying the full wage. Many workers became so used to this practice that they jokingly referred to themselves as 'permanent casuals'.")

\(^{70}\) Dohner, *supra*: 23, note 52. (There were increases in penalties to workers for breaking the law and management was given greater leeway in firing employees.)

\(^{71}\) *Ibid.*

\(^{72}\) Bello. *Development debacle... supra*: 144, note 27.

\(^{73}\) *Ibid*: 146.

\(^{74}\) *Ibid.*

\(^{75}\) *Ibid.*
3. Exogenous shocks and structural adjustments

In the 1980s the Philippines experienced economic collapse brought about by internal and external factors: the world-wide oil crisis, the country's $4 billion account deficit and $15.2 billion external debt, increased protectionism in major international markets, the decline of the GNP growth rate to twenty-five percent a year, and the overall deteriorating living standards of Filipinos which once again strengthened political and social unrest. Hit on all sides by these factors, economic growth in the Philippines was dismally low compared to its Asian neighbors. Before the end of the decade, it had practically reached a standstill.

Marcos once again sought the World Bank's aid through the Structural Adjustment Loan (SAL). Trade liberalization during this time was a part of a large scale program of restructuring the protectionist domestic industry. Through this program, the country was granted access to credit designed to improve industrial efficiency and to work out a tariff reduction program to attract certain manufacturing industries. The lending agreement was made conditional on the enforcement of policy reforms for the improvement of resource utilization and global competitiveness of domestic industries. Under the financing accommodation scheme, the government was also compelled to live within its means by trimming its deficits on the balance of payments and its national budget. The SAL was projected to be the "final offensive against

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76 Ibid: 165.
77 Ibid.
78 Galang, supra: 16, note 35.
79 Ibid.
protectionism and an effort to fully consolidate export-led industrialization.\textsuperscript{80} It was designed to liberalize commodity import procedures and tariff reform to strengthen fiscal incentives for exporters, and to expedite administrative actions to promote and facilitate exports.\textsuperscript{81} Several reforms also allowed foreign companies to acquire capital through loans from local savings, the concentration of capital and the further devaluation of the Philippine peso.\textsuperscript{82} Access to the loans was largely given to big foreign and crony firms. This led to the eventual closing of smaller domestic firms which simply could not compete with the volume of production and cheaper goods provided by the giant corporations. A concrete example of this trend happened in the textile industry. About 46 per cent of the work force in the garment and textile sectors lost their jobs because of the closing of the small domestic firms.\textsuperscript{83} The reforms proved to be ineffective in creating jobs and a strong domestic industrial sector.

The Philippines during late 1970s and early 1980s experienced the continuing wide labor unrest which could no longer be tamed, not even by the repressive force of Martial Law. Workers defied the strike bans and were successful at shaking the export sanctuaries of the Export Processing Zones. Despite a strict rule against strikes and labor organizations, militant labor unions were able to thrive in these supposedly "strike-free" industrial zones. There were widespread labor and human rights violations through arbitrary arrests and illegal detention of

\textsuperscript{80} Bello, \textit{Development debacle...supra}: 167, note 27.
\textsuperscript{81} Ibid.
\textsuperscript{82} Ibid.
\textsuperscript{83} Ibid.: 171
union leaders and strikers. However, the labor sector was able to drive home its point which eventually compelled Marcos to lift Martial Law on 17 January 1981.

Loans from the World Bank supported dismal investments and instead facilitated capital flight.84 This spun billions of dollars in private external assets and public external debts.85 Most of the investments in the country were of poor planning and quality as they were merely used to acquire foreign loans with the objective of diverting a percentage to safe havens abroad.86 A monumental example of this scheme is the Bataan Nuclear Power Plant, costing over $2 billion, which never generated a kilowatt of electricity and remains, until this day, a mammoth of a "white elephant."

The imposed austerity measures gravely affected those who shared least in whatever few benefits liberalization measures produced.87 Most of the big businesses and enterprises that were enhanced by the SAL and which were actively participating in the export-led liberalization scheme were crony firms or dummy corporations owned by the Marcos family. Thus the political will behind the trade liberalization program during this era was not backed by sound macro-economic policies but by the personal interest of the ruling class. "...Marcos continued

84 Boyce, supra: 348, note 38.
85 ibid.
86 ibid.
87 ibid.
dispensing economic largesse to favored groups and...[p]opular disenchantment continued to grow. In 1986 Marcos was ousted in a nearly bloodless "People Power Revolution".

4. The political economy of reformism

Marcos left the country a legacy of $25 billion in foreign debts, heavy taxation on agricultural products, debt servicing problems, a greatly devalued peso, and a corrupt political and economic system of bribery and extortion. Corazon Aquino, Marcos' successor, was burdened with the great expectation of rising from this rubble and remedying the ills of the country. Aquino was president from 1986 to 1992. She was credited for restoring democracy and the rule of law which were debased during Marcos' authoritarian rule. However, she was not able to effectuate the much needed reforms expected from an administration which was put in office by a popular and peaceful people's revolt. After all, Aquino was a captive of her class — the old rich landlord class. She signed a land reform law that was watered down by the landlord-dominated Congress. Thus, lacking in political conviction and carefully planned economic philosophy,

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88 Ibid.
89 Dohner, supra: 68, note 52.
90 "The estimated external debt of the Philippines in 1998 is $51.9 billion according to the Central Bank of the Philippines," (Laquian, supra: 34, note 4)
92 Ibid. (Mrs. Aquino could have implemented a land reform law that would truly distribute land to the farmers through Presidential Decrees or the emergency powers accorded to her during her first years in office which was termed as "Freedom Government" (as it immediately succeeded the popular people's revolt). But instead, she passed this task on to the landlord-dominated Congress. She belongs to a family of large sugarland owners. Thousands of hectares of land belonging to her family would have been directly affected by the proposed distribution of land. Through the new land reform law passed by the Congress, rich land owners were able to escape having to distribute and share their land to the farmers. Most were able to convert perfectly arable land into industrial and residential zones before the law took effect.
Aquino was unsuccessful in carrying out vital economic change. The situation was further aggravated by six unsuccessful coup attempts by right-wing rebels against the Aquino government.

Despite Aquino's political shortcomings she was able to initiate several policy reforms that became the foundation of full scale trade liberalization scheme which the Philippines continues to pursue to this day. Pluralistic and monopolistic interventions of the Marcos government were dismantled.\footnote{Dohner, supra: 70, note 73.} Some crony monopolies and dummy Marcos businesses which were funded by money stolen from the government coffers were sequestered by the Aquino administration. A privatization program of several government corporations and sequestered crony corporations was initiated.\footnote{Ibid.} The government's public spending priorities were re-oriented towards a public investment program focused on "agriculture and the rural areas and away from capital-and-import-intensive-projects."\footnote{Ibid.} Under the Aquino government, economic policies were based on greater reliance on market forces and private sector participation and initiative which took a backseat under Marcos' crony capitalism.\footnote{Bautista, supra: 59, note 49.} Two major policy directions were pursued: "(i) correction of price biases against agricultural products and (ii) raising farm productivity through increased public investment in rural infrastructure."\footnote{Ibid.} During her term, Aquino enacted the Omnibus Investment Code which consolidated all investment laws of the country and provided

\footnotesize{93 Dohner, supra: 70, note 73.}
\footnotesize{94 Ibid.}
\footnotesize{95 Ibid.}
\footnotesize{96 Ibid.}
\footnotesize{97 Ibid.}
for better incentives, and the Foreign Investment Act, aimed to make the country more attractive to foreign investors.

Despite their promising vision and rationale, Aquino's reform policies can be characterized as "a few hits and a lot of misses." Her term was too short to assess the effect of her policy initiatives. In the meantime, while the Aquino administration was too pre-occupied with the deregulation of trade and foreign exchange transactions, little was done to the system of repression which has made Philippine labor wage one of the lowest in Asia. Again, the highlight of her administration's scheme to attract investment and to enhance trade was still the skilled and low waged labor that remained unable to share whatever fruits liberalized trade had to offer nor to parry the harsh impact of increased globalized competition.

C. "Blazing the Trail" Toward the Free Market System

President Ramos, Aquino's successor in 1992, declared that his policies on trade liberalization would focus on deregulation of trade and foreign exchange transactions to follow up on the small gains during the Aquino administration. Ramos got things moving again by passing 228 reform laws\textsuperscript{98} which paved the way for a new approach to development which can be summed up in four "Ds": decentralization, devolution, deregulation and democratization.\textsuperscript{99}

\textsuperscript{98} Lopez, \textit{supra}: 59, note 5.
\textsuperscript{99} Galang, \textit{supra}: 7, note 35.
Decentralization was set to expand development beyond Metro Manila, the national capital region, and bring it to the countryside through the establishment of regional agri-industrial centers. 100 To facilitate decentralization, there was a devolution of government authority to local government units to afford them a pro-active role in development. 101 Deregulation was also implemented to encourage the private sector to take a bigger role in the economy. 102 Through a deregulated economic climate, the government sought to provide the "proper environment for private initiative to flourish on a more level playing field." 103 Democratization was aimed at the economic and social empowerment of ordinary Filipinos. 104 Initiatives with this policy were: an agrarian reform program (which remains unrealized to this day), financial and technical support programs for small- and medium scale enterprises, the development of cooperatives, and promotion of greater competition (specifically in sectors that were traditionally highly concentrated and/or monopolized). 105

Ramos stressed that his administration's basic strategy for economic progress hinged on a firm belief in a market economy and privatization. 106 During his term, he pursued policies designed to attract foreign trade and investment. 107 Ramos launched "Philippines 2000" which is based on the following vision:

100 Ibid.
101 Ibid.
102 Ibid.
103 Ibid.
104 Ibid.
105 Ibid.: 8.
107 Ibid.
"The objective... is to improve the quality of life. Underpinning this goal is people empowerment, which starts with the basic notion that people have economic, political, social, cultural and spiritual aspirations. The task of the government is to provide a public-policy environment that facilitates the harmonious attainment of these human goals. To achieve the quality-of-life objective, the economy must be transformed from one that is largely agricultural to one that can be considered newly industrializing. Such an economic transformation is anchored in the twin strategies of human development and international competitiveness."\textsuperscript{108}

"People empowerment" and "global competitiveness" were the two prime objectives set forth in this policy which has, among other things, set to liberalize trade by eliminating quantitative trade restrictions and reducing tariff rates, and by pursuing a tariff phase-down program.\textsuperscript{109} The country also started actively participating in multinational trade liberalization initiatives such as the Asean Free Trade Area (AFTA), the World Trade Organization (WTO) and the APEC.

The Ramos government's adjustment measures under the WTO were focused on enhancing the competitiveness of Philippine industrial products and opening new markets for them.\textsuperscript{110} Such measures were being undertaken through modernization of domestic industries, effective market and trade information system, anti-import surge and anti-dumping measures, investment promotion and credit support to small medium enterprises.\textsuperscript{111}

\textsuperscript{108} Ibid.
\textsuperscript{109} Ibid.
\textsuperscript{110} Galang, supra: 41, note 35.
\textsuperscript{111} Ibid.
Ramos committed the country to achieve a single tariff rate by the year 2004. \textsuperscript{112} Gradual reduction of the rates is being pursued with the following targets within the following time frame:

- "Rationalization of the 1994-95 rates towards a four-tiered tariff structure, with a maximum rate of 30 per cent and a minimum of 3 per cent;
- Phased reduction of tariffs towards a two-tier structure, consisting of 3 per cent on raw materials and 10 per cent on finished goods starting in January 2003 and:
- Adoption of a uniform tariff of 5 per cent by January 2004."\textsuperscript{113}

During incumbent President Estrada's debut on the global stage at the annual meeting of the ASEAN's foreign ministers, he underscored his intention to continue Ramos' trade policies and the country's unwavering firmness in its international commitments. \textsuperscript{114} Estrada is prioritizing further trade liberalization in his government's list of reforms. The new administration is endorsing reforms in banking, retail trade and privatization. \textsuperscript{115} Estrada is pushing for amendments to the New Central Bank Act and the General Banking Act to "strengthen the

\textsuperscript{112} Ibid
\textsuperscript{113} Ibid.
prudential supervision of banks and other financial institutions...for protection against financial crisis.\(^{116}\) He is also endorsing the proposal to allow foreign groups to own 100 per cent of a troubled bank to expand options on rehabilitation of the financial sector.\(^ {117}\) Other banking reforms include the liberalization and rationalization of the equity and citizenship structure of banks.\(^ {118}\) This would mean that bigger foreign-owned banks will be allowed to set up business in the Philippines. Estrada has also vowed to continue initiatives to further open the country to foreign investors. He is pushing for the liberalization of the domestic retail industry which has been exclusively allocated to Filipino-owned companies.\(^ {119}\) Retail giants like K-Mart, and Wal-Mart have long wanted to penetrate the Philippine market. But as the law and the Constitutions now stand, only 60 per cent Filipino-owned companies can join the retail business. Estrada is also supporting the move to allow foreign firms to own 100 per cent of companies with a paid-up capital of $US500,000.\(^ {120}\) Also included in the line up of reforms is the approval of the horizontal application of the Condominium Law which would enable foreigners to own industrial lands in economic zones.\(^ {121}\) Estrada is also set to further restructure the Omnibus Investment Code and the Board of Investment which will allow, among others, regional headquarters of multinational companies to derive income from local operations.\(^ {122}\)

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\(^{116}\) Ibid.

\(^{117}\) Ibid.

\(^{118}\) Ibid

\(^{119}\) Ibid.

\(^{120}\) Ibid. ("The previous Congress wants a 49 per cent equity limit on retail firms with a minimum paid-up capital of $5 million to $10 million.")

\(^{121}\) Ibid.

\(^{122}\) Ibid.
As can be gleaned from the proposed legislative reforms, the Philippines has had a history of bias against the ownership and exploitation of land by foreigners. This safeguard has been, for decades, well entrenched and protected in the Philippine Constitution. Nationalist groups fear that with the advent of all the trade liberalization reforms, large tracts of lands and business opportunities will be allocated to foreign interest, while Filipinos who cannot compete and are lacking in capital will never get to share and participate in all these proposed reforms.

Amidst these very specific and detailed reforms, Estrada also stressed that the fruits of globalization should distributed to benefit a greater number of Filipinos. As to how he intends to accomplish this, he did not specify. Indeed, economic growth without social justice and equity is meaningless. But the country's giant steps toward "global competitiveness" cannot overshadow the missing steps towards "people empowerment" which Ramos promised. Yet another president made pronouncements as to sharing with the poor and taking the labor sector's interest in consideration in the formulation and execution of government policies. But no president has yet fulfilled this promise.

**D. Conclusion**

The collective policies of the past three administrations were indicative of the country's blind submission to the lure of globalization while compromising social protection. Ramos recently

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123 Nazareno, *supra*, note 114.
"who needs the nation-state in this age of globalization" is that "we all do."\textsuperscript{124} The nation-state will continue to be needed to mitigate the downside of globalization.\textsuperscript{125} The nation-state will not be withering away as globalization will need effective states to reconcile priorities of global markets with peoples' need for social cohesion.\textsuperscript{126} Ramos believes that his administration has been effective in such a role. But jubilation over the country's regained economic strength is easily dampened by the fact that a third of the Philippine population still live below the poverty line and that the issue of workers' rights and welfare has always taken a backseat in policy formulations.

Clearly, the promise of "people empowerment" has not been fully realized. Despite Ramos' and Estrada's proclamation that their administrations took and will take charge of the country's march toward globalization, in reality, "letting the market work its magic" has become the new panacea, trivializing social reform and protection necessary for genuine development.\textsuperscript{127} The free market system has become the country's new colonial master. This now frustrates Ramos' claim that the nation state is still strong in the phase of globalization. Ohmae's claim about the withering away of the state, stressing the state's powerlessness to change much in the face of the dictates of the global economy, seems to have some veracity in the Philippine experience.

\textsuperscript{125} \textit{Ibid.}
\textsuperscript{126} \textit{Ibid.}
However, if the Philippine nation-state has failed to assuage globalization's downside, labor and social movements must continue to exercise their persuasive power and influence the government to truly represent their interest in the trade liberalization process. History shows that the Philippine social movements have had a significant role in influencing government policies -- they were instrumental in the lifting of the Martial Law, the dismantling of the US Bases, the fall of the Marcos dictatorship, Aquino's rise to the presidency, and preventing Ramos to seek a second term and to implement a charter change, among other things. All these were done without having to take arms. The private sector and NGOs achieved these through peaceful civil disobedience, mass demonstrations and street protests, continuous dialogue with the ruling power and participatory discussions in policy-making. Social movements can once again exercise their power in the APEC process by influencing the present administration to include social support measures in the country's trade reform submissions to the forum. It will be learned in the succeeding chapter that NGOs and POs have started participating in the trade consultations for Philippines' APEC commitments. This seems to be a more effective route than forcing the issue on the whole economic alliance on each and every member economy.

The smaller the country, the less power it has to bargain internationally. This has historically led smaller countries to be wary of trade liberalization. In the past, small countries like

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128 Before the expiration of Ramos' term of office, he contemplated on the idea of remaining in power beyond the constitutionally mandated one-time, six year term through an amendment to the Constitution lifting term limits. This was however frustrated by mass protests. The Catholic Church, the People Power "revolutionaries" and other NGOs and POs joined forces through mass demonstrations to stop what they believed to be a possibility of another dictatorship if Ramos was to be allowed to stay in power.

129 Bautista. supra: xv, note 49.
Singapore, Switzerland and Sweden liberalized their trade policies only when it was determined to be in their own interest.\textsuperscript{130} The Philippines however, is going at it at a very vigorous pace during this decade. This is still true even at a time when other Asian countries have started assessing their respective strategies and the promised benefits of free trade. In explaining Thailand's reticence to open its markets more fully to foreign competition, Thai Prime Minister Chuan Leekpai stressed: "We are not fully ready for full globalization and liberalization -- therefore we have to take measures to protect our people from its full impact."\textsuperscript{131} Malaysia is proceeding cautiously too. Although Malaysian Prime Minister Mahathir Mohamad confirms that his country remains committed to keeping its economy and markets open, he also stresses the need to improve economic fundamentals and assess what real gains, losses and risks liberalization has triggered.\textsuperscript{132} While it is true that openness is very important, each country will have to define its own balance.\textsuperscript{133} It is dangerous to put worldwide pressure on countries which are not ready to keep their economies wide open. Forcing them to open rather than helping these economies move quicker certainly has adverse effects.

If one examines what has happened to wage rates and labor productivity in countries which have joined the global market through liberalization of trade using the labor sector for comparative advantage, it is clear that these economies are losing ground.\textsuperscript{134} Michel Camdessus, Managing

\textsuperscript{130} Ibid.
\textsuperscript{134} Ibid.
Director of the IMF, drew one lesson from the present economic turbulence in Asia: "Freedom has its risks! Let's go for an orderly liberalization. Countries cannot compete for the blessings of global markets and refuse their disciplines. Hence, the importance of pursuing policies that give market confidence."

To this, Mahathir concedes and continues to push for globalization: "... if this (being poor) is what is meant by globalization, and because of it we are going to be poor, since we accept globalization, we must also accept being poor."

Indeed, Filipinos seemed to have had no choice but accept being poor. As reported by Estrada in his first State of the Nation Address, the country has a $1.75 billion budget deficit, a $45.6 billion foreign debt, $55 billion a declining tax collection, a double digit inflation, rising interest rates, a free-falling peso, 10 million Filipinos unemployed and 15 million underemployed. Of course, trade liberalization cannot be blamed for all of these. As earlier discussed, political and social factors, both foreign and domestic, all contributed and left this legacy of underdevelopment. But accelerated globalization without social support measures has also largely contributed to the present predicament of the Philippines. The following discussion on electronics and agriculture illustrates how the Philippines is unable to fully enjoy the benefits of liberalization.

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Despite the presence of electronics giants like Intel Corporation which put up assembly plants in export processing zones the government has acknowledged that the industry has been plagued with low technological development, too much concentration in one product (semiconductors), and marginal local value added.\textsuperscript{137} A 1997 World Bank study cited low level of technology employed by local electronic component manufacturers compared to Malaysia, Taiwan and South Korea.\textsuperscript{138} Multinational firms are reluctant to share their technology because of the stunted growth of Filipino manufacturers due to the government's low priority for research and development.\textsuperscript{139}

There were accelerated land conversions when Ramos initiated his privatization and liberalization scheme in attracting foreign investors. Arable tracts of land were converted into golf courses, residential subdivisions, industrial estates and tourist resorts. As a consequence, the Philippines, an agricultural economy housing the International Rice Research Institute which provides rice farming technology to other countries, ironically became a rice-importer. Peasants and farmers were dispossessed of their land and livelihood. The environmental devastation was unalterable.

A concrete example of a land conversion deal gone wrong is the multi-million dollar Samal Island Tourism Estate project which is being spearheaded by Malaysian investors. The land on

\textsuperscript{138} \textit{Ibid.}
\textsuperscript{139} \textit{Ibid.}
which now sits a casino used to be the source of everyday sustenance for former tenant farmers who acquired title to the land as part of the Comprehensive Agrarian Reform Program (CARP). Instead of coconut and traditional cash crops, the farmers' 250 hectares now have a 300-room luxury hotel. The Philippine government helped the farmers' cooperative broker a deal to lease their landholdings to the Malaysian conglomerate. Part of the agreement is that the farmers will have priority in the employment and training opportunities offered by the project. But now, the jobs are being denied them because the Malaysian firm says they have failed to meet the qualification standards. The farmers were not given priority even in the lowest ranks of laborers.

It is clear in this case that the government bartered away the rights of the farmers and failed in safeguarding their interests in its effort to attract foreign investment.

With other new Taiwanese and Korean sweatshops and Japanese assembly factories in the Cavite and Laguna (two cities just outside Metro Manila), hundreds of palm oil plantation and mining applications in Mindanao and Luzon, industrial and export processing zones, and speculative real estate and construction, it is time to study the initial lessons from trade liberalization and see beyond the glitter of globalization.

Indeed, open markets exact a price. But it seems that the labor sector is the one taking the losses all its own. Based on the international trade policy reforms of the Philippines within the past two

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decades, it seems that the Philippines is not about to slow down on globalization to reposition all the interests at stake. The past three administrations have pursued trade liberalization using labor for comparative advantage. Although significant improvement in the labor sector in terms of wages, rights and welfare have yet to be seen, the present administration of Estrada seems to have relegated them to the sidelines yet again.

The buzz phrase during the Ramos administration was "global competitiveness." Estrada heralds the same mantra. But the term has been so often invoked that it has become slightly more than a platitude. The past administrations did not have the proper fundamentals to make an entire economy globally competitive. The present administration is pursuing the same prescription of disaster. The Ramos administration dismantled safety nets for health, education and other social services. Estrada should complement Ramos' vision with considerations of both social and economic equity.

In a government sponsored study of the Philippines' participation in APEC edited by Federico Macaranas, Undersecretary of Foreign Affairs for Economic, Science and Technology and Development Cooperation, "global competitiveness" is measured by a country's "ability to become a significant base of world production." This necessitates the capacity to spawn,

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develop and attract a significant number of individuals and world class firms. A country must be able to attract new resources from the international market while raising the income and quality of life of its people. It is not enough that a country enjoys an ample share of world output and exports. The true test of global competitiveness hinges on being able to disseminate the benefits of international trade to a greater number of its participants — from the big corporate owners down to every single worker in the assembly line, from the whole national economy to every consumer who gets to choose between imported and local goods.

It is also necessary for a "globally competitive" economy to provide a local environment that can keep capital and natural human resources productively utilized at home. This challenge is specially significant in the light of regional trade arrangements which can facilitate globalization. Capital flight and brain drain are the two most destructive factors in the economy.

The Philippines, which for the past decade pursued global and multilateral negotiations to eliminate or reduce trade barriers, has failed in the government's very own gauge of "global competitiveness." Despite the country's vigorous efforts to liberalize trade, the path towards competitiveness has remained rough and rather slow. It has been increasingly difficult for the Philippines to hold on to its own domestic productive factors and at the same time attract additional external factors. There has been massive capital flight in the past. Political turmoil, government corruption and red tape, social unrest and the ravages of natural disasters were big

\[144\text{Ibid.}\]
contributing factors to this obvious manifestation of an economy that is not competitive. Although the Philippine economy's share in world exports has shown modest increases during the past few years, its present share is not even one-third of one per cent.\textsuperscript{145}

Unhampered labor exportation is the clearest indication of the country's failure to be globally competitive. Although the country has recently seen a number of Filipino overseas contract workers coming home for good to become entrepreneurs, the recent Asian crisis has bolstered the exodus again. Filipino capital and labor consider foreign conditions, unfamiliar and adverse they may be, as more conducive in making them more productive than what the Philippines has to offer.

Estrada presents some promising prescriptions to help finance these other tools for gaining competitive edge. He has vowed to make severe cutbacks in government spending by cutting red tape and government bureaucracy and forcing government agencies to save. He is also adamant in abolishing the "pork barrel", discretionary funds given to members of Congress for projects for their constituency, which will save close to $1 billion in 1998 alone. These cost-cutting measures should be complemented by increasing the budget in agriculture. The increased funds can be used to provide loans and free irrigation services to farmers, and the prioritization of the production specific food items for domestic consumption and exportation. Instead of continuously lowering labor's wage to keep at par with steadily decreasing wages of other Asian

\textsuperscript{145} Ibid.
countries, social services and support structures should be enhanced and created to improve the quality of the labor force. These mechanisms should be directed to education, health, training and research to improve the quality of the Philippine labor force.

The most important task for the country right now is to temper the administration's unwavering submission to trade liberalization with social support measures to cushion the risks and concomitant effects of pushing to be globally competitive. The Philippines must vie for resources based on its own merits and achievements. Competitiveness cannot be based on special colonial arrangements or on the simplistic fundamental of lowering labor costs. The past administrations' strategy for competitiveness seemed to be hinged on, more than anything else, cheap and skilled labor alone. If this is to be pursued once again, nothing will be gained but artificial growth which does not benefit the labor sector. The Philippines can compete armed with ample physical infrastructure, peaceful and stable political and social environment and the good quality of human resources. The country's inability to provide these minimal conditions in the past is a crucial factor on why it missed out on the past investment and trade boom its neighboring countries enjoyed. Thus, if the present administration's avowed proposals and policy changes will truly be followed, going global may not prove to be so fatalistic after all.

The following chapter reviews what the Philippine government has specifically promised the APEC community. For Philippine labor groups, NGOs and other cause- and socially oriented organizations, APEC is another trade alliance that should be watched out for. It is an alliance
which, like the GATT and the WTO, augurs the negative effects of globalization. However, unlike the other multilateral trade forums the Philippines participates in, APEC somehow allows the country to have a bigger standing in defining its path to liberalization in its own pace and terms within a specific time frame. Given the influence Philippine social movements have had in the past, their vigilance and power of persuasion can once again prove instrumental in championing labor rights and social issues.
APEC and the Philippines

A. Introduction

In response to the growing interdependence among world economies and the recent striking economic growth in regions outside the sphere of Western domination, regional alliances are formed and multilateral trade and labor negotiations take center stage in international cooperation. The Asia-Pacific Economic Cooperation and the General Agreement on Tariffs and Trade (which paved the way for the establishment of the World Trade Organization) are two of the primary regional and global vehicles for promoting practical economic cooperation and open trade.

The major economies in the Asia-Pacific region and the most dynamic, fastest growing economies in the world are signatories to or member-states of the two alliances, APEC and the WTO. APEC's 18 current member countries had a combined Gross National Product of over US $13 trillion in 1995,\(^{146}\) amounting to half the world's annual output. APEC members also represent almost half of the world's total merchandise trade. The region still enjoys this economic zenith despite the recent Asian crisis which sent South Korea to the IMF asking for

a US$50 billion bailout package. Indonesia and Thailand have recently asked for multi-billion dollar aid packages too. However, with China, Japan, the U.S., and the ever-growing Southeast Asian countries, APEC still dominates just by sheer tyranny of numbers --- by population, that is. The WTO is the legal institutional foundation of the multilateral trading system. It provides the principal contractual obligations determining how governments frame and implement domestic trade legislation and regulations. It is also the platform on which trade relations among countries evolve through collective debate, negotiation and adjudication.

Both alliances endeavor to make possible the development of the open global multilateral trading system where different economies can interrelate. While member states of the APEC, amounting to 18, are outnumbered by the WTO’s over 100 signatories, APEC’s move to reduce barriers to trade of goods and services among participants is kept consistent with GATT principles. Actually, the goal of APEC is to reduce by half the transition periods for trade liberalization set out in GATT. This would mean bolder initiatives in the reduction of tariff and agricultural subsidies, at discouraging indiscriminate use of anti-dumping laws and at harmonizing competition policies. APEC will be to the WTO what ASEAN (Association of Southeast Asian Nations) has been to APEC.147 APEC is seen as a fall-back plan for what WTO would fail to cover. Although APEC functions more as a moral suasion from 'peers' as opposed to the binding treaty provisions in the WTO, the informal process of APEC is projected to have stronger outcome.

Although APEC has been welcomed with some degree of optimism, pressing concerns have been raised over the impact and implications of the alliance's policies on trade and labor in a region where economies do not exist and operate on the same level. There have been concerns about the likely effects on labor rights and standards once trade liberalization becomes fully operational. APEC has been both vilified and praised. Some positive views of APEC include: the coalition of some of the world's wealthiest and influential economies will bring economic growth, generate employment and improve the living standards of all the citizens of the region; and the exchange of trade and investment will assist the less developed member nations in economic and technical development leading to the equitable distribution of income. Since APEC is synonymous to globalization and trade liberalization, it is also subject to negative views such as: the "race to the bottom" in terms of labor, environmental, social and human rights standards; the wealthier members will just bully the less developed nations into getting rid of their trade barriers and sow the seeds of economic and cultural dependency and exploitation. These a priori assumptions, attributed to the whole concept of trade liberalization in general, will be discussed more fully in the third chapter.

As APEC nations made their declarations of commitment towards the achievement of free cross-border and transcontinental trade, concern by some market analysts was focused on having too much, too soon. APEC continues to be the subject of raging economic discourse on how it would affect the domestic economic order of member states and the international economy. APEC's critics fear that the alliance will nurture and exploit, rather than reduce, economic
disparities. Many also believe that corporate globalization will do nothing but harm to the workers and economies of the world. These fears and observations are validated by the massive relocation of factories and assembly plants of multinational corporations from the US, Japan and Canada to the less developed APEC countries -- the Philippines, Mexico, China, Thailand, Malaysia and Indonesia -- for their extremely low wages. Though these factories provide jobs, albeit in substandard conditions, they are of limited benefit to the economies of the host countries because most of them are in export processing enclaves which mostly require the importation of raw materials and the exportation of finished products. Concerns about the devastation of the environment are fueled by the environmental destruction brought about by large mining and forestry firms which are exploiting the natural resources of the developing nations in APEC. Placer Dome, a Canadian mining firm, has caused the virtual death of a river depended on by several villages in the Philippines. The mining firm has also set-up several mining projects in Papua New Guinea which have affected the health of hundreds of villagers through the indiscriminate dumping of toxic wastes.

With the Asian crisis which has been brewing since the first quarter of the year, analysts further ask if liberalizing trade is really the only way to make the global market function and develop. The crisis could lead to some degree of conservatism regarding the further opening of markets. Asian leaders will definitely be more cautious now. Thus there could be a step away from the ideal barrier-free trade system. What could perhaps tame these fears would be a serious discussion of a viable social clause to be included and considered in the discussions and
agreements. In the GATT/UR, leading economies like the United States and France campaigned for the inclusion of the provisions on "social clause" that would correlate trade agreements with some degree of compliance to labor and social standards. Most of the participants from the South saw this as a clear form of protectionism. These countries argue that inexpensive labor and a distinctive set of labor standards (which economies of the North may consider as substandard) are their aces in the race for success in a tariff-free and liberalized economic interdependence.

APEC's deliberations and considerations concerning social issues in liberalized trade have been lackluster. APEC leaders have successfully dodged labor and human rights and social issues by hiding behind the hollow "feel-good" double speak of globalization -- heralding economic cooperation for regional prosperity and stability. It was only during the APEC Summit in Subic Bay, Philippines in 1996 that social issues were considered. Point 15 of the Economic Leaders' Declaration provides that liberalized trade should advance "sustainable growth and equitable development" and reduce "economic disparities." Point 16 further provides that economic and technical cooperation must give a human face to development. APEC's social agenda hinges on matters relating to human resource development, income distribution and community development. "The question is how the labor movement can position itself on the social agenda of the APEC process." As will be discussed in the succeeding chapters, NGOs and POs have been invited by the Philippine government to forums concerning the government's commitments.

to APEC. Some groups like the Bagong Alyansang Makabayan (New Nationalist Alliance) (BAYAN), are totally against APEC and any participation in its process. These groups view APEC as an agent of imperialist globalization and thus see no point in integrating with what they consider as an oppressive global capitalist system. While other groups such as the Philippine Council for Sustainable Development (PCSD) are pursuing critical collaboration with the government to push for the inclusion of social issues, particularly labor and environment, in the country's APEC agenda. This faction is pushing the government to include labor rights in trade discussions during APEC leaders' meetings and to complement the government's individual trade commitments with social support measures for workers and the environment. This thesis will concern only those groups which seek participation in APEC consultation activities. The significance of social movements and NGO activities linked with APEC will be discussed in the concluding chapter.

The 'leveling of the playing field' towards economic globalization and integration and trade liberalization is a tremendous task. Ensuring fair competition and establishing a stable and predictable trade regime seem to overlook and compromise crucial issues such as international labor rights and standards and the developing nations' small and medium-sized business and industries' capacity to exist within that projected world order.
B. The APEC Process

At its inception in 1989, APEC had neither a clear structure nor a definitive set of objectives.149 In the Seoul Declaration of 1991, the process was outlined as a "consultation and exchange of views among high level representatives of APEC economies"150 for research, analysis and exchange of policy formulations. It is also non-institutionalized and informal, non-regulatory and non-binding, depending solely on consensus.151 Recently, however, the US, Canada and New Zealand, have started pushing for more formal and binding and legal approach. Other Asian members on the other hand, particularly Japan, Indonesia and Malaysia have stood firm on flexibility and voluntarism.152

APEC functions through a yearly rotation of meetings of ministers, officials, and working groups. These meetings are coordinated by a small secretariat based in Singapore. The working programs and serious business matters are conducted through regular meetings of senior officials of member economies. The "cooperation" has two standing committees: (i) The Committee on Trade and Investment, which coordinates initiatives focused on trade and investment liberalization; and (ii) The Economic Committee, which promotes discussion and

150 Ibid.
151 Ibid.
152 Ibid.
analysis of various issues, with particular focus on economic trends. Research for APEC’s various discussion groups and policy analysis is based mainly on findings of a tripartite body, the Pacific Economic Cooperation Council (PECC), consisting of representatives from the academe, private sector, and government officials acting in their private capacities. A permanent APEC Business Advisory Council (ABAC) was formed to encourage more private sector participation. Member economies get to nominate their own representatives from one major and one small or medium enterprise. Official observer status is limited to ABAC, PECC and the South Pacific Forum.

C. "APEC: Four Adjectives In Search of a Noun"

Literature on APEC, whether for or against it, are often couched in general and vague terms. Since APEC members gave their individual strategies for trade liberalization only in 1996, there is a dearth of academic and factual studies on the concrete effects of these liberalization measures on the economies and citizens of APEC members. Most of the arguments for or against APEC, as previously discussed, are based on positive and negative a priori assumptions of globalization and trade liberalization in general. This section traces the volatile foundation

153 Ibid.
154 Ibid.
155 Ibid.
156 Ibid.
157 Term borrowed from Walden Bello’s book bearing the same title, cited at note 127. The term was coined by former Australian Foreign Minister Gareth Evans.
upon which APEC was formed -- the different purposes and meanings the organization had for the members.

Before the idea of APEC was conceived, there were already several regional groupings which were formed to try to establish regional links and advance awareness of the immense economic potential of the Asia Pacific region. Most consisted of academics, business people and government officials meeting informally. But it was in 1989 when ministers from 12 Pacific nations met in Canberra to formally inaugurate APEC. It began as informal dialogue group and grew to become the pre-eminent forum for promoting open trade and practical cooperation in the Asia Pacific region. It now includes the major economies of the world. Since its inception, it has organized five summit meetings.

The creation of APEC started as a suggestion from the Japanese. It was actually the brainchild of then Minister of trade and Industry Chief Hajime Tamura. The Japanese envisioned a forum for technical cooperation on economic issues similar to the Organization for Economic Cooperation and Development (OECD). The proposal was drafted for the purpose of redirecting the US's attention back to Asia. During the 1980s, Europe was the principal focus

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159 Ibid.
160 Ibid.
162 Ibid.
163 Ibid.
of global economic development. The US was also preoccupied with the Uruguay round of the GATT and showed little interest at first. Australia, however, took up the idea of a regional economic forum enthusiastically.\textsuperscript{164} However, when discord on trade measures and sanctions emerged in the WTO/GATT forum, the US shifted its interest to the proposed APEC as a fall back mechanism in the event that its WTO agenda was not fully achieved and as a supplement to its interests in the NAFTA.\textsuperscript{165}

During the first summit meeting in Blake Island in 1993, the member countries concluded an "APEC Vision" thus:

"to form a community of Asia Pacific Economies in which the spirit of openness and partnership is enhanced, trade and investment barriers are reduced, the population of APEC economies share in higher incomes, highly-skilled and highly-paying jobs, increased mobility, and improved education and training; and the environment is improved through the protection of the quality of air, water, and green spaces and the management of energy sources and renewable resources."\textsuperscript{166}

Beyond the rhetoric of this promising vision, no consensus on the ways to realize it nor a process for implementing it was reached. However, because of this lack of consensus, APEC introduced the concept of "open regionalism", in contrast to the highly structured and strictly regulated trade agreements offered by the GATT/WTO and NAFTA. APEC's "open regionalism" operated through voluntary trade facilitation.\textsuperscript{167} In the APEC ministerial meeting of the same year, the

\textsuperscript{164} Ibid.
\textsuperscript{165} Ibid.
\textsuperscript{166} de Koning. \textit{supra}: 260-261, note 158.
\textsuperscript{167} Ibid.
cooperation's basic principle was also reconfirmed, underscoring the "open regionalism." APEC trade ministers called for GATT consistency, consensus-building, flexibility and diversity. \(^{168}\) At the same time, members also established the group on economic trends and issues (ETI) to encourage a dialogue that would facilitate economic cooperation without going into the realm of economic policy coordination. \(^{169}\) It is clear at this stage that APEC members were trying desperately to complement the GATT/WTO vision and at the same time creating its own brand of regional trade alliance through voluntary participation.

In the 1994 Bogor summit, the members committed to establish free, open and borderless trade by 2020. However, to this commitment, Malaysia, Thailand and China were quick to append their understanding that the declaration was aspirational and non-binding in nature. \(^{170}\) Aside from the tension as to what the APEC forum really meant and what its goals should be, several areas of concern were created or left unsettled after the conclusion of the summit in Bogor. First, there was an initial controversial clash on whether the forum would pursue "open regionalism" or merely create a "trade bloc"\(^ {171}\) for consultation on technical economic cooperation. Second, the identity of "developing countries," which were to receive preferential status in the timetable of commitments, was not defined. \(^ {172}\) It was unclear as to which countries qualified for this certain degree of laxity. In a region where "newly industrialized," "tiger" countries exist, such

\(^{168}\) Kodama, Yoshi. 1995. "Asia Pacific region: APEC and ASEAN. The International Lawyer 30 (2) (Summer).

\(^{169}\) Ibid.

\(^{170}\) Bello. \(supra\).:5-6, note 159

\(^{171}\) de Koning, \(supra\).: 263, note 158.

\(^{172}\) Ibid.
oversight has serious implications. Third, some sectors (industrial and agricultural) and industries (mining and forestry, telecommunications and transportation), are much more likely than others to question the implementation and interpretation of the principles of free trade because of their protectionist trade policies.\textsuperscript{173} The Bogor Declaration which seemed to encompass almost all sectors of trade, did not address this issue at all. It is because of these lapses, void, vagueness and ambivalence that APEC started to gain notoriety for being one powerful secretive group where people's interests are compromised without ever having prior consultation. The Bogor Declaration was clear though on APEC's commitment to trade liberalization. The leaders' common resolve stressed that the region should achieve free and open trade and investment by the 2020. Different deadlines were set: 2010 for industrialized members and 2020 for developing members.\textsuperscript{174}

In Osaka, during APEC's third summit meeting, the member countries sought to address the problems of the Bogor Declaration. The "Osaka Action Agenda" reaffirmed the Bogor goal of regional trade liberalization and declared that all economic sectors would be included in the liberalization scheme.\textsuperscript{175} It was nevertheless concluded that liberalization would be pursued through the Asian way: voluntarily, flexibly and in a non-binding manner.\textsuperscript{176} A set of fundamental principles was also asserted to guide liberalization and facilitation: "comprehensiveness; [GATT]/WTO consistency; comparability; non-discrimination; \textsuperscript{173} Ibid.  
\textsuperscript{174} Ibid.  
\textsuperscript{175} Bello, supra, note 161.  
\textsuperscript{176} Ibid.
transparency; standstill; simultaneous start [timing], continuous process, and differentiated timetables; flexibility; and technical cooperation."177 Flexibility, comparability, non-discrimination and technical cooperation were considered because of the different levels of economic development of members. Despite the principles of comprehensiveness, a sensitive issue for Japan, China, and South Korea which traditionally have a high level of market protection for agricultural products, there were still the underlying theme of the voluntary and non-binding nature of liberalization measures. This was considered a success for Thailand, Malaysia, and China who earlier lobbied for liberalization at their own pace, in their own way. Thus, in the view of the US, Canada, Australia, New Zealand, Singapore, Hong Kong, Brunei and Taipei, and the Philippines, considered as the "liberalization all the way" bloc in APEC, Osaka was a step back from what had been reached in Bogor. But for the "liberalization with caution" bloc, it meant actively participating in the global market while at the same time protecting the interest of their economies.

In the fourth APEC summit at Subic Bay, Philippines in 1996, members affirmed their commitment to sustainable growth and equitable development. Members presented their "Individual Action Plans" (IAP) detailing how they plan to achieve their commitment in Bogor. A careful reading of each IAP reveals that some governments were vague about their strategy to liberalize and that member economies remained discordant on how far they would push their

economies in tariff reduction, import duties, investments and competition policy, among other issues. As expected, the "liberalization all the way" bloc were quite detailed in their liberalization plans. This group committed to a great deal beyond what had been covered by the Uruguay Round of the WTO talks. Yet, countries which had consistently expressed apprehension regarding absolute liberalization managed to get their message across at the summit. Thailand, for example, did not state any plan for tariff reduction.\textsuperscript{178} Malaysia vaguely committed to "regularly review the level of import duties (and to) ensure the transparency of investment regime."\textsuperscript{179} China gave an uncertain commitment to "identify and review non-tariff trade measures."\textsuperscript{180} Japan, true to its original stance of cautiousness, managed to maintain ambivalence by committing "not to apply non-tariff measures that are not justified under international agreements."\textsuperscript{181} The Philippine government's position will be discussed in the next section.

In Vancouver last year, amidst the grim backdrop of the Asian crisis, the fifth summit facilitated an agreement on strengthening the global financial system to avoid financial risks. Members reaffirmed their commitment to join forces in meeting the challenge of sustaining regional prosperity and stability.\textsuperscript{182} Commitment to "sustainable growth", "equitable development," and


\textsuperscript{179} \textit{Ibid.}

\textsuperscript{180} \textit{Ibid.}

\textsuperscript{181} \textit{Ibid.}

\textsuperscript{182} "APEC Economic Leaders Declaration: Connecting the APEC Community." 1997. Vancouver: Canada.}
"unlocking the full potential of the citizens of APEC countries" was also underscored in the Leaders' Declaration. The summit was concluded with the final communique: "There is no doubt that the fundamentals for long-term growth and prospects for the region are exceptionally strong."183 While others may argue that there is some truth to the statement, the optimism that accompanied it seemed misplaced and hollow amidst the brewing crisis which had started to rock Asia. Once again, Vancouver was a showcase of the volatility of the "cooperation" among the APEC group. Member economies had some trouble just agreeing on what issues were to be discussed. Malaysia's Prime Minister Mahathir insisted that Asia's financial crisis should be first in the agenda.184 Roberto Romulo, Philippine Finance Minister and Chairman of the APEC Business Advisory Council asserted that trade cannot be discussed without also talking about the financial survival of member countries.185 The host, however, insisted on the Canada-centric view of sticking to the APEC staple — trade liberalization.186 The conduct of the summit meetings at Vancouver recent was indicative of a growing frustration within APEC. Member economies were starting to become merely "fair-weather-friends" It seems the group was easily put off balance by a very real problem like the Asian crisis. The test of APEC's success in trade through cooperation is whether promised liberalization would hold up in the face of a regional or global recession. Using the Vancouver summit as a gauge, APEC has definitely failed in this aspect.

184 Ibid.
185 Ibid.
186 Ibid.
187 Ibid.
There is a lingering ambivalence toward globalization among the member countries of APEC. The Philippines, as will be explained in the next section, has always been a firm believer of the benefits of globalization. With economic, cultural and political differences, it is inevitable that there would exist varied expectations as to the appropriate pace and likely benefits of trade liberalization.\textsuperscript{187} The WTO talks have failed in this respect. It is in this light that the APEC process is worth noting. But can a process which is voluntary, informal and often vague offer something significant to where an otherwise institutionalized organization has failed? Chapter IV will explain how the APEC process can be used by social movements to advance labor rights and social issues.

APEC banks on the following features: (i) the encouragement of statesmanship; (ii) a degree of peer group pressure; (iii) that the process is "taking place in a region characterized by rapid growth and intensifying economic interdependence which is largely independent of the deliberations of governments and officials."\textsuperscript{188} However, these pillars of APEC seem to be slowly crumbling.

After almost a decade of existence, APEC has not fully taken off for the simple reason that the member economies themselves cannot even agree on what APEC is or should be. Beyond being an economic forum of 18 countries bordering the Pacific, it is still just "four adjectives in search

\textsuperscript{188} Bello, \textit{supra:} 4, note 161.
of a noun." Some members believe that APEC should just be a consultative group where technical cooperation on economic matters concerning governments might be discussed and facilitated.  

For other members, it should be an alliance aimed at a creation of a formal free trade area where tariffs will eventually be brought down to zero and all other barriers to trade will be eliminated. 

**D. The Philippines' Commitment to APEC and its Emergent Effects**

"...(T)he Philippines must bear the burden of APEC leadership by example. We must blaze the trail that others will follow. We must steer APEC toward the broad implementation of the broad Agenda. And we must foster the people-to-people linkages that in fact precede and make real the concert of nations and governments."

Former Philippine President Fidel Ramos  
Speech delivered at the National Preparatory Summit for APEC 1996

The seriousness of the Philippines' commitment to the 1994 Bogor Declaration of Common Resolve which set the deadline for free and open trade and investment in the region by the year 2010 for industrialized member economies and 2020 for developing economies, cannot be made any clearer than the statement of Former President Ramos as quoted above. To show that the country really means business, the past administration submitted a very detailed liberalization scheme as part of its Individual Action Plan. The 18 member economies' individual

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189 Ibid.  
190 Ibid.
commitments were submitted in the 1996 Manila Summit and were collectively called Manila Action Plan for APEC (MAPA). Aside from Singapore and Hong Kong, the Philippines submitted one of the most detailed and boldest liberalization measures among all the Asian member economies. As it stands, the government's commitment to future measures is a doctrinal surrender to the very tenets of free trade. And since it attributes the inability of the economy to join in the past surges of investments and trade expansion in the region to the country's history of inward looking and protectionist trade measures, the government vows to unilaterally liberalize trade ahead of other countries' commitments.

The five pillars of the overall focus of the Philippines in the APEC process are: (1) trade and investment liberalization and facilitation; (2) small and medium enterprises; (3) Information technology and telecommunications; (4) human resource development; and (5) sustainable development.191

In forging a national agenda for the trade sector, a set of resolutions were approved by the National Preparatory Summit for APEC in 1996, a sectoral dialogue organized in preparation for the drafting of the Philippines' Individual Action Plan. Resolutions pertaining to trade cover the following issues and priorities: "(a) complete the trade policy reforms; (b) strengthen the country's export development and promotion program; (c) finance; (d) competitive exchange rate; (f) marketing; (g) technical skills; (h) technology acquisition, dissemination, and

191 Macaranas, supra: 16, note 143.
utilization; (i) simplification and harmonization of administrative procedures; (j) information exchange; and (k) infrastructure." The following discussion of the Philippines' trade liberalization commitment to APEC indicates that all these concerns and issues have been addressed.

Some of the highlights of the Philippines Individual Action Plan liberalization package are: Executive Order 264 and Executive Order 288, decreeing a uniform tariff rate of five per cent for all products by 2004 and lowering of tariff rates to three per cent for raw materials and ten per cent for finished products by 2003; Republic Act 8179, liberalizing the foreign investment regime by opening up more industrial and service areas to foreign investment and equity requirements for both domestic market and export oriented foreign-owned firms. These laws are also enacted in anticipation of the country's commitments to the WTO and AFTA. They enable the country to move a step ahead by minimizing the possible trade diversion of regional trading arrangements by making all available changes on a "most favored nation" basis. Customs valuation based on home consumption value, viewed as highly protectionist, is giving way to a more universally acceptable basis for valuation.

As part of the Ramos administration's Medium Term Development Plan (MTDP) or Philippines 2000, which is still being pursued by the present administration of President Estrada, the export

192 Ibid.: 31-33.
193 Bello, supra., note 174.
194 Macaranas, supra.: 23, note 143.
195 Ibid.
development strategy is being overhauled. Administrative bottlenecks will be eased with the ongoing reforms in customs procedures which include: harmonization of tariff nomenclature, computerization, and other changes aimed at better facilitation of trade.\textsuperscript{196} The creation of an Export Development Council has also been enacted into law for the purpose of formulating policies that will efficiently boost export growth.\textsuperscript{197} In line with this law, other reforms are also underway such as: improvement of export-financing and credit guarantee schemes, creation of one-stop duty-drawback scheme, one-stop action shop for trade and investment, and the enhancement of information and financial networking facilities for trade.\textsuperscript{198}

Under the MTDP, the Philippine diplomatic corps will also be utilized as part of an economic diplomacy strategy which calls for the foreign service corps to act as "diplomat-merchants."\textsuperscript{199} The diplomatic front is being tapped to promote trade and investment in the Philippines by disseminating positive information on the country's political, economic and social climate.\textsuperscript{200}

The Philippines has also signed into law a Mining Act which fully liberalizes the mining industry. Under this law, foreign mining firms are now allowed full ownership, full repatriation of gains, tax-free operations and liberal environmental requirements.

\textsuperscript{196} Ibid.
\textsuperscript{197} Ibid.
\textsuperscript{198} Ibid.
\textsuperscript{199} Ibid.:24.
\textsuperscript{200} Ibid.
In the matter of intellectual property rights, the Philippines commits to hasten the alignment of its laws with the WTO Accord on Intellectual Property Rights (TRIPS) and to toughen enforcement laws by increasing criminal penalties for infringement. Moreover, long before Congress has proposed, discussed and enacted some economic measures into law, the executive already committed the following measures as part of its APEC liberalization package:

- an amendment to the Condominium Law, which would allow foreign investors to own factory and residential structures in industrial estates;
- repeal of the Retail Trade Nationalization Act, which would open retail trade to foreign ownership, initially up to 40% and after 3 years, to 100%;
- amendment to Republic Act 7721, which would allow more foreign banks, besides the 10 earlier allowed entry to operate in the Philippines;
- an amendment to the Financing Company Act, which would allow foreign ownership of up to 100% of financing companies and delete nationality restrictions on board membership;
- amendment to liberalize provisions on foreign equity participation in investment banks and investment houses; and

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201 Bello, supra., note 178.
amendment of the Investment Company Act in order to allow membership of foreign investors in the board of investment companies and open up the mutual fund industry to foreign investors."202

As can be gleaned from the country's APEC commitments, trade liberalization in the Philippines encompasses a wide range of services: trade in goods; telecommunication; transportation; energy; and tourism.203 In telecommunication, there will be a standardization of parts and mutual acceptance of test results and procedures.204 In the field of energy, deregulation is being pursued through the Power Sector Restructuring and Privatization Plan which encourages private sector participation.205

The MTDP also undertakes certain policy initiatives aimed at ensuring the transparency of standards and conformity assessment in line with the APEC objective of technical and economic cooperation. To assist in the standardization of rules, the following policy shifts are being pursued:

- "align the country's standards with international standards in certain priority areas, such as electrical and electronic appliances, food products, car parts, etc;

202 Ibid.: 37.
203 Macaranas, supra.: 25, note 143.
204 Ibid.
205 Ibid.
• identify priority areas for the development of mutual recognition arrangements in regulated areas and participate in the network of mutual recognition arrangements in voluntary sectors;
• cooperate on technical infrastructure development within APEC;
• assure transparency by, inter alia, developing a database and network system by 2010 to provide information on its standards and conformance system accredited testing/calibration laboratories, quality systems, accreditation bodies, etc., and aligning its standards with international standards.\(^{206}\)

In the field of investment, the government has instituted some policy reforms aimed at the simplification of rules and regulations. The Foreign Investment Act (Republic Act 7042) opened up various industries to as much as 100 per cent foreign equity. To further increase foreign participation, various legislative revisions are underway to free up certain investment areas which remain reserved for Filipino ownership. The telecommunication industry and infrastructure development are being liberalized, deregulated, demonopolized and privatized for increased private sector and foreign participation.

\(^{206}\) Ibid.:27.
E. Conclusion

The government has totally embraced globalization, hook, line and sinker. Because of its stance in various trade forums, particularly APEC, it is viewed as the Trojan Horse of the Northern free trade lobby in Asian ranks.\(^\text{207}\) For the drafters of the national trade agenda, globalization is a done deal. Within that circle, it is actually spoken like a mantra. The government has been obsessed with globalization in its desperation to catch up with the new Asian tigers.

The Philippine government distinguishes APEC from other regional trade arrangements because it also emphasizes economic and technical cooperation.\(^\text{208}\) It is hoped that this cooperation can translate into the transfer of resources from developed to developing countries which will ultimately enable the Philippines to participate and benefit from the whole process.\(^\text{209}\) For a "late industrializer" like the Philippines, the twin objectives of APEC, trade and investment liberalization and economic and technical cooperation must be pursued with equal effort and attention.\(^\text{210}\) Liberalization without the promised cooperation and assistance by the developed members of APEC can never be sustainable. For the Philippines, it would be giving up everything without getting anything in return.

\(^\text{207}\) Bello, supra: 38, note 178.
\(^\text{208}\) Macaranas, supra: 15, note 143.
\(^\text{209}\) Ibid.
\(^\text{210}\) Ibid.
It is evident from the Philippines' Individual Action Plan that the government has a very positive view of the APEC process. It has placed so much faith on the projected positive effects of free trade that it has somehow failed to consider any possible risks involved in totally opening the economy to the free market system. This faith seemed to have trivialized the need for support mechanisms for labor and the domestic market, as the country's APEC commitments do not contain any of these. The possible impact of such commitments falls heavily on domestic firms and industries which will be exposed to bigger competition. The impact will likely hit the economy in terms of production cutbacks, lay-offs, and even bankruptcies in sectors of comparative and competitive advantage.\textsuperscript{211} During the National Preparatory Summit, it was discussed that the potential benefits and costs of APEC will be obtained depending on how the principal actors of the country's trade sector react to market forces.\textsuperscript{212} In this light, the government challenges the trade industry to become competitive as it believes that it is the only way to survive. As earlier discussed, competitiveness involves the responsibility of the government to provide for viable permanent resources. It cannot merely commit the whole economy to trade liberalization and leave the principal actors unarmed with even the minimal requirements for staying competitive.

The faith of the Philippine government in the APEC process could not be more evident than in its vow to unilaterally liberalize regardless of the pace of its other Asian neighbors which are

\textsuperscript{211} Ibid.
\textsuperscript{212} Ibid.
on the same level of economic development. The danger of pursuing unilateral and blanket liberalization measures in a regional trade arrangement is that it will likely expose the economy to counter-productive measures from the principal actors in free trade. And when political and economic conditions are altered or reversed, which is a big possibility in the light of the recent collapse of the "Asian miracle," the country is left with few tools to combat whatever impact such change entails. Such a unilateral commitment leaves little room for flexibility in policy formulation.

Therefore, the APEC process should be understood with a caveat. Although APEC members are unanimous in liberalizing trade, most Asian members, particularly the Philippines' ASEAN neighbors like Malaysia and Indonesia are, as earlier discussed, unclear and non-committal as to how liberalization will be carried out in their countries. The Philippines however has been crystal clear with its liberalization strategy -- even going as far as compromising legally and constitutionally protected interests. Like the wealthy members from the North, the Philippines is raring to go ahead and start the race in gathering the promised benefits of globalization. But given the voluntary nature of the APEC process and the clear sentiment of its ASEAN neighbors, it is not surprising that the Philippines will find itself all alone and vulnerable in the wealthier Northern group which is proceeding with the race at a very fast pace. These are countries which are definitely way beyond the Philippines' economic league. The Philippines may just very well find itself bullied, empty-handed in the end.
Certain aspects of the country's trade and investment commitments to APEC prejudice constitutional provisions on national economy and patrimony. The Individual Action Plan's focus to reduce and eliminate restrictions on foreign market access in the field of retail trade and land ownership run counter to the constitutional protection accorded to Filipinos. Section 1, Article XII states: "...[T]he State shall protect Filipino enterprises against foreign competition and trade practices." Furthermore, Section 11, Article XII provides:

"No franchise, certificate, or any other form of authorization for the operation of a public utility shall be granted except to citizens of the Philippines or to corporations or associations organized under the laws of the Philippines at least fifty per centum of whose capital is owned by such citizens..."

The committed reform measures concerning retail trade and condominium ownership, as well as the ongoing reforms in mining and privatization, are bound to collide with the principles laid out in the 1987 Philippine Constitution. In the Cordillera, an ancestral domain where a large portion of our indigenous minorities live, two-thirds of the entire land area is now under mining application. If these applications are to be granted, the national minorities of the Cordillera will be evicted from their ancestral lands as the Philippine Mining Act of 1995 also provides easement rights.

Ramos started selling government assets in 1992. He has implemented the "build-operate-transfer" and "built-operate-own" schemes, in which foreign and domestic private sector constructs a utility, runs it for a number of years and then turns it over to the state or keeps it. 213

However, recently, the Supreme Court of the Philippines voided a 1995 deal for Malaysia's Renong Overseas Berhad to buy 51 per cent of a historic hotel because it was ruled that the hotel is part of national patrimony. The Supreme Court anchored its ruling on Section 10, Article XII of the Constitution which provides: "In the grant of rights, privileges, and concessions covering the national economy and patrimony, the State shall give preference to qualified Filipinos." This is an example of a foreign company buying only half into a local enterprise. The government cannot commit 100 per cent ownership to foreign companies without going against the Constitution. The government cannot support some of its commitment with proper enforcement and implementation procedures.

Indeed the Philippines is sending the wrong signals to prospective foreign investors and trading partners in terms of attracting trade and investment. With such a detailed liberalization plan, the Philippines is exposing itself to risks. It is true that the other face of risk is opportunity. Risks can be possibly converted into gains. But this is only possible if these liberalization reforms are accompanied by the proper enforcement measures, support mechanisms for the social repercussions and the right fundamentals of global competitiveness in policy formulation and implementation.

For all the grandstanding of the Philippine Individual Action Plan, it falls flat on how exactly the governments will execute its commitments. Glaringly missing in the priority issues and national agenda are provisions on labor standards and on the protection of the labor sector. Even
in the discussion during the National Preparatory Summit and in the final resolutions, there was no mention of such issues. The closest the discussion and resolution got to these issues was when manpower development through training and education and recognition of labor rights were included in the Resolution of Commitment to Human Resource Development signed at the end of the summit. The commitment to such issues were limited to further studies and consultations. It was not clear as to how the government intends to concretize that recognition.

The Philippine government has been exposed to numerous debates and discussions on labor rights and the social clause issues in international trade agreements. The government was actively involved in seven years of tough negotiations which led to the signing of the GATT-Uruguay Round which later created the WTO. Philippine officials and concerned groups who are involved in the preparatory and consultative talks initiated by the government in preparation to its trade agenda for the yearly APEC summits should be aware of the debate on linking trade with social issues and human rights. This knowledge is vital in developing a critical and informed participation in trade discussions in order to properly and effectively advance social interests. The following chapter historically outlines the labor standards and social clause debate in relation to international trade agreements.
Chapter III

The Social Clause in the Globalized Economy: The South - North Debate

A. Introduction

Discussions on globalization and, more specifically, trade liberalization inevitably include the interrelated issues enveloping the social costs and repercussions relating to the mass of human capital which fuels this global activity. Although there has been a plethora of literature on the benefits and ills of liberalizing trade and the whole globalization of the world economy, very little has been written on how to bridge the widening gap between the proponents of free trade and the advocates of human rights, specifically labor rights. These two opposing camps are to be further categorized according to which countries involved in free trade actually support them. The debate can be generally termed as 'industrialized countries against developing countries'. If geographic locations of these countries are to be further considered, then it could be said that it is a friction between the North and the South.

The aim of this chapter is to review the issues relating to the impact of globalization, particularly trade liberalization, on labor standards with emphasis on the emergent international public policy issues that have been raised. This discussion is elaborated against the backdrop of the North – South divide. The chapter starts with an analysis of how the North – South divide was
entrenched in the debate on the social clause in global trade. It proceeds to discuss and analyze the conceptual disagreement involving 'free trade' and 'fair trade' which have been the bone of contention between the South and the North. There will also be an analysis of the shifting rationale of the linkage between labor standards and trade.

B. The North – South divide in the social clause and world trade issue

The term 'social clause' usually referred to in this context consists of a clause in trade agreements which would protect the 'core' standards embodied in ILO Conventions. The clause includes the right to collective bargaining, the prohibition of forced labor, freedom of association, minimum age and wage, and equality of treatment and non-discrimination in employment. References to these ILO conventions are utilized because the Organization's mechanisms have been considerably well-tested, effective and acceptable to both the South and North. Although the term 'social clause' also connotes issues relating to the environment, culture and sustainable development, for purposes of this chapter, it is used to focus mainly on labor rights and standards. The term as used in this thesis is also the same clause projected to be imposed on all exporting countries which are party to trade agreements. The clause will enable importing partners to impose sanctions against those countries which do not comply with the specified minimum labor standards in the clause.
Using the paradigm of post-development thought, the South's distrust of the North's persistent drive to establish trade links is indicative of a deeper desire to carve their vision of progress in their own terms -- reflective of and according to the historical, social and cultural experience of their peoples. Post-developmentalist writers argue that it is necessary to reject the very idea of 'development' as a preordained global goal.\textsuperscript{214} The traditional approaches on development institutionalize the idea that the undeveloped nation as an inferior entity in need of transformation. This suggested dualism -- developed and underdeveloped -- automatically assigns superiority to the former and ensures the continued hegemony of the dominant culture and capital and institutional control reflective of the Western model of success in a liberal, industrial market economy.\textsuperscript{215}

It is in the rejection of this dualism -- developed and underdeveloped or first and third world -- that the terms North and South seem to be more acceptable. Although whichever way you put it, this geographic definition always connotes the economic definition underlying each country involved. However, this chapter does not seek to explore the wisdom of the North and South terminology. It is merely used here as a given, the way it was conveniently used in the literature gathered on the opposing views in the social clause issue.

\textsuperscript{215} \textit{Ibid.}
Again, using the paradigm of post-developmentalism however, it now seems ironic that opposition to a social clause which aims to protect human rights, particularly labor rights, emanates from the developing world or the South. It would appear more logical if the governments from the South would champion the cause of their workers by pushing for international cooperation towards a set of labor standards honored by everyone involved in the global economy. In various international trade fora, the proponents of a social clause are the prosperous industrialized countries of the North while the developing countries of the South are vehemently against it. Taken with issue of globalization and free trade, however, the advocacy of labor rights through a social clause in international trade agreements takes a whole new different dimension.

Even in the North, there has been a rejection by workers' unions and labor groups of globalization's projected and actual ills. Within the last thirty years, U.S. unions have seen a burgeoning of overseas runaway shops and multinational corporations shifting and diversifying operations overseas.216 Globalization is seen by labor unions in the North as hurting domestic labor in various ways: it impairs labor's bargaining power against employers; it creates a disincentive for labor to vigorously seek labor protective legislation (the 'race-to-the-bottom' syndrome); it leads to organizational fragmentation; and it effectuates an atrophy of labor's

political clout. This threat of globalization, actualized in some industries in the North, has made a stronger case for a social clause.

The South and North have approached the challenge of globalization in different ways. The ruling power of the South takes the challenge by enhancing its export industries and making the labor and trade climate enticing for investors and import partners. The North counters this move to gain comparative advantage by asking for the inclusion of a social clause in trade agreements to cushion the effects of the transfer of businesses to the South and protect workers and industries back home. The two entities clearly exist and function on opposite poles. Economic strategists and trade scholars have tried to find a middle ground between these two conflicting interests.

The deep barrier of distrust that lies between industrialized and developing countries is suggestive of North – South confrontations over the New International Economic Order during the 1970s. As was the case during the drafting of the United Nations Declaration on the Establishment of a New International Economic Order and the Charter of Economic Rights and Duties of States, there is still the belief among the developing countries that the industrialized countries are continuously trying to "impose conditions in international economic relations

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which violate the sovereignty and block the development prospects of poor countries. This suspicion has never been more pronounced than in the recent debate over a social clause in international trade agreements.

C. Conceptual disagreement

Before the perspectives from the two opposing poles can be considered, the popular normative debate on the issue should be briefly reviewed. This concerns the prevailing conceptual conflict between the fair trade claims and the free trade challenge. The merits of the debate will not be assessed in this chapter. The introduction shall only set the backdrop of the fundamental disagreement between the South and North.

Fair trade is seen as the most fundamental threat to the liberal trading order that has arisen in recent decades. The issue of labor standards is the crux of economic and political discourse between developed and developing countries. Fair traders believe that optimal social protection necessitates political negotiation and that the setting of standards cannot be left to the mercy of market forces. They attribute 'social dumping' to the increased mobility of capital and the freedom of firms to locate their fixed investments anywhere they deem most beneficial. This

219 Ibid.
power of capital and its freedom of movement pressures countries to lower labor standards in order to make their economic site more inviting to investors. Thus, fair traders advocate the inclusion of a social clause in trade agreements to prevent and redress social dumping, a process through which exporting countries use unacceptable or substandard labor practices to lower the cost of production.

The fair trade approach which addresses the labor issue through an international framework is fueled by fair traders' belief that national policy makers are powerless when faced with market forces. Since the mobility of capital pressures countries to succumb to lower labor standards, it is clear that the power of nation-states to manage their own economic activities and the factors surrounding it is diminished. This also implies that their sovereignty and autonomy over these matters are curtailed. And when issues of sovereignty and autonomy are raised, developing countries are immediately antagonized. Such issues are tainted with the threat of western hegemony. And in this post-colonial era, such a theme is never welcome. The term "imperialist globalization" figures prominently in anti-APEC rallies and forums. BAYAN, an NGO actively opposing APEC, views the alliance as an "instrument being dominated and manipulated by two imperialist rivals, US and Japan, with the member states consenting to its pro-monopoly capitalist globalization thrust." This sentiment may seem infused by too much paranoia, but

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for the Philippines which has experienced colonization by three nations (Spain, US and Japan), the prospect of being once again "colonized", economically and culturally, poses a very serious threat.

Free traders, on the other hand, as briefly introduced before, view recent demands to link trade to compliance with certain labor standards as galvanized by the fervor to protect jobs at home against increased competition from the developing countries of the South. Free traders consider fair traders as "protectionists masquerading as moralists...and as irrational moral fanatics, prepared to sacrifice global economic welfare and the pressing needs of the developing countries for trivial, elusive, or purely sentimental goals." Free traders consider fair traders as "protectionists masquerading as moralists...and as irrational moral fanatics, prepared to sacrifice global economic welfare and the pressing needs of the developing countries for trivial, elusive, or purely sentimental goals." The argument of free traders is rooted in the neoliberal economic doctrine. This doctrine projects regulatory labor standards as an obstruction in the market forces, restraining growth and suppressing competition by deterring investments and forming an unequal appropriation of labor. It is believed that a highly competitive and unrestrained labor market is the best tool for protection for workers because employers utilizing substandard working conditions will lose the skills, experience, and other benefits of a stable workforce. Thus, this group suggests that the market mechanism itself is the best way to regulate the standards.

224 Howse and Trebilcock, supra, note 220.
225 Ibid.
226 de Wet, supra, note 221.
1. The North perspective

The North advocates a link between international labor standards and the liberalization of international trade. As will be gleaned from further discussions on the historical background of the advocacy of the social clause, various groups have their different rationale behind the inclusion of a social clause in trade agreements. The North camp can be further divided between advocates who are 'enforcement driven' and those who take the 'fair trade' approach. Advocates who are 'enforcement driven' suggest that trade sanctions can be meted out to those countries who violate agreed international labor standards as mandated by a proposed social clause in trade agreements. The rationale behind this position is that there is a need to eliminate unfair trade advantage from unjust and exploitative labor practices, which are widely reported to be occurring in developing countries. As this group suggests, this could be best achieved through the imposition of trade sanctions. An underlying dictum to this is that a globalized market economy necessitates global economic management through the regulation of market and labor standards and conditions.

The basic argument of fair traders against trade liberalization is that domestic labor policies are exposed to unfair competition from countries where labor standards, or their enforcement are
lower. "Jurisdictions compete for mobile capital by lowering regulatory standards." Thus, it is this regime of fair trade that proposes to implement a social clause which would equalize regulatory standards ensuring a leveling of the playing field and to avoid a 'race to the bottom'. The 'fair traders' are further grouped into the 'economic camp' and the 'moral camp'. The 'economic camp' stresses the unfair competition angle which is derived from low labor standards. In this camp, greater emphasis and value are accorded to commodities and productive efficiency. The 'moral camp' on the other hand simply recognizes the dignity of labor and the value of workers' life and rights. Vigilance towards unjust practices is taken in the name of social justice for the prevention of socially and morally unacceptable labor practices that are sustained and nurtured by unregulated international trade. Considerations of this nature effectively strengthened the moral suasion against abolition of slavery, forced labor and the denunciation of apartheid.229

The 'moral' and 'economic' camps, while both arguing that a social clause is necessitated, look at the purpose of the clause rather inversely. The crucial issue is the identification of when the advantages arising out of factor endowment are artificially enhanced by labor utilization constituting 'social dumping'.230 The moral camp considers the social clause as operating to put

228 Ibid.
230 Ibid.
a ceiling and a value to be promoted within a framework of universally recognized human rights. In the economic perspective, the social clause is projected as a floor or minimum threshold in order to allow the *ceteris paribus* principle to function within a framework of equitable trade rules.

2. The *South* perspective

The South on the other hand argue that the link is nothing more but disguised protectionism. The imputed motive behind this link is to raise labor costs in developing countries to paralyze their competitive advantage hinged largely on lower wage costs. The conceptual approach of the South's position can be categorized as one for 'free trade'. This position can be viewed strictly from an economic perspective on one hand and from a political perspective on the other.

From the economic perspective, the South believes that regulatory diversity is part and parcel of comparative advantage. Thus, to argue against diversity through a ratification of a social clause is going against the rationale of trade itself. This position is founded on neoliberal doctrine which propounds that regulation of labor through a social clause is antithetical to the free market process. The South believes that such a clause would impede efficiency, create sub-optimal allocation of labor, stifle competition, and deter investments, thereby thwarting

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231 Ibid.
232 Ibid.
economic growth. Free traders adhere to the doctrine that the best protection for workers can be obtained in a highly competitive, unregulated labor market that is unrestrained by artificially imposed set of standards. Thus, following this paradigm, the most efficient means of regulating labor standards is to let the whole market mechanism operate without the help of outside forces like an artificially imposed social clause. By so doing, free trade optimists believe that countries who tenaciously cling to low wages and sub-standard working conditions will eventually lose the wealth of a stable workforce.

The political perspective arises from the imputation of protectionist and hegemonic motives to the industrialized North. This camp argues that the social clause will force the South to raise labor costs artificially which would emphasize the viability of capital intensive investments, an aggravation of the dualism of developing countries' economy, and a reduction of their employment growth rate. Thus no matter how the North masks the social clause under the guise of altruism, morality or neoliberal pathos, for the South, the clause is protectionism, plain and simple. The suspicion of hegemonic motives stems from the fear that greater global regulation, particularly in the highly debatable field of human rights and labor standards, augurs the 'withering away of states'. By submitting a country's domestic legislation to an intrusive

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235 De Wet, supra, note 221.

social clause a valuable part of sovereignty is sacrificed. This theory now explains why the South's persistent opposition to a social clause in trade agreements is not so ironic after all. Using post-development theory which has been discussed earlier, this rejection of the North's precept of what labor standards to follow, whether they be in pursuance of neoliberal market goals or strictly because of moral considerations, is just indicative of the South's vigilance against the projected superiority and the continued hegemony of the dominant North. Though it would seem that tables have been turned because the South now apparently goes against workers' rights, the rationale behind this position is still clearly evident of the South's persistent struggle to carve its destiny according to its own terms.

D. The shifting rationale of the linkage between labor standards and trade

The zeal for the establishment of links between international trade and labor standards is as old as the standards themselves. In 1788, Jacques Necker, a banker and finance minister under the reign of Louis XVI, propounded that if a country were to abolish the weekly day of rest, it would undeniably gain an advantage.

Linking trade with labor rights and standards also had its foundations during the early stages of ILO in 1919. The ILO Constitution provides: "the failure of any nation to adopt humane

\[\text{De Wet, supra, note 221.}\]
conditions of labor is an obstacle in the way of other nations which desire to improve the conditions in their own countries." This declaration of peace and social justice is still echoed by the ILO to this date. ILO Director-General Michel Hansenne recently stressed that the process of trade liberalization "must go hand-in-hand with social progress" and "cannot be left to its own devices." ILO has always stressed the need for all countries who participate in globalization to act according to the principle that "all workers in a country, and not only those for the world market, should be able to have a fair share of the fruits of globalization." Much of ILO's effort is devoted to the adoption of international labor legislation for the harmonization of rules and regulations which will protection of workers. This is aimed to reduce disparities of labor costs between countries. Thus this explains why ratification of some conventions depended on the consensus among competitors in trade. But towards the end of this century, certain important conventions have been low on ratification. Some ILO members, especially those from the South, are ambivalent about was the true significance of labor costs. They believe that the final cost of various products also depends on a host of other factors other than labor like infrastructure, and social and political stability of nations.

It is important to note that ILO's call for international action to improve labor were fueled by interrelated motives. First of these motives hinged on social justice and humanitarian concern

240 Ibid.
241 Servais, supra, note 238.
over labor conditions causing hardship to workers.\textsuperscript{242} The second motive was prudential which sought to stave off unrest threatening the peace and harmony in the world.\textsuperscript{243} This motive was propounded because of the effects of World War I and the Bolshevik revolution. The third motive is brought by the need to "eliminate the negative cross-border externalities" generated by countries taking advantage of inhumane conditions of labor.\textsuperscript{244} It is in this last motive that fair traders base their advocacy on. But it should be considered that the economic climate upon which this motive was formed has changed drastically from the time of the ILO's inception. The economies considered before, those of Europe in particular, operated with the same level of development. The ILO Conventions were conceived in the colonial era where colonies participated in trade as merely an extension of the colonial empire. The world trade and economic interdependence of the present, however, involve the poorest of the poor and the richest of the rich. This makes harmonization and compromise in this economic discourse on trade much more complex.

The first linkage in a multilateral set-up was actually applied in The Treaty of Versailles of 1919. "Article 23(a) of the Versailles Treaty was couched in moral terms of achieving fair and humane conditions of labor, but, at the same time, was clearly intended to imply the trade impacts of sub-standard conditions."\textsuperscript{245}

\textsuperscript{242} Lee, supra, note 218.
\textsuperscript{243} Ibid.
\textsuperscript{244} Ibid.
Links between labor standards and international trade once again emerged when the conditions of competition in the European market changed. When the European Common Market was established, which brought about the removal of customs and fiscal barriers, there were fears that the labor factor would gain leverage in the calculation of the final cost of a product. Thus the Treaty establishing the European Coal and Steel Community included a social clause to prevent enterprises from paying abnormally low wages to gain advantage from charging abnormally low prices.

The trend towards this kind of market regulation continued well into the 1950s. It should be noted however that the political and economic context on which such discussions on social clause thrived during this stage was very different than what it is in the present. As previously stated, during those times, the social clause was meant for markets or economies which more or less operated on the same level. Discussion had previously focused on the possible effects of labour standards on the product costs in countries at very similar stages of development.

The link between trade and labor standards took on a whole new dimension in the GATT era when the difference in the levels of development competing against each other became a fundamental aspect of the debate. The developing countries of the South became major players in international trade and was believed to have gained comparative advantage by sacrificing the

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246 Servais, supra, note 238.
247 Ibid.
248 Ibid.
legitimate interest of their workers. Introduction of a social clause in an international trade system took on a new path in 1947. During the initial stages of the GATT at Bretton Woods, a parallel agreement was being drawn up for an International Trade Organization (ITO) to administer the international agreement on trade.249 This parallel agreement was known as the ill-fated 'Havana Charter.' The UN Conference on Trade and Employment adopted Article 7 of the Charter of the ITO. The Charter's chapter on "Employment Economic Activity" provided thus:

"All countries have a common interest in the maintenance of fair labor standards, particularly in the case of production for export, since otherwise one country's product may be undercut by those of another in which labor is unfairly exploited. Labor standards, cannot, of course, be uniform in all countries, but must be related to national productivity. But there was wide support for the view that governments should agree to take whatever action might be appropriate and feasible to eliminate sub-standard conditions of labor in their production for export and generally throughout their economies."250

Although the ITO did not have success in the U.S. Congress, fair labor standards surfaced in international commodity agreements throughout the 1950s and 1960s.251

Almost three decades later, The International Confederation of Free Trade Unions (ICFTU), representing 99 million workers in 101 countries, asserted the issue of health of workers in relationship to trade in the Tokyo Round of GATT negotiations in the 1970s.252 Most Western

249 Harcourt, supra, note 148.
250 Ibid.
251 Ibid.
253 Ibid.
states rallied behind this cause while developing countries on the other hand, expressed some reservations based on fears of protectionism aimed at cost equalization. Trade unionists and industrialized countries, on the other hand, argue that a direct link between spread and enforcement of fundamental standards and the liberalization of trade is directed at eliminating the most flagrant violations of working and living standards in all countries and sectors.\textsuperscript{253}

The 70s saw a shift towards neoliberal views in economic and social policy. This led to the rethinking of the value of labor standards in general. Although the move for an inclusion of the social clause was initiated by labor movements of the North, its ruling power saw a tremendous amount of benefit in opening up newly-independent states and developing countries' markets. This shift emphasized a smaller role for the state especially in the regulation of market activity. Regulation is seen as harmfully distortionary because impedes efficient market functions and causes inferior results in employment and income distribution.\textsuperscript{254} The view that market regulation is one of the primary causes of the rise in unemployment has become increasingly influential in the industrialized countries of the North.\textsuperscript{255} This particular shift --- in the view of the role of regulation --- is noted as this directly opposes the Northern proponents of the inclusion of social clauses in international trading agreements. A social clause clearly represents one of the most constricting tools of market regulation by imposing a distinct set of labor standards.

\begin{itemize}
\item \textsuperscript{253} de Wet, Erika, \textit{supra}, note 221.
\item \textsuperscript{254} Lee, \textit{supra}, note 218.
\item \textsuperscript{255} \textit{Ibid}
\end{itemize}
The influence of this neoliberal view was not confined to the industrialized countries. It has also gained popularity among the trading countries of the South. An important factor behind this popularity is that labour market deregulation has featured prominently in the policy conditionality of structural adjustment programs.\(^{256}\) There is a negative distributional effect of labor market regulation in the creation of labor aristocracy.\(^{257}\)

An interesting factor in this ideological shift is that neoliberalism is used by the North to justify its cause of opening up markets in the developing world. The South, on the other hand, invokes this paradigm when resisting what is thought of as an overly constraining social clause. After having opened up the market of the South by deregulation and privatization, the North now tries to temper the natural surge of the free market economy by regulating how labor should be run. Conversely, after a persistent resistance to the opportunistic free market dictum of the North, the South now invokes neoliberalist tendencies to oppose a social clause.

In the 1980s, the Independent Commission on International Development Issues, known as the Brandt Commission, concluded that there should be an international consensus on fair labor standards to facilitate trade liberalization and prevent unfair competition and. The Commission also observed that developed and developing nations have conflicting interests because labor standards in the South is linked to the issues of labor adjustment in the north.\(^{258}\)

\(^{256}\) Ibid.
\(^{257}\) Ibid.
\(^{258}\) Elwell. supra, note 251.
The U.S. formally proposed that the labor rights issue be considered in the trade discussions during the work of the Preparatory Committee for the Uruguay Round in 1986. The U.S. once again asserted that Ministers of the GATT states should make a blanket recognition that "denial of worker rights could impede attainment of the objectives of the GATT and can also lead to trade distortions, thereby increasing pressure for trade restrictive measures." This step was a non-event as it was again opposed by developing countries. The European Parliament, Canada, Norway, New Zealand Japan and Sweden supported this U.S. initiative. Once again it came to the issue of First World - Third World divide, hinged on the suspicion of protectionism hiding behind the proposal of core labor standards.

The labor debate was again undertaken during the lead-up to the signing of the GATT in Marrakech, Morocco in 1994. The negotiating parties were once again divided over the linkage between international trade and labor standards. The vigorous debate during the signing of the GATT focused on the problem of labor issues in the global market and on how trade policy institutions can or should be used to ease poor working conditions and problems of poverty and income distribution in general.

In the first Ministerial Meeting of the WTO in Singapore in December 1996, the U.S. once again asserted the inclusion of core labor standards in the trade agenda. The developing nations

259 Ibid.
261 Ibid.
perceived this issue as "new business" and not really related with trade. Malaysia was a staunch opponent of the U.S. on this matter. The Malaysian representative asserted that labor standards cannot be used as an excuse for protectionist policies and that the low-wage advantage enjoyed by developing countries cannot be questioned. This issue was very controversial and sensitive and created a big gulf between the initial positions of the developed and developing countries. The Meeting, however, ended rather amicably with the formulation of the following Ministerial declaration in a language open to various interpretations and borne out of compromises acceptable to every member state. It is worded thus:

"We (the ministers) renew our commitment to the observance of internationally recognized core labor standards. The International Labour Organization (ILO) is the competent body to set and deal with these standards, and we affirm our support for its work in promoting them. We believe that economic growth and development fostered by increased trade and further trade liberalization contribute to the promotion of these standards. We reject the use of labor standards for protectionist purposes and agree that the comparative advantage of countries, particularly low-wage developing countries, must in no way be put into question. In this regard, we note that the WTO and ILO secretariats will continue their existing collaboration."

Even the International Monetary Fund, the leading global financial institution, recognizes the necessity to address social concerns within its sphere of economic influence. The IMF has functioned as a bank of last resort and a fiscal reform school for wayward economies. The IMF hogged the headlines again when the Asian crisis sent countries like South Korea, Thailand and Indonesia running to its aid packages asking for billions of dollars in loans. In the hope of softening the impact on the poor of its brutish remedies imposed on countries who seek its aid,

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the IMF is now including social policy directives with its loan package. It recently signed an agreement with Thailand which includes provisions to help the jobless.  

It is now more increasingly evident that every global economic interaction always has its social linkage, consequence and implication.

\section*{E. Conclusion}

The campaign for a social clause for a compromise between the opposing positions previously discussed, is in a dismal state. However, discussions regarding a social clause have never been more popular and dynamic. This continuing interest stems from the reality that there are still significant pockets of poor and morally unacceptable labor conditions like child labour in inhuman conditions, bonded labor, physically taxing work processes, and discrimination in access to employment. The stark reality of these daily occurrences is evident in the multitude of sweatshops operated by transnational companies operating the world over, particularly in the South.

A careful analysis of all the positions presented indicates that the rationale behind them is the unified rejection of protectionism and of gaining leverage through unfair labor practices. Both the North and the South quest for improved working conditions for human capital toiling all

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\begin{enumerate}[\textsuperscript{263} Ibid.]
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over the world. Taking such consensus in this aspect, drafting a 'minimum standards package' doesn't seem to be too far fetched. This argument is further bolstered by the fact that basic labor rights intended to be included in a social clause are actually found elsewhere in a non-trade related covenant. In December 1993, the Covenant on Economic, Social and Cultural Rights was ratified by 127 of 186 countries including countries such as Mexico, South and North Korea, Japan, and India as well as almost all developing nations and Eastern European states. Through this Covenant, all signatories exert effort, to the maximum of their available resources, towards the full realization of the rights recognized in the said document. The Covenant actually gives a more detailed enumeration of rights and duties relating to labor such as: rights to freedom of association and collective bargaining; right to free choice of employment; the absolute abolition of child labor; and the right to just and favorable working conditions including equal remuneration and equal opportunity for work of equal value, fair wages which can provide a decent living for workers and their families, rest, leisure and reasonable limitation of working hours and periodic holidays with pay.

Some opponents of a social clause can still dismiss such assertion by arguing that an international human rights covenant should not be discussed in the light of international trade agreements. This is a mistaken notion because labor and the human capital are vital elements of international trade. It is in the context of moral suasion, however, that perhaps more concrete

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265 de Wet, supra, note 221.
266 Ibid.
267 Ibid.
action can emanate. International labor standards cannot be merely dismissed as solely a human rights issue which must be dealt with by human rights instruments.\textsuperscript{268} Labor standards, have, through the years taken on a broader dimension transcending human rights and enveloping trade and economics --- for indeed the human capital is much more precious than any other factor in the global market.

The unified rejection by the opposing poles of protectionism and unfair labor practices should be emphasized and explored. Having discussed the theories and debates between free trade and fair trade, and between the wealthy North and the poor South, discussion will now shift to how the Philippine NGOs, POs and social movements can advance this "middle way" in the APEC process. The concluding chapter will stress the need to interject issues of social protection and to advance labor rights and standards in the APEC through the help of people's groups.

\textsuperscript{268} \textit{Ibid.}
Chapter IV

The Advocacy of a Social Clause within the APEC Regime

A. Introduction

Improvement of labor conditions in a liberalized trade regime should not merely hinge on the much debated social clause. The recognition of core labor standards as discussed in the preceding chapter, is of course, the ultimate goal. But how to interject this issue within APEC is a crucial barrier that must first be hurdled. Perhaps a different path can be pursued by examining the very foundation of how globalization operates. To achieve this, it is first crucial to be stripped off the biases brought about by both the positive and negative \textit{a priori} assumptions of free trade as discussed in Chapter III. Instead, after noting the rationale behind the policy shifts in the linkage between labor and trade, a new logic of people-centered participatory policy-making should be pursued in the consensus-based APEC process.

B. The Non-Government Organizations' (NGO) "Third Path"

Some of the reasons why the people's movements, particularly in the Philippines, have been obstinate in their rejection of this whole process of globalization are: the free market economy has been unable to respond to the diversity and complexity of local situations and, despite the
seeming economic growth, there is continued poverty. In lyrical discourse, Rabindranath Tagore voices this feeling of alienation and ultimate submission thus:

"We have for over a century been dragged by the prosperous West behind its chariot, choked by the dust, deafened by the noise, humbled by our own helplessness, and overwhelmed by the speed. We agreed to acknowledge that this chariot-drive was progress, and that progress was civilization. If we ever ventured to ask, 'progress towards what, and progress for whom,' it was considered to be particularly and ridiculously oriental to entertain such ideas about the absoluteness of progress. Of late, a voice has come to us bidding us to take count not only of the scientific perfection of the chariot but the depth of the ditches lying across its path."269

Socio-economic change for the Philippines, as earlier discussed, fits the rubric of the idea of development propounded by post-modernist and post-colonialist thought. The dualism suggested by this paradigm -- a developed and an undeveloped condition -- automatically assigns superiority to the former and dictates the end towards which the latter should strive for.270 Together with the idea of 'progress' and 'growth', it forms part of a phalanx of value assumptions and concrete practices suggestive of modernist ideology.271 It also ensures the continued ascendancy of the North's capital and institutional control.272 This unequal power relation in development discourse, already sets the very core of liberalization at odds with true mass economic, social, and political empowerment.

270 Kelly, supra: 244, note 214.
271 Ibid.
272 Ibid.
Thus, the poor and the working class flinch when an "outside force" meddles with economic affairs. The Philippines' drive to relax its investment policies through liberalization, privatization, and deregulation creates the stigma which invokes suspicion from the poor and working class. These policy reforms are the very scourge APEC is believed to bring. The fruits of democracy, like liberalization and the adoption of a bullish free market system, are generally viewed by peoples' movements as anti-labor and anti-poor.

To get rid of this specter of post colonial tendencies, there has to be a conscious effort from policymakers and governments to veer away from conventional suppositions and universalized definitions of development towards a more pluralistic conception of and discourse on progress and change. It is at this juncture where discussion on the creation of a political space for peoples' movements in APEC becomes important.

For purposes of this discussion, NGOs and people's movements are considered as social movements involving some civil action directed at effecting change. (These terms, however, exclude business groups, which are normally accorded ample recognition within international trade forums.) These groups are acting in both national and international level around domestic policies as well as international economic organizations. The role of NGOs or civil organizations as agents of change in the international setting has been gaining significant attention. A concrete example of this is their recognition as a 'major group' in relation to sustainable development in the United Nations Conference on Environment and Development's
(UNCED) Agenda 21, a chapter of which is dedicated to strengthening their role as partners in sustainable development.\textsuperscript{273} Civil organizations have also been active around international economic organizations. Northern environmental NGOs, in alliance with Southern development and indigenous NGOs, have led a relatively successful campaign in the early 1980s in introducing sustainable development concerns into World Bank operations.\textsuperscript{274} In the early 1990s, the NAFTA was the focus of another major campaign by these groups.\textsuperscript{275} Recently, NGO activity has been figuring quite prominently around the APEC forum. A yearly People's Summit is also being held alongside the APEC Summit.

It is best to understand these groups' activities in the light of the new social movement theory. In a microcosm, this theory allows for a broader definition of social action.\textsuperscript{276} It explains these activities in terms of the creation of collective identities, while widening defending and democratizing civil space and disputing social norms of the shared cultural field of society.\textsuperscript{277} By expanding the grasp of the field for social action and struggle and by enveloping issues of social norms and collective identity, this theory includes not just the members of organized civil actions but also just about anyone who can identify with the movements' goals and values.\textsuperscript{278}

\textsuperscript{274} Ibid.
\textsuperscript{275} Ibid.
\textsuperscript{276} Ibid.
\textsuperscript{277} Ibid.
\textsuperscript{278} Ibid.
It is a process which involves socio-political as well as socio-psychological group information involving the reinterpretation of norms, the creation of meanings and the challenging of the social construction of the very boundaries between public and private or of the political domains of action.\textsuperscript{280}

The civil society is not just threatened by the hegemony of external factors. It is also constantly imperiled by the state's potential to subvert and colonize its own people.\textsuperscript{281} The new social movement theory recognizes this danger and thus prescribes the institutionalization of civil democracy to defend civil society from the state and lessen the potential for colonialization by the state.\textsuperscript{282} Social movements are projected to rally for democratization and accountability of civil institutions to protect civil society's continued existence.\textsuperscript{283} By broadening the structures of discourse and people participation the state's policies and programs become more meaningful and reflective of and responsive to the varied conditions and needs of the civil society. More than just achieving recognition, social movements are instrumental in creating political space by engaging in values discourse and in politics of influence through dialogue with the government.

This theory is very significant to the Philippine experience. As discussed in previous chapters, the Philippine labor movement has always been marginalized and alienated from policy

\textsuperscript{280} Ibid.: 511.
\textsuperscript{281} Ibid.:516-517.
\textsuperscript{282} Ibid.
\textsuperscript{283} Ibid.
formulation. In fact, its interests have oftentimes been compromised. It is only recently that a window of opportunity has been opened for people's organizations to take part in and be consulted for the government's drafting of reforms and policies which directly affect them.

This ideal mobilization of people's organization towards participation in the global policy-making arena somehow saw the light during the APEC Summit in Subic, Philippines. There was NGO participation in the APEC Ministerial Conference on Sustainable Development in 1996. As noted by a Filipino NGO participant, APEC may prove to be more Asian than American, contrary to how it was widely believed to be. An NGO participant expressed the view that Post-Cold War realpolitik now seems less threatening and the world may not be, after all, in the hands of the US. Countries like Japan, Malaysia, South Korea, and Indonesia have been stalwarts in blocking the U.S. monopoly of talks and policies. In the APEC scenario, the main fulcrum of debate continues to teeter between America's "liberalization all the way" and the Japanese, Indonesian and Malaysian's stronger inclination towards progressive liberalization over a period of time at a pace suitable for each economy. These Asian countries are also leaning towards limiting discussions to economic and technical cooperation rather than bullish and abrupt dissolution of trade barriers. The strong Asian color in the negotiations, the discussions on human resource and sustainable development and the promising NGO participation are positive steps towards the ideal globalized civil society.
The Philippines enjoys a dynamic political climate for NGOs and popular people's movements. It was an oppositionist NGO that catapulted former President Aquino's rise into power.\textsuperscript{288} It was through massive people protest that the Marcos government was overthrown. During Aquino's term, she worked closely with NGOs in several livelihood projects. NGOs also play a major role in support measures extended to Filipino migrant workers. Former President Ramos also tapped the NGO machinery in policy-making dialogues and had "people empowerment" as one of the major guiding principles of his administration. Some NGO leaders have also found their way into government office in the present Estrada administration. Thus, it is now significant to discuss the nature of NGO activity linked with APEC and its potential role in promoting a social clause.

The IMF, World Bank, NAFTA, AFTA, and APEC are not the sole international actors dictating liberalization. Liberalization is also borne out of each country's individual efforts at joining the global market. Treating liberalization simply as imposed structural adjustment by external factors fails to analyze internal causes, the way in which it arose out of failures of statist regimes that were inefficient, corrupt and against the marginalized sectors of society.\textsuperscript{289} Retreat from global economic interdependence may, in the long run, prove to be counter-productive. At the risk of sounding as a "sell-out", it is still best to posit a stance of responding to economic and

\textsuperscript{288} When Aquino's husband, a popular ex-senator who was a staunch Marcos critic, was a assassinated, public outrage was directed at the Marcos administration which was widely believed to be responsible for the assassination. The organization of private citizens called "Justice for Aquino, Justice for All" initiated civil disobedience and the historic People Power Revolution which led to the ouster of Marcos


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political realities in an undeniably interdependent world. This is made possible by opening the economy with a human face through championing a workable and grass-roots based social clause in trade agreements.

The Philippine labor movements and NGOs advocating their cause should be concerned with the following issues: 1) understanding the APEC process and how it will affect workers' employment opportunities, labour standards, health and safety, job security, wages, and incomes; 2) explain how social integration will accompany economic integration; 3) the labor movement position itself within the human development/social development agenda of the APEC process; and 4) the realization of labor's participation strategy --- should lobbying take place internationally, domestically or merely within the employers of the industry? Another interrelated concern is how to integrate different national labor systems into a market system that is essentially international. Integration should be directed at improving labor standards and social conditions as well as business opportunities and economic expansion. International trade and labor standards should always be considered with great degree of complementarity.

290 Harcourt, supra. note 148.
291 Ibid.
C. Creating political space within APEC

NGO activities linked to the APEC forum began in 1993 and have since grown. Most of these activities were just parallel meetings and were limited to peaceful protests and rallies outside the summit venue. Real engagement of civil movements from the Philippines, US and Canada started in 1996 during talks on sustainable development. This participation has also invoked some dissent within the NGO community for it is considered as the participants' submission to the whole idea of trade liberalization or global corporate rule which most groups are inherently opposed to. But for those Philippine NGOs who were branded as "collaborators" by their peers, they considered this move as going for the higher stake: "a stronger voice for marginalized communities they have been serving for the three decades."292 Leaders of the NGO Philippine Council for Sustainable Development (PCSD), considered it a big step when they participated in the Preparatory Summit and helped in the formulation of the country's commitment to the Global Agenda 21.293 This is indeed more significant than holding protest placards outside the conference halls. Sitting with government negotiators and policy makers and actually being heard and consulted gave more meaning to their cause and existence as a civil organization.

However, given the fact that the APEC process relies heavily on consensus and operates on a voluntary basis, there are doubts as to how effective such participation can be. But is precisely

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292 Mayuga, supra, note 284.
293 Ibid.
in the context of this voluntary- and consensus-based approach coupled with Philippine
government's total submission to the whole free trade order that participation of civil movements
in policy making becomes even more significant. If right from the very beginning — from the
very formulation of the country's policy reform initiatives and commitments — the Philippines'
agenda is already tempered with values reflective of the needs of the people and with social
support measures, the ultimate result is a voice within the global forum.

While labor issues have somehow found their way in the debating floor of the WTO and
NAFTA, there is as yet nothing of this sort in APEC. If NAFTA and the WTO make a toothless
declaration as to the protection of workers, APEC, on the other hand, provides none at all. 294
APEC has encouraged detailed liberalization measures in trade and investment flows in the
region but it has dismally failed to encourage, not even at the level of discussion, any elements
of re-regulation affecting labor standards and the protection of workers. 295 To further worsen this
void, business interests have become central to, and privileged actors in, the APEC process as
evidenced by the establishment of the APEC Business Advisory Committee (ABAC). 296 This
committee is specifically tasked to ensure that APEC's objectives and directions are maintained
responsive to "real world problems" such as "harmonizing customs procedures, recognizing

(Special Series No.1). Vancouver: Institute of Asian Research, University of British Columbia.
295 Ibid.
296 Ibid.
national product standards, increasing transparency in government procurements and enforcing intellectual property rights."^{297}

Despite this dearth of provisions for enforcing labor rights, concerns for workers and ultimately, discussions on the social clause, can be interjected in "human resource development" which is one of 13 specific areas and issues of the APEC Working Group.^{298} Although this working group declares that human capital is the region's main asset as well as the focal beneficiary of economic growth,^{299} nothing is mentioned about its protection. Instead, completed human resource development projects are concentrated on: cross-cultural management; industrial technology education; analysis of the region's labor market; management and strengthening of small and medium enterprises; facilitating the mobility of persons and information exchange for HRD; and developing ways to monitor performance of education system.^{300} As can be gleaned from the priority projects, emphasis is given to education and training.

However, on the domestic level, in the Resolution of Commitment to Human Resource Development in the 1996 National Preparatory Summit in the Philippines, it was resolved that there should be dignity of pay as well as due recognition of labor rights.^{301} There was no mention, however, as to how this resolution will be put into action.

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^{297} Ibid.
^{299} Ibid.
^{300} Ibid.
^{301} Macaranas, supra; 113, note 143.
On the international level, in 1996, APEC leaders instructed officials through a collective declaration, to give a human face to development by committing to sustainable growth and equitable development. APEC ministers also issued a statement calling for a framework of economic cooperation and development that would reduce economic disparities among members. This can be taken as sign that social concerns are finally being considered in the APEC forum, a thrust welcomed by those who believe that there has to be more to APEC than just free trade.\textsuperscript{302} Indeed, such language can neither be considered as action or genuine commitment.\textsuperscript{303} But the inclusion of sustainable development, equity and human resource development in APEC's focus, creates the elbow room with which developing countries and people's movements can advance the issue of labor rights and the social clause. But all these, however, should be taken with a great degree of concern. Real issues, concerns, actions and results should not be obscured by the mere fact that the language of the NGOs has somehow found its way into the trade discussions as this may be a way of legitimizing otherwise harmful policies to defuse criticism.\textsuperscript{304} Human rights have never been discussed and equity issues are vague and tricky.\textsuperscript{305}

\textsuperscript{303} Ibid.
\textsuperscript{304} Ibid.
\textsuperscript{305} Ibid.
D. Conclusion

Trade liberalization which seriously includes the concerns of mass movements and organizations, would mean reversing the discrimination against agriculture, including drastically revising public distribution programs that give "cheap food" to urban groups at the expense of low prices for farmers.\textsuperscript{306} It would mean opening up to foreign investment, but with processes of transparency, competitive bidding, observance of environmental standards and core labor standards.\textsuperscript{307} It also means wrestling control of trade policies from the elite --- political lobbyists, crony capitalists and privileged bureaucrats. Liberalizing regimes should establish an environmentally sustainable development in a healthy economy oriented to the interests of small producers in a democratic political system. Only then would the face of the workforce be seen in the trade agenda. In the meantime, the social movement should not be trivialized by empty rhetoric and misguided sloganeering.

There is a great tendency in regional and multilateral trade forums to trivialize immediate and particular local concerns in favor of the "greater good" of the international trading system. This is further aggravated by inequitable interactions and power play between the North and the South and irreconcilable ideological and cultural differences.\textsuperscript{308} However, shared global values and concerns are possible to find, although their manifestation may be repressed by discordant

\textsuperscript{306} Harcourt, \textit{supra}, note 148.
\textsuperscript{307} Ibid.
\textsuperscript{308} Levenson-Gower, \textit{supra}, note 273.
perspectives and priorities.\textsuperscript{309} Pluralism in a global civilization is possible if values are shared and reoriented from the very core, from the very start — at the national level with grassroots participation. The Philippines has moved towards this direction. The challenge now for people's movements is to remain vigilant in utilizing the little political space that has been opened and to continue challenging the dominant and powerful political structure to further fortify and empower that space.

\textsuperscript{309} \textit{Ibid.}
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