

**Citation:** Banks, Kevin “Trade, Labor and International Governance: An Inquiry into the Potential Effectiveness of the New International Labor Law” (2011) 32:1 BJELL 45

**Abstract:** Globalization has led states and civil society groups to seek new and more effective governance in international labor law. The United States and Canada have each concluded a path-breaking, controversial and still-evolving series of international trade-related labor agreements with their trading partners. These agreements, and ongoing critiques that continue to influence their development, have been shaped by a particular model of governance. That model seeks, in the interests of effectiveness, to create a set of sharply defined rules and court-like adjudication processes directly linked to economic sanctions. The potential effectiveness of this governance model has received no systemic evaluation. This article undertakes the first such assessment. Drawing on game theory, it first sets out a stylized picture of the likely interests of industrialized and developing economy states in international labor standards. It then assesses, in light of international relations theory and empirical research into the effectiveness of international labor law and analogous regimes, the potential capacity of competing models of governance to exert required international influence. It examines in a similar manner the particular challenges for international governance posed by the political, policy and administrative complexity of raising labor standards through the necessary sustained state interventions. It concludes that the new international trade and labor agreements offer important potential gains in effectiveness for international labor law. However, in their present form these agreements are unlikely to lead to widespread improvements with respect to even the most fundamental of labor standards. They rely too heavily on a complaints adjudication model of governance. The influence of adjudication is likely to be too episodic, too uninformed, too lacking in strategic focus, too divisive and too easily contained to handle the problem of raising labor standards on its own, or even as the principal strategy within a more complete toolkit of approaches. This paper, then, points towards an alternative and more promising approach described as “Leveraged Deliberative Cooperation,” grounded in New Governance theory and applied in the United States-Cambodia Textiles Agreement.