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# The ILO: An Agency for Globalization?

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## ABSTRACT

The International Labour Organization, set up in 1919 to develop and promote labour standards, is at a crucial point. It has preached that labour is not a commodity and in 1969 received the Nobel Peace Prize. Since then it has run into trouble. This article considers how the ILO has failed to come to terms with the Global Transformation, seeing it as trying to play three roles — a standard-setter, a technical assistance agency and a knowledge generator — without developing the professional capacity to do so. The big question is whether the ILO could become an effective development agency given the changing character of work and labour in globalizing labour markets and its antiquated governance structure.

## INTRODUCTION

The International Labour Organization (ILO) was set up in 1919 to raise labour standards around the world, and in 1969 received a Nobel Peace Prize. Each June, over 3,000 delegates from 180 member countries assemble for the International Labour Conference (ILC) in Geneva, where they consider sundry labour and social policy matters for two to three weeks. In recent years, the ILO has struggled to retain relevance in the era of globalization. It has tried to become a leading development agency, and has also tried to restructure itself to become a knowledge agency, while remaining the world's labour standards setter. In spite of these efforts, the question remains whether it can succeed in becoming a credible professional body capable of forging an effective social response to globalization.

In effect, the ILO was established as an instrument to embed the economy in society, and was part of the second phase of what Karl Polanyi was to call the Great Transformation. It was designed to respond to the crisis of what some scholars have described, misleadingly, as the first period of globalization. Whereas the main challenge today is about the emerging international labour system, Polanyi's Transformation was about the forging of national markets in the pursuit of a market society, and in that context the ILO was a mechanism for shaping regulated national labour markets.

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The principal means by which it was to do this was by creating a series of Conventions (and non-binding Recommendations) on national labour practices covering industrial relations, employment policy and labour-based social security. Between 1919 and 2007, it established 188 Conventions, which could be ratified by governments of ILO member countries, and 199 Recommendations. If a country ratifies a Convention, it commits itself to binding obligations, which are regularly supervised and which can be investigated if a proper protest procedure is instigated.

Primarily, Conventions and Recommendations have been guidelines for policies dealing with relations between employers and employees. They are often loosely worded, thereby allowing governments of widely-different orientations to comply with them, or to say that they do. Governments have been able to ratify Conventions they liked, not ratify those they have not liked, and 'denounce' ('deratify') those they have come to dislike. Underneath this voluntarist framework has been commitment to a model of labourism legitimizing variants of industrial citizenship, in which social entitlements ('social rights', so-called) have been tied mainly to the performance of labour.

From the outset, the ILO was also, to some extent, a development agency, in the sense that it anticipated that, as they developed, the 'colonies' and 'primitive' economies would adopt the standards, policies and institutions forged in the 'advanced' countries. But for its first forty years, it was primarily a standard setter. Initially, it was unquestionably a European organization, guided by gentlemanly values of the time; in many respects, it has never lost its European orientation. Its first and most charismatic Director, Albert Thomas, epitomized those values. Without saying as much, the ILO stood for a model of national welfare capitalism, in which standard employees would be treated decently and protected, in return for their accepting the employers' 'right to manage' and their 'right' to make and retain profits. Above all, it stood for tripartism, espousing organized collective bargaining at national and sector levels.

In its early days — and with the exception of the USA, which stayed outside until 1934 — the ILO became accepted by governments of the leading powers because it was seen as a means of helping to redirect the forward march of the working class. After all, it was created in response to the Bolshevik revolution and amid scares about socialist protests around Europe. It was also an instrument that emerged in the wake of a cataclysmic war, when placating the disgruntlement of men returning home was regarded as essential. Since 1919, the ILO has had three pivotal moments: in 1944, when governments, employers and trade unions from the winning side in World War II issued the ILO's 'Philadelphia Declaration'; in 1969, when it was awarded the Nobel Prize; and in 1998, when it reconstituted itself via a 'Declaration of Fundamental Principles and Rights at Work'.

This article considers the ILO's recent evolution by assessing whether or not it is a functional development agency and an appropriate mechanism for responding to the disembedding phase of the ongoing Global Transformation,

which is primarily about the creation of international markets, with all the inequalities and insecurities that this is generating. Will the ILO survive to reach its centenary? And should it do so?

## THE ILO'S HISTORIC ROLE

When the ILO was set up, the motives of its founders were to arrest the march of socialism and to regulate the excesses of industrial labour markets. Albert Thomas captured this latter goal in his comments on the ILO's first decade, when he stated that market forces were not natural (ILO, 1931: xiv).

In his seminal book published in 1944, and so relevant for analysing globalization today, Karl Polanyi recognized that the ILO was set up 'to equalise conditions of competition among the nations so that trade might be liberated without danger to standards of living' (Polanyi, 1944: 27–8). However, this only applied to countries competing on industrial goods and services, not to competition between the industrialized and underdeveloped countries. It hid a latent contradiction. If countries that were potential competitors provided their firms and workers with similar subsidies and regulations, they thereby 'equalized competition', which was acceptable. But that deal hindered market entry by the colonized parts of the world. Although rhetorically committed to common standards for all countries, the ILO was, perhaps inadvertently, a means of locking in the international division of labour, to the advantage of the affluent capitalist countries.

The ILO's standards were designed for national systems of regulation, allowing for national interpretations and selection of standards to ratify or to ignore. As such, the Organization was not put in a position of favouring a particular form of welfare state capitalism. *En passant*, this is relevant to two recent preoccupations of social researchers, on 'variants of capitalism' and on the 'legal origins' of national capitalisms (see, for example, Ahlering and Deakin, 2006; Botero et al., 2004; Djankov et al., 2003; Pistor, 2005). The ILO's approach was conducive to the persistence of several variants of capitalism, the intention being to limit labour-based competition so that systems based on different legal origins could co-exist.

Initially, its functions were largely limited to setting the parameters of employer–employee relationships. It was not geared to be a technical co-operation (or assistance) agency or a knowledge agency, although it established a few publications, including the *Yearbook of Labour Statistics* in 1935, which was launched in response to unemployment and poverty in industrialized countries, and it took a lead in disseminating information on family budget surveys, setting living standards for employees. These were precursors of poverty statistics that were to preoccupy development agencies over fifty years later.

The ILO's mandate was thus to regulate national labour markets so as to give protection to employees, mainly male workers in stable full-time,

unionized jobs. A quarter of a century after it was set up, the ILO's constituents — or its leading members — issued a proclamation of principles, the Philadelphia Declaration, which includes a one-line paragraph: 'Labour is not a commodity'. It was a clarion call to take into the post-war era. By spreading standards around the world, lauding 'tripartism' and helping so-called 'backward' countries to introduce legislation along lines developed in 'advanced' countries, the ILO embodied a systematic attempt to circumvent the labour market, as an institutional device to reduce the commodity character of labour relationships.

After 1945, the ILO's Convention setting accelerated. Depicted as reducing the commodity character of labour, these actually helped to legitimize and spread 'fictitious decommodification': they made the activity of labour less like a commodity but fostered national systems in which workers' entitlements were increasingly dependent on the performance of labour and being in stable wage labour.<sup>1</sup> If decommodification is about making people less dependent on the labour market, then making them more dependent on being in wage labour for their 'social rights' is a strange way of going about it.

Along with Convention No 111 of 1958 on discrimination and two Conventions on freedom of association and collective bargaining, the Convention that most captured the ILO's ethos was the pivotal Convention on Social Security No 102 of 1952. Since it has remained the ILO's primary Convention on social protection for more than fifty years, it merits reflection. It calls on governments to introduce benefits for nine 'contingencies', all linked to employment — medical care, sickness, unemployment, old age, employment injury, family, maternity, invalidity and survivor's benefits.

The model guiding the Convention is social insurance, based on formal employment, and it uses all-too-familiar terminology, focusing on 'the breadwinner' who is clearly 'the skilled manual male employee' (Article 65[6]). The 'standard' beneficiaries are defined as 'a man with wife and two children', and — in case of any doubt — in Article 1 of the Convention we are told, 'the term "wife" means a wife who is maintained by her husband', and 'the term "widow" means a woman who was maintained by her husband at the time of his death'. Nowhere are we told of any definition of a husband, and the term 'widower' is not mentioned at all.

In short, this crucial Convention advocates and legitimizes a social protection model based on formal employment and a male breadwinner. It does not consider or advocate any universal or citizenship-based system. Countries that have ratified the Convention have continued to submit regular reports to the ILO's Committee of Experts, countries that have not ratified are still being urged to do so, and countries that do ratify it are congratulated.<sup>2</sup>

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1. On the drift to fictitious decommodification, see Standing (2007).

2. See, for example, the congratulations extended to the Government of Albania for ratifying it in 2006 (United Nations, 2006: 2).

Although some insiders have recognized the need to do so, there has been no will to revise it. At the 2001 ILC, it was declared to be one of the ILO's 'up-to-date' Conventions.

If the Philadelphia Declaration refined the ILO mission, the 1960s marked the high point of labourism and of the Organization, which led to the Nobel accolade of 1969. But during that decade, the ILO changed its character in one respect, becoming more of a development agency, partly because its standard setting was running into criticisms.<sup>3</sup> It moved into technical co-operation, setting up an International Institute for Labour Studies and a centre for labour-related training in Turin, and offering advisory services in member countries. It was moving with the times, since development aid was expanding, but it was doing so as a modern means of spreading its labourist model around the world.

Remarkably, the zenith of the ILO in 1969 coincided with the zenith of labour de-commodification around the world. The ILO itself had caught the mood of the era — and over-reached itself — when in 1964 it created Convention No 122, the Employment Policy Convention, by which ratifying countries committed themselves to ensuring 'full, productive and freely chosen employment'. Macro-economic smugness was everywhere, reflecting the view that Keynesianism meant permanent 'Full Employment' (sic) and a reduction in labour-based inequalities.<sup>4</sup> But the retreat was about to begin.

Symbolically, just after receiving the Nobel Prize, the ILO was hit by the USA stopping its contributions, in 1970, and then suspending its membership in November 1975, when the US Administration gave the mandatory two-year notice of its intention to withdraw. The strident letter sent by Henry Kissinger, US Secretary of State, to the Director-General was in fact written by Harvard Professor John Dunlop, the doyen of American industrial relations theorists.<sup>5</sup> The suspension created immediate difficulties for the ILO, since the USA, which contributed a quarter of the ILO's regular budget, had also failed to pay its huge backlog of financial dues.

The role of the USA in the ILO has always been peculiar. It only joined in 1934, long after other industrial countries, and successive US administrations have regarded most ILO Conventions as of little relevance to the USA, and have not ratified them.<sup>6</sup> However, its withdrawal was motivated not by

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3. For example, the Japanese government had been displeased by a Commission of Enquiry report on freedom of association in Japan. The then ILO Director-General, David Morse, when in retirement, boasted that he had taken the ILO into technical co-operation against opposition from the Workers, initially, and the Employers, more particularly (Fuchs, 1977).

4. As noted with respect to Convention No 102, the ILO had subscribed to the 'breadwinner' model of labourism. But the notion of 'Full Employment' was also inegalitarian, quietly ignoring the fact that women were a labour reserve, and rarely counted in measures of unemployment.

5. His 1958 book was still a standard for all students of labour relations (Dunlop, 1958).

6. The poor ratification record has left the USA open to charges of hypocrisy when chastising developing countries for their records. For many years, US representatives claimed that the

unilateralism but by four stated charges linked to US foreign policy in the Cold War era.

The first was 'erosion of tripartite representation', which, given the disappearance of tripartism in the USA since the 1970s, has a certain irony. Under the ILO's tripartite structure, all countries on its Governing Body and in the ILC have three sets of representatives (Government, Workers and Employers).<sup>7</sup> The then still-powerful US trade union confederation, the AFL-CIO, had long had a vehemently anti-communist stance and was run by the elderly anti-communist George Meany and a group of like-minded men. They argued that the fact that in Soviet bloc countries Worker and Employer representatives were answerable to their governments was contrary to the ILO's constitution. Although this had always been the case, Meany wanted the withdrawal.

The second reason given was the ILO's 'selective concern for human rights', based on the claim that it singled out some countries for criticism and not others. This was demonstrably unfair, since every year the ILO's Committee of Experts had criticized the USSR for violation of basic standards, including freedom of association and forced labour. The third reason was 'disregard for due process', the complaint being that the ILC adopted resolutions condemning some countries but not others. The fourth reason was that the Organization had become 'political'. In this, the USA had in mind a claim that the ILO's support for Palestinian workers in the Occupied Territories was anti-Israeli.

The four stated reasons were opportunistically beneficial for the US Administration, enabling it to gain credit with the trade unions and with both Israel and its Jewish voters. However, a bigger underlying reason was the ideological shift in thinking at the time. The US action coincided with the revolution in economics taking place in and around Chicago and Columbia Universities, a shift to 'supply-side economics' that cast regulations as 'market distortions', that rejected Keynesianism as inherently inflationary and the welfare state as generating behavioural 'dependency'. For those subscribing to the new model, the ILO was a symbol of an increasingly discredited way of thinking.

The US suspension coincided with the first and most gruesome experiment in supply-side economics, following Pinochet's coup in Chile in 1973. The subsequent suppression of trade unions and the assassination of trade unionists there, along with support for the Pinochet regime by Kissinger and

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USA could not ratify Conventions because it had a federal system. That claim was later abandoned. Other 'federal' countries, such as Australia and Canada, have managed to ratify many Conventions.

7. Throughout this article, the capitalized Workers and Employers refer to the bodies purporting to represent workers and employers on the ILO's Governing Body and at the ILC. In practice, they have represented trade union confederations and employer associations.

several influential US economists, were widely known.<sup>8</sup> The ILO was constitutionally obliged to take up the labour abuses that were taking place in Chile, as the country's previous governments had ratified major ILO Conventions. The atmosphere became highly charged politically.

The full story has yet to be told. However, the period marked a major break with the preceding three decades. When Jimmy Carter became US President in 1976, there was no immediate US return to the ILO. One interpretation is that he wanted to retain the support of the AFL-CIO in his pursuit of a treaty to turn over the Panama Canal to Panama. Taking up the ILO issue might have earned Meany's wrath. When the time came for actual withdrawal, some observers predicted that the ILO would die if the US Administration went through with it.<sup>9</sup> It did; no death occurred. But the US action traumatized the agency, and in a sense it has never recovered.<sup>10</sup>

Although the USA rejoined in 1980, it did so only after securing concessions and an enlarged role for US nationals in senior positions.<sup>11</sup> The USA used its period outside the Organization to engineer a series of internal reforms that weakened the ILO's moral position and technical capacity, and allowed the body to become merely a weed of opposition to the supply-side economic revolution that was marking the first phase of the Global Transformation.

### **THE ILO 'DISEMBEDDED'**

For the ILO, the remainder of the 1970s and the 1980s constituted a period of intellectual shrinkage, as it floundered in the face of the initial phase of the Global Transformation that has been called globalization. Two concepts or slogans became the focal points — 'basic needs' and 'the informal sector'.

Following receipt of its Nobel Prize in 1969, the ILO had launched the grandiosely-named World Employment Programme (WEP) at its fiftieth anniversary conference, with Pope Paul VI among the invited speakers. The ILO's long-serving Director-General, the American David Morse, presented the WEP and then promptly retired. It seemed a new dawn. But there was

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8. Of course, Kissinger's support for the coup stood oddly with his second stated reason for US withdrawal.

9. See *Time Magazine* (1977). A factor was that Carter felt he needed Meany's support for electoral reasons. Safely in retirement, David Morse, as a former ILO Director-General and an American citizen, later gave testimony for the Truman Library in which he highlighted the political motives of the US Government in this period (Fuchs, 1977).

10. Symbolically, one of the first acts of Juan Somavia, on being elected Director-General in 1998, was to organize a meeting in Harvard to consider ways of restructuring the ILO. The invited keynote speakers were none other than John Dunlop and Jeffrey Sachs, the latter having been a leading US advocate of 'shock therapy' (the antithesis of the ILO approach) that had devastating effects in Russia and eastern Europe in the 1990s.

11. For a strident defence of the US withdrawal, conveniently ignoring the USA's non-ratification record, and claiming that the return was 'premature', see Galenson (1981).

scarcely any money to do anything grandiose. When the US stopped paying its contributions (25 per cent of the ILO's primary budget) in November 1970, the fledgling WEP had to look for alternative sources of funding, so-called 'soft money'. The timing was opportune. Various agencies and governments (notably in 'northern' Europe) were looking for ways of confronting the Chicago law-and-economics school that was pushing for a market society. Some saw the ILO as a potential avenue for progressive thinking, while others just had surplus funds for innovative projects.<sup>12</sup>

Some of those who had been involved in its planning and administration hailed the ILO's World Employment Conference in 1976 as a great triumph. Heads of State, religious leaders such as the Pope and many prominent social thinkers lined up to attend the three-week event. It did undoubtedly mark a certain kind of triumph, since it showed the ILO trying to become a development agency, rather than one dealing with purely labour matters, such as labour law, labour regulations and the interests of employers and employees within formal labour markets.

Interviewed in *Development and Change* in 2005, Louis Emmerij, the WEP director from 1971 until his resignation in 1976, claimed that the WEP originated with the 'discovery' in the late 1960s that economic growth did not necessarily lead to 'an improved employment situation, poverty reduction or less unequal income distribution' (Saith, 2005: 1168).<sup>13</sup> The WEP came up with the 'basic needs' approach, which was derived (according to Emmerij) from Maslow's work in the 1940s, fleshed out by theoretical and empirical work on basic needs in the WEP, in the Bariloche Project in Latin America and in the Dag Hammarskjöld Foundation. Emmerij recalled that when in June 1976 the WEP presented a basic needs strategy, based on economic growth of 6 per cent coupled with 'redistribution from growth', 'it was greeted with enthusiasm', except by 'the American tripartite delegation and some of the employer representatives from the rich countries' (ibid.: 1169).

Emmerij was a figure for the time; one could not imagine him having been appointed a decade earlier, or a decade later. He took a role in pushing the ILO towards being a development agency dealing with — or talking about — poverty. While he and his associates were in senior positions, there was little analysis of labour issues per se. 'Employment is not an end objective', stated Emmerij, looking back wistfully in 2005, before adding, 'Employment was both a means and an end' (ibid.: 1168, 1169). Emmerij attributed the WEP's defensiveness after he left to the US withdrawal, but he argued, with some justification, that the basic needs approach led to the UNDP's human development approach of Mahbub Ul Haq. As such, he saw the

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12. Ironically, the WEP received its first block of 'soft money' to do work on population issues, from the United Nations Population Fund (UNFPA), with its emphasis on fertility control.
  13. Emmerij had made contributions in the spheres of education and development policy, and went on to take senior positions in the academic world and later in the OECD and Inter-American Development Bank.



'defeat' of the WEP as temporary in that the ideas put forward within it grew outside.

An alternative reading of those events would be that the basic needs approach was a false road to take in that it diverted the ILO from confronting the real crisis, that of the model of industrial labourism. Regrettably, the Organization's reaction to the populism of basic needs was to institutionalize the WEP, which stumbled on under a series of directors of the Employment Department who, with one exception, had no relevant higher-level professional qualifications or experience of work in developing countries.<sup>14</sup>

Desiring to move away from its flirtation with basic needs, and the more radical thinking whirling around at the time, the ILO turned to its new and safer hobby horse, the informal sector. Although this concept had originated outside the ILO, and was associated with the doctoral research of Keith Hart in Ghana, the ILO adopted and embellished it via a series of 'country reports', starting with Kenya in 1972.<sup>15</sup> Within the ILO, animated seminars took place on the appropriateness of the concept, on dualisms in general and on how to measure the informal sector.

This is not the place to go into those debates. Suffice it to state that they distracted attention from an intellectual response to the World Bank's structural adjustment strategies, which were a repudiation of the ILO's perspective, particularly in the form they took in the 1980s when the so-called Washington Consensus came into being. The language of deregulation took hold, even though in the case of the labour market, it was a serious misnomer, since what the Bank and others in its wake were proposing was a dismantling of protective regulations and a substitution of pro-individualistic, pro-market regulations. In the last quarter of the twentieth century, there were more new labour market regulations introduced around the world than in any comparable period in history. And the ILO had little to contribute, other than to express unease about the direction of the reforms.

This was a critical moment for the Organization, for it had to decide whether or not to take a stand on the Bank's pro-market positions on labour and social policies. The ILO did not respond. One reason may have been a lack of confidence at senior level, which was associated with a view that the capacities of the professionals in the Bank, IMF and OECD were superior.<sup>16</sup>

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14. The immediate successor to Emmerij had been a librarian. Ironically, when the Employment Department was converted into an Employment Sector in 1999 by a new Director-General, who had secured his election with support from opponents of 'neoliberalism', he appointed as Director the head of the Employers' Department, known for his neoliberal views. From being the most developmental and non-labourist part of the ILO, the Sector became dominated by an employers' agenda.

15. This was led by Hans Singer and Richard Jolly of the Institute of Development Studies at Sussex University; see ILO (1972).

16. Significantly, when in 1990 the Director-General appointed a new director of the Employment Department, he chose an outsider, a middle-level Finnish civil servant, who had never worked in developing countries.

Another was that the ILO wanted to obtain funds from the Bank for any project they could design for the purpose.

As far as the notion of the informal sector was concerned, the confusion about definitions and measurement contributed to the confusion about the appropriate policy stance towards it. Should it be subject to 'lighter' regulation than the 'formal sector'? Should protective regulations be weakened for the 'formal sector' so as to facilitate its growth and absorption of at least part of the informal? Such questions were debated *ad infinitum*, to little effect.

In the late 1980s, the ILO gained some new legitimacy — or value — for those supporting a global market society. It became a modest instrument in the disintegration of the Soviet model of state socialism, while being given a role in articulating policies to assist newly-designated 'vulnerable groups' hurt by labour market or economic reforms. While these agendas were being forged, the ILO was constitutionally unable to develop a coherent response to the supply-side economic model that was marking the emergence of the disembedded phase of the Global Transformation. The new — partial and temporary — legitimacy of the ILO stemmed from the realization that the Cold War had been won and that it was merely a matter of time before the Soviet system unravelled. For the ILO as an institution, the pivotal country was Poland, where *Solidarnosc* flourished in the shipyards of Gdansk. The Workers' Group on the ILO Governing Body lobbied on behalf of Lech Welesa, and later he repaid them by coming in triumph to speak as a special guest of the ILC.

For several US administrations and for European 'democracies', the ILO suddenly became a useful tool against the crumbling regimes of eastern Europe. It had a difficult balancing act: it was a small player among heavily funded major players, and in the end it resorted to weak efforts to install elements of its old model of labourism throughout the region, including vain attempts to launch tripartite bargaining systems and social security systems based on imported models from such countries as France, Canada, Sweden and the UK. The main problem was that it was promoting measures opposed by the international financial agencies. As the World Bank had funds for technical assistance projects, and as it was the dominant voice inside the so-called G24 that dispensed more funds, the ILO was caught in a bind. It wanted to attract money to boost its technical programmes. If it were critical of the Bank on labour policy, it would jeopardize access to selective funds. It preferred to be prudent. A brief attempt to criticize the Bank's pensions policy was hastily stifled.

The result was expediency and a loss of voice in the international debates around the nature of reform in a region being devastated by a supply-side economics experiment. Shock therapy had terrible consequences, particularly in the countries of the former Soviet Union, which were rapidly underdeveloping. Dismantling the state social protection system before another could be put in place meant mass impoverishment, resulting in several million deaths.

Male life expectancy in Russia dropped from sixty-four to fifty-eight. The ILO's voice was muted throughout this human tragedy.

### **THE DECLARATION: FLOOR OR CEILING?**

While the transition country issues gave the ILO some renewed energy, the main struggle lay elsewhere. In the 1990s, the hegemony of supply-side economics relegated statutory protective regulations and 'standards' to a position of some disdain. Criticism came from both the populist left and the right. The latter were opposed to protective regulations in general, claiming they were market distortions and impediments to economic growth. The populist left claimed they accentuated social and economic dualism. Social democratic economists inside the ILO, and outside it, argued that regulations were good for growth (primarily by inducing employee co-operation and higher productivity) and that they could be modified to extend protection to 'the informal sector'. There was no meeting of minds.

The crunch had started in the early 1980s, when the labour market flexibility debate began, with claims that western Europe, in particular, was suffering from 'Eurosclerosis'. The argument was that rising unemployment and declining 'competitiveness' were due to Europe's social model based on protective regulations and institutions, such as unions and collective bargaining. This was an attack on the ILO's *raison d'être*. The reaction inside the Organization was an early intimation of the mistakes to come. Initially, senior officials dismissed the claims as a passing phase. Then, when ILO researchers came up with evidence of the adverse effects of the new pro-market policies, efforts were made to keep it quiet to avoid alienating key governments, especially on trends such as those arising from 'Thatcherite' experiments.<sup>17</sup>

By the time it was clear that the labour market flexibility issue would not go away, the ILO had lost credibility in the debate, which was being led by the World Bank, IMF and OECD, among others. Later it tried to adapt Conventions to the emerging realities, with limited success. Although they were years in the making, several have relevance for the emerging global labour system. Before coming to them, however, it is worth noting that the pursuit of flexible labour relations at the centre of emerging labour markets all over the world posed a particular difficulty for the ILO — that of identifying employers and employees. Unless these are clear, labour law and regulation become hard to apply. Flexibility has meant a growing fuzziness, with labour externalization and a global resurgence of labour broking, employment 'agencies' and labour sub-contracting. ILO Conventions began to look inapplicable for rather a lot of work statuses.

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17. The author co-ordinated and wrote some of a series of country studies, covering Austria, Finland, the Netherlands, Italy, Spain, Sweden and the UK.

One reaction was the Homework Convention No 177, eventually passed in 1996, which tried to extend (a key word of the modern ILO) labour standards to home workers labouring to the order of somebody else. As of 2008, that Convention has been ratified by only four countries, all from Europe. It is, effectively, a dead letter. It also failed to address the more general issue of unpaid care work.

Another significant change — because it was in tune with the privatization agenda of supply-side economics — was the Private Employment Agency Convention, passed in 1997. Under this, for the first time and contrary to its long-held position, the ILO accepted the legitimacy of private employment exchanges, having previously held that this function was the responsibility of the state, as befitted its adherence to the social democratic development model. The Convention was recognition of the increasingly indirect nature of labour relations in the emerging labour system. It was a case of the ILO making a concession, not of advancing its old agenda.

Even more significantly, the ILO tried to confront a central challenge to its labourist model, the distinction between employment contracts and commercial contracts, by trying to produce a Convention on Contract Labour. It was a sorry affair. This was an effort to bring contract workers under the umbrella of labour law by redefining them as quasi-employees. The ruse was to focus on situations of what the drafters called ‘disguised employment’.<sup>18</sup> The Employers resolutely resisted this ruse, and succeeded in killing the draft Convention, the first occasion in the ILO’s eighty years when the standard-setting machinery failed. It marked, symbolically, the end of the road of employment regulation.

While part of the ILO was trying to adjust to globalizing labour markets, the main outcome of the criticisms of regulations embodied in the Conventions was the Declaration on Fundamental Principles and Rights at Work, 1998. This was the personal creation of the ILO’s then Director-General, Michel Hansenne, a Belgian Christian Democrat who, as a government minister, had been involved in European debates on labour market flexibility and ‘Eurosclerosis’. His self-perceived ‘mission’ was to save labour regulations and standards, which meant accepting that the array of complex Conventions built up by the ILO since its inception needed prioritizing. Accordingly, Hansenne devised a Declaration by which all member countries, and their employer and union bodies, were constitutionally required to commit to eight core Conventions covering freedom of association, the right to collective bargaining, the elimination of forced and compulsory labour, the abolition

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18. In the Recommendation (Art. 4b) linked to the draft Convention, this was defined as ‘when the employer treats an individual as other than an employee in a manner that hides his or her true legal status’. This was distinguished from ‘objectively ambiguous’ employment relationships, where services are provided amidst doubt about the nature of the relationship, and the ‘triangular employment relationship’, where an agency or broker is an intermediary. The distinction between ‘disguised’ and ‘ambiguous’ is supposed to depend on the employer’s ‘intention’. Determining that would be a legal quagmire.

of the worst forms of child labour, and elimination of discrimination in the workplace.

Negotiations around the Declaration were tortuous. However, it was unanimously accepted. A question since then has been: is it a floor of labour principles or a ceiling? All one can say is that at a time when developing countries were worrying about the possibility of a social clause being included in trade deals, it took the heat out of the debate on standards, and helped give the ILO a more legitimate role in global forums; it gave the impression that it was a charter against 'sweatshops' and 'free riders', and was thus to be welcomed by multinational capital, which found such 'fundamental' principles rather easy to apply, and by civil society groups who saw the Declaration in isolation.

The Declaration corresponded with a neoliberal economic view of protective regulations, which has not been understood by many of those who ritually cite support for it while opposing neoliberalism. The four core standards enshrined in the Declaration are 'negative rights' that lie outside the sphere of social or work rights. Banning 'the worst forms of child labour', banning 'forced labour', campaigning against gender discrimination and defending freedom of association are matters of common and civil law. They do not constitute a strategy or a progressive agenda.

It is doubtful whether the Declaration has actually had any positive effect, other than to bring in millions of dollars to the ILO from the US Administration to support it. Governments are obliged to make a commitment to the relevant Conventions, but immediate application of them has not been enforced.<sup>19</sup> In a sense, it is akin to the apocryphal prayer of St. Augustine, 'Lord, give me chastity. . . but not yet!'

The Declaration further weakened the ILO by making even the core 'standards' subject only to monitoring by means that were 'strictly promotional', that could include offers by the ILO of technical assistance to improve implementation. This is what the Employers and the US Administration had wanted. The latter hailed the Declaration as 'a big step forward' and the AFL-CIO President described it as 'an historic breakthrough' (Moynihan, 1998). Another interpretation is that it was a small breakthrough for those wishing to see a global market society without adherence to a web of protective regulations. In place of a 'social clause' in the World Trade Organization, which would have been subject to binding arbitration, the Declaration explicitly ruled out trade sanctions for breach of the fundamental rights specified in it. Soft law was replacing binding law.

Besides not focusing on 'positive' rights, the Declaration's selection of a small number of standards as 'core' and 'fundamental' was inconsistent with the principle established by the 1948 Universal Declaration of Human Rights that rights are indivisible and interdependent. By focusing on civil

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19. Indeed, it is not enforceable, although the burdensome reporting procedures may have prompted more ratifications of the so-called core Conventions.

rights, the Declaration could also be said to contribute to the neglect of economic rights, such as economic security, work safety and health, maternity provision, pensions and disability benefits, as several observers have lamented (for example, Alston and Heenan, 2004; DiMatteo et al., 2003). This had enormous implications. Through its body of Conventions and Recommendations created over the previous eighty years, the ILO had built a model of social justice that had not prioritized aspects based on perceived political convenience. The various ‘social rights’ were part of an interdependent whole. The Declaration turned the ILO away from that position. It removed the transformative character of international labour standards (Alston and Heenan, 2004).

Emphasis on a few core standards left space for moves to self-regulation, notably in the form of voluntary codes of conduct and CSR (Corporate Social Responsibility) initiatives by employers, topped by the UN’s Global Compact. The ILO has been little involved in the development of these, but has slipped into endorsing them by association rather than through constructive debate and formal decisions. Scarcely noted, they do not commit employers to abide by ILO Conventions ratified in the countries in which they operate,<sup>20</sup> and very few make reference to ILO Conventions. These codes are a further way by which the traditional ILO regime has been marginalized.

So, the Declaration glossed over a crisis over the role of labour standards in development and trade. As long as the ILO could secure mention of its Declaration in global reports, and as long as vague commitments satisfied policy makers and bureaucrats, then the tension was abated. However, all this signified a further erosion of respect for the organization.

An instance was when the ILO was ignored by the European Community in connection with the UK Government’s refusal to allow civil servants employed at its GCHQ (Government Communications Headquarters) to remain in a trade union. The ILO Committee on Freedom of Association had concluded that it was a violation of the right to belong to a union under Article 2 of ILO Convention No 87 (later to be designated a core Convention under the ILO’s Declaration). The European Commission of Human Rights simply ignored that by denying that the UK’s action was a violation of Article 11 of the European Convention for the Protection of Human Rights and Fundamental Freedoms. The ILO, the body with the mandate to set and monitor international labour standards, was effectively sidelined.

Similarly, the European Court of Justice has shown no willingness to take account of the ILO Constitution or its Declaration of 1998 as part of European law, and the European Court of Human Rights seems to have established the right *not* to associate, which is inconsistent with ILO principles and the

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20. After 1999, the ILO’s work on CSR was delegated to the Employers’ Department reporting to the International Organization of Employers through the Employment Sector, headed by a representative of the Employers. This was contrary to the ILO’s principle of tripartism, and hindered critical evaluations of CSR initiatives.

Declaration signed by all EU member states (O'Higgins, 2002). The ILO has done nothing to try to oblige its Members and the European Commission to reverse this, and has no power to do so.

### **FROM 'EQUALITY' TO 'EQUITY'**

Over recent decades the ILO quietly ceased to be an international body attempting to redress structural inequality and became one promoting employment *equity*. In its early years, building up social rights meant a transfer of income from capital to workers, since the former was expected to pay for the social benefits, such as sick leave, unemployment benefits and pensions, through insurance contributions and direct taxation, as well as work safety mechanisms. This was a feasible strategy in a national labour model based on closed economies. But the assumptions of that model do not apply in the Global Transformation era. A growing majority of workers do not have the type of employment that yields such social entitlements, and the ILO has been unable to recommend alternative mechanisms without being blocked by its Governing Body.

Whatever the reason, the Organization focused increasingly on horizontal rather than vertical redistribution, on matters such as gender equity. This shift was what the Employers wanted, and it was convenient for an ILO administration that was under pressure. It is easier to make worthy statements about the need to treat men and women 'equally' than to call for the redistribution of income from capital to labour, or even to argue that wage differentials between 'white collar' and 'blue collar' employees should be reduced.

The main ILO instruments in the push for gender equity are the Discrimination (Employment and Occupation) Convention No 111 of 1958, and the Equal Remuneration Convention No 100 of 1951. Convention No 111, addressing employment discrimination based on gender, age and other personal characteristics, is one of the most ratified of all Conventions, by 158 countries. Labour lawyers have approved. Meanwhile, the world's functional distribution of income has been growing more and more unequal. Convention No 111 promotes 'equality as consistency', 'equality of opportunity' and 'equality of the sharing of "common humanity"', none of which are about substantive material equality, whatever distinguished labour lawyers might claim (see Hepple, 2000). They are about procedural justice or rights, not outcome rights. The Convention could be used to justify 'affirmative action' in favour of a group that has faced discrimination in the past, but it could not be used to criticize legislation strengthening the advantages of managers or high-income employees relative to the 'unskilled'.

This emphasis on equity and procedural justice influenced the Declaration and fed into the sloganizing around the notion of 'decent work', which has come to dominate all ILO pronouncements.

### ‘DECENT WORK’ — SLOGAN OR NEW VISION?

In 1999, the new ILO Director-General introduced the notion of ‘decent work’ as his grand theme. As a member of his ‘transition team’, I can claim to have been the instigator of one of the two words — ‘work’ — which he pushed as an alternative to ‘labour’, recognizing the need to embrace all forms of work, not just those covered by labour and employment.<sup>21</sup> The other word — ‘decent’ — was one that former Directors-General had used, but not as a mantra. From the outset, the trouble with the term was its inherent vagueness. To some of those involved, that was seen as an advantage. To others, it left too much room for flabby platitudes.

This timidity and lack of coherence were demonstrated when efforts made to measure decent work were disparaged and discouraged. Opposition was led by the Employers on the Governing Body, notably the head of the International Organization of Employers (IOE) in Geneva. But he had an ally in the Workers’ Department headed by an old-style US trade unionist. Senior ILO officials were in any case disinclined to go down the measurement road. They felt reasonably comfortable with à-la-carte menus of proxy indicators (Anker et al., 2003; Ghai, 2002), but even then, no institutional position was taken, merely acceptance that it was an interesting area of debate. The one comprehensive attempt to measure decent work and present indexes for over 100 countries (ILO, 2004) was hastily shelved when attacked by the Employers, backed by the Workers’ Department, without discussion.<sup>22</sup>

The way ‘decent work’ has been used by the ILO leadership has reflected an overwhelming desire to reassert the Organization’s relevance in what is euphemistically called ‘the international community’. It was intended to connect with debates both within and outside the UN on poverty, globalization and the Millennium Development Goals.<sup>23</sup> At an abstract level, everybody could subscribe to the implicit definition of ‘decent labour’. If a platitude is defined as a statement with which one could not imagine anybody disagreeing, then a glance through the official ILO documents in the early years of the twenty-first century would reveal plenty of examples, this one amongst them.

Within the ILO, the main objective became to legitimize the term. The Director-General has scattered almost every speech and press release with the words, while numerous ILO publications have added something like ‘and decent work’ to their titles. The vagueness of the notion has not been helped

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21. The reasons for choosing ‘work’ rather than ‘labour’ were elaborated in two books written at the time (Standing, 1999, 2002).
  22. For this report, data were collected for over 700 variables for 120 countries, resulting in full indexes for 99 countries. There was no internal critique. The claim was merely that measurement was unacceptable.
  23. In 2007, the ILO was asked to come up with four indicators of decent work to be used in assessing national progress towards that nebulous goal. At the time of writing, it was still considering the issue.



by the conventional reference to rights, values, fairness and the supremely vague 'social dialogue'. More tellingly, there has been no effort to evaluate mainstream labour and social policies by 'decent work' criteria. For example, is the global trend towards 'workfare' consistent with the promotion of 'decent work'? Is the global trend towards means-tested social assistance consistent with it?<sup>24</sup> Is China's labour law reform consistent with it?

There was also an attempt to present the ILO's new approach as non-ideological. The Director-General, in a Presidential Fellows speech to the World Bank in June 2004, spoke about the ILO's response to globalization and the multi-million dollar report it had just produced (World Commission, 2004), saying, 'This is not a debate about the right economic policy. The right economic policy is the one that solves the problems. That's the right economic policy. It's not an ideological [sic]; it's the one that solves the problems.'<sup>25</sup> Of course, the issues are ideological, as the ILO's founders would have understood. The organization has retreated into a non-confrontational mode that sidelines equality while espousing the vagueness of 'decency', 'fairness' and 'dialogue'. The trouble is that if the ILO cannot address, and does not wish to address, the ideological issues and the need to escape from the values of labourism, it is unclear what role it can play. It certainly did not address them in its hugely expensive report, *A Fair Globalization* (World Commission, 2004) which predictably emphasized the Declaration rather than the corpus of ILO work on standards. It will have to focus on the policy and institutional options more professionally if it is to revive. Does it have the technical capacity to help design and operate the relevant policies? To a large extent, the answer to that depends on the Organization's staffing policy. Here, traditional problems have been worsened by an historic error.

## GOVERNANCE, STAFFING AND THE HISTORIC ERROR

It is impossible to assess the ILO without reflecting on its governance and its staffing policy. With regard to the latter, one can pass quickly by. Ironically, given its functions, it has been a rather poor role model in that regard. It has long operated a dual labour system, with systematic casualization, in which many junior staff (and some senior) are placed on temporary 'short-term' contracts, often followed by many more, with some being obliged to take breaks from employment in order to ensure that they do not obtain entitlements to various benefits.

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24. At considerable expense, the ILO launched a 'campaign' to 'extend social protection'. At the public launch, which I attended, when asked whether a shift to a means-tested approach constituted 'extension', the Director-General dismissed the question as 'a detail'.

25. Wording as in original, taken from verbatim transcript of speech, questions and responses (Somavia, 2004: 15). In answers to questions from the floor, the ILO Director-General stated that he did not know what a structural adjustment loan was (ibid.: 39–40).

A more systematic problem relates to the governance structure and its relationship to staffing policy.<sup>26</sup> In the last decade of the twentieth century, just when support was building in favour of turning the ILO into a global body for orchestrating a social response to globalization and the 'market society', those responsible for its governance made two strategic decisions, one of which deserves to be called the historic error that may condemn the Organization to a petty future as a progressive force. Ironically, the error was made by a Director-General who prided himself on representing the forces of change.

Throughout the ILO's history, Directors-General have appointed a few officials as a favour to some interest, country or friend, a tendency that is certainly not unique to the ILO.<sup>27</sup> This has contributed to the lack of expertise noted earlier, and a related loss of credibility *vis-à-vis* other agencies. But from 1999 onwards, the problem was compounded by a weakening of the governance function, when the new Director-General chose to appoint representatives of factions on the Governing Body (GB) as 'line managers', in charge of specific technical areas. This profoundly altered the relationship between the Secretariat and the GB, which could only weaken the independence of both. It was a model no management expert would support.<sup>28</sup>

Thus, an Employers' representative was appointed Executive Director in charge of the Employment Sector, dealing with all employment and labour market policies. He was put in the position of deciding where to focus, which policies to promote, and which to downgrade or ignore, which people to select for the various tasks and for writing reports on key subjects, and which experts to appoint as external collaborators and which to block. The individual selected, an ex-official from Finland's employer association, had never worked in developing countries and was not an economist, even though the Employment Sector consisted mainly of economists and was devoted to economic and social policies in developing countries. But the crucial error was to politicize the position, by appointing someone who was ultimately responsible to his backing interests, the Employers on the Governing Body.

Meanwhile, a Workers' representative was appointed Executive Director in charge of the Declaration, labour standards, child labour and discrimination. He too came from Finland, having been a union official before joining the Workers' group on the GB. Thus, he too was answerable to the group that

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26. Some former officials have regarded the ILO governance system as a good model for the globalization era; see Griffin (2003); for a critique of that position, see Standing (2004).
  27. Although scarcely compatible with modern objective personnel practices, many senior appointments can be made at the personal discretion of the Director-General. There is no formal process of competition or necessity to satisfy any professional competence criteria. This has contributed to a very high turnover of senior officials in recent years, which is extremely expensive.
  28. Previously there had been a Deputy Director-General and Assistant Directors-General, none of whom acted as department managers. In the new structure, there were a small (variable) number of Executive Directors immediately subordinate to the Director-General.

secured his appointment. Again, it is not the qualities of the person that are at issue, but the muddling of roles implied by the decision. To further complicate matters, a representative of the international trade unions was appointed as head of the Director-General's office (CABINET). He later went on to take over as Secretary-General of the International Confederation of Free Trade Unions (ICFTU). A former African trade unionist was appointed as Executive Director in charge of Social Protection, while someone who had been working in the US White House was appointed as Executive Director of Social Dialogue. None of these had career experience in the ILO.

This politicizing of internal management had a potentially corrosive effect on the professionalism, objectivity and general competence of the Organization. It trickled down, with lower-level appointments based less on professional competence than on contacts and factional allegiances.

The second strategic decision was cemented by that historic error of governance restructuring. In the late 1990s, when the new Director-General was campaigning for election and when his 'transition team' was preparing plans for the new structure, it was painfully obvious that the GB and even the Secretariat were not in tune with the world of *work*, merely representing a minority of workers (unionized employees) and a minority of employers. One hope was that the GB could be broadened to appeal to relevant non-governmental organizations (NGOs), such as SEWA (Self-Employed Women's Association) of India and civil society groups representing migrants, people with disabilities and informal workers. Neither the Employers (represented by the IOE) nor the unions were representative of all employers or workers.<sup>29</sup> Furthermore, the average age of members of the GB was high and rising, and their faces were all too familiar — as well as overwhelmingly male.

Efforts to broaden the representativeness of the ILO failed dismally. The very idea encouraged an unholy alliance between the Workers and Employers in the GB and inside the ILO, where each had a quasi-independent Department. Funds allocated for 'employers' activities' and for 'workers' activities' were generous, and were subject to the lightest of monitoring. The two Departments had a vested interest in being united in obtaining more funds for their respective activities; they were also united in opposing any broadening of ILO representativeness by inclusion of bodies outside the traditional employer-employee nexus. It was a recipe for inertia and recidivism when it came to broadening technical work and to building a professional profile around decent work, and provides another reason for doubting the ILO's ability to become an effective development agency in the globalization era.

Another erroneous decision was made in 1999, which was scarcely noticed. The ILO's Industrial Relations Department was abolished. In its absence, the ILO fell into a trap of using the vague, if not vacuous, term of 'social

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29. The distinguished Indian activist, Ela Bhatt, in an essay on the ILO's seventy-fifth anniversary, noted that in effect the ILO did not represent over 90 per cent of Indian workers (Bhatt, 1994: 44).

dialogue' for its new Sector dealing with what had hitherto been covered by industrial relations and collective bargaining, time-honoured terms steeped in procedural and substantive content. Social dialogue was a term adopted from the OECD. Whereas industrial relations had a set of traditions based on collective bargaining and corporatist, tripartite institutions, with the twin objectives of equalizing bargaining power between employers and employees and promoting collective social rights, the new notion of social dialogue did not imply any constitutional right of association or right of collective bargaining. It merely encouraged 'dialogue'.

One objective was to make a gesture to NGOs, to imply they would be given a role in the new framework. But the Employers and the Workers were given control of the Social Dialogue Sector, headed by an ex-official from the US White House and an official from the Irish trade union confederation. The language of adversarial bargaining was replaced by the non-threatening language of social dialogue. Meanwhile, the ILO embraced 'soft labour law' being promulgated in 'codes of conduct', CSR and consumer labelling. The drift to soft law was not inevitable. A robust defence of collective and societal bargaining might have been possible. However, we will never know whether it would have succeeded, because it was not tried. The significance of this restructuring should not be underestimated, for industrial relations were at the heart of the ILO model.

#### **FROM PROFESSIONAL SECRETARIAT TO POPULIST GADFLY**

The ILO has long experienced tension over 'intellectual' activity, and suffers from an institutional 'anti-intellectualism', in that its senior administrative staff and members of the GB distrust innovative thinking. The historic error mentioned above has made this situation worse.

Research on any complex labour and development issue requires a high level of professionalism and long-term effort, but inside the ILO there is impatience about research and an in-built 'short-termism' dictated partly by the fact that its Programme and Budget operates on two-yearly cycles. Given a tendency for leading governments to demand a 'zero-growth' regular budget, and for each Programme and Budget (submitted for GB approval) to propose extra items on the agenda, some of which are demanded by the Employers, some by the Workers, there has almost inevitably been a pattern of 'salami slicing', with numerous items suffering chronically insufficient resources, and a disconnect between their stated aims and the resources provided to carry them out. Besides having tiny teams covering huge topics, the tightening of the regular budget tilted the balance of work towards technical assistance, partly because of the rise in the proportion of 'soft' money raised for projects funded by donors.

After 1999, these problems were intensified by the new Director-General's desire to make the ILO more of a knowledge agency and central to the restructuring of the UN system. He added the theme of decent work, and

diverted funds for the Declaration and his costly World Commission on the Social Dimension of Globalization, on which a secretariat and senior officials worked for several years. He also enlarged his Cabinet.

The reallocations had an inevitable opportunity cost. Quite simply, as the ILO tried to be a more significant development agency and a more significant knowledge agency, resources and intellectual energy devoted to standards were squeezed. It is a matter of opinion which of the three strategies would have been appropriate. The trouble was that the tension went unresolved. With a static regular budget, trying to do all three at the same time was bound to have adverse consequences for the quality of them all.

Standard-setting work suffered, not helped by the fact that the enlarged Cabinet consisted mainly of outsiders and officials with no tradition of working on standards. Meanwhile, the number of Conventions and Recommendations has continued to grow, and, almost by definition, the number of ratifications has risen. With more member countries, there are over 7,000 ratifications now in place, covering a vast array of subjects, many of them highly complex. More ratifications require more monitoring, necessitating more staff and resources. But capacity has been over-stretched, with over 2,000 reports requested from governments every year. Knowledgeable observers have worried openly about a decline in the quality of new Conventions and Recommendations, which have 'proved, in the main, impracticable' and 'many important Conventions' that were 'not being monitored for periods of up to four or even five years' (Simpson, 2004).<sup>30</sup> To make matters more delicate, there has been a decline in the completion rate of the reports, and a declining rate of examination of them by the Committee of Experts. To compound the problem, the focus on specific vulnerabilities has required more detail in the Conventions and Recommendations, implying a need for careful analysis. The greater detail has been driven in part by pressure on the GB from Workers, often supported by governments in European Union countries, which have wanted ILO standards adjusted to the higher level being established by the European Commission.

One consequence has been that new Conventions have become less attuned to the conditions in developing countries, a tendency accentuated by the fact that many delegations to the ILC from developing countries are relatively unqualified and inexperienced. This has led to a decline in ratifications of such Conventions, and thus lower legitimacy. EU governments and, to a lesser extent, those with other regional governance systems, wished to see international standards consistent with their emerging codes. However, in the globalization era labour costs are part of trade competition. ILO Conventions are potentially a means of limiting labour cost differences between countries, but only if they are uniform, ratified and implemented and effectively monitored and enforced. The process in reality was becoming self-defeating —

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30. Simpson was director of the Director-General's office in 1988–91, and director of several technical departments after that.

more complexity, lower capacity to monitor, fewer ratifications, and lower respect for international labour standards.

Added to all that, flexibility clauses in key Conventions allowed for a two-tier ratification process that outsiders have failed to note, making 'standards' a misnomer.<sup>31</sup> There has also been a lag in the updating of old Conventions and a failure to add Conventions that relate to the new realities of the global labour market. In 2001, an ILO report concluded that only seventy-one of its Conventions were 'up-to-date', fifty-four were deemed to be out-of-date and twenty-four were set to be 'revised'. But little has been done, while some officials have argued that the code is essentially complete.<sup>32</sup>

The situation was not helped by the fact that ILO technical departments were largely divorced from standard-setting. While officials try to suggest that all is integrated, in reality the departments have different objectives and priorities, with much being driven by familiar 'supply-side' considerations, that is, by what they manage to have funded, often from bilateral donors, including national development agencies such as the UK's Department for International Development and the United States Agency for International Development. This is a profound change from having a contributions rule and then a budgetary process decided by a tripartite, multinational vote. By such means, the USA, in particular, has been able to influence the ILO's agenda to a much greater extent than used to be the case, through funding rather than as a result of ILO governance decisions. Since national development agencies have agreed to go along with World Bank policies (notably through Poverty Reduction Strategy Papers, or PRSPs) so as to streamline and 'integrate' development projects, the influence of neoliberal thinking has become more dominant.

One result has been an increased emphasis on the Declaration, focusing on the few core standards, and in particular the International Programme on the Elimination of Child Labour (IPEC), which has been swamped with US and German Government money. While this is a deserving cause, it has affected the balance of the ILO's work, both as a standard-setter for globalization and as a development agency.<sup>33</sup> It has been easily the most funded ILO programme, attracting over US\$ 200 million in recent years.

While the ratio of soft money to core budget funds has changed, the ILO's structures have weakened. Most academic observers see the ILO in terms

31. To secure consensus, many standards have such flexibility clauses that allow states to operate lower standards temporarily, or that exclude certain categories of worker from application of the Convention, or that apply to only certain parts of the Convention.

32. This was confirmed by a remark made by one of the ILO's most experienced officials, when he wrote, 'There is general acceptance that the ILO's major standard setting is complete' (Swepston, 2005: 11, para. 51). At the time Swepston was Chief of the Equality and Employment Branch and the ILO's designated Human Rights Co-ordinator. The remark came shortly after the attempted Convention on contract labour had failed.

33. It has also involved a huge waste of money, due partly to the appointment of programme directors who were not specialists in child labour and to a lack of peer review of its large-scale projects. This claim is also supported by others (see Simpson, 2004).

of its Geneva base, but its 'field structure' is extensive, with regional and country offices around the world, some lavish, some not. The offices have been mainly relational and geared to ad hoc technical assistance. Given the huge range of ILO topics, these offices almost invariably lack a critical mass of expertise on any subject, and de-skilling is common. Their involvement in standard-setting has been marginal. So, when the decision was made in the 1990s to 'decentralize' so as to make the ILO more of a development agency, by setting up regional multidisciplinary teams (MDTs), based in such places as Budapest, Bangkok, New Delhi and Santiago, standard-setting work further receded, while agency over-reach became more palpable. So-called 'mission creep' is hardly unique to the ILO. But, after the underfunded MDTs were set up, the problem was compounded by the activities generated by the vague and infinitely elastic slogan of decent work. It was a recipe for confusion and for demoralization of staff.

While the ILO has found it hard to maintain satisfactory standard-setting work, its effectiveness as a knowledge agency has had similar problems, and others. There is an internal hostility towards criticism, in which alternative perspectives to the position taken by the leadership are deplored explicitly as 'cynicism', a lack of 'team spirit' and 'disloyalty'. This intolerance partly reflects a tension between the ILO as an international 'civil service' and the expectation — and rhetoric — that it is an instrument for the promotion of 'social justice'. Is the ILO a small part of the armoury of the national powers in the international community? Or is it an instrument for bringing together information, data and analyses of labour issues in order to forge Conventions and Recommendations, as well as policy proposals and evaluations? It could only be the latter if it allowed and fostered intellectual diversity inside its technical departments. Senior officials have not wanted that.

The decline in technical quality was accelerated by the politicization of its leadership. For many decades, Directors-General were insiders or proven specialists on labour matters.<sup>34</sup> This changed with the election in 1988 of Michel Hansenne, a Belgian politician. In his two terms, he had difficulty in mastering a complex set of demands. Inherently shy and lacking the essential diplomatic skills, he had uneasy dealings with US administrations, the AFL-CIO, and the IOE. However, he realized that the ILO had to adapt to globalization, and believed that the way to do this was to shift from promoting numerous Conventions — many of which were being criticized as the source of labour market rigidities — to a set of core standards, and to make the ILO the International Organization of Employment. Accordingly, he steered into existence the Declaration discussed above.

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34. There had been some politicization. The first post-World War II Director, Edward Phelan, who had been a key drafter of the Philadelphia Declaration and one of the first intake of officials, was pushed out by US opposition in 1948, ostensibly on the grounds that he was from a country (Ireland) that had been neutral in the war. He was replaced by the US nominee, David Morse, who remained as Director-General for twenty-two years.

The dilution of the traditional role of standard setting (and industrial relations and labour administration) did not necessarily imply a dilution of the Organization. However, there was an institutional failure to reconceptualize the ILO's role and to become more professional. In the late 1990s, this dilemma was recognized internally, but then the historic governance error mentioned above prevented it from making the transition to a professional development agency.

One result was a widening of the gap between the technicians and senior management. There was a reluctance to require professional standards – epitomized by the *Fair Globalization* report (World Commission, 2004). It was actually drafted and re-drafted by a small group of ILO officials, but it was full of vague, unsupported assertions and prepared with little reference to the ILO's technical work or input from its professionals, and there were no open seminars within the ILO. It contained practically no statistics, and indeed showed a disregard for them, a feature of recent years.<sup>35</sup>

Producing the *Fair Globalization* report, with its elaborate meetings of dignitaries in various places, may have cost more than US\$ 20 million. By dint of a glossy publication and consultancy contracts, it received publicity, but predictably attracted journalistic criticism for its platitudinous contents. It failed to resolve the dilemma at the heart of the ILO at the end of the twentieth century: which of its three roles should have priority? The Director-General wanted to position himself as relevant to a reshaping of the UN system. He wanted the ILO to be a development agency, with decent work its integrating theme, turning the ILO into a promotional body. To do that successfully, the ILO would have had to focus on a few 'deliverables'. Instead, new activities proliferated. Meanwhile, its traditional role seemed to be fading, without that having been agreed.

## WHAT FUTURE?

As the ILO moves towards its centenary, international policy makers should ask themselves what future the Organization should have. Hundreds of millions of dollars are poured into it every year, and much rhetoric is devoted to extolling its achievements and relevance. Yet behind the scenes few credible authorities regard it with any enthusiasm. Most observers are critical of its limited professional and technical capacities.

While it has plunged into a post-modern mode of public relations, with an enlarged 'communications' department and a stream of expensive glossy

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35. Disregard for statistics has become endemic. Characteristic of this, the Director-General told the UN Economic and Social Council in 2006 that Liberia had an unemployment rate of 85 per cent (Somavia, 2006: 32). The ILO is meant to set standards for labour statistics, and has a responsibility to treat them with due diligence. Another instance of institutional sloppiness is the ILO's annual report on global employment in which the unemployment rate for 'Africa' is given to one-decimal point precision. Regrettably, most African countries do not have any statistics on unemployment, even if the concept were meaningful there.



reports, it has treated some major issues of globalization with ambivalence. Some Conventions that are most central to the Global Transformation are among the least ratified, and the ILO has not revised them. They include those on labour migration, Convention No 97 of 1949 and Convention No 143 of 1975, which have been ratified by only forty-two and eighteen countries respectively. These should have been updated. But the neglect has been matched by the minimal attention given to issues around labour migration, beyond treating migrants as a 'vulnerable group'. Although there have been several professionals who have given the ILO credibility among specialists, the fact is that, as of 2007, the branch dealing with migration consisted of four posts, with one long-term vacancy, to cover the whole world. Meanwhile, other agencies have moved into the area of migrant workers, leaving the ILO with a residual role.

Some academic observers who have worked with parts of the ILO over the years say that the ILO should 'reclaim its core mission' of labour market regulation and labour inspection (Piore and Schrank, 2006). But the ILO is trapped in its governance structure, as well as by its deeply ingrained orientation to labourism as a model of work organization. For instance, the unions, which comprise one third of the tripartite system governing the ILO, are a dwindling global force, and are atavistic in the values their spokespersons espouse. For the international union body, the ILO is one of the very few means by which to retain international legitimacy (and financial assistance for its members). Within the ILO GB, the unions fear any broadening of 'worker representation', and have fought tenaciously and successfully to block such broadening. The current Director-General made a perfunctory attempt to bring in international NGOs at the time of his election in 1998, when he wanted to appear to offer a vision of resistance to 'globalization'. Nothing came of it. So the unions' claim to be representative of workers is increasingly invalid. This may not be their fault, but the reality is that, even though they have tried to speak in favour of others, they represent core employees, that is, those in formal employment.

Paradoxically, the unions (misleadingly called 'the Workers') have found themselves in tactical alliance with the second pillar of ILO governance, the Employers. This group can no more claim to be the democratic representatives of 'employers' around the world than the unions can claim to represent the 'workers', but it has been a long-time convenience to presume they are the voice of employers and 'capital'. In fact, they are representatives of employers' federations in member countries, those belonging to the IOE. But neither the IOE, nor most of the national bodies, actually represent either 'big capital' or 'petty capital', the millions of small-scale firms around the world, many of which are called 'informal'.

The attitude of the IOE — and of those ageing employer representatives who go from one meeting of the GB and ILC to the next — towards 'tripartism', 'collective bargaining' and 'labour regulation' has been equivocal at best. They have not openly opposed these ideals, since they are the ILO's

*raison d'être*. But they know that many of the employers they purport to represent regard those principles with anathema. In any case, many employer organizations are little more than self-appointed bodies consisting of friends and relations of bureaucrats or minor politicians; this was taken to extremes in central and eastern Europe during the 1990s. It is doubtful whether most 'employers' around the world even know that the IOE exists, let alone belong to it or subscribe to its self-appointed mission. The Employers on the ILO GB have had a common interest with the Workers, in that both have wanted to retain their exclusive, monopolistic position and control the agenda with which they are most comfortable. For that reason, each would support the other if any effort was made to broaden representativity in the Governing Body.<sup>36</sup>

### CONCLUDING REMARKS

Over the past nine decades, many distinguished people have worked with the ILO, leaving a valuable imprint on social and labour policy. The world is a better place as a result of their efforts. But the Organization has reached an impasse. It failed to respond to the challenges of labour market flexibility in the 1980s and structural adjustment in the 1980s and 1990s. It has failed to provide a coherent response to the insecurities and inequalities thrown up by the first phase of the ongoing Global Transformation, or what passes as globalization. But the impasse goes deeper than those interrelated intellectual failures. The ILO was set up as a means of legitimizing labourism, a system of employer–employee relations based on the standard employment relationship, and a means of taking labour out of international trade. That does not look like the future.

As a standard-setting agency, it has faltered by moving back from a social rights approach — built around an indivisible code — to one best described as a core standards approach. As a development agency, it has over-stretched, and as a knowledge agency it has drifted into a public relations mode, epitomized by official reports that contain nothing new and that have not been subject to professional peer review.<sup>37</sup>

The ILO is faced with an intellectual challenge, to which its official global reports have failed to respond. The sphere of work in the twenty-first century will look very different from what it promoted through the twentieth century,

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36. An example was the protracted opposition within the ICFTU against recognition of SEWA (the Self-Employed Women's Association of India, which developed as a body to represent the interests of women outworkers) as a legitimate body to represent workers.
  37. Another instance was the Organization's response to the Indian Ocean *tsunami*. It rushed to give precise figures on number of jobs lost and the effect on unemployment, duly cited in the world's media. These were grossly misleading and not based on up-to-date data, professional analysis or peer review. Internal criticism of the press releases was dismissed as 'disloyal'. The international media are entitled to believe there are real data behind ILO press releases.

and the ILO has failed to come to terms with that. Symptomatically too, it has not responded to the international drift to 'workfare', the imposition of steadily tighter conditionality for access to state benefits. In its mainstream work on statistics, it still holds to the labour force approach developed in the 1930s, thereby treating care work (mostly done by women) as non-work. When referring to employment objectives, it has quietly dropped the traditional reference to the requirement that employment should be freely chosen. It has failed to forge an agenda on occupational regulation, which may prove a crucial omission. And it has failed to find a way of bringing in NGOs other than trade unions, or a way of recognizing and helping to protect voluntary community work that is flourishing around the world.

Unless the ILO can be recast as a world-class information and advisory body, its future looks bleak. It still obtains considerable regular budget funding from the major countries, and some of that trickles out to government agencies, trade unions and a strange set of employer organizations. Some trickles to academics, who accept the largesse, often to recycle papers for modest honoraria.

Meanwhile, the ILO seeks soft money from international agencies, notably the UNDP, UNFPA and World Bank, as well as from government agencies, such as DFID, USAID and the Scandinavian, German and Canadian aid agencies. Characteristic of this soft money is that the money drives the engine. Often, the views and focus reflect a desire to appeal to donors. If the ILO were a commercial company, the implicit market incentives would be unexceptional. But that is not what the ILO is supposed to be. Money is not democratic; it is coming from those with the capacity to pay and with interests to promote.

The ILO has always been torn between being a 'civil service' and a technical agency. One problem is derived from the political pressure to appoint the requisite number of nationals from particular countries, with enough Americans, Chinese, Russians and so on at senior levels. The internal structure and personnel policy have reflected the resultant tension. This has resulted in a systematically bad personnel system. At senior level, most appointments have been people with little knowledge of the ILO, let alone its culture. Does that matter? Well, it is asking for trouble. It is a risk to appoint people to senior positions, in charge of multi-million dollar budgets, who have no demonstrated competence or knowledge of how the lower levels work. It is also a demotivation for all those below them.

More significantly for the ILO as a global body, the personnel policy and practice within the Organization has bred a technically weak secretariat in which a large proportion of the staff have neither the appropriate qualifications or skills nor the appropriate posts or responsibilities with which to operate. Deprofessionalization is a process that has gone unseen by outsiders dealing with the body or relying on its services.

Struggling to deal with standard-setting and with trying to upgrade its advisory work, the ILO has moved into the shadows of global rule-making.

A symbolic act occurred in 1975, when it moved its headquarters from the massive grey building built in 1923 by Lake Geneva to a huge, modernist building that had cost US\$ 65 million and that looked like the IBM card then required for mainframe computers. The new building emerged from the era of smugness that marked the zenith of labourism, just before the Global Transformation began.

The symbolism was poignant. The old headquarters was taken over by the GATT (General Agreement on Tariffs and Trade), and when this evolved into the World Trade Organization little more was required than a change of name on the walls. The WTO has been a midwife of globalization, and has become a primary means for setting global 'standards' for international markets. Social policy has arrived there, notably through the GATS (General Agreement on Trade in Services). One can predict that labour issues will arrive there shortly, and to some extent have already done so, with protracted negotiations on occupational regulation, in which the ILO has played no role.

Will the ILO survive to its centenary, in 2019? The question is not too fanciful, although the answer is probably yes. The Global Transformation yearns for a body establishing and inducing implementation of rules, 'codes of conduct' and Conventions promoting equitable practices. However, the ILO's technical work outside that area may continue to wither, since it cannot attract and retain a critical mass of expertise in competition with other bodies that have emerged to fill the intellectual vacuum.

Wars produce pressure for new social institutions. Having been created as a result of World War I, the ILO may be overtaken by a new institutional structure suited to globalization in the wake of the current spate of wars. Here we enter the sphere of speculation. The organization is a testament to the past century of labourism trying to protect employees in the standard employment relationship. Like it or not, in the early twenty-first century, labour is a commodity. And the ILO cannot do much about it.

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