

The ILO: A retrospective and future view

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One of the main tasks of the *International Labour Review* over the years has been to examine and discuss the fundamental issues and technical matters which form part of the ILO's mandate. In doing so it has fulfilled an essential and at times complex function, because the ILO had set itself not only technical but also social and even, in the broad sense of the word, political objectives and because its aims sometimes differed significantly from traditional ideas. In fact, some of them still remain misunderstood and disputed by a number of interest groups and countries. The 75th anniversary of the *Review* offers an opportunity both to look back and to consider the future.

Looking back

It would be stating the obvious to say that people are the measure of all things, that justice and freedom must govern social relations, that the economy must serve the cause of humanity and that peace requires justice between human beings. Yet the force of those self-evident truths is not really felt and believed – at least not generally. To some, both in government circles and from the private sector, they appear to be nothing more than meaningless rhetoric or, in the words of Albert Thomas, “high-sounding frontispieces without any real substance”, or at best “pious hopes”.¹

However, it is upon those very principles that the ILO is based. Of course, it remains a technical organization dealing with social and labour issues. But it does so within the framework of its overall objectives which are of a broader nature.

The role of the *International Labour Review* has therefore been and continues to be to study and to explain, from a completely objective – which

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¹ Albert Thomas: “Justice sociale et paix universelle”, in *La Revue de Paris* (Paris), 31st year, No. 6, 15 Mar. 1924, p. 242.

does not mean completely neutral – point of view, both the technical issues and the fundamental principles which underpin the ILO's authority and mandate. An example of this occurred in the epic interwar period, when the *Review* published a defence of unemployment insurance in the face of attacks from prominent economists who favoured what were held to be the sacred laws of the market. For a variety of reasons this question remains of topical importance.

After three quarters of a century of publishing by the *Review* – and 77 years since the establishment of the ILO itself – is there any point in recalling what the Organization's aims are? They have been described on so many occasions that one might be tempted to think, as La Bruyère wrote long ago, that "All has been said and we come too late". However, situations and ideas have changed so much over the years that a brief reminder is necessary, even in respect of ideas which were believed to have been grasped, but which in fact were never fully assimilated.

The ILO's initial aims are now well known. Primarily, they were to improve working conditions and then, as the outlook broadened, to enhance living conditions in both a material and a moral sense, to secure respect for the values of freedom and equality – in short to improve the human condition.

Those aims were underpinned simultaneously by a philosophy, a moral code and a method of work. The philosophy, and in particular the moral code, were summed up in the dictum of "social justice" enshrined in the ILO's Constitution in 1919. More broadly speaking, this was an expression of the need for justice *per se* or, in the words of the great ILO theorist, the French Professor Georges Scelle,² the pre-eminence of the human factor over the economy, or rather the placing of the economy at the service of man.

This general philosophy was based on a number of more or less controversial arguments, such as those addressing the question of international competition, the contribution to peace, the need for a comprehensive social policy, the promotion of balanced economic and social development, and many other issues. Thus the overriding consideration in the ILO's philosophy was social and political (in the wide meaning of the term).

Before examining the ILO's distinctive method of work, it may be helpful to clarify a few issues and principles of a more general nature, since it is on such principles that the Organization is based, whether explicitly or implicitly.

One problem which often arises is lack of clarity in the relationship between economic policy and social policy. The two have indeed been contrasted on many occasions: are they two sides of the same coin? Or are they in competition with each other for ascendancy? These questions have long divided theoreticians and practitioners. In actual fact, neither could

² Georges Scelle: *L'OIT et le Bureau International du Travail*, Paris, Librairie des sciences politiques et sociales, Marcel Rivière, 1930, p. 32.

exist without the other: without a sound economic policy, social policy is likely to lead to disaster. Conversely, without an equitable social policy, economic policy would become an end in itself, at the risk of neglecting the human factor and resulting in the survival of the fittest, oppression of the weak, injustice and, ultimately, social disruption. We shall return to this point later, but it is worth noting here that the parallel sometimes drawn between the social and economic factors has its limits, since the social, and consequently the human factor cannot be compressed indefinitely.

A second problem is that of the relationship between international standards and legislation. A widespread misconception in this respect is the belief that international labour standards can be given effect only through legislative action. It is true of course that standards do establish legal rules and that no social policy can be effective unless it is based on the rule of law. However, ILO standards do not necessarily require the adoption of specific, formal legislation at the national level. Often, they simply provide guidelines which States are invited to follow in pursuit of an objective which may never be fully attained as such. For example, the elimination of discrimination, the reduction of unemployment and the promotion of full employment may depend as much – or more – on educational programmes, particular administrative practices and economic resources as on actual legislative measures. The long-term nature of such objectives and the complexity of the activities involved in their pursuit are among the reasons why the work of the ILO will never be really finished.

But above all, what the ILO aims to achieve is to contribute to greater justice and well-being on Earth. From a long-term perspective, however, the very concept of justice, like that of human rights, is constantly evolving despite temporary interruptions in the process. In response to this challenge, ILO standards cannot but continue to develop.

At this point, a few specific comments about the Organization's actual methods of work may be in order. It will be recalled that when it was set up, the ILO made two major innovations. The first was its tripartite Constitution (governments, employers and workers) and the second, its procedure for the adoption of international Conventions aimed at committing States to minimum standards of social protection. ILO Conventions are both the expression of the Organization's fundamental values and legal instruments for translating those values into practice. While some Conventions are designed to achieve a specific objective, others merely indicate a general direction to be followed, as in the case of employment. A system for the promotion and international supervision of all Conventions was set up and developed. With a current (1996) total of 177 Conventions – having received some 6,300 ratifications from ILO States Members – and 184 Recommendations, this quasi-legislative activity has had a wide influence on international law, giving the impression – in many respects justified – of a solid achievement which will stand the test of time.

This impression was strengthened towards the end of the Second World War when the ILO's aims were reaffirmed and expanded in the 1944

Declaration of Philadelphia,³ which defined the Organization's objectives in the broadest terms. It is difficult to imagine that such an instrument might be adopted in its entirety nowadays. Indeed, it states that "labour is not a commodity" and emphasizes the importance of freedom of expression and association, the need to combat poverty and want, and the right of all human beings without distinction to pursue their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity. In particular, the Declaration stresses the need to promote full employment and to raise living standards. It advocates a broad view of social security and – in addition to the pursuit of material well-being and economic security – affirms the importance of the values of freedom, dignity and equality, in particular equality of opportunity. The Declaration embraces all human beings and defines social objectives in very comprehensive terms, reflecting the ILO's direct interest in economic issues having a bearing on social problems.

The Declaration was incorporated into the ILO's Constitution, together with the constitutional amendments made in 1945 and 1946 to strengthen the system of Conventions and Recommendations. Without going into further detail, it may simply be added that it affirmed the pre-eminence of the social factor in all economic planning and set out a programme of action for the future.

It is often stressed that the Organization "has had a sustained influence on the legislation of all countries" – as put in the words of the Chairman of the Nobel Committee when the Nobel Peace Prize was awarded to the ILO in 1969.

Looking ahead

But where do we stand now, as the century draws to a difficult and unstable end? The resolutely optimistic and ambitious views of the ILO's founders, subsequent leaders and other actors have evidently had a far-reaching impact and secured impressive results, but do they still command such widespread support?

In recent years, those views have indeed met with reservations of various kinds, for several reasons.

One of the most important is rooted in the wave of economic ultraliberalism and "deregulation" which has swept the world in the past few years under the influence of certain schools of economic thought hostile to State intervention in the workings of the market. Such thinking has influenced some governments and groups of employers. Its proponents are opposed to international standard-setting which, in their view, prevents economic forces from taking their natural course.

³ See Wilfred Jenks: "The Declaration of Philadelphia after Twenty-five Years", in *Social Policy in a Changing World*, ILO, Geneva, 1976, pp. 55-67; and Eddy Lee: "The Declaration of Philadelphia: Retrospect and prospect", in *International Labour Review* (Geneva), Vol. 133 (1994), No. 4, pp. 467-484.

Furthermore, that view has been reinforced by the tendency of some developing countries to adopt only minimal social legislation in the belief that this will help them to sustain the pace of their economic development.

Admittedly, such tendencies towards economic liberalism have always existed and have always encouraged some opposition to the ILO's activities. However, this did not prevent the Organization from expanding its work in the social sphere. In this connection, reference has often been made to Albert Thomas' pithy formula – not to be taken literally – that “social issues must take precedence over economic issues”, which was taken up again by Pope Paul VI in 1969. Then there are the words of President Franklin Roosevelt who, in 1941, stated that “economic policy cannot be an end in itself: it can only be a means of achieving social aims”. Nowadays, of course, opinions on the matter differ.

Economic globalization has given fresh impetus to ultraliberal arguments. Big businesses are relocating, diversifying and dividing their activities between different countries to suit their interests, thereby often escaping virtually all forms of State control since their decisions are taken by extraterritorial actors. These developments have led to fears about a possible legal void and a return to the law of the jungle.⁴ The as yet fruitless debate on the adoption of a “social clause” to cushion their most harmful employment effects – in particular those of unrestricted “outsourcing” – is as significant as it is worrying.

In addition to this change in priorities – or at least in emphasis – another fact that cannot be overlooked is the growing complexity of the world since the early years of the ILO. Trade unions are in some cases less representative than they were; the structure of society has changed; small and medium-sized enterprises and the informal sector have assumed greater importance; and, as noted above, the nature of large enterprise networks is sometimes elusive because of the extremely wide range of actors involved. All of these factors make it increasingly complex to adopt and implement effective international standards.

Does the answer lie in the principle of “adaptability” or “flexibility” of standards, which has been spoken about for decades, in particular by the representatives of developing countries? Of course, it all depends on what is meant by flexibility. It goes without saying that the provisions of standards must be flexible enough to be applied to a variety of countries and situations. In fact, almost all ILO Conventions comprise flexibility devices of one kind or another. However, if what is proposed is to make their wording so loose as to render them inoperative, it would then amount to betraying the Organization's mandate, which is to bring about a real improvement in working and living conditions.

⁴ See ILO: *Defending values, promoting change – Social justice in a global economy: An ILO agenda* (Report of the Director-General, International Labour Conference, 81st Session, 1994), ILO, Geneva, 1994, pp. 63 ff.

This issue is sometimes raised in more general terms. Indeed, given the number and content of existing ILO Conventions, it is sometimes questioned whether there remains any important subject to be regulated by international standards.

Broadly speaking, the answer can only be yes. While some fundamental problems do remain, labour issues evolve with the passage of time, which means that standards sometimes need to be supplemented and updated. More precisely, some topics only become ripe for standard-setting when other gains – social, economic or legislative – are achieved. Generally, as noted above, the concept of social justice and human rights is itself constantly evolving and expanding, even though there may be temporary interruptions in that process.

Furthermore – and this is an essential point – the future of ILO standards cannot be considered without taking account of the need to supervise their application as well. The system established for this purpose has contributed substantially to making standards a more or less tangible reality in most countries. The increasing number of Conventions and ratifications has inevitably resulted in a simplification of the supervisory procedure. However, its essential aspects cannot but be safeguarded for the future: ILO standards are not adopted merely to form part of an international code or even national legislation, but to be effectively implemented in people's daily work.

This brings us to a fundamental question: given the changes in circumstances and in the international environment, have we now reached the end – or the beginning of the end or a significant reduction – of the role played by international labour standards?

At this point, another general observation must be made. Contrary to what has sometimes been argued, the international community is still a long way from a surfeit of standards.⁵ Admittedly, for the reasons given above amongst others,⁶ opposition between the proponents and opponents of standard-setting has grown stronger in recent years.⁷ Yet, it should also be noted that the vast majority of some 70 independent contributors to a publication marking the ILO's 75th anniversary⁸ emphasized the importance of international labour standards and of the procedures for their application.

It would therefore be a gross exaggeration to conclude that we have reached the end of the extraordinary effort which ILO standards have

⁵ See *International law at the time of its codification: Essays in honour of Roberto Ago*, Vol. I, Milan, Giuffrè, 1987, p. 33.

⁶ For more details see N. Valticos: "Les conventions de l'Organisation internationale du Travail à la croisée des anniversaires", in *Revue générale de droit public* (Paris), 1996, No. 1, pp. 5-43.

⁷ See H. Bartolomei de la Cruz, G. von Potobsky, Lee Swepston: *The International Labour Organization: The international standards system and basic human rights*, Boulder, CO, Westview, 1996, p. 63.

⁸ ILO: *Visions of the future of social justice: Essays on the occasion of ILO's 75th anniversary*, Geneva, ILO, 1994.

embodied in the search for ways to improve the human condition – an effort which prompted a prominent labour law specialist to describe the ILO as “one of the rare institutional bodies of which humankind can rightly be proud”.⁹

That being said, a somewhat different balance can certainly be expected to emerge between the ILO’s different means of action. In fact, a process of gradual change in that direction has already begun in response to the developments under way in the world today.

Generally speaking, the Organization’s other activities aside from standard-setting cannot be called into question. Research, training, information, publications and particularly the vast field of technical cooperation – itself often based on standards – cannot but be pursued and even developed on account both of the major conceptual and technical changes happening in the social sphere and of the undeniable, though variable, importance that States and the international community attach to social issues. The effects of the much debated process of globalization will not be confined to those which restrict the scope for worldwide social action. Of course, globalization will make such action more complex, more difficult, but it will also make it more imperative as social development becomes less and less a matter of national or even regional policy.

As regards the future of standard-setting itself, account will have to be taken of the achievements and lessons of the past. This applies not only to the number of future standards, but also to their nature and content.

Thus, given the large number of Conventions already adopted, future standards can be expected to concentrate either on new subjects or on the revision of existing, but outdated instruments and, overall, to be fewer in number. However, given the unpredictable pace at which history unfolds and ideas develop, one can never be certain.

Future standards will have to reflect the lessons of the past from the technical and substantive points of view as well. For example, it is now accepted that there are areas in which standard-setting can establish only broad guidelines and general principles which must be adapted to national situations. Results then depend on practical action, based on those principles. In particular this applies to the major social problem of our time – not to say of our civilization – namely unemployment, which has ruined so many lives and so many destinies.

By contrast, there are other issues for which Conventions must make fundamental provisions. How these are given effect may vary from one country to another, provided that the basic rules are applied. This is the case with the core Conventions on human rights (freedom of association, the prohibition of forced labour and the elimination of discrimination).

It may also be expected that a different balance will be achieved within the Organization’s standard-setting activity as a whole with, on the one hand,

⁹ Gérard Lyon-Caen: “Bibliographie”, in *Revue internationale de droit comparé* (Paris), Jan.-Mar. 1972, p. 249.

an increasing focus on supervising the application of those standards considered to be the most important and, on the other, significant attention still being paid to the setting of new standards or the updating of existing ones, as required by the development of our societies.

In the process of these changes, the all too frequent squabbles – or incompatibility of temperament – between legal specialists and economists should give way to an effective distribution of roles based on the principles and basic aims of the Organization.

As for the often misconceived dilemmas between continuity and change, between the diversity of the world we live in and the universality of the principles of social justice, their solution must be sought – as ILO has always tried to do – in the middle ground between over-generalization of the concepts involved and excessive regulatory detail.

While some of the Organization's past standard-setting work may well prove transitory, a substantial part of it will undoubtedly survive. As some great civilizations have done in the past, the fundamental role of the ILO has been to place people at the centre of society and of international life. No theory in the world could ever defeat that vision. At the most, its development could be interrupted or even suffer set-backs, but only temporarily. Beyond all the uncertainties and doubts, beyond the very crisis which our societies are experiencing, the work of the ILO, in step with the march of history and constructed with clear-sightedness and vigilance, is destined to continue because it is the expression of a deep-felt need.