

Football as metaphor: International Labour Standards vs. Precarious Employment

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During the first half of the June Conference, Professor John Ruggie - himself on very temporary transfer to the ILO from the UN, where he is Special Representative on human rights and business - kicked centre field the global issue of the need for guidance from the ILO on precarious work and its effect on workers' rights¹. Later on, the Conference forwarded the ball to the Office, telling it to step up its work on facilitating transition out of precarious employment and into formality and decent work (ILO, 2010, para. 30 (vi)).

So can we begin to discern more clearly international labour standards extending further beyond just laying down the rules of this game? Certainly they give us the shape and the goal of what is now recognised as decent work. But are they also a means of getting there? an actual game plan on a more levelled playing field?

The first thing to do is perhaps merely as a matter of fact assemble diverse elements in the ILO's leading standards which can give the desired goal-oriented guidance. This will not of course in itself imply immediate operationalisability - admittedly more difficult to articulate.

- The overall policy framework is one of full, productive and freely chosen employment "as a major goal", with work available without discrimination for all seeking it² (ILO Convention No. 122).
- Vocational guidance and training are essential to the development of skills so as to maximise the individual's enduring employability (ILO Convention No. 142; ILO Recommendation No. 195).

¹ Professor John Ruggie, Special Representative of the UN Secretary General on human rights and transnational corporations and other business enterprises, presented his "protect, respect and remedy" framework, laying the foundations of a system for better managing business and human rights challenges, 3 June 2010.

² See also ILO. 2010. *General Survey concerning employment instruments*, Report III (Part 1B), International Labour Conference, 99th Session, Geneva 2010 (Geneva), where the relation of the employment standards to precarious employment is referred to. The notion of freely chosen employment goes further and is more assertive than that of freedom from forced labour contained in the [Forced Labour Convention, 1930 \(No. 29\)](#), the [Abolition of Forced Labour Convention, 1957 \(No. 105\)](#) and the Declaration on Fundamental Principles and Rights at Work, 1998.

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- The right to organise is fundamental for all workers and the key to collective effective defence against work which is indecently precarious (ILO Convention No. 87; ILO Convention No. 98; ILO, 1998).
- There should be progressive transfer from the informal to the formal economy (ILO Recommendation No. 169).
- Enterprises should strive to provide stable employment (ILO, 2006). And any termination of employment should in general take place fairly (ILO Convention No. 158; ILO Recommendation No. 166).
- Re-employment or new employment for workers being made unemployed should be facilitated (ILO Recommendation No. 166; ILO Recommendation No. 169).
- Collective bargaining is one specific way of addressing issues of restructuring, rationalisation, reorganisation, reduction of working time, protection of certain groups (ILO Recommendation No. 198).
- The MNE Declaration approach of enhancing the social responsibility of enterprises should also assist in avoiding negative effects of adverse investment decisions and encouraging positive effects (ILO Recommendation No. 169; ILO, 2009).
- SMEs and cooperatives can because of their flexibility be adaptable to changing work needs of both employer and worker³. (ILO Recommendation No. 189; ILO Recommendation No. 193).
- Public and private employment services and agencies with appropriate legal structures facilitate regular employment and thus help protect workers vulnerable to precariousness (ILO Convention No. 88; ILO Convention No. 181).
- Labour administration and inspection services (in cooperation sometimes with non-governmental initiatives and agencies, and with unions and employers) provide information and guidance, oversee implementation of legislation, and correct abuse (ILO Convention No. 81; ILO Convention No. 129; ILO Convention No. 150).
- Social security systems provide safety nets in case of unemployment, as well as social assistance for those in greatest poverty (ILO Convention No. 102; ILO Convention No. 181; ILO Recommendation No. 189; ILO Recommendation No. 198).
- Special policies and measures are needed for the protection of children and young persons (ILO Convention No. 138; ILO Convention No. 182).
- Special measures are needed for the protection of migrant workers of all kinds (ILO Convention No. 97; ILO Convention No. 143).⁴
- Part-time workers and home workers should have rights comparable to other workers in terms of social security and employment security, among others (ILO Convention No. 174; ILO Convention No. 177; ILO Recommendation No. 182; ILO Recommendation No. 184).

³ See also ILO, 2010 *General Survey concerning employment instruments* Report III (Part 1B), International Labour Conference, 99th Session, Geneva 2010 (Geneva) and ILO, 2009. *Recovering from the crisis: A global jobs pact* (Geneva).

⁴ See also various employment instruments.

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There is surely ample material here. But there is also huge strategic advantage in invoking international labour standards in the process of competing against precarious, unstable, unproductive and inevitably indecent employment.

Now, it is not hard to understand a specific business angle here. Through links with employer organisations businesses input directly into the content and the supervision of these labour standards, as well as into national policy⁵ (ILO Convention No. 144; ILO Recommendation No. 152). By fomenting cooperation with public authorities, they influence the way in which the standards are applied in practice. And to exercise their corporate social responsibility, using not only the MNE Declaration but various other public and private initiative tools and processes themselves linked to international labour standards⁶, they adapt the ILO instruments (which as a matter of principle are addressed to states and governments) to their own situations and their own social, labour and employment issues .

For international labour standards can be great team players. They bring with them a range of legal tools - interaction with national parliaments, social dialogue on their implementation, international supervision of their application, a veritable encyclopaedia of national practices and case law, explanations, complaints procedures. And they have the capacity to interact beautifully with policy advisers, technical cooperation experts, business, donors and investors, employers and workers, precisely because of their sound technical and political authority and their reliability. These are not qualities which good managers can afford to sideline and leave sitting on the benches.

⁵ See for example [Tripartite Consultation \(International Labour Standards\) Convention, 1976 \(No. 144\)](#); [Tripartite Consultation \(Activities of the ILO\) Recommendation, 1976 \(No. 152\)](#).

⁶ For example, the [UN Global Compact](#); or the ISO 26000 international standard "Guidance on social responsibility" intended for organisations of various kinds (the final draft of the latter being at the time of writing in preparation for voting in the second half of 2010).

References

Publications

ILO. 2010. "[Conclusions concerning the recurrent discussion on employment](#)", in *Provisional Record*, No. 18, International Labour Conference, 99th Session, Geneva, 2010 (Geneva), pp. 18/57-18/70.

ILO. 2009. [Recovering from the crisis: a global jobs pact \(pdf 93 KB\)](#) (Geneva).

- [Français \(pdf 105 KB\)](#) • [Español \(pdf 108 KB\)](#)

ILO. 2006. [Tripartite declaration of principles concerning multinational enterprises and social policy](#) (Geneva).

United Nations Global Compact. 2010. [What is the Global Compact?](#) [07 July 2010].

ILO. 1998. [ILO Declaration on Fundamental Principles and Rights at Work](#), International Labour Conference, 86th Session, Geneva, 1998 (Geneva).

- [Français](#) • [Español](#)

ILO Conventions

[Worst Forms of Child Labour Convention, 1999 \(No. 182\)](#)

- [Français](#) • [Español](#)

[Private Employment Agencies Convention, 1997 \(No. 181\)](#)

- [Français](#) • [Español](#)

[Home Work Convention, 1996 \(No. 177\)](#)

- [Français](#) • [Español](#)

[Prevention of Major Industrial Accidents Convention, 1993 \(No. 174\)](#)

- [Français](#) • [Español](#)

[Termination of Employment Convention, 1982 \(No. 158\)](#)

- [Français](#) • [Español](#)

[Labour Administration Convention, 1978 \(No. 150\)](#)

- [Français](#) • [Español](#)

[Tripartite Consultation \(International Labour Standards\) Convention, 1976 \(No. 144\)](#)

- [Français](#) • [Español](#)

[Migrant Workers \(Supplementary Provisions\) Convention, 1975 \(No. 143\)](#)

- [Français](#) • [Español](#)

[Human Resources Development Convention, 1975 \(No. 142\)](#)

- [Français](#) • [Español](#)

[Minimum Age Convention, 1973 \(No. 138\)](#)

- [Français](#) • [Español](#)

[Labour Inspection \(Agriculture\) Convention, 1969 \(No. 129\)](#)

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- [Français](#) • [Español](#)

[Employment Policy Convention, 1964 \(No. 122\)](#)

- [Français](#) • [Español](#)

[Abolition of Forced Labour Convention, 1957 \(No. 105\)](#)

- [Français](#) • [Español](#)

[Social Security \(Minimum Standards\) Convention, 1952 \(No. 102\)](#)

- [Français](#) • [Español](#)

[Right to Organise and Collective Bargaining Convention, 1949 \(No. 98\)](#)

- [Français](#) • [Español](#)

[Migration for Employment Convention \(Revised\), 1949 \(No. 97\)](#)

- [Français](#) • [Español](#)

[Employment Service Convention, 1948 \(No. 88\)](#)

- [Français](#) • [Español](#)

[Freedom of Association and Protection of the Right to Organise Convention, 1948 \(No. 87\)](#)

- [Français](#) • [Español](#)

[Labour Inspection Convention, 1947 \(No. 81\)](#)

- [Français](#) • [Español](#)

[Forced Labour Convention, 1930 \(No. 29\)](#)

- [Français](#) • [Español](#)

ILO Recommendations

[Employment Relationship Recommendation, 2006 \(No. 198\)](#)

- [Français](#) • [Español](#)

[Human Resources Development Recommendation, 2004 \(No. 195\)](#)

- [Français](#) • [Español](#)

[Promotion of Cooperatives Recommendation, 2002 \(No. 193\)](#)

- [Français](#) • [Español](#)

[Job Creation in Small and Medium-Sized Enterprises Recommendation, 1998 \(No. 189\)](#)

- [Français](#) • [Español](#)

[Home Work Recommendation, 1996 \(No. 184\)](#)

- [Français](#) • [Español](#)

[Part-Time Work Recommendation, 1994 \(No. 182\)](#)

- [Français](#) • [Español](#)

[Employment Policy \(Supplementary Provisions\) Recommendation, 1984 \(No. 169\)](#)

- [Français](#) • [Español](#)

[Termination of Employment Recommendation, 1982 \(No. 166\)](#)

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- [Français](#) • [Español](#)

[Tripartite Consultation \(Activities of the International Labour Organisation\) Recommendation \(No. 152\), 1976](#)

- [Français](#) • [Español](#)

Further Ressources

ILO Publications

ILO. 2010. *Employment policies for social justice and a fair globalization , Report VI, International Labour Conference, 99th Session, Geneva, 2010* ([pdf 1.55 MB](#)) (Geneva).

- [Français \(pdf 1.40 MB\)](#) • [Español \(pdf 1.66 MB\)](#)

ILO. 2010. *Report of the Committee of Experts on the Application of Conventions and Recommendations, Report III (Part I A), International Labour Conference, 99th Session, Geneva, 2010* ([pdf 9.41 MB](#)) (Geneva).

- [Français \(pdf 11.36 MB\)](#) • [Español \(pdf 10.13 MB\)](#)

ILO. 2010. *Recovery and growth with decent work, Report of the Director-General, Report I(C), International Labour Conference, 99th Session, Geneva, 2010* ([pdf 751 KB](#)) (Geneva).

- [Français \(pdf 923 KB\)](#) • [Español \(pdf 761 KB\)](#)

ILO. 2009. *The financial and economic crisis: a decent work response*, ([pdf 561 KB](#)) (Geneva).

- [Français \(pdf 612 KB\)](#) • [Español \(pdf 620 KB\)](#)

ILO. 2009. *Rules of the game: a brief introduction to international labour standards*, ([pdf 1.44 MB](#)) (Geneva).

- [Français \(pdf 1.52 MB\)](#) • [Español \(pdf 1.50 MB\)](#)

ILO. 2009. *Moving from precarious employment to decent work* (Geneva).

ILO. 2008. *ILO Declaration on Social Justice for a Fair Globalization* ([pdf 1.58 MB](#)) (Geneva).

- [Français \(pdf 144 KB\)](#) • [Español \(pdf 145 KB\)](#)

ILO. 2004. *Declaration Overview: An overview of the ILO declaration on Fundamental Principles and Rights at Work*, ([pdf 38 KB](#)) (Geneva).

ILO. 2004. *Promoting employment: policies, skills, enterprises, International Labour Conference, Report III (Partie 1B), International Labour Conference, 92nd session, Geneva, 2004*, ([pdf 3.65 MB](#)) (Geneva).

- [Français \(pdf 3.23 MB\)](#) • [Español \(pdf 2.71 MB\)](#)

ILO Events

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ILO Websites

[A policy framework for better managing business and human rights challenges](#)

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[Global Job Crisis Observatory: Fair Globalization](#)

[Global Jobs Pact](#)

[International Labour Standards](#)

[ILO Helpdesk for business on international labour standards](#)

[ILO Programme for the Promotion of the ILO Declaration on Fundamental Principles and Rights at Work](#)