

# **Wishes for the Future**

## **Recommendations of Experts to the ILO**

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Publication series Gerechtigkeit und Frieden  
Publisher: German Commission for Justice and Peace  
Editor: Dr Jörg Lüer

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Translation: DBK translation service

Publication series Gerechtigkeit und Frieden, No. 136  
Editor: Dr Hildegard Hagemann, Dr Sabine Ferenschild  
ISBN 978-3-940137-87-6

Berlin, January 2019

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## Forward

*Bishop Dr Stephan Ackermann, President of the German Commission for Justice and Peace*

'Whereas universal and lasting peace can be established only if it is based upon social justice;' (preamble of the ILO Constitution - 1919)

Today, this sentence from the preamble of the Constitution of the International Labour Organization (ILO) is more relevant than ever. What justified the establishment of an international legal institution for regulating employment against the background of the social unrest during industrialization and the ruins of the First World War in 1919 is confirmed in 2019 by the distortions of unregulated globalization, hesitant climate policy and burgeoning nationalism. Social justice has not yet been achieved. On the contrary, the gap between rich and poor is widening again.

Nevertheless or precisely for this reason we are celebrating this year the 100th anniversary of an organization that must be understood as a core element of a 'world internal policy'. Social justice and world peace cannot be reached in a short and linear way. There have been enough setbacks and aberrations in recent decades, but the International Labour Organization has not only survived the world wars and the division of the world into ideological blocs. It has maintained its importance through a constant willingness to engage in dialogue on the economic, social and cultural developments of the international community. In the era of multilateralism and free markets, it has fought for the importance of the social dimension of globalization. As early as the 1970s, it recognized the importance of the informal economy in overcoming poverty and inequality, and increasingly became aware of the importance of other 'stakeholders' who further qualified social dialogue for the concerns of informal workers.

One characteristic of this culture of dialogue is the tripartite nature of the ILO. Not only the national governments are responsible for the formulation of international law, but also the so-called social partners, i.e. the national employers' associations and the trade union confederations. They meet at eye level in Geneva, the headquarters of the ILO, and negotiate international law. In view of the challenges of our time, this approach of 1919 continues to serve as a role model for other organizations in the international community. Only in this way it is possible to counter the withdrawal from the orientation towards the common good and international solidarity.

On the occasion of its 100th birthday, we would like to pay tribute to this pioneer of global governance. In particular, those should have their say who together with the ILO stand up for the protection of those who are in danger of being crushed in the machinery of a world economy characterized by growth and profit because they work informally - unrecorded, unsecured and unorganized.

The German Commission for Justice and Peace would like to thank all authors for making their contribution a plea for decent work, social dialogue and peaceful coexistence without losing sight of the (self-)critical view of the past and future of ILO work. We would like to thank the Südwind Institute for its many years of fruitful cooperation in promoting social justice.

*Bonn/Trier in January 2019*

## List of Abbreviations

ACT	<i>Action, Collaboration, Transformation/Alliance for sustainable Textiles</i>
ADD	<i>Abu Dhabi Dialogue</i>
CAJ	<i>Young Christian Workers</i>
DGB	<i>German Trade Union Confederation</i>
EGMR	<i>European Court of Human Rights</i>
IASEW	<i>Indian Academy for Self- Employed Women</i>
ILO	<i>International Labour Organisation</i>
ICSE	<i>International Classification of Status in Employment</i>
IGB	<i>International Trade Union Confederation</i>
ICJ	<i>International Court of Justice</i>
ILC	<i>International Labour Conference</i>
ISS	<i>International Institute of Social Studies</i>
IStGH	<i>International Criminal Court</i>
IWF	<i>International Monetary Fund</i>
IYCW	<i>International Young Christian Workers</i>
JACODeWU	<i>Joint Action Committee for Decent Work in Uganda</i>
LPG	<i>Liberalization, Privatisation, Globalisation</i>
MBO	<i>Membership-based organisation(s)</i>
MFA	<i>Migrant Forum in Asia</i>
MRA	<i>Migrant Recruitment Advisor</i>
MRS	<i>Migrants Rights Violation Reporting System</i>
NRO	<i>Non-governmental organisation(s)</i>
ORP	<i>Organisation and Representation Programme</i>
SDG	<i>Sustainable Development Goals</i>
SEWA	<i>Self Employed Women's Association</i>
SV-Ausschuss	<i>Expert Committee</i>
UN	<i>United Nations</i>
WIEGO	<i>Women in Informal Employment Globalising and Organising</i>
WTO	<i>World Trade Organisation</i>

## Introduction

*Dr Sabine Ferenschild, Südwind-Institut*

*Dr Hildegard Hagemann, German Commission for Justice and Peace*

Congratulations, ILO! In 2019, the International Labour Organisation (ILO) will celebrate its centenary.

The ILO was founded at a time when the world was in ruins as a result of the First World War and workers and citizens had been suffering for decades from the exploitative working conditions and social upheavals of the 19th century. With the ILO, the founding states wanted to create framework conditions for decent work, improve the working and living conditions of all people and thus make a contribution to securing world peace.

The ILO has achieved much in the past decades: Despite numerous setbacks due to the Second World War, political conflicts such as the 'Cold War' or growing conflicts over distribution and conflicting interests in view of the limits of growth, the ILO has made a decisive contribution to shaping international law and created a binding international labour law. Employees fighting for their rights at the local level, for example, can rely on this law and use the ILO's complaints and supervisory system<sup>1</sup>. It is impossible to imagine the debates about working conditions in global value chains, the sustainability goals of the United Nations or the humane approach to migration without the ILO and its set of standards. The editors of this publication are convinced that the ILO not only has an important past and present, but that it is also a central authority for shaping the future of global working environments.

Nevertheless, this last publication in a series of five studies on the ILO within the framework of a SÜDWIND project should not simply be praise for what has been achieved. Rather, in this publication we want to use the contributions of international experts to make their voices heard as to what is still missing and to point to necessary future measures. After all, the ILO faces major challenges: The world of work is still divided into formal and informal areas. Labour migrants all over the world experience that they are deprived of their rights. Not even the core labour standards of the ILO, which are regarded as human rights relating to work, have been enforced everywhere to

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<sup>1</sup> For the procedures, structures and instruments of the ILO see Ferenschild 2017: 13-19.

date, let alone living wages. New challenges, such as the forms of work that are emerging or disappearing as a result of digitalization, need to be met in order to turn technological progress into social progress for all. These and other aspects and challenges are addressed in the following contributions, for which the editors have won authors from Europe, Asia and Africa.

### *The structure*

All authors have a long-standing working partnership with the German Commission for Justice and Peace (Deutsche Kommission Justitia et Pax) and/or the SÜDWIND Institute. Together we are working towards better working conditions in global value chains, towards a rights-based international migration and towards a world economy at the service of mankind and the environment. At the end of 2017, all authors were asked by us to formulate a short text based on their respective working contexts, expressing their wishes for the future of the ILO.

We have arranged the contributions according to content criteria, even though the boundaries in this respect are blurred: We start with contributions that are of a more general nature (Sudhir Katiyar, Sarah Prenger, Prossy Nambatya). This is followed by texts focusing on migration issues (William Gois, Nicola Piper) and on the informal sector (Karin Pape, Namrata Bali). Finally, there are articles dealing with the future initiatives of the ILO, collective bargaining policy and the right to strike (Claudia Menne, Frank Hoffer, Reingard Zimmer) and the sanctioning power of the ILO (Markus Demele).

This publication will be published simultaneously in German, edited by the SÜDWIND Institute, and in English, edited by the German Commission for Justice and Peace. Hopefully, it will offer all interested parties ideas and impulses for necessary future decisions within the ILO.

## Challenges in the Next Decade and Wishes for the Future

*Sudhir Katiyar, Centre for Labour Research and Action*

I work with a civil society agency that works with informal workers in India. We have interacted with ILO but not in a major way. Our interaction has been mostly as consultants to some ILO projects. While the projects we have engaged in deal with informal sector workers, these always seem to be peripheral part of ILO operations. For example, the personnel employed in these projects are on a contract and when the project ends, the ILO's engagement also ends. The critique flows from this experience. It is not based on rigorous research. So, if some observations do not match reality, I would like to apologise in advance.

The vision of ILO that universal, lasting peace can be established only if it is based on social justice remains as relevant as it was 100 years back when ILO was formed. However, the nature of work has changed tremendously. The withering away of the state led economies has led to universal acceptance of the Liberalization, Privatisation, Globalisation (LPG) model of growth and unbridled march of capitalism. This has had serious consequences for workers. The emergence of outsourcing means that workers' cannot unite easily. Production is outsourced to myriad producers spread over huge and sometimes trans-continental geographies. While an aristocracy of a labour class continues to enjoy social protection, the vast mass of workers who are often migrants from other regions and countries undertake the hard labour at bare minimum wages without any social protection. On the other hand, technology is changing the nature of work itself. As many traditional forms of work disappear, newer forms of engagement are emerging that make defining the working class more difficult.

The changed scenario presents a new set of challenges and requires creative responses.

### *Ensuring representation for the vast mass of informal sector workers*

ILO is based upon a tripartite contract between the employers, workers, and the state. However, majority of the workers are no more represented by the existing unions. Most of the workers fall in the informal sector and are not members of any unions. In fact, there may exist class contradictions between the existing aristocracy of workers and the informal workers<sup>2</sup>. Therefore, ILO has to think afresh on which workers does it represent?

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<sup>2</sup> This is getting reflected in the Trade Union members voting for the parties of the Right.

### *Associating with movements of informal/ undocumented workers*

ILO has a policy of working with recognized trade unions/ federations only. However, this policy leaves out the vast mass of informal sector workers. In most of the countries where informal workers are present in large numbers, movement of such workers are beginning to emerge. These may arise under different heads depending on the situation in specific countries. To illustrate, the movements of hispanic workers in USA demanding citizenship rights represent the informal workers in that country. ILO should be willing to associate with these diverse set of movements that represent the informal workers and their aspirations for a decent life.

### *Documenting supply chains*

As production is broken over to a large number of producers, it becomes much more difficult to organize the workers. One of the key tasks is to document the supply chain, and especially the labour engaged in the supply chain. ILO needs to facilitate this process. The supply chains are the new factories. Growth of social media and internet raises possibility of emergence of new forms of collectivization replacing the old shop floor unions.

### *Policy on migration*

Changing demographics across the world, along with existing income differentials, are pushing up labour migration within and across countries. This is giving rise to social strife and is a major source of instability. ILO should take the lead in working towards a global compact on migration, devising labour standards that factor in the reality of migration<sup>3</sup>. It should advocate with national governments to factor in the reality and necessity of having workers from across borders and ensuring that these workers enjoy rights that are universal and not affected by national boundaries.

### *Working towards a new social compact/ universal social security for all*

As organized sector shrinks, the social security that was linked to the work place so far is also shrinking. There is therefore the need to devise a new Social Compact that will deliver basic minimum security to all the workers. There exists a movement of universal minimum wages that will extend across borders as a check to the tendency of the capital to drive down wages to the barest minimum. ILO should lead the movement for a Universal Global Minimum Wage as the first component of Universal Social Security

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<sup>3</sup> The Global Compact for Safe orderly and regular Migration will be adopted by the UN in December 2018 at Marrakesh, Morocco

compact<sup>4</sup>. This compact should replace the myriad labour standards that are being promoted by different industry groups.

### *Changing the focus to Global South*

Like many other international institutions, ILO continues to be dominated by the Global North. In terms of personnel employed and in terms of policy agendas pursued, the focus seems to be mostly on the issues that dominate the developed Western economy. This is visible in its current preoccupation with the Future of Work. While by itself the theme remains worthy of attention and especially for an organization like ILO that deals with work, the fact remains that for countries in the Global South, vast masses of people in Africa and Asia continue to grapple with problems of unemployment and poverty. Sectors like agriculture, construction, and quarrying continue to be labour intensive with little mechanization because mechanization is rendered unviable because of low cost of labour. To illustrate through an example from India, brick making that employs almost five million workers, continues to be completely manual requiring hard labour that toils almost round the clock. Mechanization is not financially viable because of cheap labour secured through debt bondage and trafficked from far off locations. Twelve-hour shifts are becoming the norm in the industrial workspace. Even minimum wages, that are already pegged at very low levels, are not paid. The concept of decent work propagated by ILO does capture this reality. This needs to be brought to the forefront of the ILO's work.

### *Diversified workforce*

The recruitment policy also seems to have a bias towards recruitment of personnel from the Global North. In the ILO-India office, the perception is very common that only the expats, read those from the rich Western countries, enjoy a permanent tenure. This perception should change. The working-class issues are most critical in the Global South where work conditions and wages resemble years of early industrialization. Higher representation from these countries in decision making echelons will change this perception. One way to change this perception could also be to shift the office from the cool climes of Geneva to a country in the Global South where the most taxing workers' issues are coming up.

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<sup>4</sup> <http://www.international-convention-for-minimum-wage.org/>



***Sudhir Katiyar*** works for PRAYAS - Centre for Labour Research and Action (CLRA), an Indian non-governmental organization. CLRA advocates the interests of workers in informal sectors such as cotton production and brickworks.

<http://clra.in/>

# 100 years of ILO - "We have to start; we are only at the beginning!"

## A long way to decent work for all

*Sarah Prenger, JOC Internationale aisbl*

100 years of the International Labour Organization. 100 years of a United Nations institution whose decision-makers are representatives not only of governments but also of employers' and workers' organisations.

100 years of an institution with the aim of ensuring – according to its own definition – “decent work for all people in the world”<sup>5</sup>. 100 years of an international institution with 187 member states from all over the world. This is truly an opportunity to stop and have a look at this history of one hundred years and at the successes of the ILO and to extend our congratulations!

At the same time, this solemn moment should not obscure the fact that, despite the hundred years of existence of the ILO, we cannot say that there is decent gainful employment worldwide for all sections of the population. This becomes also evident in the experience reports of young workers from different continents: “I left my family to help my husband to support our children in our financial needs and their education and went to Hong Kong. In my first contract, I did not have my own room, but was just staying in the living room. A few months later I experienced sexual harassment from my male employer and broke my contract with them and asked for the help of my agency to send me back to the Philippines. The agency didn’t help me at all.” (28 years old, female, Philippines).

“I am Steve, I am working as an informal worker collecting garbage in the households for three years now. Each family pays me informally from 2,000 to 5,000 CFA-Franc<sup>6</sup> per month but it is very unstable because sometimes they didn’t pay. In my case, it looks like I am working indirectly with AVERDA (a private company hired by government to collect the garbage)” (22 years old, male, Gabon).

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<sup>5</sup><http://www.ilo.org/berlin/lang—en/index.htm>, accessed on 9 January 2018.

<sup>6</sup>Currency of the West African Economic and Monetary Union ; corresponds, according to [www.oanda.com](http://www.oanda.com), to € 3.05 to € 7.62 (as of : 16 January 2018).

"At my workplace, I also experience psychological abuse. They use abusive words, they yell, they insult us mostly because we are women. We keep silent because we want to preserve our job. The violence we experience is both horizontal and vertical: horizontal as the male operators who do the same work are violent and harass us; vertical when this comes from a manager as an exercise of their power and machismo over us, giving us more workload for the same salary, seeing us as commodities, as objects." (28 years old, female, Nicaragua).

"I have been working with interim contracts for four years now, which are mainly weekly or daily contracts. The Interim office will then let you know a day or sometimes a few hours in advance that you have to come to work. If you do not respond quickly enough you have lost the job and you have not earned money that day." (26 years old, male, Belgium).

These are not isolated cases. At the World Council of the Young Christian Workers in 2016, delegates from different countries diagnosed common challenges: job insecurity, precarious jobs that do not allow for future planning - such as fixed-term contracts, temporary employment, but also fictitious contracts. Reductions or the lack of social security. Discrimination based on gender and origin. Discrimination against young people for lack of work experience or simply because of age. Unemployment and underemployment. On the other hand, high pressure, (not always paid) overtime hours and stress. Informal gainful employment.

These undignified working conditions prevent young people from shaping their environment and society, or even their own lives. At the same time, they are very interested in this and would like to contribute their own potentials and ideas for improvement at the workplace. However, we are increasingly experiencing that employees are being prevented from organising and thus from participating in shaping the workplace.

A 22-year-old YCW member from Paraguay reports: "I work in a factory that makes clothes. We work directly with chemicals, with bare hands, without occupational safety. Our bosses watch closely as groups form and we begin to talk about our workplace. Several times colleagues have been dismissed for this reason. So now I'm trying to meet my colleagues outside the company."

A 26-year-old German woman tells of the helplessness among employees in an energy company: "Without a works council, we were in a fix anyway. Even before my time at

the company, an employee had already tried to establish a works council, but without success: He was dismissed before he could do anything. After that, no one else dared to become active. As my contract expired shortly afterwards, I had already known beforehand that it would not be renewed. At least this time I didn't have to hope for an extension of the contract, but directly tried to find a new job."

Such experiences undermine the confidence of young workers in social dialogue and its institutions, namely the ILO. However, structural questions also arise about these cases of preventing workers' organisations or "union busting": To what extent do laws protecting organised workers protect against the non-renewal of fixed-term employment contracts? Or being a freelancer (formally?) I don't have an employer, but am rather a (bogus) self-employed employee, how should I enter into a dialogue between "employee" and "employer"?

At the same time, young workers from free-trade areas in Guatemala and Indonesia and in European restaurants experience the disregard of legal labour law, which is also made possible by inadequate or only superficial controls of compliance with the standards.

In the light of this global experience, it becomes obvious how great the challenges and issues are, which the International Labour Organisation – as well as all citizens and actors in shaping society - have to face. The founder of the Young Christian Workers, Cardinal Cardijn, is reported to have said at the time of his death in 1967: "We have to start. We are only at the beginning!" This statement at the end of an eventful life with a remarkable lifetime achievement seems to me also appropriate for this anniversary. A lot has been achieved - and more needs to be done! People must be at the heart of economic activities. According to the ILO, decent work should be guaranteed worldwide.

This means now and in the future that compliance with labour laws must be guaranteed. How can this be achieved? Do we need stricter controls for this, which would of course require more money from the state? How could these controls also be applied to sectors including domestic workers, which have hitherto been difficult to access?

It also means that everyone can have a say in shaping gainful employment. So how does "social dialogue" succeed beyond the "classical counterpart" of employees and "employers"?

It means that progress must serve people - including automation. Technological development must benefit everyone. How do we secure this? How do we distribute our (gainful) work in such a way that everyone can contribute his or her own skills and that he or she can make a contribution for the benefit of society?

It means that everyone is entitled to social protection. So how do we secure social security, good education and the necessary infrastructure for everyone on this planet? How do we shape social security if the model - or rather the reality - is not necessarily lifelong, permanent full employment?

How is it possible to view gainful employment worldwide as part of a person's life, but not as the most determining factor? How do we separate working time from private time despite the technological possibilities of being permanently available? How do we limit stress, pressure and prevent excessive overtime work?

People must be the focus of attention - and that means every human being. Dignified working conditions worldwide mean dignified working conditions for everyone. This claim is blatantly contradicted by the unequal treatment of people on the basis of gender, age or origin. So how do we manage to resolve these contradictions? Concrete questions referring to this issue: How do we achieve gender equality? How do we design a safe, decent and for all actors profitable (labour) migration?

I wish that the ILO and all of us will find answers to these questions and develop mechanisms for decent work, equal rights and decent life for everyone on this planet.



**Sarah Prenger** works for the YCW -Young Christian Workers. The international YCW has consultative status with the ILO.

<http://www.joci.org>

## Promotion of international Standards and Collaboration- Wishes for ILO's future!

*Prossy Nambatya, formerly JACODEWU, Uganda*

The work of ILO across and with different organisations is very tremendous especially in ensuring the rights of workers and labour standards however there are a number of challenges awaiting ILO and its partners in the next decade:

The number of young people especially in developing countries is overwhelmingly high and these are people who are full of energy and ready to venture into the world of work. Meanwhile the number of jobs created annually is far less as compared to people of the working age. Many countries as well are not very strict on implementing the retirement policy which keeps elderly people in work and leaves the young people out. Many young people have become desperate and a chance of getting employment becomes slim each day thus decent work deficits emerge in many scenarios.

The increasing rate of labour migration is posing a threat to employment and poverty in many parts of the world. For internal migration, many countries do not have well planned cities that can readily avail jobs to the immigrants and the few jobs available cannot match decent working standards thus the international standards set by ILO are likely not to be achieved by many of the member countries. In many African countries for example, majority of the population is employed in agriculture and with the trend of rural urban migration, agricultural land is left unattended to and instead people run to cities and fall in informal sector employment with a deficiency of decent working conditions. Internationally, labour migration is also a challenge especially when it comes to labour rights and equal opportunities for the immigrants. Many of the immigrants may not get opportunities for decent jobs since human rights and workers' rights lack consideration. Thus very often safety of migrant workers is undermined.

Economic liberalisation has left the workers at the mercy of the multinational companies and investors. Because the member states are autonomous, ILO is not in position to regulate what happens in one given country. The Multinational Corporations are so powerful financially that they cannot be controlled and regulated by the host countries to respect occupational safety and health standards. There is very limited or no supervision and inspection by the host countries.

Legal frameworks in relation to labour and workers' rights remain a challenge since they are set at the national level without the intervention of ILO, although ILO strives to ensure fairness and justice in the world of work, it can hardly force member states to

implement the international labour standards. The fact that implementation of labour laws have financial implications, ILO cannot guarantee that member states will allocate the appropriate amounts of funds to ensure enforcement of the legal frameworks as well legal frameworks in some member states may be far below the international standards.

Hence ILO has also a challenge monitoring the member states to ensure that the commitments and agreements are implemented. On the other hand, there is no guarantee that the member states delegates do carry out a dissemination of the decisions and agreements set during the International Labour Conferences thus the populace may not know what to demand for and what is due to them. Especially informal, meaning unorganised workers are not even aware and cannot demand for accountability which will definitely affect the targets of ILO.

Increased use of technology for production as opposed to people is a big threat to attaining decent employment. This poses a fear of having many people laid off and replaced by machines to minimise costs and maximise profits. As ILO aims at working with member states to create jobs for masses, big numbers are at the same time being laid off given the increased use of technology.

The rate of environmental destruction is a very big threat to both nature and human beings. Many countries have been affected by the rates of global warming especially those whose main source of employment for centuries has been agriculture. There is an urgent call for diversification of sources of income and employment opportunities and the affected countries are not fully prepared for the changes thus they cannot immediately adjust.

Diversity and cultural differences undermine the chances for both men and women to have equal opportunities in the world of work. Women are still challenged with the socially constructed roles as well as the reproductive roles – with the consequence that they cannot be at an equal footing in terms of employment opportunities with men.

The Joint Action Committee for Decent Work in Uganda (JACODeWU) which aims to support the ILO decent work country programs was formed in 2012 and is in dialogue with the ILO and wishes that in future the ILO :

- Should come up with a more robust monitoring and evaluation system that will provoke the member states to honour and implement the commitments and agreements made in relation to ensuring decent working conditions.

- Should promote international standards to regulate the multinational companies to work within the legal frameworks of the host countries to be able to respect the workers and ensure decent working conditions.
- Should strive for more collaboration with other Global organisations to streamline workers' rights and decent working conditions in their programmes.
- Should be given more mandates to intervene and have a say in the legal frameworks set by each individual member state to ensure that they meet the international labour standards and continuously monitor occupational safety and health standards.



**Prossy Nambatya** was coordinator of the Joint Action Committee for Decent Work in Informal Economy in Uganda (JACODEWU) until the end of 2017. The JACODEWU is a multi-stakeholder forum of churches, trade unions, employers and the government in Uganda to promote the ILO country programme 'Decent Work'.

<https://futureofwork-labourafterlaudatosi.net/about-the-project/>

## Step by step to more inclusive forms of advocacy

*William Gois, Migrant Forum in Asia*

As a regional network of civil society organizations (CSOs), the role we play in fostering ties and our impact on the ground is immeasurable. Realizing this, Migrant Forum in Asia (MFA) began its long association with the International Labour Organization (ILO) through collaboration and supporting various initiatives and program of the institution including the Work in Freedom<sup>7</sup> project and the ratification campaign on relevant ILO conventions on migrants such as the C189. MFA is primarily involved in evidence-based policy analysis, media engagement, and campaigning. Through our work, we have been able to participate in rigorous activities with grass-root level organizations in over 20 countries that are either countries of destination or origin.

Civil societies for migrants in Asia continue to be major stakeholders/consultants in various tripartite agreements on labour movement, maintaining strong ties with local trade unions, governmental bodies and private enterprises. The most recent being the invitation for civil society to participate in the Abu Dhabi Dialogue (ADD)<sup>8</sup> as observers. MFA was able to provide relevant inputs over a period of time and partake in talks with governments throughout the ADD. While civil society may consider this as a turning point in improving a working relationship with governments in the region, the dynamic socio-political climate in Asia leads to migrant organisations constantly endeavoring to discover new ways to engage with the migrant community and other major stakeholders. As things go, unlike other regions, the space for migrant civil society to function in Asia is slowly shrinking and in the Gulf region, it is almost non-existent. While there is evidence of that slowly changing, countries of destination continue to be wary and hesitant to fully involve themselves in a relationship with migrant organizations. Correspondingly, the ILO, in terms of its involvement with migrant civil societies, faces the challenge of dealing with increasingly authoritarian and anti-migrant regimes across the world. This could be implicitly observed during various inter-

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<sup>7</sup> s. description of program:[https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/documents/projectdocumentation/wcms\\_217626.pdf](https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/documents/projectdocumentation/wcms_217626.pdf).

<sup>8</sup> The ADD was established in 2008 as a forum for dialogue and cooperation between Asian countries of labour origin and destination. As a state-led Regional Consultative Process (RCP), the ADD aims to enable safe, orderly and regular labour migration in some of the world's largest temporary labour migration corridors. Further information at: <http://abudhabidialogue.org.ae/about-abu-dhabi-dialogue>

governmental dialogues and the institutional and working freedoms of ILO initiatives in the region.

In the field of migration, effective advocacy and involvement of stakeholders needs to begin at grass-root level organisations that provide vital resources as well as play the role of participants in the process.

Explicitly, effective advocacy could be achieved through evidence-based research such as documentation. Documentation is a major challenge faced by migrant organisations due to recurring practice of confiscation of passport and other documents. While stressing on the need for policy-based advocacy and recommendations on labour practices in countries, the incorporation of documentation as an important resource must also be undertaken. For this reason, the Migrant Recruitment Advisor (MRA) was developed, under the Fair Recruitment Initiative, and became an important programme to respond to recruitment violations. MFA further aides this through its Migrants Rights Violation Reporting System (MRVRS/Hamsa). Network members are encouraged to report their cases of violations through the system and in some cases, the national mechanisms for grievance redressal are also incorporated for the rapid response team to take necessary actions. With the support of the International Trade Union Confederation (ITUC) and ILO, the system has seen steady progress among members and is contributing to a larger advocacy agenda as well.

Moreover, it is a necessity to involve and constantly engage grass-root level organisations and other stakeholders (like sub-agents) to document their work. In this regard, the ILO has been consistently supportive and continues to form meaningful relationships with civil society. MFA, on their part, continues its campaigning efforts at regional and national levels by organizing migrant workers, journalists, faith-based workers, social workers and government officials to form significant discussions and cohesion. One such instance of the collaborative relationship between MFA and the ILO was the Global Media Competition on Labour Migration (2017), which encouraged quality media coverage on migration and recruitment all over the world.

In the current geopolitical climate, civil society organisations are faced with not only unregulated/regulated labour migration but also large scale movements of refugees. Thus, there is a necessity to formulate social protection measures or social security measures for refugees that will enable long-term self-sufficiency and not just as a reactionary measure. This prompted the recognition of the international community to

chalk out separate agendas for refugees and migrants in the Global Compact on Migration.

At the time when migration advocacy is in dire need of a globally agreed and ratified guide to labour and migration governance, the Global Compact on Migration delivers hope and opportunity to improve the governance on migration and address contemporary issues and challenges pertaining to migration. While civil society organisations like the MFA express their concern on the non-binding nature of the document, the Compact is a step in the right direction and would serve as a reference to the significance of fair and safe migratory practices. It would further encourage multilateral efforts in labour relations and migratory corridors. The efforts now need to concentrate on maintaining this steady stride of campaigning and initiatives regarding implementation and monitoring within corridors, regions and nations. CSO's and trade unions may mobilise separately but need to function together to provide sustainable inputs to the agenda. Consequently, mapping out the policy space to include and recognise the role of stakeholders like border or sub-agents, refugee aid organisations and other non-governmental actors and bodies, we can achieve deeper engagement with operationalising the rights-based approach.

Furthermore, domestic workers continue to be a top priority in the migration sector and particularly for civil society due to their vulnerable nature and lack of basic rights in both countries of destination and origin, in some cases. The ILO continues to support the sector, most specifically, during the 100th Session of the International Labour Conference, which saw the adoption of Convention 189 on Domestic Workers with regards to providing them a set of international standards to improve working conditions which was a milestone in migrant and human rights. While the task before us as civil society is challenging, a comprehensive and steady progress can be maintained to sustain the campaign for ratification through narrow regional focus.

Forced labour, in addition, remains rampant throughout the migration corridors, violating basic and fundamental human rights, and exacerbated by the illegal methods of recruitment, migration, and living conditions. The ILO Protocol on Forced Labour enforced in 2016 aimed to tackle this issue. By ratifying this Protocol, countries are bound to implement and report forced labour cases periodically and it also allow countries to remain accountable to its nationals as well as the migrant population.

In view of these challenges, the most pressing needs of migration advocacy are the following: focus on emerging migratory trends; incorporation of migrant and refugee

rights under the larger umbrella of human rights and capacity building; and the constant engagement with grass-root level organisations in terms of evidence-based research and advocacy. Furthermore, acknowledging the complementary nature of the two Compacts on protecting people on the move, we urge countries to strongly implement the provisions stated under the Compacts emphasizing its importance in safeguarding the human rights of migrants and refugees around the world. Conclusively, while ILO is an organization that deals, primarily, with challenges on labour migration, we urge the organization to intervene as well in the development of the Compact on Refugees to guarantee harmony of both Compacts. Lastly, while we laude the ILO's efforts in labour migration, fair recruitment and gender studies in the migration context, we insist on the continuation of strengthening relations with civil society extending beyond trade unions to involve various non-state actors, thereby introducing a truly inclusive and long-term global advocacy structure.



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<http://www.mfasia.org>

# Defending A Rights-Based Approach to Governing Labour Migration

*Prof Dr Nicola Piper, Sydney Asia Pacific Migration Centre, University of Sydney*

The emerging international labour system through cross-border mobility of workers has been identified as one of the main challenges today, in general and for the ILO in specific. Of the 232 million migrants estimated to be on the move globally, 150 million have left their countries of origin in pursuit of work as of 2013 (ILO 2015). Most forms of migration have employment-related aspects as geographic mobility is largely a response to lacking economic opportunities under conditions of insufficient or non-existing social safety nets provided by states and the increasing or continuing privatisation of essential public goods such as health and education. As far as the regulation of worker mobility is concerned, multi-lateral frameworks (such as ILO Conventions no. 97 and 143)<sup>9</sup> are highly under-ratified and (the more common form of) bilateral agreements rarely include clauses on rights. This state of affairs has profound implications on hiring and employment practices of migrants.

The exploitative tendencies in recruitment processes along global production and care chains, substitution of contracts as well as the underpayment and non-payment of wages are in fact the most pressing issues identified by migrant and labour rights activists (supported by research findings<sup>10</sup>). Well-reported instances of exploitation, such as the treatment of South Asian construction workers employed in Qatar ahead of the 2022 FIFA World Cup (Amnesty International 2016) are only the tip of the iceberg in this regard. Migrants are commonly subjected to abuse and violation of their labour rights not only during overseas employment, but in fact throughout the migration cycle, starting already at the pre-migration stage and also upon return.

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<sup>9</sup> ILO-Convention Nr. 97 „Convention on Migrant Workers“ came into force in 1952. 49 of the 187 ILO-Member states have ratified this convention, among them Deutschland in the year 1959. ILO-Convention Nr. 143 „Convention concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers“ came in to force in 1978. 23 ILO-Member states have ratified this convention up to now. Germany has not ratified.

<sup>10</sup> See e.g. Farbenblum, B., Taylor-Nicholson, E. and Paoletti, S. (2013), *Migrant Workers' Access to Justice at Home: Indonesia*, Open Society Foundations: New York.

One of the basic rights which are at the heart of problematic global labour system is the lack of freedom of mobility. Migrants are typically hired on temporary contracts, often tied to specific employers. This renders migrant workers extraordinarily vulnerable and skews the power balance in favour of employers. Migration policy practices have come to take on an increasingly restrictive and selective character, as already noted by the first director of the International Labour Organisation, Mr Albert Thomas, who in a speech presented to the World Population Conference in 1927 pointed to "the evolution from practically complete liberty to increasingly strict regulation by collective and national action" and the fact that migration movements were "undergoing a very thorough transformation. The more or less anarchic freedom with which (...) they proceeded is now decreasing, and the Governments are tending to subject them to increasingly strict control." (1983, 705). The key challenge for the ILO, therefore, is to replace this "migration management" practice with a rights-based approach to migration which comprises the right to work and rights at work as a universal right. Aspiring to the status of being "the centre for normative action in the world of work; a platform for international debate and negotiation on social policy; and a source of services for advocacy" (ILO 1999:2), the ILO is in theory ideally placed to develop such rights-based approach to the governance of labour migration.

One important pathway to the gradual realisation of such a rights-based approach is via democratising the decision-making process and participation by the people who are affected. It is again the ILO's tripartite system that is unique as far as global governing institutions are concerned in allowing almost equal representation of workers alongside employers and governments. However, being historically derived from the European and North American experience of industrial revolution and worker movements, worker representation via formal unions has been based on skilled workers in formalized employment situations, based on a model of industrial citizenship derived from western contexts. Historically, informal workers, among them women and migrants, had for long been excluded from political representation and the process of standard setting whose principle means were the creation of a series of conventions and recommendations on national labour practices. In the current phase of transnationalising labour markets, however, a standard setting framework designed for national systems of regulation no longer suffices.

In this regard, two fairly recent examples point to a gradual reform process within the ILO: its Homeworker Convention (No. 177, 1996) which was a break-through as regards a largely female informal workforce, although it remains a particularly under-ratified instrument. The Private Employment Agency Convention (No. 181, 1997) constitutes an

instrument which recognizes the emerging transnational labour systems (Standing 2008). The ILO Domestic Workers Convention (No. 189, 2011) is the latest example which not only provides standards highly relevant for a large number of workers in the Global South – women, informal sector workers, and migrants – but its birth was also subject to a semi-revolutionary process by involving a broad church of civil society organisations beyond the classic labour unions representing mainly a skilled, formal (primarily male) workforce. This has given new impetus to the increasing voices calling for the ILO to consider a ‘tripartite plus’ system, beyond the strict confines of worker representation through formal labour unions only.

In response to the growing recognition of workplace precarity, the International Labour Organisation (ILO) launched a ‘decent work for all’ campaign in 1999. As concerns migrant precarity, an important move by the ILO was its success in 2015 in incorporating decent work as a key objective in targeting world poverty by the Sustainable Development Goals (SDG) which will now guide international development planning up to 2030, thus providing a new impetus for better global social governance of migration. SDG Goal 8 explicitly calls for ‘decent work’ at the heart of all processes of economic growth and for the protection of the labour rights of all workers, ‘including migrant workers’, whilst SDG 10.7 calls for not only ‘well managed migration policies’ but also for efforts to ‘facilitate orderly, safe, regular and responsible migration and mobility’. These targets are also part of the Global Compact for Safe, Orderly and Regular Migration, which will be formally adopted by the UN in December 2018.

Calls for decent work, in short, provide the best hope for regulating mobility, limiting migrant precarity and protecting migrants’ rights in a transnational manner. The realisation of such an agenda, however, requires functioning and supportive institutions at all levels – nationally, regionally and globally – and a greater understanding of the situation as perceived by migrants and civil society actors.

In sum, as far as the emerging global governance system on migration is concerned, overemphasis on the regulation of exit and entry has not been matched with equal concern for the regulation of employment practices and workplace conditions. Put differently, the rise in ‘migration governance’ has been accompanied by a lack in appropriate ‘labour governance’ which is manifested in the poor implementation of labour rights, including insufficient allocation of resources to labour inspection. By contrast, vast resources are poured into border control mechanisms by wealthier countries of destination such as the US, Australia and in Europe. In addition, migration policy has been largely developed in an undemocratic manner, removed from

participation by organisations which represent the interests of migrants. It is in this context that the ILO has a significant role to play and must step up its efforts. To do so has to start from within, however, i.e. an internal institutional reform process, drawing from the experience with ILO C189.

In order to achieve improved governance of labour in general and migrant labour in specific, a multi-stakeholder approach and institutional set-up is required, beyond the traditional tripartite system that confines worker representation to certain unions only. Such an approach has the potential to deliver better outcomes for all parties by improving conditions of employment, reducing developmental stress in countries of origin and alleviating immigratory pressures for countries of destination. Improving the social governance of migration via democratising the ILO's institutional decision making process would remove a key hurdle in converting the laudable intentions of 'decent work for all' into tangible policy outcomes.

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<https://sydney.edu.au/arts/our-research/centres-institutes-and-groups/sydney-asia-pacific-migration-centre.html>

## Informal is Normal

*Karin Pape, WIEGO*

Happy birthday ILO!

For many, the 100th birthday “commemoration” of the International Labour Organization may seem to pay tribute to an institution which, although important in the 20th century, is now based on an outdated model, unable to address the challenges of the world of work today. However, quite the contrary is true! The ILO is needed more than ever and its instruments are modern and robust enough to face the world of work in the 21st century - if used.

From the very beginning the ILO embarked on the concept that "a worker is a worker". Despite the fact that the ILO at the beginning of the 20th century addressed first and foremost regulating working conditions for workers in factories, many of the adopted Conventions cover all workers, regardless of whether they are formal or informal; migrants or non-migrants whatever their citizenship status, men or women etc. This is particularly true for all fundamental (core) Conventions of the ILO: freedom of association, the right to collective bargaining, abolition of child and forced labour and the elimination of discrimination. Still, in practice, these are not always understood or applied in this way, and informal workers and those outside of a standard employment relationship often remain excluded.

From a WIEGO perspective, we observe that starting from the famous ILO Kenya report of 1972, the perception of the world of work has, little by little, broadened within the ILO, and developed into an awareness that most workers, in particular in the Global South, are outside of standard employment relationships. However for many years, it was widely believed that with the right mix of economic policies and resources, low-income traditional economies could be transformed into dynamic modern economies in the way that Europe and Japan developed after World War II. As we now know this did not happen, and today, the informal economy comprises half to three quarters of the non-agricultural labour force in developing countries.

The first Convention, which specifically addressed a work force outside of traditional work places, was the Convention on Homework (C 177), adopted in 1996. A general discussion on "Decent Work and the Informal Economy" followed in 2002. For the first time, the ILO adopted in the conclusion of the discussion, a framework which recognized the diversity of actors and activities, including the concept of "own account workers". Further milestones for informal workers were the adoption of the Domestic

Workers Convention (C 189) in 2011, the Recommendation on the Social Protection Floors (R 202) in 2012, and the Recommendation on the Transition from the Informal to the Formal Economy (R 204) in 2015.

Alongside developing labour standards specifically for informal workers, the ILO also developed statistics and concepts to capture the diversity of the informal economy. It took many years before the concept of the informal economy was expanded beyond that of the “informal sector” (which is an enterprise concept) to embrace the concept of “informal employment”, which looks at the work force in the informal economy. WIEGO is proud to be a recognized partner in supporting the ILO in pioneering these new statistical concepts. The ILO has been supporting governments to generate, tabulate and disseminate labour force data on informal employment. A current challenge – and hope of ours – is to bring all countries, including advanced industrial countries, into the common conceptual framework for informal employment and into a revised “International Classification of Status in Employment” (ICSE)<sup>11</sup> framework, given that the employment structure of advanced industrial countries is seeing a rise in precarious, non-standard and even informal employment.

For WIEGO this has been crucial, as better statistics deliver facts on the size and composition of the informal work force and on their contribution to the GDPs of their respective countries. For informal workers, statistics are a powerful tool to make informal employment visible and to deliver solid arguments for policy changes.

Most importantly, however, is that the ILO, by its constitution, provides a space and thus a crucial channel through which the labour movement has the opportunity to influence global employment policies.

Traditionally, trade unions organize workers at their work places, first and foremost in big factories or offices. Trade unions do not often target organizing workers working in “unusual” workplaces, for example, those in private homes, on the streets or in other public places. This is where many informal workers are found and where they do organize – according to their circumstances. Most organize into membership-based organizations (MBOs), which have a democratic constitution and in which the

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<sup>11</sup> These international frameworks are discussed at the “International Conferences of Labour Statisticians (ICLS)”, which take place every five years and which adopt tripartite resolutions which serve as guidance for member States of the ILO

leadership is accountable to its members - in short: organizations which are constituted on the same principles as trade unions. This is also true for own account informal workers, who do not have an employment relationship. Most of these organizations are currently outside of traditional trade union structures, although this is slowly changing.

The democratic MBOs of informal workers must be recognized in the same way as other workers' organizations. This is first and foremost the responsibility of the recognized trade union structures. In many countries informal workers' organizations are not recognized by law. However, for the trade unions this should not create an obstacle to either integrate them into their own structures, or support informal workers' organizations if they are outside of official trade union structures.

In the last ten years, we have seen an increasing commitment, in particular by the Workers' Group in the ILO, to recognize and accept informal workers' organizations in ILO processes, also including standard setting procedures. However, sometimes it is still a challenge for the representatives of informal workers' organizations to be accepted on equal terms.

For the future, we like to see the ILO acting as the key leading international agency to

- Track and document the rapid changes taking place in the structure of employment globally, particularly the blurring of boundaries between traditional categories of work, such as self employed vs wage employed and the new categories, such as dependent contractors or "gig" workers that are being created; and
- To address all categories of workers by creating new or assisting in implementing existing international labour standards.

With regard to the Workers' Group of the ILO, the trade union delegates and the support units in the ILO, we hope to see a continuation of the positive development towards acceptance and inclusion of representatives of informal workers' organizations to delegates from traditional trade union structures. To cement this trend, further developments should include:

- The right for informal workers' representatives to speak in the Workers' Group at the ILC, which would no longer be at the discretion of the chair. Rules would need to be worked out.

- Encouraging the inclusion of representatives of informal workers' organizations (at national level) into the national workers' delegations to the International Labour Conferences in particular when topics are on the agenda, which affect their working and living conditions.

Generally speaking we would like to see the following from the international trade union movement inside and outside of the ILO:

- To be proactive in promoting changes to national labour laws that recognize membership-based organizations of informal workers, which also include MBOs of self-employed/own account workers.
- To adopt a new and broad definition of collective bargaining to include collective bargaining between workers' organizations and counterparts other than employers, e.g. in the case of street vendors, local authorities. This would be an important right with the potential to include a huge group of workers into a labour rights-based framework and the trade union movement.
- To proactively encouraging unions to include or work with informal worker MBOs (including cooperatives and other non-union like formations) and creating forums for engagement to build mutual understanding and trust and to develop strategies of working together as one workers' movement.

A strong ILO is needed more than ever. We in WIEGO are committed to working together with the ILO in its endeavour to provide rights and protection for all workers.

One hundred years after the creation of the ILO, the first sentence of the Preamble of the ILO Constitution remains as valid as it was then:

*"Whereas universal and lasting peace can be established only if it is based upon social justice"*

*The author would like to thank Chris Bonner and Sally Rover for their critical comments and for their input.*



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## ILO and the informal sector – a long way to go

*Namrata Bali, SEWA*

Due to the digitalization and offshoring of production to low-wage countries, globalization brought significant changes in the world of work. The most challenging about this reformation is the scope and application of labour law, hence ILO labour standards. Often, neither de facto nor de jure labour law is applied or enforced, especially not within the informal sector. The informal economy's share in the global labour market is increasing, and thereby reducing the scope of application of labour laws proportionally. According to the ILO, self-employment and other forms of non-subordinated, albeit economically dependent work are increasing. Very few of such workers, also informal workers can claim protection from labour laws (ILO, 2017).

### *Size and composition of the informal economy*

According to WIEGO, in most regions of the developing world, employment in the informal sector accounts for more than 50 per cent of non-agricultural employment (eg. 82 % in South Asia, 66 % in Sub Saharan Africa, 65 % in East and Southeast Asia, 51 % in Latin America, 45 % in Middle East and North Africa). Many women participate in the informal sector. "In three out of six regions, informal employment is a greater source of non-agricultural employment for women than for men." (WIEGO, 2014, p. 2) So, women are more prone to informal work. However, because there are more men in employment than women, men generally account for a greater share of informal and non-agricultural work than women. (WIEGO, 2014)

### *Global Supply Chain*

Global supply chains play a key role for economic chances in today's globalized and globalizing world. However, the quality of those chances depend on how workers and enterprises are included in the supply chain. Within the manufacturing supply chains, one way in which informal workers are integrated are in the industry as outworkers for formal suppliers or lead firms. Many of them work from their own homes, so called homeworkers. Especially in Asia homeworkers represent a relevant share of employment in global value chains. They produce goods for global value chains from within or around their own homes. Their work comprise the stitching of garments and weaving of textiles, stitching of shoe-uppers and footballs, manufacturing of craft products, processing and preparing of food items, rolling incense sticks, cigarettes and cigars, assembling or packaging of electronics, automobile parts, and pharmaceutical products, and more. Pointing out, how and where homeworkers are inserted in the supply chain

of a particular product makes them visible. It helps to identify possible interventions that increase their skills, productivity and eventually their earnings to make ends meet.

### *Technology to Informal Workers*

For many informal workers, the technologies, which are entering their professional field, such as waste management, water delivery, or garment production are not accessible. Informal workers are limited in harnessing the technologies by a multitude of compounding and interdependent factors, such as a focus on transfer of high-technologies to sufficiently large firms, a lack of necessary prerequisites for some technologies (such as LPG, or electricity), a lack of human capital necessary to obtain the qualifications to operate the technologies, or a lack of adequate resources (safe storage, means of transport, knowhow) to utilise technologies. Above all, the costs of new or improved technologies exceed the informal workers' incomes and risk assessment for necessary investments. This dilemmatic situation gets amplified by the lack of a steady income of informal workers and the exclusion from most sources of financing. (Casey and Hughes, December 2016) (Sinha & Mehrotra, 2016).

### **Case Study: Increasing Women's Productivity: Technology and Agriculture in Rural Bihar, India**

In the state of Bihar, technology was the entry point through which SEWA addressed the related issues of productivity, occupational health, and safety among agricultural and home-based workers. This included an intervention to increase crop productivity through facilitating access to agricultural machinery, and increase energy access through the provision of solar home light systems. These interventions connected women with technological innovations in an accessible way, allowing them to become familiar with the benefits of these through first-hand experience. This experience is significant, as many rural women workers want to improve their livelihoods but are unsure about their own capabilities to use technology. More significantly, they do not have the financial resources to access these technologies. Awareness and education of women workers is a key strategy used in both interventions. Through a group learning setting, women are trained on new technologies and agricultural techniques. This process has not only increased knowledge among women workers but has also enhanced their confidence to make decisions in their field. SEWA also promotes procurement of technology through end-user financing either from nationalized banks or SEWA's banking institution. In the case of solar home light systems, where the cost is affordable, it is easier to provide the

technology on deferred credit to individuals. In the case of larger machines used in agriculture, a community-based procurement approach is employed. Specifically, a Custom Hiring Center (CHC) is established from where women can rent machines for tilling (zero tillage machines), transplantation (paddy transplanters), and threshing. (Wiego, 2017)

### *Way Ahead*

**We need to get the voice of organisations that advocate for informal workers into the ILO.** Those organisations as well as the informal employees themselves need to be given representation. ILO should give the informal economy organisations space to grow. National Trade Unions only restrictedly represent informal workers or homeworkers. Even SEWA, despite of being a National Trade Union and its focus on workers of the unorganized sector, had difficulty in doing so.

Moreover, a genuine implementation of the ILO recommendation 204 is required.

This includes firstly, the formalization of informal enterprises. To achieve this aim, simplified registration procedures and progressive registration fees are being needed. Furthermore an appropriate legal and regulatory framework is needed, including enforceable commercial contracts, private property rights, the use of public space and occupational health and safety regulation. The benefits of operating more formally are access to finance and market information, access to public infrastructure and services, enforceable commercial contracts, limited liability, clear bankruptcy and default rules, access to government subsidies and incentives, including procurement bids and export promotion packages, membership in formal business associations and last but not least access to a formal system of social security.

Secondly, apart from a formalization of firms, a formalization of informal jobs is needed. Informal workers must be legally recognized and protected like formal workers. This includes the same rights and benefits of formally employed workers, a minimum wage, occupational health and safety measures, employer contributions to health and pensions, the right to organize and bargain collectively, membership in formal trade unions and the freedom from discrimination.

Therefore, the way ahead to recognition of the informal economy is marked by a step-by-step approach, to implement all the measures mentioned in this section, hence, there is a long way to go.

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<http://www.sewaacademy.org/>

## The ILO is taking up the challenges of the changing world of work

*Claudia Menne / German Trade Union Confederation (DGB)*

Increasing political imbalances, ever more frequently changing government constellations, the increase in inequality, insecurity and thus in precarious living and working conditions also shape the work of the ILO and place it partly at the centre of political disputes. The ILO fights for internal cohesion and functionality in many ways. The change in the world of work and in workers' rights, also along global value chains, is in full swing<sup>12</sup>. How the ILO succeeds in meeting these challenges in a joint process, both tripartistically and in formats of 'Tripartism+'<sup>13</sup>, will have a considerable influence on its future political position in the international fabric.

The celebration of the ILO's centenary next year will offer numerous opportunities to reflect on the past but even more on the future. The drafting of a statement on the centenary in 2019 will be of great political importance, as it will not only measure the content but also the ability of the international community to compromise in the reformulation of fundamental concerns in the world of work and in the field of social protection.

Next year's celebrations will take place at a time when the system of multilateral relations is often criticized and it is becoming clear everywhere that it will hardly be possible to 'continue as before'. The reform process of UN development work as an important factor is casting its shadow. The first outlines are discernible and the ILO, as one of the oldest special organizations in the UN system, is also preparing for changes in the framework conditions. The keypoint of the programme is Agenda 2030 with its 17 UN Sustainable Development Goals. Within the framework of Development Goal 8: Decent Work, the ILO takes on the role of 'custodian', in other words, it takes the lead in all activities of the Alliance 8.7 to Eradicate Forced Labour, Slavery and Child Labour founded at the end of 2016.<sup>14</sup>

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<sup>12</sup> Vollmann, Carolin; Die Internationale Arbeitsorganisation, Zwischen Sorge und Hoffnung der globalen Gewerkschaftsbewegung, Report on the 106th International Labour Conference 2017, in: [www.dgb.de/themen/internationales&europa](http://www.dgb.de/themen/internationales&europa)

<sup>13</sup> „Tripartismus+“ means the way of including Civil society Organisations into the governance structure of the ILO. Refer also to articles by William Gois and Nicola Piper in this paper.

<sup>14</sup> [www.Alliance87.org](http://www.Alliance87.org)

However, the ILO's discussions and programming do not only relate to changed requirements in development cooperation. The central area of ILO standard setting is also undergoing a revision process. The same applies to the development and design of ambitious policies to enforce both fundamental rights and principles of decent work and comprehensive social protection.

For the further development of the ILO's work, the central fields of action have been combined into seven centenary initiatives<sup>15</sup>. They are supposed to offer space for the exchange on urgent future questions and the interlinkages of topics.

The Future of Work Initiative, which was launched in 2016, is not without reason the most outstanding of these initiatives. Its ultimate aim is to sum up the work of the ILO for the 21st century. The ILO's role and tasks in shaping the future of work are of fundamental importance for an increasingly networked and globally active world economy. While about 20 years ago the credo that globalization would lead to a win-win situation for developed and developing regions of the world, opening up new opportunities for every individual, scepticism now dominates in many regions, among many actors and many employees. The feeling of having insecure living conditions is intensifying.

Therefore, the Future of Work Initiative is an essential, if not the decisive, component in the global debate on how the ILO's mandate can be developed and strengthened taking into account various global trends. For all actors, it is not only crucial to strengthen the mandate, but also to place the special principle of tripartism as a decisive success factor in the debates.

More than 100 dialogues have already taken place worldwide. A Global Commission<sup>16</sup> of 28 experts is currently working on identifying and describing the most important trends in order to formulate recommendations for action and orientation for future activities of the ILO, but also for national policies. These are to be submitted as a report at the beginning of 2019.

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<sup>15</sup> <https://www.ilo.org/global/about-the-ilo/history/centenary/lang-en/index.htm>

<sup>16</sup> Global Commission on the Future of Work, [https://www.ilo.org/global/topics/future-of-work/WCMS\\_569528/lang-en/index.htm](https://www.ilo.org/global/topics/future-of-work/WCMS_569528/lang-en/index.htm)

For the workers' group in the ILO and also from a German perspective, this initiative is the core of the activities. The design of a digitized world of work in particular requires on the one hand a concentration on the central concerns of the trade unions' movement, such as issues of working hours and wages, but on the other hand workers' participation and co-determination, occupational safety and educational aspects must also be oriented towards this. New questions arise, for example, from (employee) data protection or new forms of work and employment, such as platform work, which also takes place across borders and globally. Both the terms "employee" and "company" are undergoing a fundamental change. Therefore, it is also of crucial importance to consider the 'world of work' as a concept, and not just the 'workplace'.

The Federal Government and the German social partners attach an important role to this discussion, which will also find expression in joint national activities for the centenary year.

Important foundations for this discourse have been laid in recent years with the White Paper Work 4.0<sup>17</sup> of the Federal Ministry of Labour and Social Affairs (2016) and the final report 'Let's transform work!' (2017)<sup>18</sup> of the Commission on the Work of the Future, which worked for two years on behalf of the German Confederation of Trade Unions (DGB) and the Hans-Böckler-Foundation. As a result, a high-ranking German expert from the Ministry of Labour and Social Affairs is a member of the ILO's Global Commission.

The increasing digitalization of the world of work consequently plays a very prominent role in the debates. Other trends are just as important: globalization, demography and cultural change were additionally identified in the White Paper Work 4.0. The ILO

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<sup>17</sup> Arbeit weiter denken; Weißbuch Arbeiten 4.0; hrsg. von: Bundesministerium für Arbeit und Soziales, Berlin 2017; <https://www.bmas.de/DE/Service/Medien/Publikationen/a883-weissbuch.html>; English version; Re-Imaging Work, White Paper Work 4.0; published by the Federal Ministry of Labour and Social Affairs, Berlin 2017; <https://www.bmas.de/EN/Services/Publications/a883-white-paper.html>

<sup>18</sup> Jürgens, Kerstin; Hoffmann, Reiner; Schildmann, Christina: Arbeit transformieren! Denkanstöße der Kommission „Arbeit der Zukunft“, Forschung aus der der Hans-Böckler-Stiftung Band 189, Düsseldorf/Kassel 2017, [https://www.boeckler.de/pdf/p\\_forschung\\_hbs\\_189.pdf](https://www.boeckler.de/pdf/p_forschung_hbs_189.pdf); English version: Let's transform work! Recommendations and proposals from the Commission on the Work of the Future, Düsseldorf/Kassel 2017, [https://www.boeckler.de/pdf/p\\_study\\_hbs\\_376.pdf](https://www.boeckler.de/pdf/p_study_hbs_376.pdf);

Inception Report for the Global Commission on the Future of Work<sup>19</sup> also addresses these issues.

Particular attention must be paid to linking the 'Future of Work' initiative with the 'Women at Work' initiative, and in particular the negotiations on a new convention against violence in the world of work. After the successful adoption of a convention on the work of domestic workers in 2011, we now have to cover the world of work as well as the private sphere in an ILO convention in another sensitive field that affects our entire lives. For the workers' group in the ILO it is irrevocable that the future of work must be non-violent. In particular, the protection rights of working women must be codified as comprehensively as possible. After considerable content-related controversial debates in the run-up, it is now becoming apparent that a corresponding convention will be adopted in the anniversary year. This is a clear and decisive signal to be sent out by the Conference 2019: Zero tolerance of violence in the world of work.

Without wishing to anticipate the report of the Global Commission, there are further priorities for the ILO Workers' Group:

Securing and strengthening the normative function of the ILO through a monitoring system that further develops its unique set of standards is a top priority. Implementation and compliance with labour and social norms must remain a central issue. The lower ratification rate of the conventions on freedom of association compared to the other core labour standards remains a matter of great concern and must be pushed forward with renewed vigour by the International Labour Office.

The debate on the right to strike, which has been weighing heavily on relations between ILO actors since 2012, is likely to continue in 2019 and beyond. Ultimately, it is a question of preserving and, if possible, strengthening freedom of association and collective bargaining as the cornerstone of the ILO, in line with the ILO's fundamental concern that lasting peace can only be obtained through social justice. Also for the 21st century it is true that work is more than a commodity and that the well-being of employees must be achieved and promoted in a comprehensive sense. This includes guaranteed social rights and opportunities for participation within and outside the world of work.

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<sup>19</sup> Inception Report for the Global Commission on the Future of Work,  
[https://www.ilo.org/global/topics/future-of-work/publications/WCMS\\_591502/lang-en/index.htm](https://www.ilo.org/global/topics/future-of-work/publications/WCMS_591502/lang-en/index.htm)

Recommended literature:

Herberg, Mirko; Die Arbeit am neuen Wir in: <https://www.ipg-journal.de/schwerpunkt-des-monats/gewerkschaften-im-umbruch/artikel/detail/die-arbeit-am-neuen-wir-2860/>, July 2018

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## Internationalisation of collective bargaining

*Dr Frank Hoffer, ACT-Initiative*

The basic idea behind the ILO is a matter of timeless urgency. Instead of democracy compatible with the market (Angela Merkel) the idea is a market compliant with democracy. The dynamics of the competitive economy have produced greater marvels than Egyptian pyramids and Gothic cathedrals (Marx), but they fail to meet our moral demands for justice. Its inherent creative destructive power (Schumpeter) not only creates new products, but also painful crises and inhumane working conditions on a regular basis. The European labour movement of the 19th century grew out of indignation at a regime that created huge fortunes and immense misery at the same time. In societies that do not resolve this contradiction, a peaceful and least of all a democratic collaboration cannot prosper. Those who do not want society to disintegrate must favour market regulations.

The idea of an international regulation of labour markets as an existential imperative for peace and justice in an open global economy was the inspiration for the founding of the ILO after the catastrophe of the First World War. Considering this vision, the ILO's successes achieved after a hundred years are disillusioning. Governments have not been and are not prepared to give the ILO the powers and instruments to effectively enforce international labour standards. The need to civilise entrepreneurial freedom by restricting it, the ILO's core task, has been regarded by employers' representatives in the ILO since the very beginning as an evil rather than a mission. Those who call into question the right to strike, who fight against effective monitoring of standards and who use every means at their disposal to fight against new ILO conventions, is not coming to Geneva to shape globalisation, but to force the organisation into a routine standstill. After the end of the Cold War, this intransigence has unfortunately increased further. Neither the global financial and economic crisis that began in 2007 and has not yet been overcome, nor the growing nationalist-authoritarian right-wing antiglobalization movement have led to a change of mind.

In view of the ILO's increasing institutional self-blockage, the parallel proliferation of international labour standards outside the ILO seems like a Hegelian cunning of reason. Decent Work and compliance with ILO core labour standards have been incorporated into numerous international, intergovernmental and non-governmental agreements and initiatives, including the United Nations' Sustainable Development Goals. The UN Guiding Principles on Business and Human Rights codify the global consensus that workers' rights are human rights and that both states and companies have a duty of care

to enforce them. The spirit of the ILO develops with a pleasant dynamism outside its own institutional corset.

Pressure from trade unions, churches and other non-governmental organisations as well as critical consumers have also led to change within companies. Business models using irresponsible practices in the context of the global supply chain are increasingly criticized, at least in democratic societies. Today, almost every larger company has a department for social and environmental sustainability. Business codes of conduct, bilateral trade agreements, framework agreements between multinational companies and global trade union federations, almost all of them are based on ILO standards. Though CSR brochures and reality do not always coincide. As far as competition is concerned "successful" often counts more than "sustainable". Those who fall behind in short-term profit optimization may have been swept off the market before the fruits of a sustainable corporate strategy can be harvested.

Campaigns by trade unions or other activists and initiatives focusing on individual corporate social responsibility to uphold human rights in the world of work have been successful in the moral scandalization of problems over the past decades. Naming names makes the general criticism of poor conditions visible and tangible. What is bad can be attributed to a specific case. Attempts by companies to free themselves from responsibility by referring to the relentless market logic is challenged through the concrete case of exploitation, child or forced labour. Moral progress, yes, but also an analytical step backwards.

For solving problems, the individual company focus is not very promising. A hundred years ago, the ILO had already realised that the main focus should not be on fair play in a game without rules, but rather on fair rules. The inequality of power between labour and capital due to the market situation must be limited by laws and the self-organization of employees. Anti-social competition through wage undercutting is prevented not by insight, but by intervention. Laws are important in this respect, but without the organised representation of employees' interests, they often remain ineffective precisely where they are most needed, especially in the world of work. That is why ILO Conventions 87 on freedom of association and 98 on the right to organise and collective bargaining are, in the truest sense of the word, core labour standards. They are not everything, but without them everything is nothing.

The collective bargaining agreement is the decisive achievement of organised labour in order to shape the world of work autonomous and legally binding. Over the years, many

companies have not only learned to live with collective bargaining agreements, but have also learned to appreciate their regulatory value. The industry wide collective bargaining agreement protects companies from unfair wage competition, prevents individual wage disputes and reduces the risk of strikes.

However, in an open global economy with low transaction costs, the protection afforded by national collective bargaining agreements is decreasing. The creative internationalization of collective bargaining is the great challenge in the hundredth year of the ILO. The reality of global supply chains must be integrated into national collective bargaining agreements. What is important is to link national collective bargaining with the role and responsibility of international traders and corporations. Instead of individual company initiatives, systemic solutions are needed to globally overcome the constant competitive pressure on wages and working conditions.

ACT (Action, Collaboration, Transformation - <https://actonlivingwages.com>), a joint initiative of international textile companies and the global trade union federation IndustriALL ([www.industriall-union.org](http://www.industriall-union.org)), aims to achieve this goal. The companies have committed themselves to IndustriALL to guarantee the payment of living wages by changing their purchasing practices. Substantial and continuous wage increases are to be ensured through national collective agreements in the producing countries. Wage increases are to be taken into account in the purchasing prices of international corporations. Consultations are currently under way in various countries. Talks between employers and trade unions on national collective agreements have begun. Multinational companies and IndustriALLs describe in concrete terms the obligations of international companies with regard to wage costs and the volume of contracts to be awarded to national collective bargaining parties. As always, the devil is in the detail and some critical observer might feel like Goethe's Faust: "The message well I hear, my faith alone is weak".

The internationalisation of collective bargaining policy is right, necessary and an indispensable element for a decent future of work. Whether what is conceptually correct is also practically possible will have to be proven in the hundredth anniversary of the ILO. One would like to wish the ILO that the entry into new areas of collective bargaining by international corporations and global trade union federations will be perceived as a message of the Zeitgeist, to initiate standard setting for collective bargaining in global supply chains.



After many years of working for the ILO, **Dr Frank Hoffer** has been working as managing director for the initiative ACT - Action, Collaboration, Transformation - since 2017. ACT is a joint initiative of brand companies from the textile industry and IndustriALL, which wants to enforce the payment of living wages through sector-wide collective bargaining.

<https://actonlivingwages.com/>

# Securing the monitoring mechanism and the right to strike as central challenges for the ILO over the next 10 years

*Prof Dr Reingard Zimmer, Berlin School of Economics and Law*

In my view, the biggest challenge for the ILO over the next 10 years will be to overcome the crisis of the monitoring mechanism and ensure that the right to strike is recognised as a fundamental right within the ILO.

## *Monitoring mechanism of the ILO*

The ILO's monitoring system is based, among other things, on periodic country reports on the implementation of ratified conventions, which are reviewed by an independent Committee of Experts. This consists of legal scholars from all continents whose main task is to determine to what extent the requirements of the respective Convention are being complied with. The Committee is considered to be very cautious in its interpretation of ILO standards<sup>20</sup>. Pursuant to Article 37 (1) of the ILO Constitution, the International Court of Justice (ICJ) has the right to make a final decision on a binding interpretation. The Expert Committee was not created when the ILO was founded in 1919, but only in 1926, so its activities were not anchored in the constitution.

## *Disputes concerning the Expert Committee*

Since the work of the Expert Committee is not established in the ILO's statutes, time and again it is called into question whether it has the authority to interpret the standards and whether its conclusions are obligatory for the ILO, and in particular for jurisdiction at a regional and national level. However, the need for interpretation by the committee is evident. ILO Conventions apply to a wide variety of situations in different countries and legal systems, so that there is necessarily a high degree of abstraction. The fact that the organisation was founded in 1919 and that a number of conventions originate from the organisation's early days also underlines the need for interpretation of the standards<sup>21</sup>. However, the question of whether the Committee is empowered to make an authentic, i. e. binding interpretation is controversial. One position is, that in the absence of competence laid down in the Constitution, the Committee's statements shall not be

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<sup>20</sup> Nußberger, Festschrift v. Maydell, p. 481 (483).

<sup>21</sup> Zimmer, Wirkungsweise, Auslegung und Implementierung von ILO-Standards, Festschrift Lörcher, p. 34 f; Hofmann/ Schuster, It ain't over 'til it's over: the right to strike and the mandate of the ILO Committee of Experts revised, p. 14.

legally binding<sup>22</sup>. The main argument used by those having an opposing view is the long-standing decision-taking practice which seems to have become customary law and which has been approved for many years by the states involved but also by the social partners<sup>23</sup>, and in some cases the great independence of the members of the committees which is similar to that of a court is focused on<sup>24</sup>. This debate was held for many years in insider circles, but this changed when the European Court of Human Rights in 2009, in a ground-breaking ruling, classified the right to strike as an integral part of Article 11 of the ECHR, referring directly to the decision-taking practice of the ILO committees<sup>25</sup>.

### *Disputes over the right to strike*

The right to strike is not explicitly formulated in Convention 87 (or 98), but it is mentioned in a few conventions<sup>26</sup> and is explicitly included in all recent human rights guarantees<sup>27</sup>. Since 1959, the ILO monitoring bodies have included the right to strike in their rulings as an essential component of the freedom of association codified in Convention No. 87, as it is essential for the enforcement of employees' interests<sup>28</sup>. Thus not only the protection of internal decision-making, but also the protection of external

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<sup>22</sup> Böhmert, *Das Recht der ILO*, p. 87; Seifert, *Festschrift Eichenhofer*, p. 609; Weiss/Seifert, *Gedenkschrift Zachert*, p. 137; Servais, *International Labour Law*, § 3 para 144 f; Wisskirchen, *ZfA* 2003, 691 (711 ff.).

<sup>23</sup> Ben-Israel, p. 57; Lörcher, *AuR* 1991, 97 (102 ff); the same, *WSI-Mitteilungen* 1987, 227 (230); Kirgis, *Specialized Law-Making Process*, p. 109 (154 f.); Schlachter, *RdA* 2011, 341 (345) and Heuschmid/Klebe, *Festschrift Lörcher*, p. 336 (337 f); Zimmer, in: Schlachter/Heuschmid/Ulber, *Arbeitsvölkerrecht – Eine systematische Darstellung*, § 5, para 46ff.

<sup>24</sup> Däubler, *FS Anwaltsverein*, p. 1183 (1187); Zimmer, in: Schlachter/Heuschmid/Ulber, *Arbeitsvölkerrecht – Eine systematische Darstellung*, § 5.

<sup>25</sup> EGMR 21.4.2009 – 68959/01, *NZA* 2010, 1423; a similar justification has already been given for the right to collective bargaining: EGMR 12.11.2008 – 34503/97, *NZA* 2010, 1425.

<sup>26</sup> See Art. 1 lit. d) Convention No. 105 on the abolition of forced labour „as a punishment for having participated in strikes“.

<sup>27</sup> Like the International Covenant on Economic, Social and Cultural Rights (Art. 8 II lit. d) or the European Social Charter (Art. 6 IV).

<sup>28</sup> Cf. ILO, *Background document for the Tripartite Meeting on the Freedom of Association*; ILO, *Report of the Commission of Inquiry*, para 575; ILO, *Digest on Freedom of Association*, para 520 ff; ILO, *General Survey 2012*, para 117 ff; ILO, *General Survey 1994*, para 166; ILO, *General Survey 1983* (C 87, 98, 141), para 200; 2nd Report of the CFA, case No. 28 (UK), para 68; 30th Report, case No. 177 (Honduras), para 76; 172nd Report, case No. 885 (Ecuador), para 385; 295th Report, case No. 1792 (Kenya), para 539; 311th Report, case No. 1954 (Côte d' Ivoire), para 405.

activities, i.e. the right to strike is derived from Art. 3 of the Convention<sup>29</sup>, which is shared by the vast majority of legal literature<sup>30</sup>. For decades, the right to strike has also been widely accepted by employers as part of Convention 87. After the end of the Cold War, however, the recognition of the right to strike was increasingly rejected by employers and the interpretations of the Committee of Experts on the specific legal content of the right to strike were called into question. At the 2012 International Labour Conference, there was even a scandal because the employers' side prevented the review of concrete cases in the Conference's standards monitoring committee. The Expert Committee's interpretation of the right to strike was not only criticised as too broad, but it was denied the mandate to interpret ILO standards as a whole by the employers<sup>31</sup>. In the following years, no or only a few cases were discussed in the Committee for the Application of Standards<sup>32</sup>, and the crisis was manifest. As regards the right to strike, the International Court of Justice could have been asked for clarification, but this route was not followed because the workers' and employers' group were able to agree on another course of action. For the time being, the work of the ILO committees is secured. However, the Joint Declaration is only provisional in nature<sup>33</sup> and is rather vague as far as content is concerned. Although the employers' side formally recognises the right to strike, it emphasises that it must be formulated at national level - but then international standards would be superfluous.

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<sup>29</sup> 2nd Report of the CFA, case No. 28 (UK), para 68; 30th Report, case No. 177 (Honduras), para 76; 172nd Report, case No. 885 (Ecuador), para 385; 295th Report, case No. 1792 (Kenya), para 539.

<sup>30</sup> Ben-Israel, *The Case of Freedom to Strike*, p. 35; Böhmert, *Das Recht der ILO*, p. 110 f; Novitz, *International and European Protection of the Right to Strike*, p. 192 ff; Gravel/Duplessis/Gernigon, *The Committee on freedom of Association*, p. 44; Hofmann/Schuster, *It ain't over 'til it's over: the right to strike and the mandate of the ILO Committee of Experts revised*, p. 7 ff; Schubert, *Arbeitsvölkerrecht*, p. 175 f; in more detail: Zimmer, in: Schlachter/Heuschmid/Ulber, *Arbeitsvölkerrecht – Eine systematische Darstellung*, § 5 (ILO), 2018, para 86.

<sup>31</sup> Cf. International Organisation of Employers, *Do ILO Conventions 87 and 98 Recognise a Right to Strike?*

<sup>32</sup> Employers and employees were only able to agree on six particularly serious cases, and 19 others which were also foreseen for review by the Conference Committee were not dealt with.

<sup>33</sup> ILO, *Tripartite meeting on the Convention (No. 87) on the freedom of association and protection of the right to organise* of 23.02.2015. The agreement expired for the first time at the end of 2016, but it has been extended, cf. [http://www.ilo.org/wcmsp5/groups/public/—ed\\_norm/—relconf/documents/meetingdocument/wcms\\_548153.pdf](http://www.ilo.org/wcmsp5/groups/public/—ed_norm/—relconf/documents/meetingdocument/wcms_548153.pdf) (01.02.2018).

## *Outlook*

So by no means has the content of the debate been clarified, and one can only wish the ILO that this will happen over the next ten years, and that both the work of the committees will still be recognised and that the right to strike will be recognised as an integral part of Convention 87. The simplest step would be to appeal to the ICJ for the interpretation of Convention 87 - and since all international guarantees include the right to strike, the chances are not bad that the interpretation would be carried out accordingly. However, the workers' votes in the ILO alone are not enough for this, so governments must be persuaded to vote in this direction as well. The creation of a specialised court in the ILO that deals with the binding interpretation in accordance with Article 37 (2) of the Constitution would also be a helpful option, but a majority of delegates at the International Labour Conference would also have to vote in favour of it. Apart from that, the only remaining issue is to continue to deal with the matter and to campaign, also in the future, not only for the functioning of the ILO but also for the right to strike.



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## Develop sanctioning power!

*Dr Markus Demele, Kolping International*

A few years ago, an advertisement for a toothpaste used the image of "being able to bite powerfully". This is a wonderful illustration of what I would like to wish the ILO for its 100th birthday in 2019. While people being 100 years old may still be able to use their dentures with a bit of luck, the ILO has at best managed to get milk teeth even at this advanced age. It may be an incredibly energetic and important institution, but it is also a harmless one, which can only achieve its objectives by means of lengthy procedures and by conviction rather than by means of force and sanctions.

This may appear likeable, but does not do justice to the self-imposed demands. Now, the men and women who work in the name of decent work on a daily basis in Geneva and in the national offices all over the world must not be blamed for this. An international institution is only able to assert itself to the extent to which it is empowered by the national delegates that form it. The ILO's tripartite structure (= tripartism) means that governments and employers' representatives cannot be outvoted in the case of unanimous voting behaviour. Whoever takes a look at the lobbying power of employers' associations and compares it to that of trade unions and civil society actors in most countries of the world will notice that the ILO is approaching its goal of enforcing workers' rights everywhere in the world with the power to impose sanctions only at a snail's pace.

Which ways may help the ILO to get teeth? What role can it play in the context of a new global governance architecture in which working people are rescued internationally with as much dedication as major banks?

Firstly: use the superiority in terms of legitimation. Thanks to its structure described above, the ILO already today has a broader legitimation than other international organisations. In addition, this can be further increased through the gradual introduction of tripartism plus social dialogue, involving civil society. The ILO's superiority in terms of legitimation becomes particularly clear in view of the reform proposals put forward by Joseph Stiglitz for the International Monetary Fund (IMF) and the World Bank: The problematic distribution of voting rights in these institutions, i. e. according to the (former) economic power, does not exist in the ILO; since the ILO has a focus on labour policy, the relevant actors are structurally involved in all decision-making processes of the organization as representatives through tripartism (plus) - unlike in exclusive ministerial meetings.

Secondly, the ILO will increasingly have to face the confrontation with the Bretton Woods organisations (IMF and World Bank) and the WTO, as well as with some according to international law informal meetings of the powerful such as G7 or G20, instead of suggesting programmatic coherence in joint studies. The developmental theoretical approaches of the WTO, IMF, World Bank and others favour the instruments of neoliberal macroeconomics and thus do not aim primarily at labour policy measures to overcome poverty. These organisations are far removed from the ILO's understanding of development and continue to focus simply on economic growth. Unlike the ILO, they are primarily concerned with the inclusion of the poor in world markets, while questions of the redistribution of power and resources are rarely asked. The ILO, on the other hand, assumes that economic growth and social development are complementary, i. e. only seemingly contradictory, and that in reality they are mutually dependent on each other.

Thirdly: To develop teeth. The ILO must not only be seen as an exchange forum and a supplier of standards for other supranational actors, but must also seek ways in which as an intergovernmental institution with the greatest knowledge of labour policy, it can be endowed with the necessary political sanctioning power to impose its standards more effectively on an international level. For this reason, the establishment of an International Labour Court as a further development of the existing legal action procedure seems to be urgently required. Admittedly, there are high international legal barriers to the establishment of such a Labour Court. However, experience gained from the practice of the International Court of Justice (ICJ), the United Nations' main judicial body, which is also responsible for ILO proceedings under Article 31 of the ILO Constitution, the International Criminal Court (ICC) and the European Court of Human Rights (ECtHR) can be helpful. It would also be desirable to have an option for trade unions and NGOs to take legal action, because their possibility of bringing legal action indirectly strengthens every single employee. In contrast to the ICC and the ILO's internal legal action procedure, it should not only be possible to sue states with regard to their ratified conventions, but also companies that have their registered offices in a Member State, which has ratified the convention in question, i. e. has elevated it to the status of a national law. In order to establish such a permanent international labour court, it is necessary to have a statute of its own, which would have to be ratified separately by the Member States.

Until now, the authentic interpretation of ILO conventions has not been reserved for members, but for the International Court of Justice. In terms of content and organisation, however, the ICJ is far removed from the implementation practice and dialogue arenas

of international tripartism. The establishment of an international labour tribunal in the context of the ILO would make complaint procedures a clearer alternative to the currently dominant means of implementing standards.

The setting of international standards also requires instruments for their enforcement. That is why I wish the ILO to find new ways of enforcing human rights in the working environment. The majority of people are dependent on the sale of their work done with the help of their hands and brains. Protecting this work and enforcing their rights must be the most pressing objective of a future structure of global governance. The ILO itself can contribute a bit to the design of this structure. The current dependency relationships are not broken by training and efforts at persuasion in the countries of Sweatshop and Maquiladoras. Hoping for the sovereign consumer, who drinks his fair trade coffee holding a FairPhone in his hand and wearing shoes tanned chrome-free, will also not be enough to make the agenda for decent work a reality all over the world. To do this, the ILO will have to be authorized to "bite" powerfully in the future.

*Read on:*

Markus Demele (2013): Internationale Arbeitspolitik als Entwicklungspolitik (International Labour Policy as Development Policy), in: Thielen, Michael / Zimmer, Matthias (2013): Die Zukunft der Arbeit. Christlich-soziale Perspektiven (The Future of Work. Christian social perspectives); URL: [http://www.kas.de/upload/dokumente/2013/Zukunft\\_der\\_Arbeit/zukunft\\_der\\_arbeit\\_demele.pdf](http://www.kas.de/upload/dokumente/2013/Zukunft_der_Arbeit/zukunft_der_arbeit_demele.pdf) (last request: 16.01.2018)



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<https://www.kolping.net/en/home.html>